

109TH CONGRESS  
1ST SESSION

# H. R. 3541

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. CONYERS (for himself, Mr. SKELTON, Mr. SERRANO, Ms. ZOE LOFGREN of California, Mr. MEEHAN, and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Responsible  
5 Interrogation Standards Enforcement Act of 2005” or  
6 “PRISE Act of 2005”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) After World War II, the United States and  
5 its allies created a new international legal order  
6 based on respect for human rights. One of its funda-  
7 mental tenets was a universal prohibition on torture  
8 and ill treatment.

9 (2) On June 26, 2003, the International Day in  
10 Support of Victims of Torture, President George W.  
11 Bush stated, “The United States is committed to  
12 the world-wide elimination of torture and we are  
13 leading this fight by example. I call on all govern-  
14 ments to join with the United States and the com-  
15 munity of law-abiding nations in prohibiting, inves-  
16 tigating, and prosecuting all acts of torture and in  
17 undertaking to prevent other cruel and unusual pun-  
18 ishment.”.

19 (3) The United States is a party to the Geneva  
20 Conventions, which prohibit torture, cruel treatment,  
21 or outrages upon personal dignity, in particular,  
22 humiliating and degrading treatment, during armed  
23 conflict.

24 (4) The United States is a party to 2 treaties  
25 that prohibit torture and cruel, inhuman, or degrad-  
26 ing treatment or punishment, as follows:

1           (A) The International Covenant on Civil  
2           and Political Rights, done at New York on De-  
3           cember 16, 1966.

4           (B) The Convention against Torture and  
5           Other Cruel, Inhuman or Degrading Treatment  
6           or Punishment, done at New York on December  
7           10, 1984.

8           (5) The United States filed reservations to the  
9           treaties described in subparagraphs (A) and (B) of  
10          paragraph (4) stating that the United States con-  
11          siders itself bound to prevent “cruel, inhuman or de-  
12          grading treatment or punishment” to the extent that  
13          phrase means the cruel, unusual, and inhumane  
14          treatment or punishment prohibited by the 5th  
15          amendment, 8th amendment, or 14th amendment to  
16          the Constitution.

17          (6) Army Regulation 190–8 entitled “Enemy  
18          Prisoners of War, Retained Personnel, Civilian In-  
19          ternees and Other Detainees” provides that “Inhu-  
20          mane treatment is a serious and punishable violation  
21          under international law and the Uniform Code of  
22          Military Justice (UCMJ). . . . All prisoners will re-  
23          ceive humane treatment without regard to race, na-  
24          tionality, religion, political opinion, sex, or other cri-  
25          teria. The following acts are prohibited: murder, tor-

1       ture, corporal punishment, mutilation, the taking of  
2       hostages, sensory deprivation, collective punish-  
3       ments, execution without trial by proper authority,  
4       and all cruel and degrading treatment. . . . All per-  
5       sons will be respected as human beings. They will be  
6       protected against all acts of violence to include rape,  
7       forced prostitution, assault and theft, insults, public  
8       curiosity, bodily injury, and reprisals of any kind. .  
9       . . This list is not exclusive.”.

10               (7) The Field Manual on Intelligence Interroga-  
11       tion of the Department of the Army states that  
12       “acts of violence or intimidation, including physical  
13       or mental torture, threats, insults, or exposure to in-  
14       humane treatment as a means of or an aid to inter-  
15       rogation” are “illegal”. Such Manual defines “infliec-  
16       tion of pain through . . . bondage (other than legiti-  
17       mate use of restraints to prevent escape)”, “forcing  
18       an individual to stand, sit, or kneel in abnormal po-  
19       sitions for prolonged periods of time”, “food depriva-  
20       tion”, and “any form of beating” as “physical tor-  
21       ture”, defines “abnormal sleep deprivation” as  
22       “mental torture”, and prohibits the use of such tac-  
23       tics under any circumstances.

24               (8) The Field Manual on Intelligence Interroga-  
25       tion of the Department of the Army states that

1       “Use of torture and other illegal methods is a poor  
2       technique that yields unreliable results, may damage  
3       subsequent collection efforts, and can induce the  
4       source to say what he thinks the interrogator wants  
5       to hear. Revelation of use of torture by U.S. per-  
6       sonnel will bring discredit upon the U.S. and its  
7       armed forces while undermining domestic and inter-  
8       national support for the war effort. It may also place  
9       U.S. and allied personnel in enemy hands at a great-  
10      er risk of abuse by their captors.”.

11      (b) SENSE OF CONGRESS.—It is the sense of Con-  
12      gress that the reservation filed by the United States to  
13      the Convention against Torture and Other Cruel, Inhu-  
14      man or Degrading Treatment or Punishment (“Conven-  
15      tion”) regarding the obligation under Article 16 of the  
16      Convention—

17           (1) should be interpreted as a substantive defi-  
18           nition of the term “cruel, inhuman or degrading  
19           treatment or punishment” under Article 16 of the  
20           Convention and not as a geographical limitation on  
21           the obligations of the United States under Article 16  
22           of the Convention; and

23           (2) should reflect the original intent of the Sen-  
24           ate and preserve the objectives and purposes of the  
25           Convention.

1 **SEC. 3. HUMANE TREATMENT OF DETAINEES.**

2 (a) PROHIBITION ON TORTURE OR CRUEL, INHU-  
3 MAN, OR DEGRADING TREATMENT OR PUNISHMENT.—(1)

4 No person in the custody or under the physical control  
5 of the United States shall be subject to torture or cruel,  
6 inhuman, or degrading treatment or punishment that is  
7 prohibited by the Constitution, laws, or treaties of the  
8 United States.

9 (2) Nothing in this section shall affect the status of  
10 any person under the Geneva Conventions or whether any  
11 person is entitled to the protections of the Geneva Conven-  
12 tions.

13 (b) RULES, REGULATIONS, AND GUIDELINES.—(1)

14 Not later than 180 days after the date of the enactment  
15 of this Act, the Secretary of Defense shall prescribe the  
16 rules, regulations, or guidelines necessary to ensure com-  
17 pliance with the prohibition in subsection (a)(1) by the  
18 members of the Armed Forces and by any person pro-  
19 viding services to the Department of Defense on a contract  
20 basis.

21 (2) The Secretary shall submit to the congressional  
22 defense committees the rules, regulations, or guidelines  
23 prescribed under paragraph (1), and any modifications to  
24 such rules, regulations, or guidelines—

1           (A) not later than 30 days after the effective  
2           date of such rules, regulations, guidelines, or modi-  
3           fications; and

4           (B) in a manner and form that will protect the  
5           national security interests of the United States.

6           (c) REPORT TO CONGRESS.—(1) The Secretary of  
7           Defense shall submit, on a timely basis and not less than  
8           twice each year, a report to Congress on the circumstances  
9           surrounding any investigation of a possible violation of the  
10          prohibition in subsection (a)(1) by a member of the Armed  
11          Forces or by a person providing services to the Depart-  
12          ment of Defense on a contract basis.

13          (2) A report required under paragraph (1) shall be  
14          submitted in a manner and form that—

15               (A) will protect the national security interests  
16               of the United States; and

17               (B) will not prejudice any prosecution of an in-  
18               dividual involved in, or responsible for, a violation of  
19               the prohibition in subsection (a)(1).

20          (d) DEFINITIONS.—In this section:

21               (1) The term “cruel, inhuman, or degrading  
22               treatment or punishment” means the cruel, unusual,  
23               and inhumane treatment or punishment prohibited  
24               by the 5th amendment, 8th amendment, or 14th  
25               amendment to the Constitution.

1           (2) The term “congressional defense commit-  
2           tees” means the Committees on Armed Services and  
3           the Committees on Appropriations of the Senate and  
4           the House of Representatives.

5           (3) The term “Geneva Conventions” means—

6                   (A) the Convention for the Amelioration of  
7                   the Condition of the Wounded and Sick in  
8                   Armed Forces in the Field, done at Geneva Au-  
9                   gust 12, 1949 (6 UST 3114);

10                   (B) the Convention for the Amelioration of  
11                   the Condition of the Wounded, Sick, and Ship-  
12                   wrecked Members of Armed Forces at Sea,  
13                   done at Geneva August 12, 1949 (6 UST  
14                   3217);

15                   (C) the Convention Relative to the Treat-  
16                   ment of Prisoners of War, done at Geneva Au-  
17                   gust 12, 1949 (6 UST 3316); and

18                   (D) the Convention Relative to the Protec-  
19                   tion of Civilian Persons in Time of War, done  
20                   at Geneva August 12, 1949 (6 UST 3516).

21           (4) The term “torture” has the meaning given  
22           that term in section 2340 of title 18, United States  
23           Code.

1 **SEC. 4. ADHERENCE BY UNITED STATES TO OBLIGATIONS**  
2 **UNDER THE CONVENTION AGAINST TORTURE**  
3 **AND OTHER CRUEL, INHUMAN OR DEGRAD-**  
4 **ING TREATMENT OR PUNISHMENT.**

5 (a) **LIMITATION ON ASSISTANCE WITH RESPECT TO**  
6 **OBTAINING INFORMATION FROM INDIVIDUALS.**—An offi-  
7 cer or employee of the United States may not provide as-  
8 sistance to the government of a foreign country for the  
9 purpose of obtaining information from an individual held  
10 in custody by the foreign government if the officer or em-  
11 ployee has reason to believe that torture or cruel, inhu-  
12 man, or degrading treatment or punishment will be uti-  
13 lized to obtain the information.

14 (b) **LIMITATION ON ASSISTANCE WITH RESPECT TO**  
15 **TRANSFER OF INDIVIDUALS.**—An officer or employee of  
16 the United States may not encourage or otherwise assist  
17 the government of a foreign country to transfer, render,  
18 expel, return, or extradite an individual to another country  
19 if the officer or employee has reason to believe that the  
20 individual would be in danger of being subjected to torture  
21 in violation of Article 3 of the Convention Against Torture  
22 and Other Cruel, Inhuman or Degrading Treatment or  
23 Punishment. For purposes of the preceding sentence, the  
24 term “assist” includes the provision of personnel, informa-

1 tion, equipment, financial assistance, or any other form  
2 of assistance.

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