

UNCLASSIFIED

RELEASED IN FULL

LBB

Baumert, Kevin/A

From: Knight, Marie C
Sent: Wednesday, September 19, 2007 1:11 PM
To: Baumert, Kevin A
Subject: ICCPR transmittal letter

Attachments: ICCPR Follow-Up transmittal letter.doc

Hey there,

Here's a draft of the transmittal letter for the ICCPR follow-up. As I mentioned before, it is nearly identical to the CAT transmittal. Let me know if you'd like anything changed.

Chantal



ICCPR Follow-Up
transmittal le...

UNCLASSIFIED

RELEASED IN FULL

[date]

LBB A

Mr. _____
Chairman
Human Rights Committee
c/o Office of the High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10

Dear Mr. Chairman:

I have the honor to transmit my government's response to specific recommendations identified by the Human Rights Committee in its conclusions and recommendations in relation to the Second and Third Periodic Reports of the United States of America. The Committee requested this information within one year in document CCPR/C/USA/CO/3, dated Sept. 15, 2006.

Please allow me to express the longstanding commitment of the United States to the protection and promotion of human rights and its appreciation both for the work of the Committee and for your personal leadership on these important issues.

Sincerely,

Warren W. Tichenor
Ambassador

NON-PAPIER

Projet de Convention internationale pour la protection de toutes les personnes contre les disparitions forcées

Lors de sa session inaugurale en juin dernier le Conseil des droits de l'homme a adopté, par consensus, le projet de "Convention internationale pour la protection de toutes les personnes contre les disparitions forcées" (résolution 1/1). L'adoption de ce texte a été applaudie et a soulevé une profonde émotion. 59 Etats de tous les continents ont apporté leur co-parrainage à ce texte. Il revient désormais à l'Assemblée Générale d'adopter ce texte afin qu'il soit ouvert à la signature des Etats.

La pratique des disparitions forcées est aujourd'hui encore largement répandue sur tous les continents. Elle constitue une des principales menaces qui pèse sur les défenseurs des droits de l'homme. Les Nations unies ont recensé 51000 cas dans plus de 90 pays depuis 1980, dont 41 000 sont toujours en attente d'élucidation. En 2005, ont été enregistrés 535 nouveaux cas dans 22 pays.

Le nouveau projet de traité représente une avancée considérable pour la promotion et la protection des droits de l'homme :

1) il comble un vide juridique

En vertu du nouvel instrument, les Etats parties s'engagent à :

- incriminer au plan pénal les disparitions forcées et poursuivre leurs auteurs, leurs complices et leurs commanditaires ;
- appliquer aux disparitions forcées un régime de prescription particulièrement favorable aux victimes ;
- renforcer leur coopération internationale pour lutter contre ces crimes ;
- garantir le droit des proches à la vérité : droit des proches à connaître la vérité sur le sort de la personne disparue et les circonstances de sa disparition et, à titre préventif, droit de toute personne ayant un intérêt légitime à recevoir des informations concernant une privation de liberté et à contester la légalité de celle-ci ;
- prendre des mesures préventives : interdiction des détentions secrètes et des lieux de détention non officiels, garanties procédurales entourant la privation de liberté, tenue de registres d'écrou précis, formation des forces de l'ordre ;
- garantir le droit des victimes à réparation (sous toutes ses formes : indemnisation ou autres) ;
- permettre l'annulation de toute adoption qui trouve son origine dans une disparition forcée.

2) il fait progresser le droit international des droits de l'homme

Le nouvel instrument :

- reconnait de nouveaux droits : droit de toute personne à ne pas être soumise à une disparition forcée, droit des victimes de savoir la vérité ;
- renforce les garanties entourant la détention ;
- consacre le droit des victimes de disparitions forcées à réparation, donnant ainsi suite aux principes fondamentaux et directives concernant le droit à un recours et à réparation des victimes de violations flagrantes du droit international relatif aux droits de l'homme et de violations graves du droit international humanitaire (E/CN.4/RES/2005/35) ;
- crée un organe de suivi original : le Comité des disparitions forcées, composé de 10 membres, remplira, outre les fonctions classiques d'un organe de traité (examen des rapports des Etats, des communications individuelles et inter-étatiques, soumission de rapports à l'AGNU), une fonction préventive, en lançant des appels urgents et en effectuant des visites sur place en cas de situation grave. Il pourra en outre en cas de violations massives et systématiques porter la situation à l'attention du Secrétaire général des Nations Unies. A la croisée entre procédures spéciales et organes des traités, il se coordonnera étroitement avec eux. Il est créé pour une période expérimentale de 4 ans, dans l'attente d'une réforme générale des organes conventionnels.

UNCLASSIFIED

RELEASED IN FULL
October 2006

NON-PAPER

LB37A

Draft International Convention for the Protection of All Persons from Enforced Disappearances

In its inaugural session in June 2006 the Human Rights Council adopted by consensus the draft "International Convention for the protection of all persons from enforced disappearances" (resolution HRC/2006/1). The adoption of the text triggered a standing ovation and was a moving event. 59 States representing all continents co-sponsored the text which is now to be adopted by the General Assembly at its sixty-first session.

The practice of enforced disappearances is still widespread nowadays throughout the world. It does constitute one of the main threats for the human rights defenders. According to the United Nations 51.000 enforced disappearances occurred since 1980 in more than 90 countries, 41.000 of which have not been elucidated yet. 535 new cases in 22 countries were registered in 2005.

The draft Convention represents a remarkable step forward in the promotion and protection of human rights :

1) It addresses a legal loophole

In accordance with the new instrument, State Parties commit themselves to :

- ensure that enforced disappearance constitutes an offence under their criminal law and bring to justice its perpetrators, their accomplices and the people who ordered, solicited or induced it ;
- Apply to enforced disappearances "victim-friendly" statutes of limitation ;
- Strengthen their international cooperation to fight against enforced disappearance ;
- guarantee the right of victims' relatives to know the truth : the right of relatives to know the truth on the circumstances of an enforced disappearance and the fate of the disappeared person, and, in order to prevent enforced disappearance, the right of any person with a legitimate interest to be given minimum information regarding the deprivation of liberty of a person and to take legal action to challenge its lawfulness ;
- take preventive measures : to prohibit secret detention and unofficial places of detention, to provide for legal guarantees in case of deprivation of liberty, to maintain up-to-date official registers of persons deprived of liberty, to provide training for enforcement officials ;
- guarantee the right of victims to obtain reparation (under all possible forms : compensation or others) ;
- allow review of any adoption originated from an enforced disappearance.

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 31 JUL 2009 200706444

UNCLASSIFIED

L0528

2) It makes international human rights law accomplish new progress

This new instrument :

- recognizes new rights : the right of any person not to be subjected to enforced disappearance, the right of victims to know the truth ;
- reinforces legal guarantees regarding detention ;
- confirms the right of victims of enforced disappearance to obtain reparation, as a follow-up to the Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law (E/CN.4/RES/2005/35) ;
- establishes an original follow-up mechanism : besides implementing the traditional activities of treaty bodies (review of States reports, of individual and inter-States communications, reports to UNGA), the Committee on enforced disappearances, which shall consist of 10 members, will fulfil a preventive role by launching urgent appeals and making country visits in case of serious violations. It will also bring the matter to the attention of the Secretary General of the United Nations in case of gross and systematic violations. Standing at the crossroad of special procedures and treaty bodies, it will closely coordinate with them. The Committee is established for a trial period of 4 years, pending a global treaty body reform

RELEASED IN PART
B5, B6 *LB13*

Baumert, Kevin A

From: Baumert, Kevin A
Sent: Friday, September 07, 2007 4:49 PM
To: Harris, Robert K; Hill, Steven R
Subject: RE: ICCPR One year follow-up
Attachments: LEGAL- 54371-v1-ICCPR_follow_up_2007.DOC

Bob,
Attached is the ICCPR follow up submission, revised to take into account your comments (including new additions from DoJ, DoD. I left your original comments in tracked changes so that you can see what's changed...

Two things:

[Redacted]

B5

Thanks,
Kevin

-----Original Message-----

From: Robert Harris [Redacted]
Sent: Monday, August 20, 2007 2:50 PM
To: Baumert, Kevin A; [Redacted]
Cc: Hill, Stephen A (Baghdad); Harris, Robert K; [Redacted]
[Redacted] Padmanabhan, Vijay M; Nixon, Gina M
Subject: ICCPR One year follow-up

B6
B6
B6
B6

Kevin,

[Redacted]

B5

[Redacted]

B5

Thanks to all.

Bob

UNCLASSIFIED

RELEASED IN PART

B6, B5

LB35

Baumert, Kevin A

From: MaryBeth West [redacted]
 Sent: Tuesday, January 16, 2007 9:09 AM
 To: Andre M. Surena; Harris, Robert K; Baumert, Kevin A; Hill, Steven R; Kovar, Jeffrey D
 Subject: Fwd: ICCPR prelim short responses
 Attachments: ICCPR - USG Resp to HRC Conclusions & Recommendations [JAN 07].doc

B6

Dear All --

I have reviewed Andre's copy. The info on state laws regarding sexual orientation is fine. I can probably provide more examples if you wish. Also, I have some examples of state programs to address racial profiling (if these would be helpful).

[redacted]

B5

Let me know if more specifics on states re sexual orientation or racial profiling would be helpful.

Mary Beth

----- Forwarded message -----

From: Andre M. Surena [redacted]
 Date: Jan 15, 2007 11:16 PM
 Subject: Re: ICCPR prelim short responses
 To: Robert Harris [redacted], baumerka@state.gov, HarrisRK2@state.gov
 Cc: HillSR@state.gov, [redacted], kovarjd@state.gov, [redacted]

B6

B6
B6

Comments attached.

----- Original Message -----

From: "Robert Harris" [redacted]
 To: <baumerka@state.gov>; <HarrisRK2@state.gov>; [redacted]
 Cc: <HillSR@state.gov>; [redacted]
 <kovarjd@state.gov>; [redacted]
 Sent: Sunday, January 14, 2007 4:55 PM
 Subject: RE: ICCPR prelim short responses

B6

B6

B6

> Kevin,

>
 > Here are my comments. [redacted]

B5

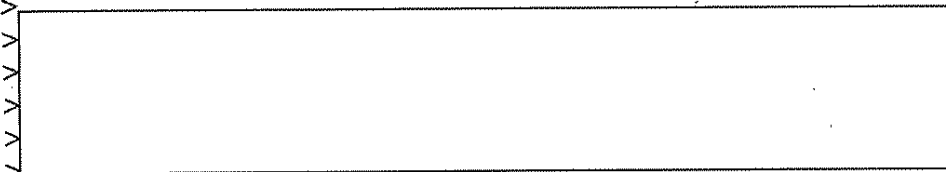
> I wonder if Andre might take a quick look at this, particularly our
 > answers
 > on sexual orientation, juvenile death penalty, and DC voting rights. I
 > also
 > wonder if Steve could look this over. I would like to get this around to
 > Department people on Tuesday, with a request that they give us any
 > comments

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: FRANK H PEREZ
 1/22/2008 DATE/CASE ID: 12 AUG 2009 200706444

UNCLASSIFIED

UNCLASSIFIED

- > Wednesday morning. We can then circulate something to DOJ and DHS on
- > Wednesday.
- >
- > Steve,
- >
- > To keep things as simple as possible, please write your CAT paper using
- > this
- > format, if it isn't too much additional work.
- >
- > Mary Beth,



B5

- > Thanks to all. This process will really give us a jump start in
- > responding
- > to the issues the committees' identified for interim USG responses.
- >
- > Bob

>>From: "Baumert, Kevin A" <baumertka@state.gov>
 >>To: "Robert Harris" <[redacted]@state.gov> "Harris, Robert K"
 >><HarrisRK2@state.gov>
 >>CC: "Hill, Steven R" <HillSR@state.gov>, "Baumert, Kevin A"
 >><baumertka@state.gov>, [redacted]
 >>Subject: ICCPR prelim short responses
 >>Date: Fri, 12 Jan 2007 17:53:13 -0500

B6

B6

>>Bob,
 >>Attached is the latest draft, as well as most of the docs (or links) I
 >>used to compile the short answers. We can discuss further on Tues (or
 >>over the weekend, if you want).

>>
 >>A few notes:
 >>- Larry at DoJ said that he would write up short responses to #s 19 and
 >>32 over the weekend
 >>- the Detainee TPs are taken from a cable on the class side, so that is
 >>not attached here
 >>- The link to our ICCPR report and the July 2006 USG responses to ICCPR
 >>Qs: <http://www.state.gov/g/drl/rls/c16069.htm> (4th and 5th link). These
 >>pages are very easy to keyword search
 >>
 >>Thanks.
 >>Kevin
 >>
 >>Docs attached:

1/22/2008

UNCLASSIFIED

UNCLASSIFIED

>>- Draft prelim responses
>>- Bellinger LSE speech
>>- USG reply to 5 SR report on GTMO
>>- Military Commissions Act
>>- IACHR brief, DC voting case
>> <<Ctte_Concerns_and_Recs.doc>>
>> <<military commissions act HR 6166.txt.pdf>>
>><<LEGAL-#21648-v3-USG_Reply_to_SR_GTMO_Report_2006.DOC>> <<Bellinger
>>LSE Speech - Oct 2006.pdf>> <<IACHR brief DC voting at p5.pdf>>
>
>
>><< Ctte_Concerns_and_Recs.doc >>
>
>
>><< militarycommissionsactHR6166.txt.pdf >>
>
>
>><< LEGAL-_21648-v3-USG_Reply_to_SR_GTMO_Report_2006.DOC >>
>
>
>><< BellingerLSESpeech-Oct2006.pdf >>
>
>
>><< IACHRbriefDCvotingatp5.pdf >>
>
>

No virus found in this incoming message.

Checked by AVG Free Edition.

Version: 7.5.432 / Virus Database: 268.16.8/621 - Release Date: 1/9/2007

1:37 PM

1/22/2008

UNCLASSIFIED

L0534