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CHRGJ Calls on Obama to Prosecute Abuse of Detainees
Supports Calls for Independent Commission

(New York—February 19, 2009) President Obama should take immediate steps to establish a non-partisan, independent commission of inquiry to investigate abuses committed as part of the U.S. “War on Terror,” the Center for Human Rights and Global Justice (CHRGJ) at NYU School of Law said today. CHRGJ is part of a group of NGOs and leading experts who joined together to issue a [collective statement](#) today calling for a commission to examine policies and actions related to the detention, treatment, and transfer of detainees after 9/11.

CHRGJ also called on the Obama Administration to initiate prosecutions of individuals responsible for the abuse of detainees. Independently of the collective statement, CHRGJ supports efforts to immediately begin investigations into criminal conduct alongside other accountability mechanisms, which should include reparations for victims and other measures to restore justice. As the new administration deals with the legacy of the Bush administration, the Center believes a commission is necessary—but not a substitute—for criminal investigations and prosecution of secret detention, extraordinary rendition, and coercive interrogation practices.

“Victims don’t stop being victims and criminal acts are not simply absolved just because the United States has a new President,” said Jayne Huckerby, Research Director of the CHRGJ. “The victims and the public deserve to know the truth about what was done in the name of U.S. national security and those responsible must face justice. We need the new administration to make good on its promise of a return to human rights standards and accountability, not to engage in willful amnesia.”

Although the new administration has taken steps to close its “black site” prisons and Guantánamo Bay detention facilities, and has indicated it would ban the practices of extraordinary rendition and torture, it has failed to address questions of criminal responsibility and has made no mention of redress for victims. The CHRGJ, which represents two former CIA

“black site” detainees in their quest for truth and justice, signed on to the collective call for a commission in hopes of advancing a thorough transitional justice agenda. The organization believes that a commission of inquiry is only one of several components required to make a real break with abusive policies and practices of the past.

“If the United States wants to have a successful transition from an era of impunity to respect for the rule of law, it needs to embrace both truth and justice,” said Margaret Satterthwaite, Faculty Director of the CHRGI. “Our government, which is designed to act on behalf of its people, needs to come clean and repair the damage done. A commission of inquiry and prosecutions would help restore the fundamental principles of liberty and justice this country has always stood for.”

The Center urges the Obama administration to pursue *both* a commission of inquiry and other forms of accountability, including criminal prosecutions, for the following reasons:

- ***The American public has a right to know what violations were committed in the name of defending its “national security” and to see justice done.*** Public demand for the truth is growing by the day and evidence about past abuses continues to mount, yet there are still more questions than answers about past abuses. Accountability mechanisms assist to identify the victims of abusive policies and what has happened to them; establish responsibility for abuses; propose institutional reforms to ensure abuses do not recur; and can recommend tangible programs of redress for victims.
- ***Victims have a right to know the truth about what was done to them and to see those responsible held to account.*** An unknown number of people were subjected to enforced disappearance, countless individuals were tortured, and many were sent to other countries where they were interrogated under torture or other cruel treatment. Those victims and their families have a basic right to the truth and to forms of redress, an apology, and pursuit of criminal justice for those responsible. These rights are unchanged by the fact that the majority of victims are non-U.S. citizens and that a number of crimes were committed overseas.
- ***International law requires countries to investigate and punish grave crimes.*** There is abundant evidence in the public domain—including admissions from the U.S. government itself—that violations of United States and international law were committed in connection with U.S. detention, interrogation, and transfer operations. This evidence imposes duties on the U.S. to investigate and punish. A commission of inquiry and other accountability measures such as prosecutions, would play complementary functions to allow the U.S. to fulfill its duties.
- ***Either prosecutions or a commission, by themselves, would be insufficient.*** When abuses have been adopted as a matter of policy, criminal prosecutions are necessary but not sufficient. Because criminal prosecutions are aimed at establishing the culpability of individuals, rather than exposing “system crimes,” a broader strategy is needed to augment criminal prosecutions and uncover the workings of an abusive system. A commission of inquiry tasked with evaluating the policies adopted, the systemic failures

that led to the adoption and use of such policies, and the human toll of such abuses on victims and perpetrators alike is required.

- ***There is no reason that criminal prosecutions and a commission of inquiry could not proceed at the same time.*** Each process has different purposes, but together they can help end a culture of impunity and denial. Where issues of overlap or conflict are likely to arise, forward-looking policies such as the adoption of a conflict-resolution process can ensure that efforts are complementary.

For more information about our work, please visit the Center's website at: 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 Professor Smita Narula and Professor Margaret Satterthwaite of the NYU faculty; Amna Akbar is Clinical Fellow.

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