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CONGRESS MUST ACT TO PREVENT MASS TRANSFERS TO TORTURE

Center for Human Rights and Global Justice releases report on continued outsourcing of torture as arrest warrants are issued against alleged CIA agents in Italy

(New York – June 28, 2005) Hundreds of detainees held by the U.S. government remain at risk of being sent to countries known for their systematic use of torture, the Center for Human Rights and Global Justice charged in a new report released today. The report, *Beyond Guantánamo: Transfers to Torture One Year After Rasul v. Bush*, reveals that the Administration continues to employ strategies that keep “War on Terror” detainees outside the ambit of the U.S. legal system.

These strategies, which include extraordinary rendition, “reverse rendition,” and transfers into secret detention, deny individuals the right to challenge their transfer on the grounds that they fear torture. Extraordinary rendition is the transfer of an individual, with the involvement of the United States or its agents, to a foreign state in circumstances that make it more likely than not that the individual will be subjected to torture or cruel, inhuman, or degrading treatment. “Reverse rendition” involves the transfer by foreign officials of suspects detained in non-combat situations into the custody of the United States.

The report is being issued on the one year anniversary of the Supreme Court decision in *Rasul v. Bush*, which held that U.S. Courts have jurisdiction to consider claims by foreign nationals captured abroad in connection with the “War on Terror” and incarcerated at Guantánamo Bay. Since that decision, the Guantánamo Bay detention facility has become the focus of intense criticism by a wide variety of leaders and organizations, with prominent figures such as Former President Jimmy Carter calling for the prison to be shut down. Despite the criticisms, however, the Bush Administration continues to employ strategies that circumvent the rights of detainees.

“As the pressure on the Administration to close the Guantánamo Bay facility intensifies, the use of all types of transfers to countries where they are at risk of torture is likely to increase,” warns Professor Meg Satterthwaite, Research Director for the Center for Human Rights and Global Justice. “Given the mounting critique of Guantánamo, Congress must ensure that the Administration does not resort to transfers and disappearances as a means of ‘solving’ the Guantánamo problem,” said Professor Satterthwaite.

Recent developments in Italy underscore the particularly urgent need for Congress to end the illegal practice of extraordinary rendition and to initiate an inquiry into the involvement of U.S. agents in all transfers that place detainees at risk of torture. On Thursday, June 23, 2005 Italian judge Chiara Nobili issued arrest warrants against 13 alleged C.I.A. agents suspected of involvement in the disappearance and extraordinary rendition of Italian resident Abu Omar. On the same day that the warrants were issued against the agents, an Italian judge handed down an indictment against Abu Omar on charges relating to terrorism. If reports of the extensive evidence against Abu Omar are correct, they show that legal methods of bringing Abu Omar to justice could have been pursued jointly by the United States and Italy.

“The abduction and disappearance of Abu Omar demonstrates unequivocally that the Bush Administration is flouting international and domestic law by engaging in extraordinary renditions and disappearances,” said Professor Satterthwaite. “This practice not only violates the human rights of those transferred, but it also threatens to undermine the fight against international terrorism by hindering international investigative cooperation concerning suspected terrorists,” she added. “Congress must exercise its oversight role by clarifying that extraordinary rendition and other forms of extra-legal transfers will not be tolerated.”

To date, much of the media and Congressional attention has been focused on the most blatantly illegal form of transfer – extraordinary rendition. At the same, however, the term “extraordinary rendition” has often been used indiscriminately to describe transfers other than “extraordinary rendition” (such as renditions and transfers to secret detentions), thus creating confusion over the meaning of the term, the source of authorization for the transfer, and the applicable legal standards. The Administration has fueled the confusion by failing to disclose its transfer policies and alluding to a variety of alleged loopholes in existing law or to secret documents that purportedly authorize transfers of detainees.

The report provides factual and conceptual clarity by describing what is known about each form of transfer and pointing out what still remains unknown. Distinguishing among the forms of transfer is important because the various types of transfer trigger different legal obligations. The report stresses that no matter what form a particular transfer may take, no U.S. official or agency may avoid the binding obligation to ensure that detainees are not sent to a country where they may face torture. Any transfer that fails to safeguard this basic responsibility contravenes the international human rights obligations of the United States under the Convention Against Torture, the International Covenant on Civil and Political Rights, the Geneva Conventions of 1948, and the Refugee Convention of 1951.

The Center for Human Rights and Global Justice:

- Calls on Congress to create an independent commission to investigate U.S. abuses in the “War on Terror.”
- Calls on U.S. agencies to investigate all allegations of illegal and extra-legal transfers and to cooperate with foreign governments in their efforts to investigate extraordinary renditions.
- Urges Members of Congress to support the bills proposed by Congressman Markey and Senator Leahy to ensure full compliance with the Convention Against Torture.
- Urges the United States government not to transfer individuals on the basis of diplomatic assurances from countries with documented histories of widespread or systematic torture, or where an individual can show a particularized risk of torture upon transfer.
- Calls on the Attorney General, federal officials and military authorities to investigate and prosecute those involved in conspiracy or complicity to commit torture.

About CHRGJ

The Center for Human Rights and Global Justice (CHRGJ) at New York University School of Law (<http://www.chrgj.org>) focuses on issues related to “global justice,” and aims to advance human rights and respect for the rule of law through cutting-edge advocacy and scholarship. The CHRGJ promotes human rights scholarship, advocacy and training, and encourages interdisciplinary research on emerging issues in international human rights and humanitarian law. Philip Alston is the Center’s Faculty Director; Smita Narula is Executive Director; Meg Satterthwaite is Research Director; and Angelina Fisher is Assistant Research Scholar.