

October 29, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Obama:

We write to urge you to affirm that US obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment the Convention against Torture apply to all official US conduct, including conduct outside the territorial United States.

In November, the United States will appear before the United Nations Committee against Torture in Geneva as part of the Committee's regular review of the US government's record under the convention. By directing the US delegation before the Committee to acknowledge the extraterritorial reach of US obligations under the Convention against Torture, you would be making a valuable contribution toward affirming and strengthening the global ban on torture and other ill-treatment. Such a decision would also widen the break you made from the

Thus, we are concerned by recent media reports indicating that your administration is debating whether to embrace mistaken Bush administration positions, including one put forward by former Attorney General Alberto Gonzales concerning the US reservation to Article 16 of the Convention.ⁱⁱ This reservation defines "cruel, inhuman or degrading treatment" under the treaty to mean ill-treatment

torture and that it would reach all types of government transfers of persons.^{xiii} The Committee has since made clear that the obligation exists when transferring detainees from one state's *de facto* or *de jure* control to another state's control even if the transfer occurs solely within the territory of a single state, such as those that have taken place between the United States or the United Kingdom and Iraq or Afghanistan.^{xiv}

During the US review by the Committee, the US should make clear that it rejects the prior administration's interpretation of its reservation to Article 16, the inapplicability of the Convention against Torture outside the US more broadly, and renounce any legal positions, opinions or interpretations of the Convention issued by the Justice Department between September 11, 2001 and January 20, 2009 that were used to justify torture and ill-treatment of non-citizens overseas. US affirmation of the extraterritorial obligations of the Convention against Torture would reflect changes to US law and policy that you ordered or supported. The United States is already subject to essentially similar obligations under multiple other instruments, including: Executive Order 13491, which requires US personnel to treat all persons in US custody or effective control humanely; the Detainee Treatment Act of 2005, which prohibits US personnel from subjecting any individual in their physical control regardless of location to acts of cruel, inhuman, or degrading treatment; Common Article 3 to the four Geneva Conventions of 1949 which prohibits mutilation, cruel treatment and torture; outrages



