



REFERENCE:KF/fup-114

6 October 2015

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the examination of the fourth periodic report of the United States of America

At the end of its 110th session, the Committee transmitted its concluding observations to your Permanent Mission. You may recall that, in paragraph 27 of the concluding observations, the Committee requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 5, 10, 21 and 22 of the concluding observations.

On 1 April 2015, the Committee received the reply of the State party. At its 114th session, held in July 2015, the Committee analysed this information and adopted the following decisions:

- Paragraph 5:

[B2](i): While noting, with appreciation, information provided by the State party on recent prosecutions of law enforcement officials, as well as the convictions of four Blackwater USA contractors for their crimes in Iraq, the Committee requires information on investigations, prosecutions or convictions of U.S. government personnel in positions of command for crimes committed during international operations or as part of the U.S. detention and interrogation programs. The Committee is also concerned at reports that current and former Guantanamo detainees have been deprived the ability to seek judicial remedy for torture and other human rights violations incurred while in U.S. custody. The Committee reiterates its recommendations.

[C1](ii): The Committee requires information on measures taken, to establish responsibility for those who provided legal pretexts for manifestly illegal behavior. The Committee reiterates its recommendations.

His Excellency
Mrs. Pamela K. Hamamoto
Ambassador Extraordinary and Plenipotentiary
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[C1](iii): The Committee regrets that no action has been taken to incorporate the doctrine of command responsibility for crimes under international law into its criminal law. The Committee reiterates its recommendations.

[B1](iv): The Committee welcomes the declassification and release of over 500 pages of the Senate Select Intelligence Committee's report on the CIA's secret detention programme but is concerned about reports that over 6,000 pages remain classified. It is also concerned about reports that the Department of Justice does not plan to reopen investigations, despite having access to the full report.

- Paragraph 10:

[C1](a) While welcoming the Supreme Court decision upholding a federal law barring domestic violence offenders from possessing firearms, the Committee requests information on new measures taken since the examination of the State party's report. The Committee repeats its recommendations.

[C1](b) With regard to Stand Your Ground laws, while the Committee recognises the State party's federal system, the Committee requests information on measures taken to implement the recommendation. It is particularly concerned about reports that the immunity provided by Stand Your Ground Laws has, in some areas, expanded. The Committee reiterates its recommendations.

- Paragraph 21:

[B2](i) The Committee welcomes steps taken by the State party to expedite the review and transfer of detainees remaining at Guantanamo Bay, but is concerned about reports that, at the current rate, review hearings will not be completed for all detainees until 2020. Updated information, including statistical data, is required on the transfer and review of Guantanamo detainees and the detention status of individuals who remain in held there.

[C2](ii) The Committee notes that persons continue to be held in administrative detention in Guantanamo Bay without charge or trial in many cases for over a decade and regrets the State party's plans to continue prosecution of Guantanamo detainees by military commission, which is contrary to the Committee's recommendations. The Committee reiterates its recommendations.

- Paragraph 22:

[B2](a) and (b) while the Committee welcomes administrative measures taken by the State party to bring its surveillance activities in line with Article 17, it requires information on legislative measures taken to ensure these safeguards are provided for by law. The Committee is also concerned about reports that the administrative measures taken do not adequately protect rights guaranteed under Article 17, which requires that interference with the right to privacy comply with the principles of legality, proportionality and necessity.

[C1]:(c) no measures appear to have been taken since March 2014 to provide for judicial involvement in the authorization and monitoring of surveillance measures or to establish strong and independent oversight mandates. The Committee repeats its recommendations.

[C1]:(d) the Committee requires information on measures taken to stop the practice mandatory retention of data by third parties.

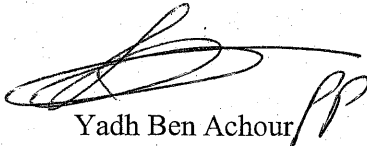
[D1]:(e) no information was provided by the State party on access to remedies for affected persons in cases of abuse.

[C2]: The Committee notes that the State party has not responded with regard to surveillance acts outside the United States of America and asks for more information on this.

The next follow-up report of the Human Rights Committee will be adopted in October 2015. If the State party wishes the information referred to be taken into account on that occasion, the reply should be sent in Word electronic version to the Secretariat of the Human Rights Committee by **6 September 2015** (Kate Fox: kfox@ohchr.org and Fernanda Santana: fsantana@ohchr.org).

The Committee looks forward to pursuing its constructive dialogue with the United States of American authorities on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.



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Co-Rapporteur for Follow-up to Concluding Observations
Human Rights Committee