

**Opening Statement  
Ambassador Keith Harper  
U.S. Representative to the Human Rights Council  
U.S. Mission Geneva**

**Committee Against Torture**

**November 12-14, 2014, Geneva**

Mr. Vice-Chair, distinguished members of the Committee:

I am Ambassador Keith Harper, the Representative of the United States to the UN Human Rights Council.

As our President has said, “Torture violates United States and international law as well as human dignity.” It is “contrary to the founding documents of our country, and the fundamental values of our people.”

For that reason, the United States took a leading role in the negotiation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment more than thirty years ago. Our country’s leaders have long championed the Convention, across the political spectrum. When President Reagan signed the Convention and submitted it to the U.S. Senate in 1988 for its advice and consent, his letter urged ratification to “clearly express United States opposition to torture, an abhorrent practice unfortunately still prevalent in the world today”. The United States ratified the treaty six years later, with support from both major political parties. Opposition to torture is a fundamental U.S.

value. Accordingly, I was honored to participate in last week's event marking the 30<sup>th</sup> anniversary of this bedrock Convention.

We are proud of our country's history and record, and have made great progress since our last appearance before this Committee. At the same time we recognize that no nation is perfect, ours included. But we have learned from the past, and have sought to strengthen our implementation of this Convention.

We see our dialogue with the UN human rights treaty bodies as part of a valuable process to push all nations, including ours, to do better. Indeed, we approach our engagement with this Committee as a dialogue. Our meetings today and tomorrow are an opportunity for us to present our efforts to implement the Convention to you -- but also an opportunity for us to learn from you. We have faith that both sides of the dialogue will be constructive.

The presence of civil society in this room is particularly important. I came to government service from civil society, as have others in our delegation. So I have first-hand knowledge of the important role of civil society in improving protection of human rights at home.

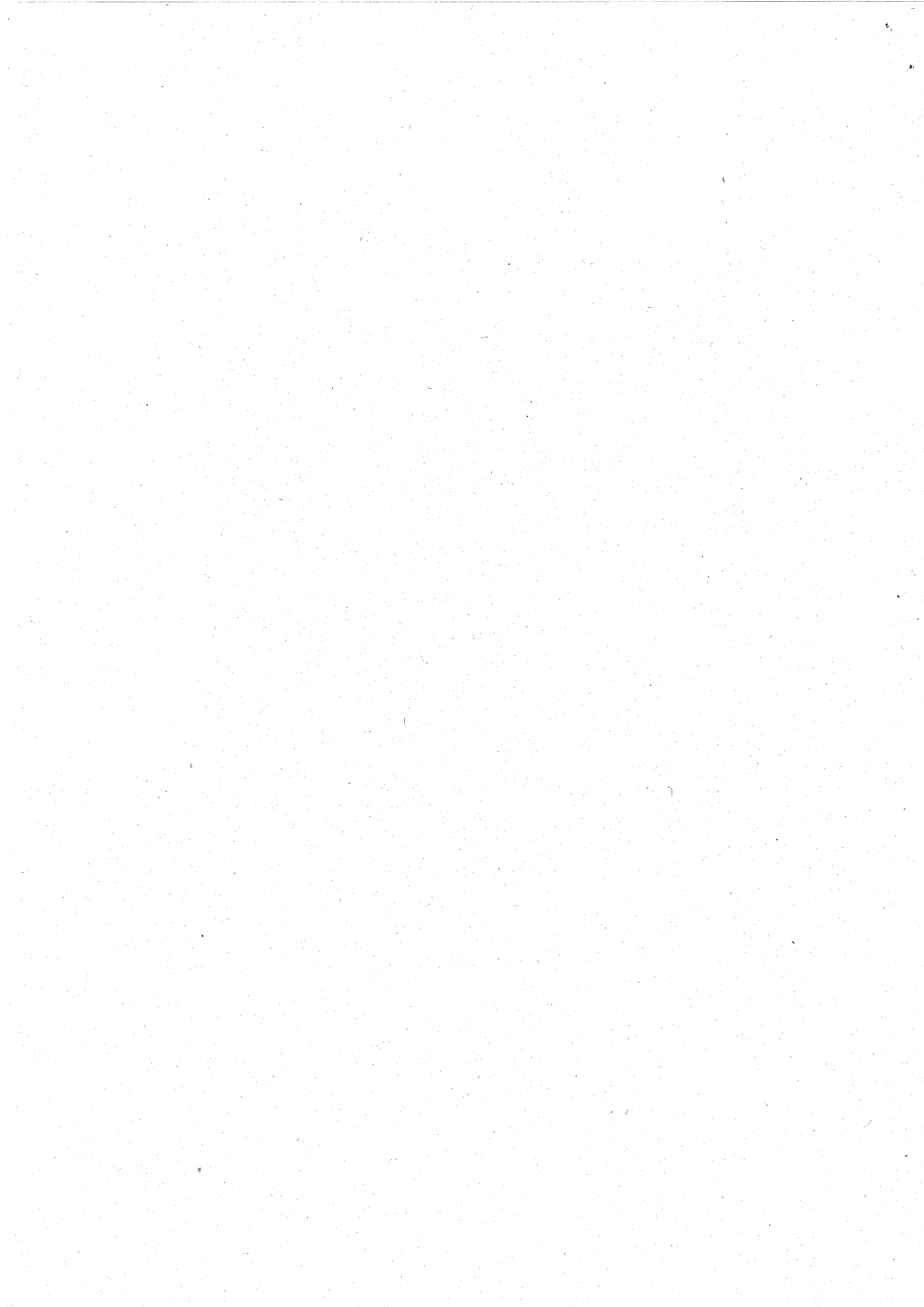
I am honored to appear before you today and present an experienced, senior-level delegation from the United States. The members of our delegation represent

four Federal government agencies, and two of our fifty States, Mississippi and Rhode Island.

Following me will be, Tom Malinowski, Assistant Secretary of State for the Bureau of Democracy, Human Rights, and Labor. Then Mary McLeod, Acting Legal Adviser at the Department of State, followed by David Bitkower, a Deputy Assistant Attorney General from the Department of Justice, will take the floor.

With that, I am honored to turn to Assistant Secretary Tom Malinowski.

Thank you, Mr. Chair.



**Opening Statement**  
**Tom Malinowski**  
**Assistant Secretary**  
**Democracy Human Rights and Labor**  
**U.S. Department of State**

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On behalf of the Department of State and the United States, I'd like to thank the Committee for the opportunity to discuss our 2013 Periodic Report. The United States takes very seriously our obligations under the Convention Against Torture and our dialogue with this Committee. We will address the progress we have made since our last presentation in 2006, and how the United States continues to implement the Convention in improved ways.

The United States was founded on the principle of respect for the dignity of the individual, and no crime offends human dignity more than torture. The prohibition of torture and cruel treatment is part of our Constitution, and it binds our federal government and all 50 of our states. We believe that torture, and cruel, inhuman and degrading treatment and punishment are forbidden in all places, at all times, with no exceptions. The legal and moral argument against torture would be dispositive under any circumstances. It would not matter to that argument if torture were

effective; our experience has been that it is not. It not only devastates its victims , but harms people and countries that employ it. In many places, it is primarily used to coerce false confessions or simply to inflict suffering for its own sake. Much of the time, as George Orwell once wrote, “the object of torture is torture.”

For all these reasons, the United States actively works to combat torture around the world. Where we see it, we condemn it. We urge other governments to cease its use. We make efforts to sanction those responsible. We support civil society organizations that campaign against torture, and that treat its victims.

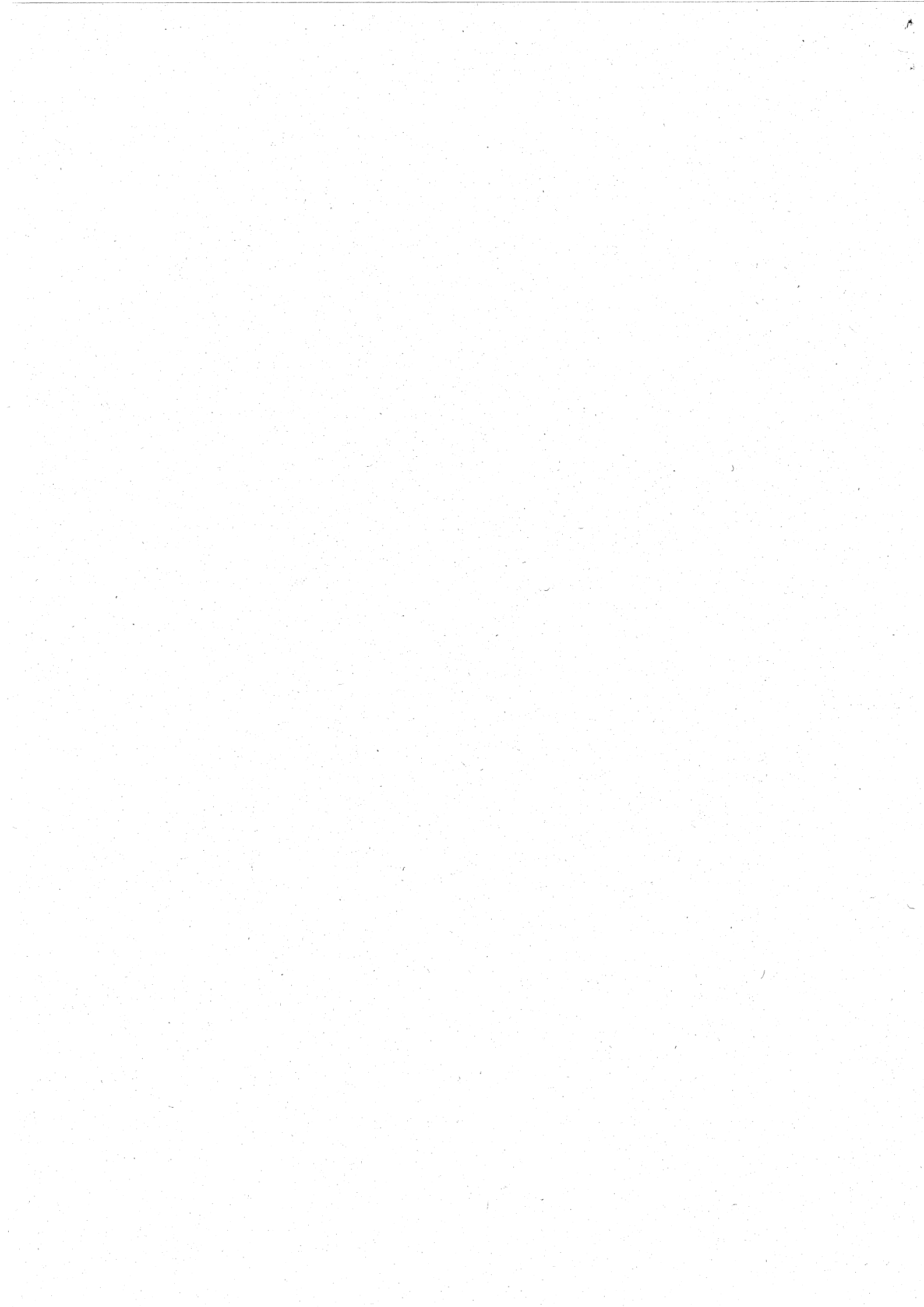
It’s important to stress that we expect others to hold us to the same high standards to which we hold them. And we do not claim to be perfect. A little more than ten years ago, our government was employing, interrogation methods that, as President Obama has said, any fair minded person would believe were torture. At the same time, the test for any nation committed to this Convention and to the rule of law is not whether it ever makes mistakes, but whether and how it corrects them. When this issue arose in the United States during the last decade, our democratic institutions worked as designed. Our free press and civil society led a robust public debate. Our courts reaffirmed the protections against torture and other mistreatment. Our

Congress strengthened these fundamental protections by an overwhelming, bipartisan vote. In 2008, Americans of our two major political parties chose presidential candidates who were resolutely opposed to torture. And President Obama further reinforced the ban in an Executive Order in his first days in office.

As a result, U.S. national security agencies now arguably have more explicit safeguards against torture and cruelty than those of any other country on earth. They can and should be a model for others.

Reporting this progress to civil society and to this Committee is part of our obligation and another way we hope to lead by example. We look forward to answering your questions and to hearing your recommendations on how we can continue to deepen our commitment.

To continue our presentation, I will now turn to my colleague, Acting Legal Adviser Mary McLeod, for her opening remarks.





**Opening Statement**  
**Mary E. McLeod**  
**Acting Legal Adviser**  
**U.S. Department of State**

**Committee Against Torture**

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Distinguished Chair, Members of the Committee, my name is Mary McLeod; I am the Acting Legal Adviser of the U.S. Department of State. On behalf of the United States, it is my honor and privilege to address the Committee Against Torture and to present the Third Periodic Report of the United States on implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The United States is proud of its record as a leader in respecting, promoting, and defending human rights and the rule of law, both at home and around the world. But in the wake of the 9/11 attacks, we regrettably did not always live up to our own values, including those reflected in the Convention. As President Obama has acknowledged, we crossed the line and we take responsibility for that.

The United States has taken important steps to ensure adherence to its legal obligations. We have engaged in ongoing efforts to determine why lapses

occurred, and we have taken concrete measures to prevent them from happening again. Specifically, we have established laws and procedures to strengthen the safeguards against torture and cruel treatment. For example, immediately upon taking office in 2009, President Obama issued Executive Order 13491 on ensuring lawful interrogations. This Executive Order was clear: consistent with the Convention Against Torture and Common Article 3 of the 1949 Geneva Conventions, as well as U.S. law, any individual detained in armed conflict by the United States or within a facility owned, operated, or controlled by the United States, in all circumstances, must be treated humanely and must not be tortured or subjected to cruel, inhuman, or degrading treatment or punishment. The Executive Order directed all U.S. officials to rely only on the U.S. Army Field Manual in conducting interrogations in armed conflict. And it revoked all previous executive directives that were inconsistent with the Order including legal opinions regarding the definition of torture. Executive Order 13491 also created a Special Task Force on Interrogations and Transfer Policies Issues, which helped strengthen U.S. policies so that individuals transferred to other countries would not be subjected to torture.

In addition to these steps, the United States has sought to make its interrogation operations more transparent to the American public and to the world. We have made public a number of investigations of the treatment of detainees in

the post 9/11 time-period. We are expecting the public release of the Findings and Conclusions of a detailed congressional investigation into the former detention and interrogation program that was put in place in the immediate aftermath of 9/11. President Obama has made clear that this document should be released, with appropriate redactions to protect national security.

In an effort to ensure that we are doing the utmost to prevent torture and cruel treatment, the United States has carefully reviewed the extent to which certain obligations under the Convention apply beyond the sovereign territory of the United States and is prepared to clarify its views on these issues for the Committee today.

In brief, we understand that where the text of the Convention provides that obligations apply to a State Party in “any territory under its jurisdiction,” such obligations, including the obligations in Articles 2 and 16 to prevent torture and cruel, inhuman or degrading treatment or punishment, extend to certain areas beyond the sovereign territory of the State Party, and more specifically to “all places that the State Party controls as a governmental authority.”<sup>We have concluded that</sup> The United States <sup>currently</sup> exercises such control at the U.S. Naval Station at Guantanamo Bay, Cuba, and with respect to U.S. registered ships and aircraft. Although the law of armed conflict is the controlling body of law with regard to the conduct of hostilities and the protection of war victims, a time of war does not suspend operation of the

Convention Against Torture, which continues to apply even when a State is engaged in armed conflict. The obligations to prevent torture and cruel, inhuman, and degrading treatment and punishment in the Convention remain applicable in times of armed conflict and are reinforced by complementary prohibitions in the law of armed conflict.

There should be no doubt, the United States affirms that torture and cruel, inhuman, and degrading treatment and punishment are prohibited at all times in all places, and we remain resolute in our adherence to these prohibitions.

In closing, we welcome the opportunity to engage with the Committee during this presentation and we look forward to answering your questions.

Opening Statement  
David Bitkower  
Deputy Assistant Attorney General  
Criminal Division  
U.S. Department of Justice

Committee Against Torture

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Mr. Chairperson, distinguished Members of the Committee, and representatives of civil society, it is an honor to appear before the Committee today. My name is David Bitkower and I serve as a Deputy Assistant Attorney General in the Criminal Division of the United States Department of Justice.

The Department of Justice plays a critical role in ensuring that our federal, state, and local government officers protect human rights and uphold our obligations under the Convention. We do so by undertaking investigations, initiating criminal prosecutions, and filing civil lawsuits. We are deeply committed to preventing violations of the prohibition against torture and cruel, inhuman and degrading treatment or punishment; to pursuing justice on behalf of victims; and to denying perpetrators safe haven in our country.

My colleagues from the State Department have discussed ways in which the United States has not always lived up to its values. The Department of Justice has been part of the broad, long-lasting, and comprehensive effort to examine those

failures and ensure they do not happen again. The nation reaffirmed by statute that all detainees must be humanely treated; President Obama issued an Executive Order forbidding the use of torture; and the Department has withdrawn prior legal opinions that permitted mistreatment. The Department's career prosecutors, acting under both the current Attorney General and his predecessors, also undertook several reviews and criminal investigations into specific allegations of detainee abuse.

We have reinforced our commitment to accountability in other contexts as well. We have brought criminal prosecutions against those who sought safe haven in the United States, such as Chuckie Taylor, who committed torture and other crimes in Liberia; Sulejman Mujagic, who tortured a prisoner of war in the Bosnian conflict; and Guatemalan soldiers who participated and concealed their roles in massacres before coming to the United States. We have prosecuted Americans, including a former U.S. soldier who was convicted of raping and killing a 14-year-old Iraqi girl and then killing her family, and a CIA contractor who was convicted of brutally beating an Afghan detainee. And just last month, the Department obtained the convictions of four civilian government contractors for shooting to death 14 civilians and injuring 20 others in Nisur Square in Baghdad, Iraq, in 2007.

Since our last periodic report, we have also made great strides in promoting civil rights and reforming our criminal justice system. The vast majority of law enforcement officers in the United States perform their jobs with integrity and respect for the communities they serve. But when systemic problems emerge, and officers abuse their power, the Justice Department uses its authority to implement meaningful reform and hold officers accountable under the law.

In the civil context, the Department's Civil Rights Division has opened over 20 investigations into allegations of systemic police department violations over the past five years. During that time, we have reached 15 ground-breaking settlement agreements to implement reforms in these police departments. In the criminal realm, we have prosecuted over 330 police officers for misconduct in the last five years.

The Justice Department is also continuing its work to prevent, detect, and respond to abuse in U.S. prisons. In 2013, for example, a Department investigation found that Pennsylvania's use of long-term and extreme forms of solitary confinement on prisoners with serious mental illness constitutes a violation of their rights under the Eighth Amendment to the U.S. Constitution and under the Americans with Disabilities Act.

The Justice Department is also continuing its work to prevent, detect, and respond to abuse in U.S. prisons. In 2013, for example, a Department

investigation found that Pennsylvania's use of long-term and extreme forms of solitary confinement on prisoners with serious mental illness constitutes a violation of their rights under the Eighth Amendment to the U.S. Constitution and under the Americans with Disabilities Act. And the Department has made great strides to prevent, detect, and respond to sexual abuse in confinement facilities through regulations to implement the Prison Rape Elimination Act, or PREA. The Department also is protecting the rights of youth in juvenile detention and commitment systems. As a result of these and other efforts, our criminal justice system is not only more humane, but also stronger and more effective.

Thank you for the opportunity to speak with you today. I look forward to sharing more examples of the work we've been doing over the past five years to implement the Convention and protect human rights.