



**Proposed Questions to the U.S. Government on behalf of U.N. Special Rapporteur on
Torture in response to the 2005 U.S. Report to the Committee Against Torture**

**Heartland Alliance's Midwest Immigrant & Human Rights Center
August 31, 2005**

- I. On May 11, 2005, the U.S. Congress passed the REAL ID Act, a bill that restricts due process protections for many individuals fleeing persecution and torture, including those who may be eligible for relief under the Convention Against Torture. Specifically, REAL ID limits judicial review for many immigrants—allowing for review only of cases that raise questions of law and not questions of fact—and prevents parole for immigrants challenging unwarranted detention or deprivation of fundamental freedoms.
 - A. How many CAT cases have been reviewed; how many cases have been dismissed as a result of the court finding no jurisdiction pursuant to the enactment of REAL ID in May 2005?
 - B. What is the total number of CAT cases appealed to federal courts relative to the number of cases that have been denied review or dismissed by the federal courts as a result of the judicial review provisions of REAL ID?
- II. Non-citizens in immigration removal proceedings do not have a guaranteed right to counsel. How has the lack of counsel impacted U.S. compliance with its *non-refoulement* obligation?
 - A. Do you have data showing CAT grant rates for individuals in removal proceedings with counsel and for those without counsel?
 - B. Assuming the differential between those grant rates indicates the importance of representation through counsel to articulate a viable CAT claim, how does the U.S. intend to ensure access to counsel?
 - C. Please provide information on the current status of measures being taken to monitor, address, detained CAT applicants access to counsel in detention?
- III. Under the procedure called “reinstatement of removal,” an individual with a prior removal order is removed without a hearing unless the individual expresses fear of returning to his/her home country. Do United States immigration officials proactively inquire whether a pro se individual subject to reinstatement of removal fears torture or persecution in his/her homeland?
- IV. The procedure called "expedited removal" allows immigration inspectors at points of entry into the United States to summarily deport certain immigrants who do not possess proper travel documents without providing them the opportunity to appear before an Immigration Judge. The nonpartisan United States Commission on International Religious Freedom issued a report on February 8, 2005, which documented numerous occasions on which asylum seekers and those fleeing torture were subjected to expedited removal in violation of the United States' *nonrefoulement* obligation. What measures has the United States taken to guarantee its compliance with its *nonrefoulement* obligations?