



The Association of the Bar of the City of New York
The Center for Human Rights and Global Justice, NYU School of Law

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Contact: Matt Kovary
(212) 382-6713

The practice of transferring suspected terrorists to countries where they may be tortured is contrary to U.S. and international law, according to a new report on human rights:

“Torture By Proxy, International and Domestic Law Applicable to Extraordinary Renditions”

(New York – October 29, 2004) Extraordinary Rendition – the practice of transferring 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 – is contrary to both U.S. and international law, according to a report released today by the Association of the Bar of the City of New York and the Center for Human Rights and Global Justice, NYU School of Law.

The report, titled “Torture by Proxy: International and Domestic Law Applicable to Extraordinary Renditions,” presents a synopsis of alleged instances of Extraordinary Rendition by the United States, as reported in the mainstream media. The report then provides an in-depth analysis of legal standards applicable to the practice of Extraordinary Rendition. The report concludes that Extraordinary Renditions are contrary to U.S. and international laws and policy. “This report clearly demonstrates that Extraordinary Rendition is an illegal practice that cannot be permitted,” said Martin Flaherty, Chair of the International Human Rights Committee of the Association of the Bar of the City of New York. “The U.S. government’s failure to prevent, investigate, prosecute, and punish acts of Extraordinary Rendition would amount to a violation of U.S. obligations under international law,” he added.

The report calls on the United States to comply with its duty to cease all acts of Extraordinary Rendition, to investigate Extraordinary Renditions that have already taken place, and to prosecute and punish those found to have engaged in acts that amount to crimes in connection with Extraordinary Renditions.

“Although numerous investigations are being conducted into the abuses at various detention centers, no inquiry to date has focused on the allegations of Extraordinary Renditions,” said Meg Satterthwaite, CHRGJ Research Director and Adjunct Professor at New York University School of Law. “Congress, as well as all relevant governmental agencies, should initiate investigations into allegations of Extraordinary Renditions.”

The report systematically considers and analyzes the bases and limits of authority under U.S. law for transfers of individuals by U.S. officials and sets out the international law standards applicable to Extraordinary Renditions (including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; the Geneva Conventions; and the Refugee Convention). Finally, the report considers potential applicability of U.S. criminal and civil statutes to Extraordinary Rendition. The report concludes that:

- No publicly available statute, regulation, or executive finding, directive or other action authorizes Extraordinary Rendition. In fact, Congress has expressed its clear intent to uphold U.S. obligations against torture and complicity in such abuse by passing legislation to implement the Convention Against Torture; the President has also unequivocally condemned torture as a matter of policy. Given this clear intent, any purported authority to carry out Extraordinary Renditions would be an unauthorized derogation from U.S. law.
- Extraordinary Rendition violates international law binding on the United States.
- Extraordinary Rendition could leave the United States vulnerable to international liability under the doctrine of state responsibility.
- Under certain circumstances, U.S. law may hold individuals involved in Extraordinary Renditions subject to criminal charges and civil liability.

A full copy of the report is posted on the website of the Association of the Bar of the City of New York at www.abcnyc.org and on the website of the Center for Human Rights and Global Justice at www.nyuhr.org. Inquiries about the report should be directed to Martin Flaherty at (212) 636-6857 and Meg Satterthwaite at (212) 998-6657 or (347) 277-5035.

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About the Association

The Association of the Bar of the City of New York (www.abcnyc.org) was founded in 1870, and since then has been dedicated to maintaining the high ethical standards of the profession, promoting reform of the law, and providing service to the profession and the public. The Association continues to work for political, legal and social reform, while implementing innovating means to help the disadvantaged. Protecting the public's welfare remains one of the Association's highest priorities.

About CHRGJ

The Center for Human Rights and Global Justice (CHRGJ) at NYU School of Law (<http://www.nyuhr.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 research, education and training, and encourages interdisciplinary research on emerging issues in international human rights and humanitarian law.