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Communication Addressing North Carolina's Role in the CIA's Extraordinary Rendition and Torture Program and Request for Coordinated Measures Including State Visit, Investigations, and International Condemnation

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June 20, 2019

Professor Nils Melzer
Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix CH-1211
Geneva 10, Switzerland
E-mail: urgent-action@ohchr.org
sr-torture@ohchr.org
and c/o Special Procedures Branch of the High Commissioner for Human Rights

RE: Communication Addressing North Carolina's Role in the CIA's Extraordinary Rendition and Torture Program and Request for Coordinated Measures Including State Visit, Investigations, and International Condemnation

CC: Fionnuala Ní Aoláin, Special Rapporteur on Human Rights While Countering Terrorism; Ahmed Shaheed, Special Rapporteur on Freedom of Religion or Belief; Felipe Gonzalez Morales, Special Rapporteur on the Human Rights of Migrants; Fabián Salvioli, Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence; Tendayi Achiume, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance; Livingstone Sewanyana, Independent Expert on the Promotion of a Democratic and Equitable International Order; Michel Forst, Special Rapporteur on the Situation of Human Rights Defenders, Open-ended Intergovernmental Working Group to Elaborate the Content of an International Regulatory Framework, without Prejudging the Nature Thereof, Relating to the Activities of Private Military and Security Companies; Surya Deva, Chair of the Working Group on Business and Human Rights; Saeed Mokbil, Chair of the Working Group on Mercenaries

Special Procedures Branch

Dear Special Rapporteur Professor Nils Melzer:

We, the Human Rights Policy Seminar at the University of North Carolina School of Law, submit this communication on behalf of the North Carolina Commission of Inquiry on Torture ("NCCIT" or "the Commission"), an organization working extensively to bring about justice for victims of the Central Intelligence Agency's ("CIA") extraordinary rendition and torture program and, in particular, its operations in North Carolina. Our mission has received bi-partisan support from a wide array of organizations and individuals, ranging from the American Civil

Liberties Union to former high-ranking government officials.¹ In this communication, we seek to call attention to the unaddressed human rights violations committed by the U.S. government, the state of North Carolina and its political subdivisions, as well as Aero Contractors, Limited (“Aero”) incorporated in North Carolina and located at the Johnston County Airport and the North Carolina Global TransPark in North Carolina. As the home base of a private government contractor, the state, county, and two airports enabled Aero’s participation in the unlawful capture of multiple persons and their rendition to black sites for the purpose of subjecting them to interrogation by torture. Moreover, the protocol used by the personnel on the North Carolina rendition flights constituted torture, cruel, inhuman and degrading treatment.

This CIA program with global reach literally “got off the ground” locally at the airports where Aero planes were located. Taking into consideration the extensive human rights violations that occurred as a result, we call upon members of various rapporteurships and working groups to investigate both the CIA’s and Aero’s human rights violations in North Carolina and other U.S. states. We ask that members request the U.S. government to grant a site visit to North Carolina to aid in that investigation *and to take any and all other action permitted by the various mandates*. We also encourage members to issue a statement calling on the U.S. government, the state of North Carolina and its political subdivisions as well as Aero to deliver immediate reparations and reconciliation to victims of the extraordinary rendition.

The prohibition on torture is enumerated in all authoritative international human rights and international humanitarian law instruments, including treaties ratified by the United States.² The United States has entered into, by both signature and ratification with the United Nations, the: 1) International Convention on the Elimination of All Forms of Racial Discrimination (1st Amendment Note) (“ICERD”); 2) International Covenant on Civil and Political Rights (1st Generation rights, no derogation from articles 6, 7, 8 para. I & II, 11, 15, 16, and 18 under this provision) (“ICCPR”); and 3) Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment.³ In addition, the Universal

¹ Please see The North Carolina Commission of Inquiry on Torture (*NCCIT*), a non-profit organization dedicated to investigating and establishing public accountability for the role that North Carolina's government and state resources played in helping to facilitate the U.S. torture program at <http://www.nccit.org/about>.

² See, e.g., Universal Declaration of Human Rights, art. 5, G.A. Res. 217 (III) A; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2, Dec. 10, 1984, S. Treaty Doc. 100-20 (1988), 1465 U.N.T.S. 85 [hereinafter CAT] (ratified by the United States on October 21, 1994); Geneva Convention Relative to the Treatment of Prisoners of War, arts. 3, 13, 130, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter GC III] (ratified by the United States on August 2, 1955); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, arts. 3, 32, 147, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter GC IV] (ratified by the United States on August 2, 1955).

³ Universal Declaration of Human Rights, art. 5, G.A. Res. 217 (III) A; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2, Dec. 10, 1984, S. Treaty

Declaration of Human Rights is customary law so basic to humanity that the U.S. government cannot justify dispute with the doctrine.⁴ All of these instruments are reinforced by Article VI of the U.S. Constitution which states in relevant part, “all [T]reaties made . . . shall be the supreme Law of the Land; and all the Judges in every State shall be bound thereby”⁵

As noted in the report submitted by the Commission,

[a]cross all of the human rights treaties, there is also a right to an effective remedy, including reparation and compensation for violations that are committed. This means that the human rights treaties that the United States has ratified govern what the government does or does not do long after the program itself has ended.⁶

Indeed, a right to remedy is found in both the ICCPR and CAT. As testimony before hearings held by the Commission highlighted, neither the Bush nor the Obama administration criminally prosecuted any officials for violations of international law committed during the CIA’s extraordinary rendition and torture program.⁷ Furthermore, government claims of the “state secrets” privilege were invoked to block attempts by victims to remedy violations through civil litigation notwithstanding the fact that the details and circumstances of the program had been disclosed to the public prior to the litigation.⁸

The failure of U.S. government authorities as well as the state of North Carolina at all levels to investigate allegations of human rights abuses arising out of the CIA’s extraordinary rendition and torture program— including allegations of abuses faced by those rendered to foreign custody—and to prosecute and provide redress for violations, is itself a “breach of its binding obligations under human rights treaties.”⁹ These circumstances make it all the more important for victims to obtain the assistance of international human rights bodies as the national systems have closed the door on them.

Doc. 100-20 (1988), 1465 U.N.T.S. 85 [hereinafter CAT] (ratified by the United States on October 21, 1994); Geneva Convention Relative to the Treatment of Prisoners of War, arts. 3, 13, 130, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter GC III] (ratified by the United States on August 2, 1955); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, arts. 3, 32, 147, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter GC IV] (ratified by the United States on August 2, 1955).

⁴ *Id.*

⁵ U.S. Const. art. VI.

⁶ North Carolina Commission of Inquiry on Torture, *Torture Flights: North Carolina’s Role in the CIA Rendition and Torture Program*, (Sep. 2018), p.60, <http://www.nctorturereport.org/>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

I. Central Intelligence Agency's Extraordinary Rendition and Torture Program

On September 17, 2001, in the aftermath of the terrorist events of September 11, President Bush signed a classified, covert action memorandum authorizing the CIA to seize and detain suspected terrorists.¹⁰ By the following month, October 2001, Aero Contractors, Limited (“Aero”) had begun to “operate a Gulfstream V turbojet, aircraft N379P, out of North Carolina in the United States” to covertly transport individuals suspected of terrorism between countries and jurisdictions without legal process.¹¹

Aero served as a CIA-affiliated company, the “operating company” of aircraft “registered to dummy corporations” to conduct renditions.¹² It is believed that these entities included: Stevens Express Leasing, Inc., Premier Executive Transport Service, Aviation Specialties, Inc., and Devon Holding and Leasing, Inc.¹³ Using these aircraft, Aero’s role included: “providing and/or operating the transportation necessary to capture and transfer the detainees to overseas detention facilities and ‘black sites.’”¹⁴ Aero’s planes were housed at the Johnston County Airport and North Carolina Global TransPark—both political subdivisions of the state of North Carolina.¹⁵

Through the CIA’s extraordinary rendition and torture program (sometimes euphemistically referred to by the government as the Rendition, Detention, and Interrogation Program, the United States directly and repeatedly violated Article 3 of the CAT and Article 7 of the ICCPR.¹⁶ The individuals who were transferred to a foreign nation for imprisonment and interrogation on behalf of the transferring nation without any formal charges or judicial process suffered grave human rights violations.¹⁷

Here, the U.S. government—in particular the CIA, with the aid of North Carolina, North Carolina political subdivisions, and private corporations—aided, abetted, participated in, encouraged, and/or conducted illegal extraordinary renditions. “The U.S. government’s insistence on attempting to hide its torture program from public scrutiny has prevented survivors from seeking redress for the wrongs committed against them. International law obligations have been flouted, and

¹⁰ *Id.* at 14.

¹¹ *Id.*

¹² *Id.* at 21.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 29.

¹⁶ *Id.* at 38. *See infra* note 62.

¹⁷ *Arar v. Ashcroft*, 585 F.3d 559, 564 (2d Cir. 2009) (defining extraordinary rendition).

judicial independence weakened.”¹⁸ Protecting the sovereignty of the United States does not have to come at the expense of sacrificing morals and violating international laws to which it is bound.

The CIA’s extraordinary rendition and torture program relied heavily on North Carolina’s public infrastructure, military installations, and private corporations.¹⁹ As a result, the program damaged the reputation of the State of North Carolina and implicated its citizens in torture and other human rights violations.²⁰ The failure to fully accept responsibility for North Carolina’s role in the extraordinary rendition and torture program perpetuates those damages to this day.²¹

II. North Carolina’s Role in the Extraordinary Rendition Process

North Carolina played a crucial, enabling role in the CIA’s extraordinary rendition and torture program. Although the small airports in Kinston (Lenoir County) and Smithfield (Johnston County) used by Aero and the CIA are in rural locations in the South, the activities that occurred there were part of a high-stakes, intricate global scheme. “Detainees were rendered by Aero Contractors to countries around the world, including Afghanistan, Algeria, Egypt, Guantanamo Bay (Cuba), Iraq, Jordan, Libya, Morocco, Poland, Romania, and Thailand.”²² Periods of detainee custody varied from a few months to “16 years and counting.”²³ Many of the detainees are still in custody or remain “missing.”

Typically, a small number of Aero personnel would fly Aero’s planes from North Carolina to Dulles International Airport (Virginia) where they would pick up a rendition team; these teams were comprised of approximately 12 U.S. officials who conducted the renditions.²⁴ As a result of this pick-up/drop-off process, the airplanes used in the CIA’s extraordinary rendition and torture program have been colloquially referred to as “torture taxis.” Torture began at capture, continued on these flights, and remained ongoing during the subsequent detentions. For example,

Detainees reported that they were given injections or had pellets (presumably suppositories) forced into their rectum, in some instances multiple times. Notwithstanding the presence of medical personnel and because these procedures took place without consent, detainee accounts also describe that they experienced the

¹⁸ North Carolina Commission of Inquiry on Torture, *supra* note 1, at 10.

¹⁹ *Id.* at 49.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 29-30.

²³ *Id.*

²⁴ *Id.* at 30.

removal of their clothes, cavity searches, diapering, painful restraints, beatings, and the forcible insertion of rectal suppositories “as sexual assault.” Violent treatment continued during the Aero Contractors-operated flights. Khaled El-Masri explained that “[i]n the airplane, he was thrown to the floor with his arms and legs secured to the sides of the plane in a spread-eagled position,” and later he received “two injections, one in the left arm and one in the right arm, at different times during the flight. Eventually, the men guarding him put something over his nose that made him feel light-headed and lose consciousness.”²⁵

The function of these protocols was to instill “learned helplessness” in detainees as a prelude to their coercive interrogations.²⁶

To date, Aero, North Carolina, North Carolina subdivisions, and the CIA have not been held accountable for their activities and fundamental roles in contributing to the illegal extraordinary rendition and torture carried out on behalf of the United States.²⁷ Lack of accountability increases the risk of use of torture in the future, and reduces American ability to deter other nations from using torture in the future.²⁸ It inherently reduces the possibility of redress for the victims as it continues to go unacknowledged by the governments of the United States and North Carolina.

A. Victims of Aero, North Carolina, and the CIA

The 49 known detainees rendered by North Carolina-based planes and personnel were diverse in age, citizenship, socio-economic status, education, and occupation.²⁹ “The youngest, Hassan bin Attash, was a 16-year-old student when CIA agents abducted him; the eldest, Saifullah Abdullah Paracha, has been detained without trial since 2003 and is now 71 years old.”³⁰ Fatima Boudchar, the only woman, was four and a half months pregnant at the time of her abduction.³¹ The only similarity among all 49 detainees was their Muslim identity.³²

Detainees’ testimony, confirmed by the Senate Select Committee on Intelligence Study of the CIA’s Detention and Interrogation Program (“Senate

²⁵ *Id.* at 30, 36.

²⁶ *Id.* at 34.

²⁷ *Id.* at 4.

²⁸ *Id.* at 49.

²⁹ *Id.* at 4.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

Torture Report”) revealed that, while in United States’ or foreign custody, detainees were subjected to various forms of abuse and torture. Torture occurred prior to interrogation during capture and transport, which included but was not limited to hooding, total body restraint, sensory deprivation, and physical and sexual assault.³³ During interrogation and in detention, torture methods included:

blindfolding, hooding, forced nudity (both alone and in front of other detainees), being held in a pitch-black cell without indication of time or day, physical assault, exposure to extreme temperatures, sleep deprivation, exposure to painfully loud music, cigarette burns, being suspended by arms bound behind one’s back, having to maintain stress positions for prolonged periods of time, being shackled naked for consecutive days, simulated drowning and other mock executions, threats of rape, rectal “feeding” and other forms of rape and sexual assault, including genital manipulation.³⁴

Of the 49 North Carolina Aero-linked detainees, twenty-three have been released, thirteen remain in Guantanamo Bay, and one remains at an Israeli detention site.³⁵ The status of eight detainees remains unknown.³⁶ The United Nations Human Rights Committee found that “every instance of secret detention is by definition incommunicado detention.”³⁷ The findings determined “prolonged incommunicado detention may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment, and may itself constitute such treatment.”³⁸ Enforced disappearance may also “amount to torture or other form of ill-treatment, and at the same time violates the right to the protection of family life for family members of the disappeared.”³⁹ Individuals held in CIA “black sites”— and often those rendered to foreign custody for detention and interrogation—were held in secret, *i.e.*, incommunicado, “detention in unknown locations and without information about their fate disclosed, amounting to an enforced disappearance.”⁴⁰

Four of the 49 detainees are confirmed dead.⁴¹ Omar al-Faruq died in Baghdad in 2006, a year after escaping a CIA black-site in Afghanistan.⁴² Ibn Sheikh Al-Libi

³³ *Id.* at 30.

³⁴ *Id.*

³⁵ *Id.* at 31.

³⁶ *Id.*

³⁷ *Id.* at 32.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

died at a Libyan detention site in 2009 under suspicious circumstances.⁴³ Hassan Ghul was killed by a U.S. drone strike in 2012 in Pakistan.⁴⁴ Mohammed Bashmilah died in Yemen in June 2016.⁴⁵ None of these people, nor their families, ever received an apology, acknowledgment, or reparations from the U.S. government for their unlawful capture and torture prior to or following their deaths.⁴⁶

Six of the thirteen men still in detention in Guantanamo Bay are under indictment of the U.S. Military Commission System.⁴⁷ Several detainees were handed over to other governments and, as a result, some have had trials in Egypt, Libya, Yemen, and Algeria.⁴⁸ However, the legitimacy of those trials is dubious at best. For example, one of the detainees was given a 15-minute trial in Libya, after having been detained four years prior; he was detained an additional two years following trial.⁴⁹ Swedish authorities determined another detainee received an unfair trial in Egypt that lasted less than 6 hours; as a result, Sweden granted him permanent residency in 2012.⁵⁰

Survivors of the CIA's extraordinary rendition program deal with ongoing mental, emotional, physical and social issues.⁵¹ Those who were released are tormented by what they managed to survive, and their families also continue to bear the burden with them. The long-term effects of surviving torture negatively impact work, daily living, and meaningful interactions with family, friends, and their extended communities.⁵² Some ongoing physical effects include: headaches, persistent pain, hearing loss, visual problems, cardiovascular/respiratory problems, sexual difficulties, and neurological damage.⁵³ The psychological consequences of rendition and torture include:

post-traumatic stress disorder (PTSD), alternating between detachment and paranoia, obstruction of human interaction and connection, and "phobia of hope" or a terror of thought of the future. Research on the effects of torture also underscores that both physical and psychological torture have a physiological impact. Even though their end results are not the same, both real and mock executions produce physiological responses and

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 39.

⁵² *Id.*

⁵³ *Id.*

tremendous fear. Indeed, the line between psychological and physical torture is blurry, prompting psychologists such as Dr. Rona M. Fields to conclude that victims can be profoundly harmed by both types of torture.⁵⁴

Survivors have testified about their ongoing medical issues as a result of their detentions.⁵⁵ Detainees and their families attest to lasting physical and mental suffering.⁵⁶ “Physical suffering results from torture and abuse, lengthy imprisonment, inadequate medical care during detention, and release without access to adequate medical care.”⁵⁷ For example, Mustafa al Hawsawi had to undergo “reconstructive bowel surgery after forced anal feeding.”⁵⁸ Mohamedou Ould Salahi testified at the Commission hearings on his need for “advanced medical care as a result of his imprisonment in Jordan, Afghanistan, and Guantánamo Bay.”⁵⁹ Additionally, Saifullah Paracha has been unable to obtain appropriate medical care for his heart condition, diabetes, and other medical problems.⁶⁰ Physical and mental suffering take many forms in survivors and are often interrelated.⁶¹ In refusing to acknowledge the CIA’s extraordinary rendition and torture program and reported violations, the United States has also failed to render appropriate medical care to address the physical and mental ailments that stem from torture and rendition. The survivors continue to suffer because of the lack of accountability by the United States, North Carolina and its political subdivision, and Aero Contractors.

Intervention is needed by third parties to pressure the United States to take responsibility for its role in torture and the CIA’s extraordinary rendition and torture program. Special Rapporteurs have the authority and duty, through their influential roles, to bring attention to this subject matter by issuing statements, calling upon the United States, North Carolina and its political subdivisions, and Aero Contractors to investigate these matters, placing these atrocities in public memory and recording them for history and to issue other recommendations as noted below. The pressure they impose may influence the United States to resume leadership and account for the offenses that were committed on behalf of the U.S. government against the will of its citizens. The Senate Torture Report, discussed next, confirmed these atrocities, and yet the United States continues to disregard its obligation to provide meaningful redress to victims.

B. Senate Select Committee on Intelligence Report

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

In December 2014, the United States Senate Select Committee on Intelligence (Senate Torture Report) released a redacted executive summary of its independent study of the CIA’s extraordinary rendition and torture program, euphemistically described as its Rendition, Detention and Interrogation program. The Senate Report stated that there were 119 individuals that the Senate Select Committee considered to be detainees where there was “clear evidence of detention in CIA custody.”⁶² The Senate Torture Report states that a full account of CIA detentions and interrogations may be impossible since some records do not exist or are insufficient.⁶³ Moreover, the Senate Torture Report likely undercounted the number of detainees and underreported the types and frequency of the violations because the review relied “on the willingness of the CIA Counterterrorism Center staff to provide factual material.”⁶⁴ Nonetheless, the Senate Select Committee documented—using the CIA’s own records—that the CIA detainees were in fact subjected to unlawful coercive interrogation techniques, including nudity, dietary manipulations, and cold-water dousing, which had not been approved by the Justice Department.⁶⁵ The Senate Torture Report also found that the CIA deployed personnel who lacked the proper training and experience when the program began.⁶⁶ Many of the CIA interrogators have not been held accountable for their unlawful interrogations of detainees. In fact, the CIA rarely reprimanded or held personnel accountable for serious violations.⁶⁷ The Senate Torture Report found that:

On two occasions in which the CIA inspector general identified wrongdoing, accountability recommendations were overruled by senior CIA leadership. In one instance, involving the death of a CIA detainee at COBALT, CIA Headquarters decided not to take disciplinary action against an officer involved because, at the time, CIA Headquarters had been ‘motivated to extract any and all operational information’ from the detainee. In another instance related to a wrongful detention, no action was taken against a CIA officer because, ‘[t]he Director strongly believes that mistakes should be expected in a business filled with uncertainty,’ and ‘the Director believes the scale tips decisively in favor of accepting mistakes that over connect the dots

⁶² *Select Committee on Intelligence, Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program*. US Senate. December 13, 2012, updated April 3, 2014, released December 9, 2014, http://fas.org/irp/congress/2014_rpt/ssci-rdi.pdf.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

against those that under connect them.’ In neither case was administrative action taken against CIA management personnel.⁶⁸

The Senate Torture Report also found that when confronted with findings and critiques, the CIA marginalized and ignored internal criticisms concerning the operation and management of the extraordinary rendition and torture program.⁶⁹

As noted in Part II, North Carolina, its political subdivisions, and Aero Contractors played a critical role in the CIA’s extraordinary rendition and torture program by violating prohibitions against torture in the course of renditions and by transferring individuals to detention sites for interrogation by torture. The documentation provided in the Senate Torture Report underscores the importance of pursuing all forms of accountability for torture at all levels of government.

III. SPECIAL RAPPORTEURSHIPS SHOULD SOLICIT REPARATIONS AND HELP BUILD A FRAMEWORK FOR RECONCILIATION FOR THE VICTIMS OF EXTRAORDINARY RENDITION.

We request that the mechanisms included within Special Procedures (Special Rapporteurs and Working Groups) undertake to perform a range of duties and functions to assist in achieving accountability and reparations related to North Carolina’s role in the CIA’s extraordinary rendition and torture program. These include the following:

undertake country visits; act on individual cases of alleged violations and concerns of a broader, structural nature by sending communications to States; conduct thematic studies and convene expert consultations, contributing to the development of international human rights standards; engage in advocacy and raise public awareness; and provide advice for technical cooperation.⁷⁰

We ask that you request permission from the United States government to conduct a fact-finding mission notwithstanding the current circumstances that make such government solicitation or approval unlikely. We further ask that you engage in “communication” processes as a means directly to intervene “with Governments on allegations of violations of human rights that come within [your] mandates by means

⁶⁸ *Supra* 62.

⁶⁹ *Supra* 62

⁷⁰ U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR), *Special Procedures of the Human Rights Council*, <https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx>.

of letters which include urgent appeals and other communications.”⁷¹ These interventions can include issues of earlier or current human rights violations as well as those which have “a high risk of occurring.”⁷² With respect to subject matter, the communications may address “individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.”⁷³

We seek to encourage Special Rapporteurs and Working Groups to implement Special Procedures at the local and state level even without the agreement of the federal government. An example of this intersection of local and international actors can be seen in how Los Angeles approaches issues of homelessness and economic inequality. Philip Alston, the U.N. Special Rapporteur on extreme poverty and human rights, visited the United States in late 2017, and his visit included a stop in Los Angeles to examine Skid Row.⁷⁴ The report notes the extreme wealth and power of the United States before discussing the extreme poverty of the homeless population in Los Angeles, and the infraction system which “seem[s] to be intentionally designed to quickly explode into unpayable debt [and] incarceration.”⁷⁵ Within a year, Los Angeles mayor Eric Garcetti announced that \$20 million would be dedicated to Skid Row and the homeless residents there.⁷⁶

As noted below, there are numerous relevant mandates that establish a nexus between United Nations Special Procedures and the North Carolina Commission of Inquiry on Torture.

A. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’s mandate encompasses three main activities:

- 1) transmitting urgent appeals to States with regard to individuals reported to be at risk of torture, as well as communications on past alleged cases of torture; 2)

⁷¹ U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR), *Communications*, <https://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR), *Statement on Visit to the USA, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights*, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533>.

⁷⁵ *Id.*

⁷⁶ Craig Clough, *\$20 Million Designated to Help Homeless on Skid Row, Garcetti Says*, NBC LOS ANGELES, Oct. 24, 2018, <https://www.nbclosangeles.com/news/local/20-Million-for-Homeless-on-Skid-Row-LA-Mayor-Garcetti-498452721.html>.

undertaking fact-finding country visits; and 3) submitting annual reports on activities . . . to the Human Rights Council and the General Assembly.⁷⁷

The scope of this mandate both empowers and compels the Special Rapporteur to address the United States' systematic use of torture through the CIA's extraordinary rendition and torture program.

- Pursuant to the first prong of the mandate, we request that the Special Rapporteur initiate communication with the United States concerning these torture violations.
- With respect to the second prong, we urge the Special Rapporteur to request an official visit from the U.S. Department of State to carry out a fact-finding mission in North Carolina, home to Aero Contractors, Ltd., the aviation firm responsible for rendering many of the CIA's victims to torture. Such fact-finding would validate the occurrence of the torture violations and document and publicize them in a way that garners international attention. This undertaking will help to bring about political accountability by subjecting the U.S. to international scrutiny and may spur the U.S., North Carolina, and its political subdivisions to assume responsibility for their illegal conduct and make reparations to the victims of their abuses.
- Concerning the third mandated activity, we ask that the Special Rapporteur document any action taken, either to engage the U.S. in a dialogue concerning its torture practices or to request an invitation for an official visit, in its annual report to the Human Rights Council and the General Assembly.
- Finally, we ask the Special Rapporteur to take any other action within the ambit of the rapporteurship to illuminate the U.S.'s torture violations and thus work toward meaningful redress for the victims.

We acknowledge the difficulty in obtaining an official invitation from the U.S., recognizing that, since the creation of the rapporteurship, this Special Rapporteur has not carried out an official country visit in the U.S.⁷⁸ Notwithstanding, the Special Rapporteur has effectively wielded other aspects of the mandate, such as the duty to communicate with States' concerning their current and past acts of torture, to address the U.S.'s torture violations. For instance, in January 2017, the current Special Rapporteur, Nils Melzer, admonished President Donald Trump to "live up to the standards [America] has set both for itself and others" by not reinstating the use of

⁷⁷ *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations Human Rights Office of the High Commissioner (2018), <https://www.ohchr.org/en/issues/torture/srtorture/pages/srtortureindex.aspx>.

⁷⁸ *Id.* This Special Rapporteur's country visits have included: Jordan, Paraguay, Nigeria, Togo, Sri Lanka, Indonesia, Spain, Equatorial Guinea, Republic of Moldova, Nepal, Georgia, China, Ghana, Mexico, Tunisia, Republic of Tajikistan, The Gambia, Sudan, and Mauritania. *Id.*

waterboarding.⁷⁹ In his statement, Professor Melzer argued that torture simply does not work, and, even if it did, torture is still not legally or morally acceptable. He also emphasized that “the use or incitement of torture and other cruel, inhuman or degrading treatment or punishment has been absolutely prohibited in treaty law, such as the Convention against Torture, the International Covenant on Civil and Political Rights, and the Geneva Conventions.”⁸⁰

In 2014, former Special Rapporteur Juan Mendez employed the communication aspect of the mandate to confront the United States concerning the disappearance of Sharif Mobley, a U.S. citizen who was apprehended upon suspicion of involvement in terrorist activities and detained arbitrarily incommunicado.⁸¹ In its 2015 reply, the U.S. stated no comment could be made about Mobley’s case without the “written consent” of Mobley, who had effectively disappeared at the hands of the U.S.⁸² As a result, Professor Mendez found that the U.S. government did not address the questions proposed, prompting him to infer the U.S. government “fail[ed] to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.”⁸³ Additionally, he noted the United States continues to fail to comply with its obligation, under international customary law, “to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture.”⁸⁴

Similarly, in 2016, former Special Rapporteur Juan Mendez issued communications in response to a petition filed by the University of North Carolina School of Law’s Human Rights Policy Lab as well as other requests from entities seeking relief on behalf of Abou Elkassim Britel for the human rights violations he suffered after being extraordinarily rendered to Morocco on a plane operated by Aero Contractors headquartered in North Carolina.⁸⁵ Professor Mendez concluded that “there is substance in the allegations” that the United States government violated Mr. Britel’s right to be free from torture or cruel, inhuman or degrading treatment, by participating in his interrogation, arbitrary arrest, incommunicado detention and

⁷⁹ Andrea Furger, *Torture is torture, and waterboarding is not an Exception—UN Expert Urges the US Not to Reinstate It*, United Nations Human Rights Office of the High Commissioner (Jan. 30, 2017), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21129&LangID=E>.

⁸⁰ *Id.*

⁸¹ Juan Mendez, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Juan E. Méndez, United Nations General Assembly Human Rights Council 28th Session (March 5, 2015), p.101, <https://digitallibrary.un.org/record/793910/?ln=en>.

⁸² *Id.*

⁸³ *Id.* at 102.

⁸⁴ *Id.*

⁸⁵ Juan Mendez, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Addendum Observations on communications transmitted to Governments and replies received* Juan E. Méndez, United Nations Human Rights Council, Thirty-first Session (Feb. 24, 2016), p. 108-109 A/HRC/31/57/Add.1, <https://undocs.org/pdf?symbol=en/A/HRC/31/57/Add.1>.

extraordinary.⁸⁶ The Special Rapporteur pressed the U.S. government to acknowledge that “individual responsibility for complicity in torture arises also in situations in which State agents do not themselves directly inflict torture or other ill-treatment but direct or allow others to do so, or acquiesce in it” and urged “the Government of the United States to conduct a fair and impartial investigation into the incidents, to prosecute and punish those responsible and to provide Mr. Elkassim Britel with adequate redress.”⁸⁷

As described above, this Special Rapporteur’s mandate directly addresses the violations the citizens of North Carolina and the North Carolina Commission of Inquiry on Torture (“NCCIT”) seek to bring to light. As such, we request that the Special Rapporteur do all within his power to hold the U.S., North Carolina, its political subdivisions and Aero Contractors accountable for their highly coordinated world-wide extraordinary rendition and torture program.

B. Special Rapporteur on the Promotion and Protection of Human Rights While Countering Terrorism

Specific portions of the mandate of the Special Rapporteur on the Promotion and Protection of Human Rights While Countering Terrorism are relevant for addressing the extraordinary rendition and torture violations and include the following activities:

- a) [t]o make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism . . . ;
- b) [t]o gather, request, receive and exchange information and communications from and with all relevant sources, including Governments, the individuals concerned and their families, representatives and organizations, including through country visits, with the consent of the State concerned, on alleged violations of human rights and fundamental freedoms while countering terrorism.⁸⁸

To effectuate this mandate, this Special Rapporteur “a) [t]ransmits urgent appeals and letters of allegation to Member States on alleged violations of human rights and fundamental freedoms while countering terrorism; b) [u]ndertakes fact-finding

⁸⁶ *Id.* at 109.

⁸⁷ *Id.*

⁸⁸ *Special Rapporteur on the Promotion and Protection of Human Rights While Countering Terrorism*, United Nations Human Rights Office of the High Commissioner (2018), <https://www.ohchr.org/en/issues/terrorism/pages/srterrorismindex.aspx>.

country visits; [and] c) [s]ubmits annual reports to the Human Rights Council and General Assembly.”⁸⁹

In light of this rapporteurship’s mandate and working methods, we request that this Special Rapporteur transmit a letter of allegation to the United States for its extraordinary rendition and torture violations committed in the years following the attacks of September 11, 2001. We also ask this Special Rapporteur to conduct a fact-finding visit in North Carolina to formally investigate and document the state’s and its political subdivisions’ roles in the CIA’s extraordinary rendition and torture program. In addition, we request that this Special Rapporteur publicize the steps taken to address these human rights violations in its annual report to the United Nations.

This Special Rapporteur has previously addressed human rights in the context of U.S. counter-terrorism policy through a 2007 country visit to the United States.⁹⁰ In the ensuing report, this Special Rapporteur reiterated that the United States’ “war on terror” must still respect international humanitarian law and expressed concern about the arbitrary label of “enemy combatant” given to detainees at Guantanamo Bay as justification for holding them without trial, designating the label “a term of convenience without legal effect.”⁹¹ This Special Rapporteur emphasized that “international human rights law is also binding upon a State in respect of any person subject to its jurisdiction, even when it acts outside its territory.”⁹² In addition, the Special Rapporteur discussed the interrogation of terrorist suspects, considering both the CIA program of “enhanced interrogation techniques” and interrogation methods outlined in the revised U.S. Army Field Manual on Human Intelligence Collector Operations (“AFM”).⁹³ The Special Rapporteur concluded that the “extraordinary rendition” of terrorist suspects and their detention in “classified locations” amounted to torture or cruel, inhuman or degrading treatment.⁹⁴

The Special Rapporteur concluded his report with findings of human rights violations and recommendations of repair and reform to achieve counter-terrorism success while acting as a global example of a State that respects human rights.⁹⁵ These recommendations included revising the AFM to state that only the enumerated interrogation techniques are permissible, discontinuing the CIA’s extraordinary rendition and torture program, and taking steps to prevent the program from being

⁸⁹ *Id.*

⁹⁰ Martin Scheinin, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, United Nations General Assembly Human Rights Council Sixth Session (Nov. 22, 2007), p.2, <https://www2.ohchr.org/english/bodies/hrcouncil/docs/6session/A.HRC.6.17.Add.3AEVnew.pdf>.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at 3.

⁹⁴ *Id.*

⁹⁵ *Id.* at 25.

reinstated in the future.⁹⁶ The Special Rapporteur also urged the United States to ensure that its officials and agencies abide by its domestic and international obligations, which prohibit cruel, inhuman or degrading punishment under all circumstances.⁹⁷

C. Special Rapporteur on Freedom of Religion or Belief

This Special Rapporteur's mandate to identify and remove obstacles to the enjoyment of the right to freedom of religion addresses the CIA's torture and rendition program.⁹⁸ CIA interrogation techniques that violated freedom of religion included punishing detainees for engaging in Muslim prayer or fasting during the month of Ramadan; defacing and firing at the Islamic holy book, the Qur'an, at target practice; and punching detainees in the mouth for "attempting to pray" or preventing them from "taking part in traditional religious practices."⁹⁹ Some detainees were forced to denounce their religious beliefs by bowing inside a makeshift satanic shrine and repeating that Satan, not Allah, was "their God."¹⁰⁰ As evidenced by these interrogation and detention techniques, "[t]he sentiment of a war against Islam" animated human rights abuses carried out in the CIA program.¹⁰¹ As such, this Special Rapporteur should invoke his mandate to advocate for these victims on the basis that the torturous acts specifically targeted Muslims.

D. Special Rapporteur on the Human Rights of Migrants

The mandate of this Special Rapporteur establishes the obligation to examine how best to overcome the obstacles to the protection of the human rights of migrants with a particular focus on the vulnerability of women, children, and undocumented immigrants or those in an irregular situation.¹⁰² This mandate also includes the obligation to request and receive information from all relevant sources, including migrants themselves, on violations of the human rights perpetrated against them and their families.¹⁰³ In addition, this Special Rapporteur has the responsibility to provide

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Special Rapporteur on Freedom of Religion or Belief*, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/issues/freedomreligion/pages/freedomreligionindex.aspx>.

⁹⁹ University of North Carolina School of Law et. al, *Extraordinary Rendition and Torture What the Narratives of Victims Reveal and Require*, at 17-18 (Nov. 2017) [hereinafter *UNC School of Law Report*].

¹⁰⁰ *Id.* at 18

¹⁰¹ *Id.* at 18.

¹⁰² *Special Rapporteur on the Human Rights of Migrants*, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/issues/migration/srmigrants/pages/srmigrantsindex.aspx>.

¹⁰³ *Id.*

recommendations for the remediation and prevention of human rights violations of migrants.¹⁰⁴

Although this Special Rapporteur's mandate may not directly relate to the victims of extraordinary rendition and torture, the mandate is still relevant to the circumstances of North Carolina's involvement in the CIA's extraordinary rendition and torture program. This Special Rapporteur has knowledge of and experience with persons who are smuggled or trafficked, that is, persons who are transported and moved in ways that violate fundamental human rights.¹⁰⁵ One of the first parts of this Special Rapporteur's mandate explicitly describes giving help to those in an "irregular situation," which in practice has been read to include victims of human trafficking in particular.¹⁰⁶ Victims of trafficking may violate immigration laws and regulations but this Special Rapporteur has stressed that victims of trafficking should be recognized as victims and not be held responsible for the actions of their trafficker.¹⁰⁷ Victims of extraordinary rendition have been trafficked according to the United Nations Office on Drugs and Crime's definition of human trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹⁰⁸

By the United Nations definition, victims of the extraordinary rendition and torture program out of North Carolina were trafficked.¹⁰⁹ They were transferred in violation of international law by use of force for the purpose of exploitation for information.

¹⁰⁴ *Id.* Importantly, this Special Rapporteur's mandate covers all countries, whether they have ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families. *Id.* In the discharge of this mandate the Special Rapporteur does not need to find that efforts to seek domestic remedies have been exhausted in order to act. *Id.* Moreover, if the facts in question fall within the scope of his mandate, the Special Rapporteur can choose to collaborate with country Rapporteurs or approach other Thematic Mechanisms. *Id.* This Special Rapporteur has the authority to establish a joint fact-finding missions with other Special Rapporteurs. *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Report of the Special Rapporteur on the Human Rights of Migrants Fraciois Crepau*, Human Rights Council, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/125/96/PDF/G1212596.pdf?OpenElement>.

¹⁰⁸ *Human Trafficking*, United Nations Office on Drugs and Crime, <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>.

¹⁰⁹ *Id.*

Additionally, since this Special Rapporteur also has a specific directive to collaborate with other Special Rapporteurs as needed, they could feasibly be called on to work with a more directly relevant Special Rapporteur, such as the Special Rapporteur on Torture.¹¹⁰ All of these aspects considered, the Special Rapporteur should consider North Carolina's involvement with the CIA's extraordinary rendition and torture program.

E. Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence

Three important aspects of this Special Rapporteur's mandate link directly to issues associated with extraordinary rendition:¹¹¹

- 1) [t]o gather relevant information on national situations, including on normative frameworks, national practices and experiences, such as truth and reconciliation commissions and other mechanisms, relating to the promotion of truth, justice, reparation and guarantees of non-recurrence in addressing gross violations of human rights and serious violations of international humanitarian law, and to study trends, developments and challenges and to make recommendations thereon;
- 2) [t]o identify, exchange and promote good practices and lessons learned, as well as to identify potential additional elements with a view to recommend ways and means to improve and strengthen the promotion of truth, justice, reparation and guarantees of non-recurrence; and
- 3) [t]o develop a regular dialogue and cooperate with, inter alia, Governments, international and regional organizations, national human rights institutions and non-governmental organizations, as well as relevant United Nations bodies and mechanisms.¹¹²

To carry out this mandate, we request that this Special Rapporteur gather information about the CIA's extraordinary rendition and torture program with an emphasis on North Carolina's role in the enterprise and recommend ways in which the United States and North Carolina should approach reconciliation with and reparations for the victims. We also ask that this Special Rapporteur engage in a dialogue with the United States about the extraordinary rendition and torture program

¹¹⁰ See *supra* note 102.

¹¹¹ *The Mandate of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, United Nations Human Rights Office of the High Commissioner (2018), <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Mandate.aspx>.

¹¹² *Id.*

and request a country visit from the state to gather information related to the program and make recommendations for bringing about justice, reparations, and guarantees of non-recurrence for the victims.

This Special Rapporteur has a history of taking such action. For example, in a 2014 report on his Mission to Spain, this Special Rapporteur analyzed the aftermath of the Spanish Civil War (1936-1939) and the forty years of dictatorship that followed.¹¹³ While serious human rights violations, including crimes of “executions, torture, arbitrary detentions, disappearances, forced labour for prisoners and exile,” are known to have taken place during this period, the Special Rapporteur found egregious shortcomings “in the spheres of truth and justice” in that there were no established policies on truth seeking or following through with justice.¹¹⁴

In the course of his investigation, this Special Rapporteur conducted significant research pertaining to truth-finding, which included analysis of: “institutional mechanisms for elucidating the truth, archives, institutions of historical memory, and exhumations.”¹¹⁵ For the implementation of justice, this Special Rapporteur delved into: “impediments to victims’ access to justice, the lack of investigations as an obstacle to the right to truth, and application of universal jurisdiction.”¹¹⁶ This Special Rapporteur also examined the *reparation* process through the lens of the victims, programs available, and potential of annulment of sentences handed down by courts during the Civil War and the Franco regime.¹¹⁷ Following this investigative period, the Special Rapporteur concluded his report with recommendations for the future to resolve this blemish in history.¹¹⁸ In the course of making such recommendations, he emphasized that “the strength of democratic institutions lies not in their power to silence or ignore certain matters, especially those related to fundamental rights, but in their ability to manage them effectively, however complex.”¹¹⁹ Thus, bringing the truth to light, seeking justice and promise of non-recurrence is essential to correcting past offenses and preventing torture in the future. We ask this Special Rapporteur to investigate, document, and make recommendations to the United States, North Carolina, its political subdivisions, and Aero Contractors to seek a commitment to justice to right these wrongs committed through the CIA’s extraordinary rendition and torture program.

¹¹³ Pablo de Greiff, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, United Nations General Assembly Human Rights Council Twenty-seventh Session (Jul 22, 2014), p.1, https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-56-Add-1.doc&action=default&DefaultItemOpen=1

¹¹⁴ *Id.* at 1-2.

¹¹⁵ *Id.* at 43-66.

¹¹⁶ *Id.* at 67-84.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 85-104.

¹¹⁹ *Id.* at 2.

E. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance

The issue of North Carolina’s participation in the CIA’s extraordinary rendition and torture program is aligned with the Special Rapporteurship’s mandate of addressing Islamophobia in the context of counter-terrorism. The Special Rapporteur’s report to the General Assembly in October 2017 identifies “good practices in combating racism, xenophobia and discrimination while countering terrorism.”¹²⁰ The report promotes regional norms for prohibiting racism and discrimination in the context of counter-terrorism – norms that should be adopted in countries such as the United States. For example,

“In its Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa (2015), the African Commission on Human and Peoples’ Rights [...] [provides that] [...] When human rights abuses have occurred in the context of countering terrorism, States are obliged to ensure accountability and to provide those affected with an effective remedy and reparation.”¹²¹

Additionally, in 2018, this Special Rapporteur submitted a report to the United Nations Human Rights Council on the issue of racial discrimination and access to citizenship. This report explained,

In some countries, politicians have spread misinformation that portrays certain racial, national and religious groups as inherent national security threats. [...] These parties and leaders deliberately stoke and exploit the national security anxieties of national populations, and they effectively stigmatize entire racial, ethnic, national and religious groups in ways that make these groups even more vulnerable to racist and xenophobic violence.¹²²

¹²⁰ Mutuma Ruteere (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), *Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance and the Comprehensive Implementation of and Follow-Up to the Durban Declaration and Programme Action*, United Nations Document A/72/287 (Aug. 4, 2017).

¹²¹ *Principles and Guidelines on Human and Peoples’ Rights While Countering Terrorism in Africa*, African Commission on Human and Peoples’ Rights (May 2015), <http://www.achpr.org/mechanisms/human-rights-defenders/Principles-Gudelines/>.

¹²² Tendayi Achiume (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, United Nations Document A/HRC/38/52, p.17 (April 25, 2018).

The United States cannot progress on reconciliation until its leaders cease stoking and exploiting national security anxieties at the cost of racial discrimination. As addressed below, the Special Rapporteur's attention to the stereotyping and spreading of misinformation about certain racial, national, and religious groups is relevant to the forms of discrimination suffered by victims of the CIA's extraordinary rendition and torture program. A society that fails to acknowledge its human rights violations cannot be without consequence.

To begin to understand the ramifications of allowing human rights violations to go unpunished, it is necessary to examine the strong relationship between the phenomenon of Islamophobia and the societal consequences of impunity. The aftermath of the terrorist attacks on September 11, 2001 led to the consolidation of a new identity category, which groups together "persons who appear 'Middle Eastern, Arab, or Muslim,' whereby members of this group are identified as terrorists and misidentified as citizens."¹²³

In recent years, the rapid and ongoing racialization of Muslims has been particularly insidious. In the name of anti-terrorist initiatives, Muslims have been wrongfully baited and targeted through bounty reward programs.¹²⁴ Rather than an apology and a re-evaluation of its counter-terrorism tactics, the current U.S. administration has revived a seemingly outdated use of xenophobic and vitriolic language that has led to higher rates of violence against individuals who are Muslim or Muslim-looking, including torture.¹²⁵ For this, its leaders must be held accountable.

G. Independent Expert on the Promotion of a Democratic and Equitable International Order

On September 29, 2011, the Human Rights Council adopted resolution 18/6 on the promotion of a democratic and equitable international order which set forth that "a democratic and equitable international order fosters the full realization of all human rights for all, and that everyone is entitled to it."¹²⁶ According to the resolution, a democratic and equitable international order requires the realizations of "the right of all peoples to self-determination, by virtue of which they can freely determine their

¹²³ Leti Volpp, *The Citizen and the Terrorist*, Law Journal Library p.561 (2002), https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/inlr23&id=582&men_tab=srchresults (last visited Nov 30, 2018).

¹²⁴ Kathy Gilsinan, *The Economics of Terrorist Bounties*, The Atlantic (2015), <https://www.theatlantic.com/international/archive/2015/05/the-economics-of-terrorist-bounties/393461/> (last visited Nov 30, 2018); Adam Goldman and Matt Apuzzo, *Informant: NYPD paid me to 'bait' Muslims*, Associated Press, Oct. 24, 2012, <https://www.ap.org/ap-in-the-news/2012/informant-nypd-paid-me-to-bait-muslims..>

¹²⁵ See generally Twitter Communications by U.S. President Donald Trump.

¹²⁶ *Independent Expert on the promotion of a democratic and equitable international order*, <https://www.ohchr.org/en/issues/intorder/pages/ieinternationalorderindex.aspx>.

political status and freely pursue their economic, social and cultural development . . . [and] the right to equitable participation of all, without any discrimination, in domestic and global decision-making.”¹²⁷

The mandate of the Independent Expert on the Promotion of a Democratic and Equitable International Order requires the IE to:

- a. identify possible obstacles to the promotion and protection of a democratic and equitable international order, and to submit proposals and/or recommendations to the Human Rights Council on possible actions in that regard . . .
- c. to raise awareness concerning the importance of promoting and protecting of a democratic and equitable international order”¹²⁸

Regarding the CIA’s extraordinary rendition and torture program, we ask the Independent Expert to exercise this mandate to promote democratic accountability at the federal, state, and local government levels by conducting fact finding and submitting findings to the Human Rights Council. North Carolina citizens have been denied meaningful opportunity to learn the full truth about Aero Contractors’ role in rendition and torture, and thus have been deprived of the right to debate or decide whether North Carolina public airports should be used for this purpose.¹²⁹ Since 2005, North Carolinians of different religious, political, and racial backgrounds have called upon local and state officials to investigate the state’s role in the extraordinary rendition and torture program.¹³⁰ The majority of the official responses to North Carolina citizen advocacy have been public silence and non-responses.¹³¹ Instead of conducting a prompt and impartial investigation of Aero’s activities— notwithstanding that there is sufficient grounds to believe that Aero personnel carried out unlawful extraordinary rendition and facilitated, if not engaged in torture, in contravention of international, federal, and state law—state and local officials often refused to discuss these issues or meet with individuals who possessed information about these wrongdoings.¹³² On the several occasions over the past decade when various persons occupying the office of the Governor of North Carolina were asked to

¹²⁷ *Id.* See also 18/6 Promotion of a democratic and equitable international order, p. 4 Oct. 13, 2011, at <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/166/26/PDF/G1116626.pdf?OpenElement>.

¹²⁸ *Independent Expert on the Promotion of a Democratic and Equitable International Order Overview of the Mandate*, United Nations Human Rights Office of the High Commissioner (2018), <https://www.ohchr.org/EN/Issues/IntOrder/Pages/mandate.aspx>.

¹²⁹ Email Interview with Christina Cowger of North Carolina Stop Torture Now [hereinafter NCSTN], <http://www.ncstoptorturennow.org/>.

¹³⁰ NCSTN, *supra* note 129.

¹³¹ North Carolina Commission of Inquiry on Torture *supra* note 1, at 58.

¹³² *Id.* at 9.

meet with concerned citizens about the role of the state in the CIA's extraordinary rendition and torture program, they either declined to meet or sent staff who were noncommittal, and no subsequent actions were taken. The state's executive has remained publicly silent on the matter, and has refused to investigate or take other actions on grounds that the extraordinary rendition and torture program was not within their realm of concern¹³³ despite the obligations of federal treaties applicable to the states through the Supremacy Clause of the U.S. Constitution and federal statutes.¹³⁴ For instance, Governor Easley's key advisor informed citizens that the governor had decided to do nothing about Aero Contractors. Governor Perdue sent staff who indicated the issue was not a priority for the governor. Governor McCrory refused to meet or send staff. Governor Roy Cooper sent staff who listened, but the meetings have not resulted in any action. Previously, when he was State Attorney General, Mr. Cooper sent staff to meet but also took no action. Current Attorney General Josh Stein also sent staff to meet but took no action.¹³⁵

In the absence of any effort toward official accountability or action to investigate North Carolina's involvement in the unlawful extraordinary rendition and torture program and to assure that Aero's activities were terminated, North Carolina Stop Torture Now (NCSTN), a grassroots network of people that has been seeking since 2005 to expose and end North Carolina's integral role in the CIA extraordinary rendition and torture program, has taken a series of steps in this regard. The organization has gathered information from several informal polls over the years. In a 2007 poll, the result shows that two-thirds of Johnston County residents surveyed were against torture taxis at the Johnston Country Airport and in North Carolina generally.¹³⁶ Moreover, more than 800 North Carolinians submitted signatures apologizing to the victims of the extraordinary rendition and torture program and more specifically, North Carolina's role, and more than 1200 citizens have endorsed the formation of a non-governmental citizens' inquiry commission.¹³⁷ By contrast, Johnston County Commissioners have generally denied that Aero has engaged in wrongdoing, while at the same time some commissioners have defended rendition and/or torture. The Commissioners' failure to meaningfully engage and investigate well-documented human rights concerns along with the similar failure of other state and local officials have allowed the program to thrive in government-sanctioned neglect of their duties to act transparently, thereby effectively suppressing information and rendering North Carolinians' democratic rights in state decision-

¹³³ NCSTN, *Chronology*, <http://ncstn.org/content/chronology/>.

¹³⁴ Convention Against Torture, Art. 12; U.S. Const, art. VI; 18 U.S.C. 113C § 2340, 2340A, 2340B.

¹³⁵ On Feb. 15, 2019, Mr. Stein sent an email to an unknown group of citizens seeking the actions of his office and while expressing concerns for the allegations of North Carolina's involvement in extraordinary rendition and torture, opined that "the law" deprives the NCDOJ of "original jurisdiction" to investigate torture.

¹³⁶ Email interview with Christina Cowger, *supra* note 129.

¹³⁷ *Id.*

making processes meaningless.¹³⁸ To this day, the only positive official response to North Carolinians' efforts to seek truth and hold the government accountable for its unlawful activities at public airports has been from a group of state lawmakers who wrote formal letters and sponsored an ultimately unsuccessful but important piece of legislation in 2007-08 and another recently proposed piece of legislation (April 2019) known as "Ending NC's Involvement in Torture" which has been blocked from a hearing and thus will fail in this legislature.¹³⁹

The failure of the government to acknowledge and account for its unlawful use of a public airport violates U.N. Resolution 18/6's guarantee of "the right of all peoples to self-determination" and "the right to equitable participation of all, without any discrimination, in domestic and global decision-making." The government-sanctioned silence poses undue obstacles to the promotion and protection of a democratic and equitable international order. The government's lack of transparency works against efforts to raise the public's awareness concerning the importance of their democratic rights. The lack of domestic intervention to allow North Carolinians to participate in decision-making concerning use of a public facility warrants attention from the Independent Expert on the promotion of a democratic and equitable international order, and fact-finding missions to help citizens reinstate their rights.

H. Special Rapporteur on the Situation of Human Rights Defenders

Silence and inaction by North Carolina's Governors and Attorneys' General, as well as investigation and surveillance of anti-torture protestors, erode human rights defenders' right to meaningful freedom of assembly in violation of Article 21 of International Covenant on Civil and Political Rights (ICCPR), which guarantees that:

“[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.”¹⁴⁰

¹³⁸ *Id.*

¹³⁹ North Carolina Commission of Inquiry on Torture, *supra* note 1 at 11. See HB740, "Ending NC's Involvement in Torture with 21 sponsors in the NC House of Representatives but has been denied a hearing by the chair of the committee who deemed it "too controversial."

<https://www.ncleg.gov/BillLookUp/2019/H740>

¹⁴⁰ ICCPR, Art 21.

“Human rights defender” is a term used to describe people who, individually or with others, act to promote or protect human rights.¹⁴¹ By the UN’s definition, anti-torture workers from organizations such as NCSTN must be considered as defenders. Further, North Carolina citizens who act to promote, protect, and realize human rights and have taken a stand against torture may also fall within the category of human rights defenders. The Declaration on human rights defenders, adopted in 1998, reaffirms that one is a human rights defender by what one does, regardless of sex, age, ethnicity, and social class.¹⁴²

The mandate on the Special Rapporteur on the Situation of Human Rights Defenders requires the Special Rapporteur to seek, examine, and respond to information related to human rights defenders; to establish cooperation and conduct dialogue with governments; and to recommend effective strategies to better protect human rights defenders.¹⁴³ In the past country visits, this Special Rapporteur reported on the physical abuses, criminalization of human rights work, intimidation, and stigmatization against human rights defenders. In recent years, as observed by the Special Rapporteur, the mandate addressing human rights defenders has been under attack and increasingly reduced in scope, its relevance questioned by some governments and other actors.¹⁴⁴ As a consequence, the Special Rapporteur has called for new initiatives to recognize the importance of the “right to defend rights.”¹⁴⁵ To that end, the mandate recognizes that attacks against human rights defenders are not only physical and economic, but also social and psychological.¹⁴⁶ Human rights defenders, institutional representatives, and grassroots movements are often not aware that their rights to promote and defend human rights norms can be protected by invoking the Declaration on Human Rights Protectors and seeking intervention from the Special Rapporteur, each of which may be a powerful advocacy tool.

The circumstances of North Carolina citizens who have sought to hold the state, its political subdivisions, and Aero Contractors responsible for human rights violations serve as a prime example of such seemingly subtle and not so subtle attacks that erode human rights defenders’ rights over time. It is true that human rights workers in the United States may not be subject to outright physical attack, criminalization, and intimidation, but they may otherwise be subjected to rights violations in other forms. In the case of those North Carolina citizens who seek accountability for extraordinary rendition and torture, they have been surveilled and

¹⁴¹ *Who is a Defender?*, United Nations, <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>.

¹⁴² *Special Rapporteur on the Situation of Human Rights Defenders*, United Nations, <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>.

¹⁴³ *Id.*

¹⁴⁴ *Raising the visibility of human rights defenders on the occasion of the anniversary of the Declaration on human rights defenders. Concept note*, https://www.ohchr.org/Documents/Issues/Defenders/20Anniversary/CN_EN.pdf.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

investigated.¹⁴⁷ Public documents reveal that the North Carolina Department of Justice collaborated with Raleigh, Smithfield, and Johnston County law enforcement to investigate and prepare for torture protestors, but not to investigate torture allegations.¹⁴⁸ They have been met with perfunctory, if not dismissive treatment by government officials obliged to undertake investigations of allegations of serious human rights violations. Official efforts to ignore, if not discount the efforts of human rights defenders' urgent efforts to reveal and stop abuses effectively undermine those defenders and render them impotent with dangerous implications in other realms of human rights work.

The refusal of officials to provide information, even when the request has been made through proper channels, has been the paradigmatic response at both the state and federal level. Efforts to silence them, at times subtle, and at other times as a result of orchestrated plans were effective. For example, when human rights defenders associated with NCSTN and allies asked to appear before the Johnston County Commissioners, as they did for nearly every month for over two years, they were denied the right to speak until the end of every meeting, when journalists and other members of the public had left.¹⁴⁹ In some instances, board members of the NC Global TransPark were advised by the NC Department of Justice not to speak to anti-torture advocates planning to attend the board's public meeting.¹⁵⁰ The decision to deny human rights defenders the opportunity for any meaningful (or any) opportunity to speak in public forums was deliberate and intended to minimize their opportunity to educate state and county residents, policy, and decision-makers about the issue of torture. In these public meetings, county commissioners and state board members took advantage of their power in an effort to intimidate and silence human rights defenders and to make sure that any attempt to seek an investigation into the torture flights would be rendered useless.

These restrictions imposed by government officials to ignore human rights defenders' requests for transparent investigations into the actions of Aero fail to conform with "the law. . . necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others" as set out in the ICCPR. Given the U.N.'s observation that the Declaration on Human Rights Defenders has been overlooked, and the fact that human rights defenders' rights are being increasingly undermined, the silence, inaction, and differential treatment of human rights workers by the state and local government in this case reflects a dire reality where the scope of human rights defenders' rights is subtly eroded. Attention from the Special Rapporteur could further contribute to the examination of this trend, and eventually, to reaffirm human rights defenders' rights under the Declaration.

¹⁴⁷ Public documents obtained through public records request on file with authors.

¹⁴⁸ *Id.*

¹⁴⁹ North Carolina Commission of Inquiry on Torture, *supra* note 1, at 51.

¹⁵⁰ *See supra* note 147.

I. Open-ended intergovernmental working group to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies.

The open-ended working group's mandate is aimed at targeting and bringing accountability to government contractors such as Aero Contractors. It is plausible to establish that Aero Contractors' extraordinary rendition work with the CIA firmly places its activities in the realm of a private security company – functioning as what is commonly referred to as a defense contractor in the United States. All contractors that conduct business with the U.S. government must be registered with the System for Award Management (SAM). A search for Aero Contractors, Ltd. on the SAM website led to a message that said, “access to this entity registration is restricted. It cannot be displayed through public search.”¹⁵¹ Although these facts are not dispositive as to whether Aero is a military contractor, they may suggest that, in fact, Aero is registered with SAM. When a company is registered with SAM, it means that the company is authorized to conduct business with the U.S. government.

The Open-ended working Group should call for the United States to adhere to the Montreux Document, a document that the United States participated in creating along with sixteen other countries. The Montreux Document provides:

States that contract [private military contractors] can, under certain conditions, be held accountable for violations committed by [private military contractor] employees, in particular if [it] exercises elements of governmental authority or if it acts under the instructions or control of the State authorities. In such cases, the same rules apply to the State – i.e. not to violate international humanitarian law and human rights law – as if it had acted itself through its own military forces.¹⁵²

Further,

[i]f [private military contractors] commit serious violations of humanitarian law, such as attacks against civilians or ill-treatment of detainees, these are war crimes that must be prosecuted by States.¹⁵³

¹⁵¹ The authors attempted this web search and received this message.

¹⁵² International Committee of the Red Cross & Swiss Department of Federal Affairs, *Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict*, 7-43, 39 (Sept. 17, 2008).

¹⁵³ *Id.* at 39.

The members of this entity should invoke their mandate to seek transparency and accountability with regard to Aero Contractors' status as a private security contractor.

J. Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on Business and Human Rights)

The Working Group on Business and Human Rights is tasked with implementing the *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, which elaborates both the state duty and corporate responsibility to respect human rights.¹⁵⁴ Specifically, the Working Group's mandate includes:

- provid[ing] advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights
- conduct[ing] country visits and to respond[ing] promptly to invitations from States
- explor[ing] options and mak[ing] recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities¹⁵⁵

Aero, through providing air transit to CIA personnel and detainees, played an indispensable role in effectuating the CIA's extraordinary rendition and torture program and thus violated its corporate responsibility to respect human rights. As such, we request that the Working Group exercise its mandate to advise the United States and the State of North Carolina on the development of legislation, policies, and practices designed to prevent corporations, such as Aero, from violating individuals' human rights through torture and/or aiding and abetting in torture. We ask that the Working Group conduct a country visit, and otherwise to do all within its power to investigate and officially document Aero's role in the extraordinary rendition and torture program. We also request that the Working Group explore any and all options for providing reparations to victims of Aero's human rights abuses and to make such

¹⁵⁴ *Working Group on the issue of human rights and transnational corporations and other business enterprises*, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>.

¹⁵⁵ *Id.*

recommendations to the United States, the State of North Carolina, Aero, and any relevant regional or international bodies.

K. Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Working Group on the use of mercenaries' mandate includes "strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries" and "monitor[ing] . . . private military and security companies[] in different parts of the world."¹⁵⁶ Pursuant to this mandate, we request that the Working Group transmit communications to the United States, the State of North Carolina, and Aero Contractors—as a mercenary-related actor and/or a private military and security company—related to Aero's human rights violations. We ask that the Working Group undertake a country visit and otherwise to do all within its power to examine the impact of Aero's mercenary-related activities and their impact on the prohibition against torture in the United States. Finally, we ask the Working Group to chronicle its findings in a country visit or annual report to the Human Rights Council based on its findings concerning Aero's human rights violations.

IV. THE SPECIAL RAPPORTEURS AND WORKING GROUPS SHOULD HOLD THE UNITED STATES, NORTH CAROLINA, AND AERO ACCOUNTABLE TO RESTORE U.S. SOCIETY'S MORAL FABRIC.

There are a number of mechanisms by which the United States government, North Carolina and its political subdivisions, as well as Aero Contractors can be held accountable for their participation in extraordinary rendition and torture and the human rights violations that occurred as a result of this unlawful program. In addition to formal accountability through the justice system, monetary reparations, public apologies, and new legal safeguards to prevent repetition are desirable possibilities for redress and reconciliation. To this end, we submit that the various Special Rapporteurs and Working Group experts to whom this letter is addressed possess the means to aid in and support the process for accountability.

The governments of the United States and the state of North Carolina have perpetrated violations of human rights and afforded impunity to nominally private entities such as Aero Contractors, which has perpetrated extraordinary rendition and torture. The consequences extend beyond the suffering of victims and their families and communities. Hate crimes against Muslims have increased dramatically, a phenomenon to which the CIA program has contributed. Islamophobia cannot be

¹⁵⁶ *Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/issues/mercenaries/wgmercenaries/pages/wgmercenariesindex.aspx>.

divorced from the government's extraordinary rendition and torture program. We call on the various mechanisms of our international human rights system to enact all means at their disposal to carry out their basic functions, that is, to investigate, repair, and monitor the violations of human rights.

Conclusion

The NCCIT report, based on documentation from various official government sources, media reports, research, expert testimony, and first-hand accounts of the devastation caused by the CIA's extraordinary rendition and torture program has demonstrated unequivocally that the state of North Carolina, its political subdivisions, and Aero Contractors participated in the egregious violations of the victims of this program. We encourage the Special Rapporteurs and Working Group members to take any number of steps, including to:

- Issue a public statement on the complicity of and liability for the CIA, the state of North Carolina, its political subdivisions including Johnston County airport, Johnston County, the NC Global TransPark and Aero in the CIA's extraordinary rendition and torture program in North Carolina, specifically calling on the U.S. and North Carolina governments to uphold its obligations under the various human rights treaties and conventions;
- Submit requests to the U.S. government for invitations to conduct site visits in North Carolina;
- Issue a public report or statement with recommendations to the U.S. and North Carolina government for reparations, reconciliation, and reform.
- Take any and all other action permitted by the various mandates to investigate North Carolina, its political subdivisions, and Aero Contractors for its complicity in the CIA's extraordinary rendition and torture program.

Recommendations provided by NCCIT to the federal government to enhance transparency and promote accountability for the CIA's extraordinary rendition program include:

1. Declassify the entire Senate Select Committee Report (Senate Torture Report) on the CIA's extraordinary rendition and torture program ("Rendition, Detention and Interrogation Program") with minimal redactions.
2. Conduct a thorough investigation into the CIA's program of rendering individuals to foreign governments for torture (which was not covered by the Senate Torture Report), including information regarding the chain of command and structure of the program.
3. Request that foreign governments that participated in the extraordinary rendition and torture program by receiving, detaining, or interrogating rendered prisoners (all of which was outside the focus of the SSCI report) provide records to help understand the scope of renditions to foreign custody,

who was rendered, where and how long they were held, and what was done to them.

4. Declassify and make public information about the role of Aero Contractors, Ltd. (and other North Carolina-based contractors) in the CIA's extraordinary rendition and torture program, the nature of any contracts or directives they had, and what specifically they were requested to do.

5. In all government investigations of the extraordinary rendition and torture program, including those conducted previously and going forward, make any findings public and available widely on the web, to the extent possible.

6. Declassify and make public information about the training on SERE techniques that took place at Fort Bragg, and the ways in which those trainings contributed to abuses in Guantánamo, Iraq, and Afghanistan.

7. Thoroughly investigate and prosecute any acts of torture or conspiracy to commit torture that are or have been identified, including those committed by government officials and policymakers regardless of their rank and status, as required by the United States' international law obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

8. Stop asserting the "state secrets" privilege to prevent legitimate legal claims from being heard.

We ask that Special Rapporteurs and Working Group expert use all means at their disposal to support these demands.

Recommendations provided by NCCIT to the federal government to acknowledgment, redress and reparations include:

1. Acknowledge and apologize for the harms that have resulted from the CIA's extraordinary rendition and torture program in a way that avoids re-traumatizing survivors and victims' families.

2. Provide reasonable reparations for survivors of the CIA's extraordinary rendition and torture program and victims' families (for medical care and rehabilitation, language training, access to education, resettlement of family).

3. Work with countries where former detainees now reside to ensure they can access adequate medical care and are provided meaningful work opportunities.

4. Reinstate the position at the State Department responsible for detainee transfer out of Guantánamo.

5. Discontinue pressure on foreign nations that have received detainees to withhold from them, without compelling rationale, identity and travel documents.¹⁵⁷

¹⁵⁷ North Carolina Commission of Inquiry on Torture, *supra* note 1, at 12.

We ask that Special Rapporteurs and Working Group expert use all means at their disposal to support these demands.

Recommendations provided by NCCIT to the local and state governments of North Carolina to enhance transparency and promote accountability for the CIA's extraordinary rendition and torture program include:

1. Establish a governor-led task force to investigate the role of Aero and other private contractors operating in the State during the period in which the CIA's extraordinary rendition and torture program was operational (2001 - 2006) and make the results available to the public.
2. Submit a formal request to the Federal Government asking for details on the role of Aero (and other North Carolina based private contractors) in the CIA's extraordinary rendition and torture program.
3. Pass legislation strengthening North Carolina state law surrounding private contractors, using lessons learned in the above investigations. Include the following:
 - a. Require private contractors to comply with all state, federal, and local laws including a prohibition on private contractors participating in inhumane or unlawful transport and treatment of detainees.
 - b. Authorize suspension of support to contractors that have or are accused of violations of state, federal and international law.
 - c. Require a response to reasonable requests for information on private contracts with the Federal Government.
4. Investigate and prosecute to the fullest extent allowed by law anyone who violates or violated North Carolina law that is designed to protect against torture and abuse, including laws that criminalize kidnapping, aggravated assault, false imprisonment, and conspiracies to commit such unlawful acts.
5. If law enforcement personnel empowered to investigate fail to do so, enact in law a specific mandate for the Attorney General to convene a grand jury for investigating and prosecuting conspiracy to kidnap for torture.
6. Conduct a financial audit of Aero Contractors, Ltd. to determine profits made from complicity in CIA's extraordinary rendition and torture program.

We ask that Special Rapporteurs and Working Group expert use all means at their disposal to support these demands.

Recommendations provided by NCCIT to the local and state governments of North Carolina to enhance transparency and promote accountability for the CIA's extraordinary rendition and torture program include:

1. Acknowledge via a public statement from the Governor and Attorney General that the events of rendition, disappearance, and torture took place, note violations, and apologize to the survivors and victims' families.
2. Establish a permanent site in the state or incorporate into an existing site (museum, library, etc.), a place where the story of the CIA's extraordinary rendition and torture program, with emphasis on the victims, can be told and education materials made available.
3. Designate, via legislation, a day for North Carolina to remember the survivors of U.S. torture, specifically the 49 harmed with state resources.
4. Establish a marker or monument to those harmed by North Carolina's involvement in torture (e.g., the Highway Historical Marker Advisory Committee could recommend a plaque of acknowledgment in Johnston County).
5. Work with health professionals, including North Carolinians, to develop ways to offer meaningful treatment to the CIA's extraordinary rendition and torture program survivors.

We ask that Special Rapporteurs and Working Group expert use all means at their disposal to support these demands.

Recommendations provided by NCCIT to the local and state governments of North Carolina to prevent this from happening again:

1. Support the establishment of a torture survivor center in the state for refugees and asylum seekers.
2. Explore partnerships with North Carolina universities, Red Cross and/or hospitals with programs to educate citizens on human rights and torture.
3. Pass legislation (including strengthening private contractor laws noted above) that prevents North Carolina from ever being used again to support illegal and inhumane policies such as torture and rendition and instead fosters an ethical and pro- human rights business environment.
4. Provide guidance on the obligations of state and local law-enforcement authorities to assist in carrying out obligations under CAT and ICCPR.
5. Call for active citizen engagement in the issue, such as by supporting programs that promote human rights and educate the public about the moral and security costs of torture.
6. Adopt policies by airport authorities that prohibit participation by any airport tenants or users in aviation that furthers conspiracies to kidnap for torture or other human rights violations.¹⁵⁸

We ask that Special Rapporteurs and Working Group experts use all means at their disposal to support these demands.

¹⁵⁸ *Id.* at 12-13.

We look forward to hearing from members of the Special Rapporteurships and Working Groups to ensure that the U.S. government, the state of North Carolina and its political subdivisions, and Aero honor their international commitments to human rights and provide just compensation to the victims of the CIA's extraordinary rendition and torture program.

Sincerely,



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