

## Network of Religious Communities

### **Resolution to Prohibit the Use of Torture and Extraordinary Rendition and Require Accountability of All Public Officials**

*Adopted by Board of Governors March 15, 2012*

**Resolved**, that the Board of Governors of the Network of Religious Communities, in keeping with the Network's stated purposes:

1. **Calls on the President of the United States to sign the Optional Protocol to the *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;**
2. **Calls on Congress to:**
  - a. **Provide for a Commission of Inquiry or other instrument to carry out a full and public inquiry into abuse of prisoners while in U.S. custody or in other custody through transfer or extraordinary rendition, when the U.S could have prevented or stopped the abuse, over the past two decades;**
  - b. **Pass definitive and strong legislation prohibiting the utilization of extraordinary rendition and the kind of abuses that have taken place, and containing serious penalties for those who authorize or carry out such abuses;**
3. **Requests the President and Executive Director of the Network of Religious Communities to communicate the previous calls to our Senators and Representatives in Congress.**
4. **Requests that the Network's member congregations, judicatories, and organizations consider (a) taking the same steps, and (b) bringing the issue to the attention of their members.**

#### **EXPLANATION: 2011 Network Resolution Against Torture and Extraordinary Rendition**

Numerous denominations and faith communities that are members of The Network of Religious Communities have, through their local or national governing bodies, approved statements and/or legislation that condemn the use of torture or the practice of extraordinary rendition.

**Regarding torture:** This resolution of The Network makes a clear statement that the Network is aligned with the actions taken by its member organizations with regard to the faith communities' opposition to torture – especially when practiced as an instrument of policy by any government including that of the United States. On numerous occasions the United States has clearly reaffirmed its commitment to the *United Nations Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment*. [See official text of the UN *Convention Against Torture* at: [http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9&chapter=4&lang=en](http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en). ]

The Convention defines torture in Article 1: “1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. 2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.”

Through the process that requires the President's signature [President Reagan, 1984] and Senate ratification [President Clinton's recommendation and Senate Approval, 1994] for any international treaty, the *UN Convention Against Torture* became an integral part of US law. At that time the US agreed to a very important and specific limitations on its powers. It declares: “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal instability or any other public emergency, may be invoked as a justification of torture. An order from a superior officer or a public authority may not be invoked as a justification of torture.” Virtually all of these prohibited exceptions were utilized by President Bush's Justice Department's illegal memos and actions.

In addition, torture is in clear violation of US federal law. The US Code not only was amended to prohibit torture in conformity with the requirements of the *UN Convention Against Torture*, but also provides significant definitions regarding the nature and parameters of torture and guidelines for penalties. [See US Code Chapter 113 at: [http://www.law.cornell.edu/uscode18/uscode18\\_101\\_20113.html](http://www.law.cornell.edu/uscode18/uscode18_101_20113.html) ]

**Regarding extraordinary rendition:** Beginning in the early 1990s the Central Intelligence Agency, together with other U.S. government agencies, expanded an intelligence-gathering program involving the transfer of foreign nationals suspected of involvement in terrorism to detention and interrogation in countries where – in the CIA's view – federal and international legal safeguards do not apply. This program is known as "extraordinary rendition." It facilitates the use of torture. Suspects have been detained and interrogated either by US personnel at US-run detention facilities outside US sovereign territory or, alternatively, have been handed over to the custody of foreign agents for interrogation. In both instances, interrogation methods have been employed that clearly include torture and do not comply with federal and internationally recognized standards for treatment of prisoners.

**Rendition and Torture – The Obama Administration:** President Obama issued an Executive order in January 2009, putting limitations on the use of rendition especially in cases where transfer of a prisoner to another country could result in him/her being tortured. Nevertheless, since September 11, 2001, eight years earlier, when the Department of Justice ruled “enhanced interrogations” [*i.e.* torture] and extra-ordinary renditions [*i.e.* forced disappearances] to be legal and within the requirements of humanitarian law, nothing has been done to invalidate that opinion and policy. The full scope of the evil perpetrated in our name is far from clear. Several past administrations blocked all avenues for accountability and the current administration has done little to change that situation apart from President Obama’s claim: “No torture will occur on this watch.” But what of future watches?

**The Optional Protocol:** The Protocol is a treaty amendment that has already been ratified by 60 nations since UN adoption in 2002, but neither signed nor ratified by the U.S. The Protocol is a strategy for preventing torture through oversight and accountability. It establishes a procedure for a signatory country to set up a process of self-monitoring its own compliance with the *Convention Against Torture*. Specifically, adhering nations agree to three requirements: (1) to establish an independent investigative body charged with monitoring of all detainees, (2) to provide that body with the identification of and information on all prisoners, and (3) to assure free access to all places of detention. It is a mechanism to require conformity to the international standards of the *Geneva Convention*, the *Convention Against Torture*, and accepted domestic and international law. Nothing now exists in US law to assure independent investigation of charges of abuse. [Text of the Optional Protocol at:

<http://treaties.un.org/pages/ViewDetails.aspx?src=OMD&.tdsg-mp=IV-9-b&chapter=4&lang=en> ]

**An Independent Commission of Inquiry:** If there is a possibility of independent verification of abuses through the Optional Protocol, why isn't that sufficient? It is because the legislative process to establish international standards is lengthy and difficult. As can be seen by the ratification of the *Convention Against Torture*, while the Convention was approved by the UN on December 10, 1984, the US procedures took ten years, until 1994, for it to be ratified and become law. The Optional Protocol was adopted in 2002 and this is the tenth year without receiving the signature of a US president. In the present political climate the Protocol has already faced the same and will face a longer threat of delay.

The creation of an Independent Commission of Inquiry by the Executive or Legislative branch, to carry out a full and public investigation into abuse of political prisoners during the past two decades, is not to seek retribution but to determine accountability. Although President Obama has stated that torture will not occur on his watch, there has been no accountability for what happened on a prior watch and, therefore, no assurance of protection against what might happen on a future watch. The creation of an Independent Commission of Inquiry as well as efforts to ratify The Optional Protocol may be the only means to begin to fill that void.