



**Statement by the American Civil Liberties Union to the 87<sup>th</sup> session of the U.N. Human Rights Committee regarding the U.S. government compliance with the International Covenant on Civil and Political Rights**

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My name is Jamil Dakwar and I'm staff attorney with the American Civil Liberties Union, the largest civil liberties organization in the United States, with offices in 50 states and over a half million members.

In the last decade, and since the last time the United States appeared before this committee, we have witnessed serious setbacks in the protection of civil and political rights within the U.S. We have also witnessed a backlash against human rights in the name of national security which has affected large numbers of persons in the U.S. and abroad.

Since September 11, 2001, Arabs, Muslims and South Asians have become targets of overt and covert government activity. They have been arbitrarily detained and abused, misused as material witnesses, racially profiled, discriminated against for the peaceful

practice of their religion, and subjected to unlawful monitoring and surveillance without any suspicion of criminal activity.

Racial inequality and discrimination remain ongoing and pervasive in America, and the U.S. government has not done enough to end it. Hurricane Katrina exposed grave and persistent economic and social disparities in American society. Minorities continue to be the victims of racial profiling whether in the context of the “war on drugs,” the “war on terror,” or in the name of protecting the U.S. border. In the criminal justice system, minorities are selectively targeted, and disproportionately arrested, charged, indicted, prosecuted, and sentenced.

Immigrants have become scapegoats of the generalized fear-mongering that is prevalent in today's post-9/11 America. The government has sharply limited the right of immigrants to challenge the basis for their detention in the courts, unfairly discriminates against them in prisons, detains them for longer periods, and provides them no right to counsel in civil or criminal cases. The increasing militarization of the border raises many serious concerns that warrant the committee's attention.

The right to counsel in criminal cases has become illusory for poor people, with indigent defense systems woefully inadequate and under-funded in many parts of the country. And contrary to both the Covenant and U.S. history, secrecy has become the hallmark of the government's conduct in the criminal justice arena. The government routinely relies on secrecy to dismiss lawsuits and escape accountability for human rights abuses such as unlawful rendition, torture, and illegal electronic surveillance. At the government's request, courts conduct judicial proceedings behind closed doors.

Regarding privacy rights, the National Security Agency is conducting massive wiretapping and data-mining of phone calls and emails, and the FBI is spying on peaceful political and religious groups and demanding personal records without court approval or probable cause.

Even children's rights are not sacrosanct. The disturbing national trend of the "school to prison pipeline" is causing many of the most vulnerable students to be funneled out of public schools directly into the juvenile and criminal justice systems.

Women continue to face unequal treatment in the criminal justice system, and female victims of domestic violence remain unprotected against discrimination in housing and employment.

Regarding the cherished right to vote, America is far out of step with the world on felony disfranchisement, shutting 5.3 million American citizens out of the process.

The U.S. government has violated the absolute prohibition against torture and cruel, inhuman or degrading treatment or punishment, and lack of accountability for the systemic torture and abuse of detainees, especially among high level civilian and military leaders remains prevalent. Additionally, the Central Intelligence Agency has transported suspects to countries where torture is routine and established secret prisons with "ghost" detainees overseas.

Inhuman and cruel conditions of confinement in various U.S. prisons and jails remain pervasive, and law enforcement officials and correctional authorities continue to use

restraint chairs and electro-shock weapons, including Taser guns which have claimed many human lives.

To avoid blatant violations of the Covenant by the U.S. in Iraq, Afghanistan, Guantánamo Bay and secret detention facilities outside the U.S., the government continues to maintain that the ICCPR does not apply to its actions outside the United States. The position is consistent with a disturbing trend that threatens to undermine the rule of law in the U.S. - the assumption that the Executive has unchecked authority to ignore the law.

We are encouraged by the most recent Supreme Court decision in *Rumsfeld v. Hamdan* which found the President's system of military commissions to try Guantánamo detainees in violation of the U.S. constitution and international law. We note, however, with grave concern the continued legal limbo of the Guantánamo detainees and other persons in U.S. custody abroad, especially the arbitrary and indefinite detention and lack of access to independent judicial bodies. In this regard, we urge the committee to call upon the U.S. government to apply internationally recognized standards of due process and fair trial and to bring to an end this tragic chapter in U.S. history.

Thank you.