



Statement by Jamil Dakwar on behalf of the American Civil Liberties Union (ACLU) to the Human Rights Council 6th Session

**Geneva
December 13, 2007**

In conjunction with the presentation of the report on the visit to the United States by the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Martin Scheinin

Mr. President,

The American Civil Liberties Union (ACLU), and its hundreds of thousands of members and activists, welcomes the work and the report of Martin Scheinin, the Special Rapporteur on the promotion and protection of human rights while countering terrorism. His report and findings regarding his recent visit to the United States, unfortunately, do not come as surprise to us. Over the past six years, we have witnessed the US government abandon the bedrock principle of respect for the rule of law.

While we agree with the observations and comments made by the Special Rapporteur in his report, we would like to focus on one area in particular, the lack of accountability, indeed impunity, for acts of torture and abuse against prisoners held in US custody. Based on official government documents, it is quite clear that senior US officials have been directly and indirectly involved in the widespread and systemic abuse and torture of prisoners. Yet, not a single high ranking military or civilian leader has been criminally investigated and charged for this crime.

Not only has the US government rejected numerous domestic and international calls for independent investigations into these policies and practices, it has actually enacted laws, such as the Military Commission Act, designed to immunize perpetrators of torture and other abuse from legal accountability and denied that

certain forms of torture, including waterboarding, are in fact torture. While the Defense Department has made some improvements in the treatment of detainees, as manifested in the revised Army Field Manual, the President still insists that the CIA may still use secret detention, renditions and abusive interrogation techniques.

Furthermore, we have learned that retroactive legislation protecting perpetrators of torture is not enough for the US government. Last week the NY Times revealed that the CIA destroyed interrogation videotapes of two prisoners in its secret detention program, in what appears to be a deliberate cover up of potential criminal activity. The destroyed tapes reportedly documented the CIA's brutal treatment, in secret prisons aboard, of two alleged high-level al-Qaeda operatives. The destruction of these tapes clarifies why we must continue to fight for the release of three secret Department of Justice memos, written in May 2005, that outline permissible CIA interrogation tactics. We know from news reports that at least two of these memos authorized the CIA to engage in torture, including subjecting detainees to waterboarding, freezing temperatures, and head slaps, with the promise of immunity for interrogators.

The danger of the current state of US policy vis-à-vis torture is magnified by the fact that the US currently holds over 25,000 detainees in detention facilities in Iraq, Afghanistan, Guantánamo Bay, and possibly elsewhere. At Guantánamo Bay, over 300 Muslim men have been held for more than six years without legal recourse. Four Guantánamo detainees have died in custody, allegedly committed suicide, and although it has been more than a year and a half since the first 3 deaths in custody, the "investigation" continues. In addition, despite years of legal challenges, none of the detainees has had his day in court, including a reporter from Al Jazeera named Sami El Haj, and only three detainees have been charged under the legally deficient system of military commissions.

We call on the U.S. government to end this shameful chapter of its history and restore full respect for the rule of law. The US must recommit itself to its Constitution and its international legal obligations. We urge the US government to implement the recommendations made by the Special Rapporteur, and bring an end to indefinite and secret detention, torture and abuse, unfair trials and the unlawful practice of renditions.

Thank you, Mr. President.