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## **Torture and Rendition of Victims not a “State Secret”** *Federal Court Urged to Pursue Justice against ‘Torture Flights’ Provider Jeppesen*

(NEW YORK, February 5, 2008)—The federal case against Jeppesen Dataplan, Inc. for its role in the U.S. program of extraordinary rendition should not be dismissed on the basis of protecting “state secrets,” the Center for Human Rights and Global Justice (CHRGJ) said today, as its colleagues at the American Civil Liberties Union (ACLU) argued the same in federal court. Today’s hearing marks a crucial point in the case, challenging the U.S. government’s right to interfere in—and silence—efforts to pursue justice for a program that has been officially acknowledged and widely criticized for violating the rights of many in the name of the “War on Terror.”

On August 1, 2007, the International Human Rights Clinic—based out of New York University’s School of Law—joined in a lawsuit filed by the ACLU in the U.S. District Court for the Northern District of California against Boeing subsidiary Jeppesen Dataplan, Inc., on behalf of its client Mohamed Farag Ahmad Bashmilah, one of five victims of the rendition program who are plaintiffs in the suit. The lawsuit alleges that Jeppesen provided flight services enabling the rendition of the five victims to illegal detention around the world. On October 19, 2007, the U.S. government filed motions to intervene and dismiss the action or, in the alternative, for summary judgment on the basis that the case concerns state secrets.

“It is time to put a stop to the impunity enjoyed by the U.S. government, which continues to commit severe human rights abuses in the name of national security,” said CHRGJ Faculty Director, Professor Meg Satterthwaite, whose International Human Rights Clinic represents Mr. Bashmilah in the case. “There are numerous official acknowledgements of the rendition program and ample evidence of Jeppesen’s role in enabling torture flights. To call it a secret adds insult to injury by blocking victims’ ability to access justice for the violation of their universally recognized human rights.”

Mr. Bashmilah is a Yemeni national who spent more than a year and a half in the U.S. secret detention program. Acting on his behalf, the CHRGJ released the most detailed report to date on the experience of those subjected to the rendition and secret detention program. The report, which describes the illegal rendition, disappearance, and torture that Mr. Bashmilah suffered, was drawn from a declaration formally submitted to the federal court on December 14, 2007.

The 63- page report paints a disturbing picture of an extensive and well-organized “extraordinary rendition” program, and suggests collusion among a wide range of actors, including the CIA, private companies such as Jeppesen, and foreign governments, including those that hosted the U.S.-run “black sites” in which Mr. Bashmilah was held in Afghanistan and potentially Eastern Europe. Among other details, Mr. Bashmilah’s account describes sophisticated facilities, heavily populated by Americans—including an extensive staff made up of doctors, dentists, and mental health personnel—and a life under constant video surveillance both in and out of his cell.

Undercutting its “state secrets” argument, the U.S. government—through the President himself—has acknowledged the existence of a secret detention program run by the CIA. U.S. Secretary of State Condoleezza Rice has officially stated that the U.S. relies on rendition in the “War on Terror.” In addition to these official acknowledgements, investigations by other governments, inter-governmental bodies, and human rights investigators have reported extensively on the workings of the program.

Despite this overwhelming public evidence, the government continues to invoke the “state secrets” privilege, resulting in the dismissal of several similar lawsuits and extending immunity to the government and those who have assisted it in these illegal activities. The government now seeks to use the privilege to shield the actions of a corporate partner in the program.

“To this day I suffer the mental and physical scars of the cruel treatment I experienced at the hands of the U.S. government,” said Bashmilah in a telephone interview on the day of the court hearing. “It is time to stop calling this a secret and acknowledge that it is an unjustifiable crime against real people. I am determined to continue to seek justice until the circumstances of my detention are fully acknowledged, those responsible are held to account, my family and I are compensated for all that we have endured, and the system of illegal transfer and detention is finally brought to an end.”

The other plaintiffs in the lawsuit are Binyam Mohamed, Abou Elkassim Britel, Ahmed Agiza, and Bisher Al-Rawi. Attorneys in the lawsuit include: Steven Watt, staff attorney with the ACLU Human Rights Program; Ben Wizner, staff attorney for the ACLU; Steven Shapiro and Jameel Jaffer, of the national ACLU; Ann Brick, of the ACLU of Northern California; Paul Hoffman of the law firm Schonbrun Desimone Seplow Harris and Hoffman LLP; and Hope Metcalf of the Yale Law School Lowenstein Clinic. In addition, Clive Stafford-Smith and Zachary Katznelson represent Binyam Mohamed. Meg Satterthwaite represents Mohamed Bashmilah.

For documents related to the lawsuit, please go to:

<http://www.aclu.org/safefree/torture/31165prs20070801.html>

To read Mr. Bashmilah’s declaration, see: [\*Surviving the Darkness: Testimony from the U.S. "Black Sites"\*](#)

For more information about our work, please visit the Center’s website at: [www.chrgj.org](http://www.chrgj.org)

### **About the CHRGJ**

The Center for Human Rights and Global Justice was established in 2002 to stimulate cutting edge scholarship and to make original and constructive contributions to on-going policy debates in the field of human rights. By emphasizing interdisciplinary analyses, the Center’s programs seek to situate international human rights law in the broader context of the political, jurisprudential, economic, sociological, historical, anthropological and other influences that shape it and determine its impact. The Center’s reports and legal memoranda on extraordinary rendition, disappearances, and detainee abuse have been cited in the Council of Europe’s major report on secret flights and prisons in Europe, distributed to members of the U.K. Parliament, and used by numerous non-governmental organizations.

Philip Alston is the Center’s Faculty Chair; Smita Narula and Margaret Satterthwaite are its Faculty Directors; Jayne Huckerby is Research Director; and Veerle Opgenhaffen is Program Director.

### **About the International Human Rights Clinic**

The International Human Rights Clinic at NYU School of Law provides high-quality, professional human rights lawyering services to individual clients and non-governmental and intergovernmental human rights organizations, partnering with groups based in the United States and abroad. Working as legal advisers, counsel, co-counsel, or advocacy partners, clinic students work side-by-side with human rights activists from around the world.

The Clinic is co-directed by Smita Narula and Margaret Satterthwaite of the NYU faculty; Amna Akbar is Clinical Fellow.

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