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CIVIL-SOCIETY ADVOCACY BRIEF

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Status of this document: This brief is modelled on the OHCHR technical guidelines for stakeholder submissions, fourth cycle, so that its content may be readily adapted by organizations and delegations engaged in the review. It is not represented as complying with the prescribed submission format: it exceeds the individual-submission word limit and the indicative page length, both of which bind material actually filed. It was not filed with the OHCHR stakeholder-submission system. The deadline for stakeholder information for the fifty-third session closed on 10 April 2026, and the continuation arrangements for the review of the United States admitted updates only from organizations that had contributed in 2025. The Institute did not contribute through that channel and makes no claim to appear in the official record of this review. This document is advocacy material, circulated directly.

Type of organization: Non-governmental organization, national. California non-profit public benefit corporation 5723791; Internal Revenue Service 501(c)(3), EIN 99-2887013. Incorporated May 2023. Entirely independent of government funding and direction. The Institute does not hold consultative status with the Economic and Social Council.

Description: The Institute for the Advancement of Justice & Human Rights is an independent non-governmental organization organized under Paris Principles standards for the monitoring, investigation and documentation of human rights violations by domestic authorities, across the full range of human rights obligations binding on the United States by ratification and under customary international law, together with the obligation of a signatory State under article 18 of the Vienna Convention on the Law of Treaties to refrain from acts that would defeat the object and purpose of a treaty it has signed but not ratified. It applies the Istanbul Protocol (2002) as its medico-legal investigative standard. It reports to the Committee against Torture, United Nations Special Procedures, and other competent international bodies through the procedures available to civil society organizations. Its distinctive contribution is to observe, investigate and evaluate human rights compliance in the United States from the perspective of a national human rights institution, without holding the status or the authority of one.

Scope of this brief: Torture and other cruel, inhuman or degrading treatment or punishment arising in judicial, family court, child protective and administrative proceedings; access to justice; disability accommodation in judicial proceedings; the absence of a national human rights institution; and the standing reservations, understandings and declarations to the Convention against Torture and the International Covenant on Civil and Political Rights.

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I. Introduction and methodology

1. This brief is prepared and issued by the Institute for the Advancement of Justice & Human Rights, an independent national non-governmental organization documenting human rights violations by United States authorities. The Institute opened methodologically documented electronic intake on 4 August 2025. The evidentiary cutoff adopted for this brief is 26 March 2026; figures are stated as at that closed date and later intake is not relied upon. As at the cutoff the Institute had received registrations from 500 complainants together with more than 60 third-party reports. Screening proceeds in two stages: a credibility and arguability threshold aligned with Istanbul Protocol (2022) indicators and trauma-informed interviewing; and case-building for independent verification through chronologies, documentary exhibits and medico-legal evaluation.¹
2. The evidentiary basis of this brief is of five distinct kinds, and the Institute distinguishes them expressly. First, aggregate intake indicators drawn from the full body of registrations. Second, matters under initial assessment against the credibility and arguability threshold. Third, matters under active investigation. Fourth, a small number of completed individual findings supported by medico-legal documentation and court records. Fifth, the Institute's published structural and jurisprudential analysis, which stands on cited primary authority and not on case material. Nothing in this brief asserts that the whole of the complaint corpus has undergone completed medico-legal investigation, and the strength of each proposition should be read against the category from which it comes.²
3. The findings are the Institute's own and are not a restatement of the observations of treaty bodies or special procedures. Where the Institute's legal position is argued rather than settled, it says so. On 19 September 2025 the Institute submitted a preliminary shadow report to the eighty-third session of the Committee against Torture and requested a confidential inquiry under article 20 of the Convention against Torture, identifying twenty-four recurring categories of official conduct.³

II. The character of this analysis

4. Most information placed before this review documents particular violations suffered by particular groups of persons and asks that they be remedied. That work is indispensable and this brief does not displace it. The Institute's contribution is of a different order. Its published analytical work examines whether the institutional arrangements upon which the United States relies for compliance with its treaty obligations are capable, by their own design, of delivering that compliance.
5. In the settings examined here they are not — and not because officials fail to apply them. Judicial conduct complaints are determined within systems controlled by or closely linked to the judiciary, in which judges hold a substantial role in appointment to the deciding body, in adjudication, in review, or in final disposition, notwithstanding that some State commissions include lawyer and lay members. Judicial immunity forecloses personal damages liability for acts within its doctrinal scope, and operates together with prosecutorial and sovereign immunity, procedural bars and remedial limitations to close the avenues that remain. No United States institution possesses a comprehensive, treaty-specific and sufficiently independent mandate to receive allegations of torture or ill-treatment arising from judicial conduct, to coordinate the federal and state criminal provisions that might reach the predicate acts, to determine institutional responsibility, and to secure the accountability and

¹Intake and registration figures are the Institute's own records, stated as at the evidentiary cutoff of 26 March 2026: electronic intake opened 4 August 2025; 500 registered complainants and more than 60 third-party reports. Methodology: [Istanbul Protocol \(2022 revision\)](#).

²The five evidentiary categories are the Institute's own classification and govern the weight to be given to each proposition in this brief. No proposition here asserts that the whole complaint corpus has undergone completed medico-legal investigation.

³Institute for the Advancement of Justice & Human Rights, Preliminary Shadow Report to the eighty-third session of the Committee against Torture, 19 September 2025, requesting a confidential inquiry under article 20 of the Convention against Torture.

redress that the Convention against Torture requires. The declaration that articles 1 to 16 of the Convention are not self-executing removes the treaty itself as a source of enforceable domestic obligation.

6. Each of these elements is recognised or maintained under presently administered domestic doctrine. The Institute examines separately whether their combined operation is consistent with the international obligations of the United States, and concludes that it is not. Taken together they leave no comprehensive, treaty-compliant, sufficiently independent and demonstrably effective mechanism by which conduct capable of engaging the Convention can be examined, responsibility determined and redress secured. Individual criminal or civil provisions may reach particular predicate acts; what is absent is a mechanism adequate to the obligation.⁴
7. A defect of that character is not curable by improved compliance, better training, or greater diligence, because it is not a failure of application. It is a property of the design. It is curable only by institutional change. That is why the recommendations in part VII are structural rather than exhortatory, and why the Institute's principal request is the creation of an independent institution rather than an undertaking to do better.

III. What the third-cycle record shows

8. At the third-cycle review of the United States on 9 November 2020, 116 delegations made statements and 347 recommendations were recorded. Not one of the 347 addressed the treatment of persons by the domestic courts, family courts, or child protective authorities before which they are compelled to appear. Family separation appears in the record solely in the immigration context. Judicial accountability, judicial immunity, the position of self-represented litigants, and disability accommodation within proceedings do not appear at all.⁵
9. The Institute does not advance this as a criticism of any delegation. It advances it as evidence. The universal periodic review depends, for its picture of a State's conduct, upon what that State's own accountability architecture surfaces, what its data disclose, and what civil society can reach. Where a category of official conduct is examined by no independent domestic body, generates no public disaggregated data, and is insulated from effective civil remedy, it produces no record upon which the mechanism can act. Its absence from 347 recommendations is not evidence that it does not occur. It is the predicted output of the design defect described in part II.
10. Nine States nonetheless recommended the establishment of a national human rights institution in accordance with the Paris Principles: India, Lithuania, Malaysia, Nepal, the Philippines, Qatar, Somalia, the Sudan and Zambia. Two further States recommended related national implementation or coordination mechanisms, which are not necessarily equivalent to a Paris Principles-compliant institution: Paraguay, for implementation, reporting and follow-up, and Albania, for coordinated compliance across federal, state and local levels. Six States recommended ratification of the Optional Protocol to the Convention against Torture: Chile, Cyprus, Czechia, Denmark, Liechtenstein and Slovenia. The United States has implemented neither the recommended Paris Principles institution nor ratification of the Optional Protocol. The Institute has not established that every component of

⁴Declaration of the United States that articles 1 to 16 are not self-executing: [United Nations Treaty Collection, ch. IV.9](#). On domestic effect, *Medellín v. Texas*, 552 U.S. 491 (2008). The characterisation of the combined operation of these elements is the Institute's own analysis, advanced as argued doctrine and expressed consistently with its Two-Plane Framework: the elements are described as administered domestically, and the compatibility of their combined operation with international obligations is assessed separately. The Institute does not contend that no domestic provision can reach any predicate act.

⁵[A/HRC/46/15](#), 15 December 2020: delegations, para. 9; recommendations, paras. 26.1–26.347; family separation in the immigration context, paras. 26.334, 26.336, 26.339, 26.340, 26.344, 26.345, 26.346. The finding that no recommendation addressed the treatment of persons by domestic courts, family courts or child protective authorities is the Institute's own reading of the full set and may be verified against the cited document.

the broader Paraguayan and Albanian recommendations remains unimplemented. Had either principal structural reform been implemented, the record before this Working Group would be materially different.⁶

11. The United States did not submit a national report for the fiftieth session of the Working Group and did not appear for its scheduled review on 7 November 2025. The Human Rights Council expressed regret, called upon the United States to resume cooperation, and rescheduled the review to the fifty-third session. Consideration is now scheduled for 10 November 2026. Non-appearance is itself a matter properly before the Working Group, and bears directly on the assurances of adequacy examined in part VI.⁷

IV. The absence of a national human rights institution

12. The United States has no institution accredited by the Global Alliance of National Human Rights Institutions, and no national institution meeting the Paris Principles criteria. The consequence is visible on the face of this review: in the summary of 155 stakeholder submissions for the review of the United States, the notation reserved for an A-status national human rights institution appears against no submission.⁸
13. This is not a formality. Articles 2, 12 and 13 of the Convention against Torture presuppose domestic capacity for prompt and impartial investigation without deference to the authority under examination, and article 20 supplies an international inquiry procedure precisely for cases in which that domestic capacity is in question. The Istanbul Protocol requires that investigations be conducted independently of the alleged perpetrators and of the institutions and agencies implicated in the conduct examined. Where the conduct under examination is that of the judiciary, some authorities retain investigatory or disciplinary powers, but none is charged with examining that conduct against the standards of the Convention, and the mechanisms that exist depend to a substantial degree on the cooperation of the judiciary itself. The absence of the institution and the invisibility of the conduct are the same fact observed from two directions.⁹

V. Torture and ill-treatment in judicial, family court and child protective proceedings

14. Article 1 of the Convention against Torture covers severe physical or mental pain or suffering intentionally inflicted for such purposes as obtaining from a person or a third person information or a confession; punishing a person for an act that person or a third person committed or is suspected of committing; intimidating or coercing a person or a third person; or discrimination of any kind, when inflicted by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. It excludes pain or suffering arising only from, inherent in or incidental to lawful sanctions. The text contains no setting qualifier. General Comment No. 2

⁶Paris Principles NHRI, [A/HRC/46/15](#); paras. 26.91 (Philippines), 26.92 (Zambia), 26.93 (Qatar), 26.94 (Somalia), 26.95 (India), 26.96 (Nepal), 26.97 (Sudan), 26.98 (Malaysia), 26.99 (Lithuania). Related implementation or coordination mechanisms: paras. 26.90 (Paraguay), 26.100 (Albania). OPCAT ratification: paras. 26.17 (Slovenia), 26.21 (Chile), 26.25 (Cyprus), 26.28 (Czechia), 26.35 (Liechtenstein), 26.55 (Denmark).

⁷No national report was issued for the fiftieth session. Decision of the Human Rights Council of 7 November 2025 rescheduling the review to the fifty-third session. Date of consideration: [OHCHR country page, United States, fourth cycle](#).

⁸Accreditation status is maintained by the Global Alliance of National Human Rights Institutions. [A/HRC/WG.6/50/USA/3](#), 1 September 2025: 155 submissions, with an asterisk denoting an A-status national human rights institution; no contributor carries that notation. The absence of an NHRI was raised in that round by joint submission 61 (National Human Rights Institution Coalition; University of California Irvine School of Law International Justice Clinic; American Civil Liberties Union) and by the Elizka Relief Foundation: *ibid.*, para. 7.

⁹Convention against Torture, articles 2, 12 and 13; article 20 establishes the Committee's confidential inquiry procedure and does not prescribe the form of a domestic institution. [Istanbul Protocol \(2022 revision\)](#), on independence from alleged perpetrators and from the institutions and agencies implicated.

confirms that the obligation to prevent torture extends to all branches of government, including the judiciary. The Institute's determination is that neither a judicial, family-court nor child-protection setting removes otherwise qualifying conduct from article 1, and that the lawful-sanctions clause does not exclude suffering merely because the conduct was ordered or performed by a judicial officer. It advances this as argued doctrine and invites scrutiny of it.¹⁰

15. The twenty-four categories the Institute has identified operate at three levels: direct harm; facilitation and mechanism; and systemic impunity. The direct-harm categories include coercive parent-child separation without due process or psycho-social safeguards; denial of urgent medical accommodation during proceedings, including deprivation of life-saving treatment through control of bodily autonomy by public officials; knowing and willful infliction of extreme emotional distress; and coercion and intimidation to produce information at the expense of injury.
16. The facilitation categories include the weaponization of court rules, deadlines, records access and hearings so as to require prolonged and injurious effort by the injured person to obtain redress; structural accessibility failures impeding effective participation by persons with disabilities and by self-represented litigants; retaliatory measures for protected petitioning, including recusal and ethics motions; deliberate case-management practices that frustrate review, including fact distortion; and the characterisation of prohibited conduct as lawful sanction through doctrines of discretion and non-reviewability.
17. The impunity categories include the systemic immunization of officials by public authorities and courts; the absence of education and training on treaty-prohibited conduct; the absence of treaty-compliant independent and impartial investigation; the absence of prevention mechanisms protecting the integrity of the person; and the absence of a comprehensive domestic offence and enforcement architecture corresponding to articles 1 and 16 across the settings examined, together with a recurrent failure to investigate or prosecute the predicate offences that are available. These are the components of the closed circuit described in part II, stated as documented practice rather than as legal architecture.¹¹
18. The majority of complaints received concern family courts and child protective services. A coercive separation order issued without due process or psycho-social safeguards may, depending on the evidence, engage articles 1 and 16 of the Convention against Torture; articles 7, 9, 14 and 17 of the International Covenant on Civil and Political Rights; articles 3, 8, 9 and 37 of the Convention on the Rights of the Child; and articles 13, 15 and 17 of the Convention on the Rights of Persons with Disabilities. For article 1, classification requires proof of severe suffering, intent, a prohibited purpose and the requisite official involvement; article 16 requires the applicable ill-treatment threshold and official involvement. Lack of due process alone establishes neither classification. No single-treaty analysis captures the conduct, which is one reason it has escaped the attention of mechanisms organised treaty by treaty.¹²

¹⁰ [Convention against Torture, article 1](#). CAT/C/GC/2, 24 January 2008, paras. 6 and 15.

¹¹ The twenty-four categories are set out in the Institute's Preliminary Shadow Report of 19 September 2025. On the criminal architecture: 18 U.S.C. §§ 2340–2340A create a federal torture offence directed principally at conduct outside the United States; other federal and State offences may reach predicate conduct. The Institute's finding is the absence of a comprehensive offence and enforcement architecture corresponding to articles 1 and 16 across the settings examined.

¹² Convention against Torture, articles 1 and 16; International Covenant on Civil and Political Rights, articles 7, 9, 14, 17; Convention on the Rights of the Child, articles 3, 8, 9, 37; Convention on the Rights of Persons with Disabilities, articles 13, 15, 17. The United States has ratified the first two and signed but not ratified the latter two.

VI. Reservations, non-self-execution, and the equivalence promise

19. On ratification of the Convention against Torture the United States entered reservations, understandings and declarations treating specified Convention terms as equivalent to existing constitutional or statutory standards. That premise was limited; it was not a claim that no implementing measure of any kind was required. Before ratification was deposited, Congress enacted 18 U.S.C. §§ 2340-2340A to implement criminal jurisdiction over torture committed outside the United States. Finland, the Netherlands and Sweden each objected to the reservation to article 16 as incompatible with the object and purpose of the Convention; the Netherlands additionally addressed several understandings concerning article 1, and Sweden stated that the understandings did not relieve the United States of its obligations. The Federal Republic of Germany communicated that the specified reservations and understandings did not affect the obligations of the United States as a State party. France and Spain objected to United States reservations to the International Covenant on Civil and Political Rights - a separate treaty regime employing an analogous equivalence technique.¹³
20. The declaration that articles 1 to 16 are not self-executing bars direct domestic enforcement; it does not diminish the international obligation. The Institute characterises the relevant reservations, understandings, declarations and contemporaneous representations as an equivalence promise to the other States parties within the subjects they address. Where the domestic mechanisms invoked in their support are structurally incapable of examining the conduct at issue, that promise is not merely unfulfilled in practice but unfulfillable as constituted. The Committee against Torture did not reject a single global equivalence assurance in its 2014 concluding observations; it identified deficiencies in particular components, including definition and criminalization, the article 16 reservation and redress. The Institute treats those findings, together with the structural and intake evidence stated here, as refuting equivalence in the settings examined.¹⁴

VII. Principal recommendations

The periods stated below are strict outer limits for completing structural and legislative measures. They do not postpone, suspend, diminish or excuse any existing obligation. The United States ratified the Convention against Torture in 1994; articles 2, 12, 13 and 14 have bound it since. From the date of these recommendations the United States must cease continuing prohibited conduct; protect persons exposed to foreseeable harm; provide the disability and procedural accommodations presently required; preserve access to courts and to remedies; investigate promptly and impartially every allegation for which reasonable grounds exist; and employ every presently available criminal, civil, administrative, disciplinary and

¹³ [United Nations Treaty Collection, chapter IV.9](#): objections of the Netherlands (26 February 1996), Finland (27 February 1996) and Sweden (27 February 1996); communication of the Federal Republic of Germany (26 February 1996). The objections of France and Spain concern the reservations to the Covenant, [chapter IV.4](#), and are not objections under the Convention against Torture. On the limited equivalence premise, see [S. Exec. Rep. No. 101-30 \(1990\)](#). Congress enacted the extraterritorial torture offence in [Pub. L. No. 103-236, title V, section 506\(a\), 108 Stat. 382, 463 \(30 April 1994\)](#), before ratification was deposited on 21 October 1994; [TIAS 94-1120.1](#).

¹⁴ [CAT/C/USA/CO/3-5](#), 19 December 2014, paras. 9, 10 and 29 (definition and criminalization; the article 16 reservation; and redress). The Committee addressed those discrete components; the broader conclusion that they and the Institute's structural evidence refute equivalence in the settings examined is the Institute's own synthesis.

equitable authority. No person's protection, investigation, accommodation, remedy or redress may be deferred pending completion of the institutional reforms specified below.¹⁵

The four supporting recommendations in the annex are an integral part of this brief and are addressed to the same ends.

21. Establish an independent national human rights institution meeting the Paris Principles, with a mandate covering all human rights and all branches of government including the judiciary: designate an interim independent mechanism immediately; introduce enabling legislation within 90 days; enact it within 12 months; bring the institution into operation as rapidly as its establishment permits; and seek accreditation by the Global Alliance of National Human Rights Institutions thereafter, accreditation being subsequent external validation and not a condition of operation.
22. Investigate promptly and impartially, as article 12 of the Convention against Torture presently requires, every allegation of torture or ill-treatment arising in judicial, family court and child protective proceedings for which reasonable grounds exist, without awaiting institutional reform; establish within 30 to 90 days an interim mechanism independent of the judiciary to receive and investigate such allegations; enact the permanent mechanism within 12 months; and publish annual disaggregated data on complaints received, investigated and substantiated.¹⁶
23. Afford effective remedy and redress. Article 14 of the Convention against Torture expressly addresses victims of acts of torture; the Committee against Torture interprets it as extending equally to victims of cruel, inhuman or degrading treatment or punishment, and the Institute adopts that interpretation as necessary to avoid a redress gap across the anti-impunity continuum, narrower domestic treatment not controlling the international plane. Accordingly, and together with article 2 (3) of the International Covenant on Civil and Political Rights: employ immediately every existing criminal, civil, administrative, disciplinary and equitable authority capable of reaching such conduct; introduce comprehensive remedial legislation within 60 to 90 days and enact it within 6 to 12 months; and ensure that judicial, prosecutorial and sovereign immunities, which differ in subject, purpose and mechanism, do not in their combined operation eliminate every avenue of investigation, accountability, proportionate sanction, State responsibility and reparation.¹⁷
24. Provide immediately, without any transitional period, the disability and procedural accommodations already required: in State and local courts and administrative bodies under title II of the Americans with Disabilities Act; in programmes and activities receiving Federal financial assistance, and in programmes and activities conducted by Federal executive agencies, under section 504 of the Rehabilitation Act; and, in the Federal courts, to which those statutes do not generally apply, to the fullest extent of existing Judicial Conference accommodation policy. Adopt within 90 days rules establishing binding periods for the determination of accommodation requests and expedited independent review of refusals. Close within six months, by Federal legislation, the gap between those regimes and the international standard, under which accommodation is an individualized duty

¹⁵The periods specified in the recommendations that follow are the Institute's own proposed strict outer limits for completing structural and legislative measures. They are not prescribed by any treaty, and no obligation is suspended during them: the Convention against Torture entered into force for the United States on 20 November 1994, and the obligations in articles 2, 12, 13 and 14 have bound it since that date.

¹⁶Convention against Torture, article 12 (prompt and impartial investigation wherever there is reasonable ground to believe an act of torture has been committed) and article 13 (right to complain and to have the case promptly and impartially examined).

¹⁷Convention against Torture, article 14, which expressly addresses victims of acts of torture; [CAT/C/GC/3](#), 13 December 2012, paras. 1 and 5, in which the Committee interprets article 14 as applying equally to victims of cruel, inhuman or degrading treatment or punishment. International Covenant on Civil and Political Rights, article 2 (3).

arising from the moment the need is apparent, is not subject to progressive realization, and the denial of which constitutes discrimination.¹⁸

25. Initiate immediately the process of withdrawing or modifying the declaration that articles 1 to 16 of the Convention against Torture are not self-executing and the understanding limiting cruel, inhuman or degrading treatment to the standards of the Fifth, Eighth and Fourteenth Amendments: the Executive should within 90 days state publicly its position on each instrument and commence the steps within its own competence, and where the participation of the Senate is required or is prudent, seek it within the same period; the domestic mechanics of altering Senate-conditioned instruments are contested and this recommendation does not assume unilateral executive competence over all of them. Concurrently introduce any legislation required to render the Convention domestically enforceable; withdrawal of the declaration alone should not be represented as resolving every question of domestic self-execution.¹⁹

Annex — Supporting recommendations

These recommendations form an integral part of this brief. The chapeau in part VII applies to them equally.

26. Deposit within 30 days a declaration under article 22 of the Convention against Torture recognising the competence of the Committee to receive and consider communications from individuals. The Convention permits such a declaration to be made at any time and deposited with the Secretary-General; the Executive should identify and complete whatever domestic authorization it considers necessary, and should not use that question to postpone the declaration.²⁰
27. Sign the Optional Protocol to the Convention against Torture immediately, transmit it for the advice and consent of the Senate promptly, and complete ratification within 12 months at the outermost; begin institutional preparation and independent preventive visiting immediately rather than awaiting ratification; and designate a national preventive mechanism whose mandate reaches all public, private, penal, non-penal and de facto settings in which persons are or may be deprived of liberty within the meaning of article 4 of the Optional Protocol.
28. Publish, with a first release within 12 months, annual national data on child removals and terminations of parental rights, disaggregated by race, disability status and household income.
29. Resume cooperation with the universal periodic review and transmit the overdue national report in advance of the review date.

¹⁸ [CRPD/C/GC/6](#), 26 April 2018, paras. 24-26. Domestically, title II of the Americans with Disabilities Act applies to State and local governments and their instrumentalities: [42 U.S.C. §§ 12131\(1\), 12132](#). In cases implicating the fundamental right of court access, title II validly abrogates State sovereign immunity. [Tennessee v. Lane](#), [541 U.S. 509, 531, 533-34 \(2004\)](#). Section 504 reaches federally assisted programmes and programmes conducted by Federal executive agencies: [U.S. Department of Justice, Nondiscrimination on the Basis of Disability](#). Neither statute applies to the Federal judiciary; Judicial Conference policy provides principally for communication-related disabilities: [U.S. Court of Appeals for the Ninth Circuit, Federal Disability Law and the Federal Judiciary](#).

¹⁹ [United Nations Treaty Collection, ch. IV.9](#) for the text of the United States instruments. The domestic mechanics of withdrawing or modifying reservations, understandings and declarations attached as conditions of Senate advice and consent are contested; this brief does not assume unilateral executive competence over each of them.

²⁰ Convention against Torture, article 22, under which a State party may at any time declare that it recognises the competence of the Committee to receive and consider communications from individuals, the declaration being deposited with the Secretary-General. The internal allocation of authority to make that declaration is a matter of United States constitutional law on which this brief takes no position.

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