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President

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The Honorable Edward J. Markey
U.S. House of Representatives
Washington, DC 20015

Dear Representative Markey:

I write on behalf of the American Bar Association to express our appreciation to you for introducing H.R. 952, "The Torture Outsourcing Prevention Act." This legislation would prohibit the transfer of persons by the United States, for the purposes of detention or interrogation, to countries where torture or other inhuman treatment is known to occur.

In August 2004 the American Bar Association House of Delegates adopted comprehensive policy in response to the revelations of abuses by United States personnel of prisoners captured in the Afghanistan and Iraq conflicts. The policy condemned the use of torture and cruel, inhuman or degrading treatment of prisoners and called upon the U.S. government to ensure that its interrogation policies and treatment of detainees comports fully with the requirements of law.

A key element of our adopted policy urges the United States government to take all measures necessary to stop the practice of "extraordinary rendition," the transfer of persons within the custody or control of the United States to nations known to practice torture or to subject prisoners to cruel or other inhuman treatment.

The United States' obligation to prohibit and prevent the torture and cruel, inhuman or degrading treatment of detainees in its custody is set forth in the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment ("CAT"), to which the U.S. is a party. Under CAT there are no exceptional circumstances that warrant torture, and extradition or other rendering of a person to a country that would likely subject that person to torture is prohibited. Yet national press reports have drawn attention to this apparent practice by the United States, and several human rights organizations have detailed numerous cases that may involve extraordinary rendition to countries known to practice torture.

H.R. 952 would require the State Department to compile a list of countries known to practice torture or cruel, inhuman or degrading treatment during detention and prohibit

rendition to any country on that list. The bill does allow for a waiver of this prohibition in special cases if the Secretary of State certifies to the appropriate Congressional committees that the country in question has ended the acts of torture or other inhuman treatment and that there is a “verifiable” mechanism in place that assures the United States government that a person transferred or rendered to that country will not be subject to torture or other cruel, inhuman or degrading treatment.

The practice of extraordinary rendition not only violates our own cherished principles as a nation but also treaty obligations which make clear that a nation cannot avoid its obligations by having other nations conduct unlawful interrogations in its stead. Moreover, this practice works to undermine our moral authority in the eyes of the rest of the world.

We commend you for your leadership on this issue, and we urge the Congress to promptly enact H.R 952.

Sincerely,

A handwritten signature in black ink, reading "Robert J. Grey, Jr." in a cursive script.

Robert J. Grey, Jr.

cc: Members, Committee on International Relations