

US seeks to block enforcement of anti-torture treaty

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Torture should be added to the list of evils that the Bush administration is defending, in accordance with a foreign policy based on unilateral American domination of the globe. On July 24, the American delegation to the United Nations Economic and Social Council (UNESOC) tried and failed to table an anti-torture protocol, losing the vote 29-15. The protocol was then approved by a 35-8 vote and goes to the fall session of the UN General Assembly for ratification. Since it is not a Security Council resolution, the measure is not subject to US veto.

The target of the US diplomatic assault was a measure negotiated over the past ten years to implement the International Convention Against Torture, a treaty that went into force in 1987 and was ratified by the US Congress in 1994. The anti-torture treaty, like most international human rights agreements, lacks an enforcement mechanism, because those regimes that are engaged in human rights abuses are willing to sign a treaty, but oppose any serious measures to implement its provisions. This is precisely the position of the US, which is now on record as opposing the implementation of the treaty on torture.

The proposal brought before the UNESOC called for the establishment of a system of regular inspections of prisons and detention centers in every country adhering to the protocol. The purpose would be to seek evidence of torture or “other cruel, inhuman and degrading treatment or punishment” directed against prison inmates, prisoners of war, refugees or other detainees.

Accepting the protocol would be voluntary, meaning that countries that had signed the anti-torture convention could block inspections. But even a plan for voluntary inspections was too much for Washington. The Bush administration moved to table the protocol and negotiate a new one that would be less

“intrusive”—an effort that human rights groups branded as an attempt to block any enforcement provision at all.

Martin MacPherson, head of the legal program for Amnesty International, said, “A vote against the optional protocol would be a disastrous setback in the fight against torture.” Amnesty reported that people were tortured or ill treated by political authorities in 111 countries last year.

The Bush administration has three major concerns about the treaty. Its immediate fear is that many countries will demand access to the detention camp at the US naval base in Guantanamo Bay, Cuba, where more than 500 prisoners of war from Afghanistan are being held as alleged Al Qaeda members. Many European and Middle Eastern countries have criticized the conditions at Guantanamo as a violation of the Geneva Convention.

Secondly, there is considerable discussion in official Washington circles—both government and media—about the possibility of introducing torture for terrorist suspects following the model of Israel. The Israeli government follows a policy of permitting “limited physical pressure” against prisoners in the name of preventing terror bombings. Such language covers a multitude of practices illegal under international law, from holding prisoners indefinitely to physical violence such as electric shock treatment.

Thirdly, international observers may seek access to the US prison system itself, one of the largest in the world with more than two million incarcerated, most of them in state prisons and local jails. Bush administration officials said that giving foreigners the right to enter such facilities would be unconstitutional because it would violate “states’ rights,” since many US states currently refuse entry to foreign inspectors.

Numerous US states also refuse to recognize

obligations under international treaties that give foreign nationals the right to see a consular official from their home country if arrested abroad. Bush's home state of Texas actually argued, in the case of an immigrant who was executed without ever seeing his consul, that since the United States had signed the consular treaty, but Texas had not, the state was not obligated to obey it.

The vote at the UN produced an unusual line-up, with China and Cuba strongly supporting the US position, since neither country wishes to open its extensive prison system to international inspection. Australia, which has come under mounting international criticism for abuse of refugees, also voted for the US resolution, along with Libya, Pakistan, Egypt, Japan and Russia.

Every member of the European Union (EU) on the United Nations Economic and Social Council, every African country, and all the Latin American and Caribbean countries except Cuba voted against the US resolution.

The effort to subvert enforcement of the Convention Against Torture demonstrates how far the Bush administration has moved from norms of international conduct that were long upheld, at least for propaganda purposes, by every American government since World War II. As long ago as 1948, the UN General Assembly inserted a prohibition against torture in the Universal Declaration of Human Rights, which states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Similar language, reflecting international revulsion at the bestial methods of the Nazis, appears in the Geneva Conventions. Torture is such a serious breach of international law that any state is empowered to exercise jurisdiction over it, regardless of where the crime took place, the nationality of the perpetrator, or the nationality of the victim. This means that charges against US government officials could be brought in the courts of, say, Belgium or Sri Lanka.

US courts have themselves found torture to be prohibited by the Eighth Amendment of the US Constitution, which bans "cruel or unusual punishment," the Fifth Amendment protection against self-incrimination, and the Fourteenth Amendment guarantee of due process. But the Bush administration, arguing before UNESOC, cited the Fourth Amendment to the US Constitution, which upholds the right to be free of "unreasonable search or seizure," claiming that

international inspections of US prisons would constitute such an violation.

The attempt to sabotage the anti-torture treaty is the latest in a series of Bush administration moves to rip up international treaty obligations. The same week, the US became the first country to rescind pledged contributions to the UN Population Fund, contending that family planning funds might be used to promote forced abortions in China. The European Union attacked the US argument as specious and the decision as a cave-in to right-wing fundamentalist forces at home. The EU voted to provide the UN with \$32 million out of the \$34 million cut by the US.



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