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The Honorable Hillary Rodham Clinton
Secretary of State
US Department of State
2201 C Street NW
Washington, DC 20520

October 19, 2012

Dear Madam Secretary,

OPEN LETTER: THE UNITED STATES OF AMERICA'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership of the UN Human Rights Council in the elections scheduled for 12 November 2012. We welcome your submission of election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the *note verbale* dated 10 July 2012 from the Permanent Mission of the United States of America to the United Nations addressed to the President of the General Assembly.¹

We recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.² On the occasion of the United States of America's candidacy, we take the opportunity to comment on your election pledges and to note additional opportunities for your government to promote and protect human rights. In doing so, we refer to the guidance of the Office of the High Commissioner for Human Rights on presenting voluntary human rights pledges and commitments, including that such pledges and commitments should be specific, measurable and verifiable.³

Commitments at the international level

Ratification of international human rights instruments

We note your commitment to consider ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities, and ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation. We note also that the same commitments to consider

¹ A/67/151.

² A/RES/60/251, para 9.

³ Office of the High Commissioner for Human Rights, *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council*, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>.

ratification of CEDAW and ILO Convention 111 were included in your country's election pledges in 2009, and we urge you to take urgent action to give effect to these pledges.

We wish to take this opportunity to also encourage you to work with the US Senate to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities; the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol; the Convention on the Rights of the Child; the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Rome Statute of the International Criminal Court.

In addition, we urge you to withdraw all reservations, declarations and understandings that seek to limit the applicability of the international human rights treaties to which the USA is a party, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Cooperation with the Special Procedures

We welcome your commitment to cooperate with the UN human rights mechanisms and to strongly support the work of the Special Procedures. In this spirit, we encourage you to issue a standing invitation to the Special Procedures. We note that the Special Rapporteur on the Independence of Judges and Lawyers; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment are jointly requesting permission to visit in relation to the detention facility in Guantánamo Bay. We urge you to facilitate this visit without delay, under the conditions requested by the Special Procedures. We also encourage you to promptly arrange the visit agreed in principle with the Working Group on Arbitrary Detention.

We further urge you to review, with a view to their prompt and full implementation, all outstanding recommendations made in recent years by the Special Procedures in relation to the USA.

Cooperation with the treaty monitoring bodies

We welcome your commitment to meet your UN Treaty Body obligations by participating in meaningful dialogue with the Treaty Bodies. In this spirit, we urge you to promptly submit the periodic reports that are due to the Committee on the Elimination of Racial Discrimination and to the Committee against Torture.

We also urge you to review, with a view to their prompt and full implementation, all outstanding recommendations made in recent years by the Treaty Bodies, including the Human Rights Committee and the Committee against Torture, in relation to the USA.

Engagement with the Universal Periodic Review

We welcome your commitment to cooperate with the UN human rights mechanisms. We note that during your first Universal Periodic Review in 2010, you accepted a large number of recommendations, including to address discrimination in the judicial system,⁴ to eradicate all forms of torture and ill-treatment of detainees by military or civilian personnel in any territory of jurisdiction and to ensure that such acts are thoroughly investigated,⁵ to reduce over-crowding in prisons,⁶ and to adapt detention conditions of immigrants in line with international human rights law.⁷ We urge you to ensure the prompt and full implementation of these recommendations and to provide regular updates on such efforts to the Council.

We deeply regret your rejection of recommendations to abolish the death penalty. We urge the administration to ensure a prompt and continuing moratorium on federal executions pending abolition of the federal death penalty and to work with states to bring about the same goal at state level across the USA.

Participation in the deliberations of the Human Rights Council

We note your commitments to continue to work for a balanced, credible and effective Human Rights Council and to promote universality, transparency and objectivity in all of the endeavours of the Council; to continue efforts to strengthen mechanisms in the international system to advance the rights of women; and to continue to engage on and support economic, social and cultural rights, including in the Human Rights Council.

In this regard, we urge your government to work with delegations from all regions to ensure that the Council addresses situations of human rights violations, including gross and systematic violations and human rights emergencies, without selectivity or double-standards. We also urge your government to support efforts to ensure that all credible allegations of reprisals or intimidation against persons and groups who have engaged or have sought to engage with the UN human rights machinery are brought to the urgent attention of the Council; that the Council demands the government concerned to ensure that any alleged reprisals are investigated in a prompt, impartial, transparent and effective manner and that perpetrators are held to account; and that the Council requests the government concerned to inform it of measures taken in this regard.

Commitments at the national level

We welcome your commitments to promote the human rights of persons regardless of their sexual orientation or gender identity, to fight discrimination through the enforcement

⁴ Report of the Working Group on the Universal Periodic Review, United States of America, 4 January 2011 (A/HRC/16/11), recommendations 92.95 (France), 92.96 (Austria), 92.97 (Haiti), 92.110 (Ecuador), and 92.111 (Qatar).

⁵ A/HRC/16/11, recommendation 92.139 (Norway).

⁶ A/HRC/16/11, recommendation 92.163 (Belgium).

⁷ A/HRC/16/11, recommendation 92.184 (Switzerland).

of federal civil rights statutes, to continue work to combat and prosecute hate crimes, to protect the rights of individuals with disabilities through enforcement of relevant legislation, and to strengthen government-to-government relationships with federally recognized Indigenous tribes.

We remain concerned, however, that despite the US administration's stated commitments to international human rights law and standards, the USA continues to undermine such principles through certain laws, policies and practices. The USA has defined its approach to counter-terrorism over the past decade as a global "war" to the detriment and exclusion of international human rights law and standards, including the continuing indefinite detention without criminal charge of more than 150 men at the US Naval Base in Guantánamo Bay, Cuba; the resort to military commission proceedings there that do not meet international fair trial standards; the intended pursuit of the death penalty at such proceedings; the failure to ensure accountability for the crimes of torture and enforced disappearance that were committed in the secret detention program operated by the Central Intelligence Agency; and the systematic blocking of remedy sought by victims alleging human rights violations in the counter-terrorism detention context.

We welcome the pledges and commitments already made by the United States of America, and we urge your government to use this opportunity to further strengthen its election pledges by including the additional elements listed above. We also encourage your government to announce the steps it will take to fulfil its electoral pledges, whether it is successful in gaining a seat on the Council or not, and to regularly inform the General Assembly and the Human Rights Council of progress in implementing these commitments. This could be done, for example, in the form of an oral or written statement to these bodies.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

Yours sincerely,

Frank Jannuzi
Deputy Executive Director
Amnesty International USA