



January 5, 2016

Re: Nomination of Michael Pompeo To Be CIA Director

Dear Senators,

As the Board of Directors of Amnesty International USA,¹ we write to urge you to promote legal commitments against torture and other forms of ill-treatment, including so-called “enhanced interrogation techniques,” at the confirmation hearing of Representative Michael Pompeo to be director of the Central Intelligence Agency. To fulfill your responsibilities in providing advice and consent, you should seek Rep. Pompeo’s explicit commitment to upholding U.S. and international law on torture and other ill-treatment.

This would be consonant with the long-time practice of the Senate Select Committee on Intelligence. Indeed, four of the individuals most recently confirmed to direct the CIA—Porter Goss, Leon Panetta, General David Petraeus and John Brennan—used their confirmation hearings to condemn torture as morally reprehensible and inconsistent with U.S. values and legal commitments.² “These are values we have fought for, that Americans have died for over the course of decades and centuries,” General Petraeus testified.³

“Torture is never tolerable, and it’s not anything that a professional interrogator uses,” testified Goss, a former member of Congress and CIA operative who became CIA director under former President George W. Bush.⁴ “It never should have taken place in my view,” Brennan testified, in reference to CIA torture.⁵

The struggle against torture transcends ideology, partisanship and the politics of the moment. We urge you to ensure that the consensus against torture remains firm among U.S. intelligence leaders. Your questions can ensure that Rep. Pompeo, like his predecessors, rejects torture and

¹ Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International USA is the U.S. section of Amnesty International.

² General Michael Hayden likewise committed, at his 2006 confirmation hearing, to “respect our international obligations,” including the U.N. Convention Against Torture, and U.S. anti-torture law. Nomination of General Michael V. Hayden To Be Director of the Central Intelligence, Hearing before the Senate Select Committee on Intelligence, 18 May 2006, online at <http://www.intelligence.senate.gov/hearings/nomination-general-michael-v-hayden-usaf-be-director-central-intelligence-agency-may-18>.

³ Nomination of General David H. Petraeus To Be Director of the Central Intelligence, Hearing before the Senate Select Committee on Intelligence, 23 June 2011, online at <http://www.intelligence.senate.gov/sites/default/files/hearings/112307.pdf>.

⁴ Nomination of Porter Goss To Be Director of the Central Intelligence, Hearing before the Senate Select Committee on Intelligence, 14 and 20 September 2004, online at https://fas.org/irp/congress/2004_hr/091404goss.html.

⁵ Open Hearing on the Nomination of John O. Brennan To Be Director of the Central Intelligence, 7 February 2013, online at <http://www.intelligence.senate.gov/sites/default/files/hearings/transcript.pdf>.



commits to compliance with U.S. law and international legal agreements binding on the U.S. government.

U.S. Leadership in Rejecting Torture

It is vital that U.S. intelligence leaders continue to reaffirm the prohibition on torture and other ill-treatment. This is a matter of fidelity to U.S. international legal commitments and global leadership.

Torture is abhorrent. It is barbaric and inhumane. It poisons the rule of law, replacing it with terror. The world's governments recognized these fundamental truths when, in the aftermath of the atrocities of the Second World War, they adopted the Universal Declaration of Human Rights in 1948. This enshrined the basic right of all of us, everywhere, to live free from torture, free from cruelty.

U.S. leaders from both parties have championed this right – at the heart of our shared humanity – and supported enshrining it in legally binding international agreements through an explicit and absolute prohibition against torture and other ill-treatment.⁶ President Ronald Reagan, who signed the UN Convention Against Torture in April 1988, wrote that its ratification “will clearly express [U.S.] opposition to torture.” According to the State Department, “[t]he United States has long been a vigorous supporter of the international fight against torture.”⁷

Your constitutional responsibility to provide advice and consent requires vigorous questioning of the nominee for CIA director on this important issue. We urge you to question Rep. Pompeo regarding his understanding of U.S. international legal commitments and leadership on torture and other ill-treatment. We urge you to explicitly seek a commitment from Rep. Pompeo that he will abide by these international legal commitments.

U.S. Law on Torture and Prohibition of “Techniques” Such As Waterboarding

In addition, U.S. law categorically prohibits torture and other forms of ill-treatment,⁸ and we

⁶ See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 (ratified by the Senate in 1994); International Covenant on Civil and Political Rights, art. 7 and 10, Dec. 16, 1966, 999 U.N.T.S. 171 (ratified by the Senate in 1992). Article 3 of all four Geneva Conventions of 1949 (referring to as Common Article 3) requires humane treatment for all persons and specifically prohibits torture and cruelty.

⁷ “United States representatives participated actively in the formulation of the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1975, and in the negotiation of the Convention against Torture.” U.S. State Department, Initial Report of the United States of America to the U.N. Committee Against Torture, CAT/C/28/Add.5, 9 February 2000, online at <https://www.state.gov/documents/organization/100296.pdf>.

⁸ “Every act of torture within the meaning of the Convention [Against Torture] is illegal under existing federal and state law...Torture cannot be justified by exceptional circumstances, nor can it be excused on the basis of an order from a superior officer.” Id. “[T]he Constitution, laws, and treaties of the United States and the applicable guidance and regulations of the United States Government prohibit the torture or cruel, inhuman, or degrading treatment of foreign prisoners held in custody by the United States.” 10



urge you to ensure that this is reflected in your questions and discussion of the issue at the confirmation hearing. Indeed, Rep. Pompeo should explicitly commit to respecting U.S. law on this matter.

In 2015, the Senate passed—overwhelmingly and on a bipartisan basis—an amendment to the National Defense Authorization Act for Fiscal Year 2016 sponsored by Senators John McCain and Dianne Feinstein that strengthened the ban on torture and other ill-treatment. The provision, by codifying the Army Field Manual on Human Intelligence Collector Operations as the standard for national security interrogations across the government, reaffirmed the ban on many specific forms of torture and ill-treatment. This includes waterboarding, forced nudity and other sexual abuse, hooding, mock executions, deprivation of food, water or medical care, beatings and “other forms of physical pain.”⁹

The provision extended the Detainee Treatment Act,¹⁰ passed by Congress in 2005 by a vote of 90–9, which banned the Department of Defense from using techniques not authorized by the Army Field Manual, and also banned across government agencies the use of cruel, inhumane, and degrading treatment or punishment.¹¹

As the confirmation process moves forward in the Senate, it is vital to make clear that so-called “enhanced interrogation techniques” such as waterboarding and forced nudity violate U.S. law. These are not policy options to debate on the merits, but illegal practices. Senators who, less than two years ago, voted to ban the practice of waterboarding and other abuses, should seek explicit affirmation from Rep. Pompeo that he will commit to ensuring compliance with the law if confirmed.

Thank you for your time and consideration. We firmly believe that every country, including this one, must seek to stand between the torturer and the tortured. We urge you to use the power of your office to ensure that under its new director, the agency lives up to the highest values and clear legal commitments of the United States.

U.S.C. § 801, Pub. L. 108–375, div. A, title X, §§1091, 1092, Oct. 28, 2004. See also 18 U.S.C. § 2441 (“War crimes”); 18 U.S.C. § 2340A (“Torture”).

⁹ FM 2-22.3 (FM 34-52) Human Intelligence Collector Operations (Army Field Manual), Section 5.75, online at <https://www.state.gov/documents/organization/150085.pdf>.

¹⁰ See P.L. 109-148, Title X, § 1002 (2005); P.L. 109-163, Title XIV, § 1402 (2006); Congressional Record—Senate, 7 Oct. 2015, S7187, online at <https://www.gpo.gov/fdsys/pkg/CREC-2015-10-07/pdf/CREC-2015-10-07-pt1-PgS7175-4.pdf#page=12>.

¹¹ The Detainee Treatment Act prohibits persons in the custody or control of the U.S. government, regardless of their nationality or physical location, from being subjected to cruel, inhuman, or degrading treatment or punishment. See P.L. 109-148, Title X, § 1003; P.L. 109-163, Title XIV, § 1402. However, Amnesty International has expressed concerns about other provisions of the Act.

Sincerely,

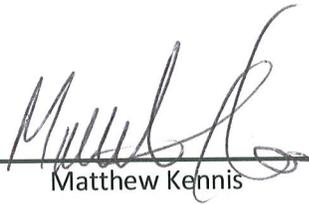

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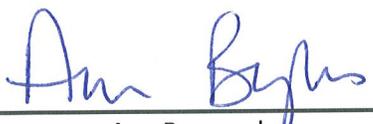

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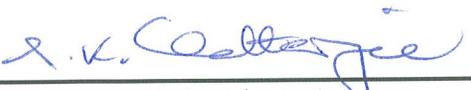

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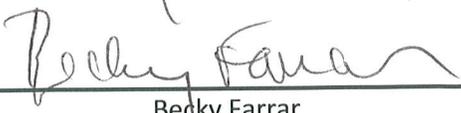

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