



human rights *first*

January 11, 2006

The Honorable George W. Bush
President of the United States
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Dear Mr. President:

We are writing to urge that you take immediate steps to ensure that the McCain Amendment is fully and effectively implemented.

The McCain Amendment, now law, clarifies the legal obligation of the United States Government not to engage in cruel, inhuman or degrading treatment, consistent with Article 16 of the Convention against Torture. Enforcing this Amendment in practice will be critical in order to prevent further abuses and begin to repair the damage done to America's reputation as a leader in the protection of human rights.

We believe there are a number of steps that must be taken quickly to ensure effective implementation of the new law.

First, we urge you to clarify the "signing statement" released by the White House after you signed the bill into law on December 30, 2005. The statement, which asserts that "[t]he executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief," appears to leave open the possibility that the President, or another member of the Executive Branch, could authorize cruel, inhuman or degrading treatment of detainees in U.S. custody, despite the clear prohibition of such conduct under the law.

The ambiguity that this sort of statement creates is dangerous. Lack of clarity about the standards governing treatment of prisoners in our custody – and in particular the idea that there are exceptions to the ban on inhumane treatment – resulted in serious abuses and even deaths of prisoners in US custody. The McCain Amendment provides an opportunity for your Administration to turn the page on this shameful chapter in U.S. history. But that opportunity will be lost if your public statements leave open the possibility of multiple standards and exceptions.

Second, any internal guidelines for federal agencies involved in interrogations, and any legal guidance to interrogators, should now be reviewed and revised wherever necessary to ensure they are in full compliance with the new law. This includes guidance from the Office of Legal Counsel at the Department of Justice, the Department of Defense, the Central Intelligence Agency, and the National Directorate of Intelligence. Methods of interrogation which violate this standard should now be expressly prohibited including: water boarding (mock drowning) and other forms of mock execution; sleep deprivation; stress positions; exposure to extreme hot and cold temperatures; striking and violent shaking; using dogs to terrify; forced nakedness; and sexual humiliation.

As part of this effort, every aspect of the United States Army Field Manual on Intelligence Interrogation must comport with the strictures of the ban on all forms of cruel, inhuman or degrading treatment. We understand that the Manual is currently under revision. That makes this is an ideal time to ensure that the Manual, including any classified annex or additional related materials, is completely consistent with the letter and spirit of the McCain Amendment. As a related matter, interrogation policies currently in place at the U.S. Naval Base at Guantanamo Bay, Cuba should be revised to comply with the McCain Amendment. It is our understanding that “dietary manipulation,” “environmental manipulation,” “sleep management,” “false flag,” and “isolation” continue to be authorized for use against detainees there. These techniques may run afoul of the prohibition on cruel, inhuman and degrading treatment, and they should be reevaluated in light of the McCain Amendment. In any event, there must be a single standard of conduct for all U.S. interrogations regardless of location or who is being interrogated.

Third, the heads of all relevant federal agencies, including the Secretary of Defense, Attorney General, Director of the Federal Bureau of Investigation, Director of Central Intelligence and the Director of National Intelligence should be instructed by you to make all interrogation techniques authorized by their agencies available for congressional oversight by the relevant committees. Any proposed new interrogation techniques should be disclosed to members of the relevant Congressional committees as part of a periodic review.

Finally, all U.S. officials engaged in human intelligence and detention operations should receive rigorous and comprehensive training that imbues them with a full practical understanding of the implications of the ban on cruel, inhuman or degrading treatment – and the consequences of violating it. We urge you to direct the Departments of Justice and Defense, the Central Intelligence Agency, and the National Directorate of Intelligence to promptly and thoroughly investigate apparent violations of the ban on cruel, inhuman or degrading treatment, and subject those responsible for violations to prosecution.

You have pledged that the United States is committed to the prevention of torture and other cruel, inhuman and degrading treatment and that “we are leading this fight by example.” Your leadership in ensuring vigorous and effective implementation of the McCain Amendment will help make this make this pledge a reality.

Sincerely,



Michael Posner
President