

Congress of the United States
Washington, DC 20515

October 29, 2014

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President,

We are writing to express our strong support for interpreting the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as applying overseas to all persons directly or indirectly under control of U.S. authorities, of whichever type, wherever they are located. This standard is consistent with your promise that you made to the American people both while you were a senator and a presidential candidate, and is equally consistent in keeping with your promises to the American people as a senator and a presidential candidate, and consistent with your actions early in your presidency to ban the use of torture and cruel, inhuman or degrading treatment during interrogations.

The United States of America is a beacon of hope and an aspirational model of government for billions of oppressed people across the world. Unfortunately, according to news reports, your administration is considering reaffirming the President George W. Bush Administration's misguided and dangerous interpretation of the Convention—as not applying overseas to all persons under effective control of U.S. authorities—when the United Nations Committee Against Torture convenes in Geneva in November. We urge your Administration to send a strong signal that it opposes torture by taking a clear position on this issue.

As senator, you supported legislation banning cruel or inhumane treatment of all individuals within U.S. custody, both inside and outside U.S. borders. You specifically declared¹ that this standard was important due to the obligations our nation has under the Convention Against Torture. You unequivocally continued to advocate for this standard as you sought the U.S. presidency, as you noted soon after being elected: "I was clear throughout this campaign and was clear throughout this transition that under my administration the United States does not torture."²

¹ The Congressional Record. October 5, 2005. <https://www.documentcloud.org/documents/1334827-obama-and-hagel-on-mccain-amendment.html> (accessed 2014).

² The Associated Press. *Obama Names Intel Pics, Vows No Torture*. January 9, 2009. http://www.nbcnews.com/id/28574408/ns/politics-white_house/t/obama-names-intel-picks-vows-no-torture/#.VEa1avnF9IE (accessed 2014).

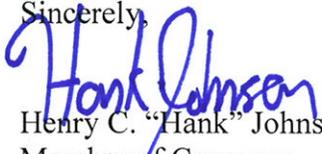
We shared in the worldwide support for your decision in 2009 to issue an executive order that forbade cruel interrogations anywhere and made it harder for a future administration to return to torture. The decision to issue that executive order so early in your Administration sent an unambiguous signal that the United States had learned from its mistakes and had turned from its use of torture. Since that executive order, there has been no evidence to indicate that torture is an effective tool for gathering reliable intelligence. Rather, the evidence is clear that the use of torture only harms America's reputation and fuels international resentment.

The Convention Against Torture had the full support of President Reagan, President George H.W. Bush and President Clinton—and not one of them supported the misguided interpretation at issue now. To the contrary, Abraham D. Sofaer, who negotiated the United Nations Convention Against Torture for President Reagan and continued as the State Department's top lawyer under President George H.W. Bush, wrote in *The Wall Street Journal* in 2005 that neither president intended to restrict enforcement of the cruelty ban to within U.S. territory. That kind of territorial restriction, as Sofaer put it, "would fundamentally undermine the treaty's purpose."³

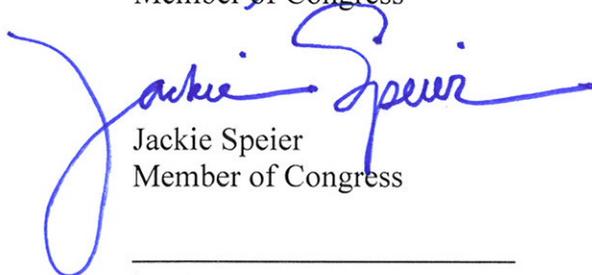
Indeed, at the time of advice and consent, both President Reagan's Administration and the U.S. Senate took the position that treaty provisions—including the ban on cruel treatment in "any territory under [a state's] jurisdiction"—applied not just within America's sovereign boundaries but to ships and aircraft as well as U.S. special territorial, maritime and aircraft jurisdictions.⁴ The negotiating history of the treaty reflects the same—the negotiators rejected a proposal limiting it to inside state borders.

The Bush Administration's misguided interpretation isolated us from our allies and put us in the dubious company of abusive and authoritarian governments. We urge your Administration to break with this harmful legacy, affirm the Convention Against Torture applies overseas, and renew America's leadership on the right of all people to freedom from torture.

Sincerely,


Henry C. "Hank" Johnson
Member of Congress


Eleanor Holmes Norton
Member of Congress


Jackie Speier
Member of Congress


Keith Ellison
Member of Congress

³ Anderson, Kenneth, and Abraham D. Sofaer. "Abraham D. Sofaer on the McCain torture amendment." *Kenneth Anderson's Law Of War and Just War Theory Blog*. November 26, 2005. <http://kennethandersonlawofwar.blogspot.com/2005/11/abraham-d-sofaer-on-mccain-torture.html> (accessed 2014).

⁴ Koh, Harold. "Memorandum Opinion On The Geographic Scope Of The International Covenant On Civil And Political Rights." October 19, 2010. <https://www.documentcloud.org/documents/1053853-state-department-iccpr-memo.html> (accessed 2014).



Charles B. Rangel
Member of Congress



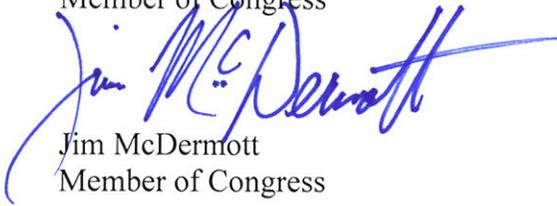
Raul M. Grijalva
Member of Congress



Sam Farr
Member of Congress



Jim Moran
Member of Congress



Jim McDermott
Member of Congress



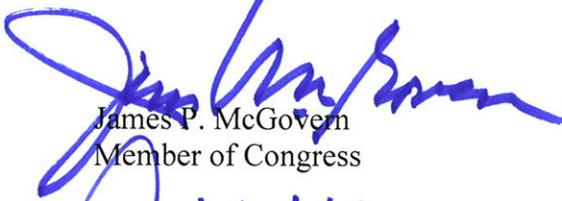
Lloyd Doggett
Member of Congress



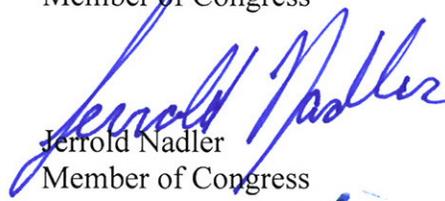
Barbara Lee
Member of Congress



Steve Cohen
Member of Congress



James P. McGovern
Member of Congress



Jerrold Nadler
Member of Congress



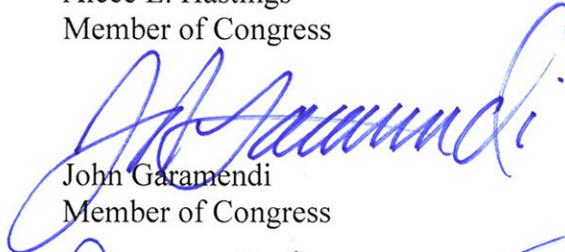
Chris Van Hollen
Member of Congress



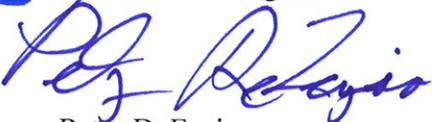
Alcee L. Hastings
Member of Congress



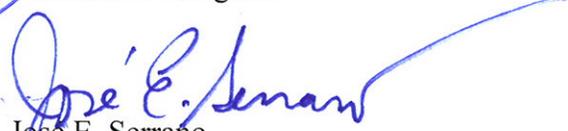
John Conyers, Jr.
Member of Congress



John Garamendi
Member of Congress



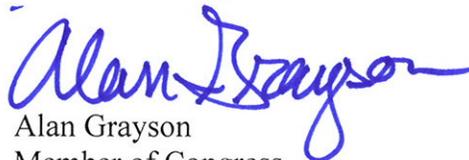
Peter DeFazio
Member of Congress



Jose E. Serrano
Member of Congress



Mark Takano
Member of Congress



Alan Grayson
Member of Congress

Danny K. Davis

Danny K. Davis
Member of Congress

Sheila Jackson Lee

Sheila Jackson Lee
Member of Congress

Alan Lowenthal

Alan Lowenthal
Member of Congress

Donna F. Edwards

Donna F. Edwards
Member of Congress

Michael M. Honda

Michael M. Honda
Member of Congress

Maxine Waters

Maxine Waters
Member of Congress

Judy Chu

Judy Chu
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David N. Cicilline

David N. Cicilline
Member of Congress

Carolyn B. Maloney

Carolyn B. Maloney
Member of Congress

Karen Bass

Karen Bass
Member of Congress

Suzanne Bonamici

Suzanne Bonamici
Member of Congress

Adam B. Schiff

Adam B. Schiff
Member of Congress

cc: Secretary of State John Kerry, Secretary of Defense Chuck Hagel