

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMNESTY INTERNATIONAL USA, CENTER
FOR CONSTITUTIONAL RIGHTS, INC. and
WASHINGTON SQUARE LEGAL SERVICES,
INC.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,
DEPARTMENT OF DEFENSE, DEPARTMENT
OF HOMELAND SECURITY, DEPARTMENT
OF JUSTICE, DEPARTMENT OF STATE, AND
THEIR COMPONENTS,

Defendants.

ECF CASE

07 CV 5435 (LAP)

DECLARATION OF DAVID S. BROWN

David S. Brown, pursuant to penalty of perjury under 28 U.S.C. § 1746, does hereby declare the following:

1. I am an attorney associated with the law firm of Morrison & Foerster LLP and submit this declaration in support of Plaintiffs The Center for Constitutional Rights (“CCR”), Amnesty International USA (“Amnesty”) and Washington Square Legal Services (“WSLS”) (collectively, “Plaintiffs”) Memorandum of Law in Support of Plaintiffs’ Cross-Motion for Partial Summary Judgment and in Opposition to Motion for Summary Judgment by the Central Intelligence Agency.

PLAINTIFFS' FOIA REQUESTS

2. Collectively, Plaintiffs have submitted four Freedom of Information Act ("FOIA") requests to the CIA and other agencies seeking records relating to unregistered, CIA, and ghost detainees, and the government's rendition, secret detention, and coercive interrogation program ("Plaintiffs' FOIA Requests").

3. A true and correct copy of the December 21, 2004 FOIA Request ("CCR Request") is attached hereto as Exhibit A.

4. A true and correct copy of the April 25, 2006 Amnesty Request (the "First Amnesty Request") is attached hereto as Exhibit B.

5. A true and correct copy of the second April 25, 2006 Amnesty Request (the "Second Amnesty Request") is attached hereto as Exhibit C.

6. A true and correct copy of the December 28, 2007 WSLs Request (the "Supplementary CIA FOIA Request") is attached hereto as Exhibit D.

OTHER DOCUMENTS ATTACHED

7. Attached hereto as Exhibit E is a true and correct copy of Exhibit G to the Declaration of Mohamed Farag Ahmad Bashmilah in Support of Plaintiffs' Opposition to the United States' Motion to Dismiss or, in the Alternative, for Summary Judgment, *Mohamed et. al. v. Jeppesen Dataplan, Inc.*, No. 5:07-cv-02798 (N.D. Cal. filed Aug. 1, 2007) ("Bashmilah Decl."), Letter from Embassy of the Republic of Yemen in France to Mr. Dick Marty, Council of Europe (March 27, 2007).

8. Attached hereto as Exhibit F is a true and correct copy of Ex. U to Bashmilah Decl., Opinions Adopted by the United Nations Working Group on Arbitrary Detention 1-3.41-44 (Feb. 2, 2007).

9. Attached hereto as Exhibit G is a true and correct copy of Ex. V to Bashmilah Decl., Letter from the Permanent Mission of the Republic of Yemen to the United Nations Office and Other International Organizations to the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, and the United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 20, 2005).

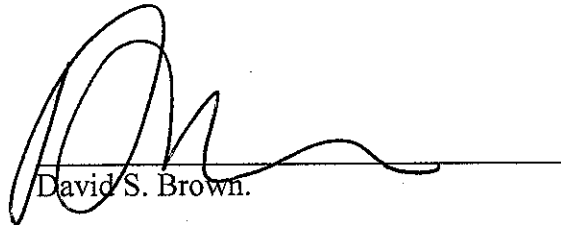
10. Attached hereto as Exhibit H is a true and correct copy of Ex. C to Bashmilah Decl., Note Verbale from the Permanent Mission of Jordan to the United Nations Office of Geneva Addressed to the Office of the High Commissioner for Human Rights (Mar. 22, 2007).

11. Attached hereto as Exhibit I is a true and correct copy of Extracts from Yemeni Court Decision (Feb. 27, 2006).

12. Attached hereto as Exhibit J are true and correct copies of Cable No. 333 and Other Document No. 7, which are documents released in connection with *ACLU v. DOD*, No. 04 Civ. 4151 (S.D.N.Y.).

I declare under penalty of perjury that, to the best of my knowledge, the facts stated herein are true and correct.

DATED: New York, New York
November 20, 2009


David S. Brown.

centerforconstitutionalrights

666 Broadway New York, NY 10012
212.614.6464 www.ccr-ny.org

December 21, 2004

Via Facsimile & U.S. Mail

GayLa D. Sessoms, FOIA Coordinator
Office of Intelligence Policy and Review
Department of Justice
Room 6150, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Fax: (202) 514-5600

Re: Request Submitted Under the Freedom of Information Act

Dear Freedom of Information Officer:

This letter constitutes a request ("Request") pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). The Request is submitted on behalf of the Center for Constitutional Rights ("Requester").

We are filing this Request simultaneously with the Department of Defense (including its components, the Departments of the Army, Navy, and Air Force, and the Defense Intelligence Agency), the Department of Justice (including its components, the Federal Bureau of Investigation and Office of Intelligence Policy and Review), the Department of State, and the Central Intelligence Agency. By this letter, we also request expedited processing pursuant to 5 U.S.C. § 552(a)(4)(E).

Background on Records Requested

Recent news reports indicate that the Central Intelligence Agency ("CIA") has been secretly operating a holding and interrogation center ("CIA Guantánamo Center" or "Center") within the larger American military-run prison at Guantánamo Bay, Cuba ("Guantánamo"). The reports further indicate that individuals apprehended after September 11, 2001, and held by the United States at Guantánamo ("Detainees") in the CIA Guantánamo Center have been separately interrogated by CIA agents.¹

¹ See David Johnston and Neil A. Lewis, "Officials Describe Secret C.I.A. Center at Guantánamo Bay," New York Times, December 17, 2004.



News reports also indicate that the CIA Guantánamo Center is “related to a network of holding centers operated by the CIA at undisclosed locations around the world”² since United States authorities began capturing individuals after the attacks of September 11, 2001. Other news reports state that the “buildings used by the CIA are shrouded by high fences covered with thick green mesh plastic and ringed with floodlights . . . [t]hey sit within the larger Camp Echo complex, which was erected to house the Defense Department’s high value detainees and those awaiting military trials on terrorism charges.”³ According to one military official, the “CIA’s [Guantánamo] facility has been ‘off-limits to nearly everyone on the base.’”⁴

According to a report by the Washington Post, in contrast to the majority of detainees held at Guantánamo, the CIA detainees “are held under separate rules and far greater secrecy.”⁵ Under a presidential decree and policies approved by Administration attorneys, “the CIA is allowed to capture and hold certain classes of suspects without accounting for them in any public way and without revealing the rules for their treatment.”⁶ According to other news reports, these detainees have not and will not receive review of their status through the Combatant Status Review Tribunals.⁷

In addition to the secret CIA Guantánamo Center, there have been numerous media reports during the last two years confirming the existence of CIA detention facilities located around the world, including one in an off-limits corner of the Bagram Airbase in Afghanistan, at Camp Cropper, a detention center on the outskirts of Baghdad International Airport,⁸ on ships at sea,⁹ on Britain’s Diego Garcia Island in the Indian Ocean,¹⁰ in a secret facility in Jordan,¹¹ and in secret locations outside of Iraq.¹² According to a report by Human Rights Watch, detainees are being held in more than 24 secret detention facilities across the globe.¹³ Furthermore, government officials have admitted that even within known facilities,

² *Id.*

³ Dana Priest and Scott Higham, “At Guantánamo, A Prison Within A Prison; CIA Has Run a Secret Facility for Some Al Qaeda Detainees, Officials Say,” Washington Post, December 17, 2004, at AO1.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Suzanne Goldenberg, “‘Ghost Detainees’ at Camp Delta: Pentagon Accused of Planning To Exclude Some Guantánamo Prisoners from Review,” The Guardian, July 10, 2004 at 18.

⁸ Eric Schmitt, “Abuse Inquiry Says Official Exercised Little Oversight,” The New York Times, Dec. 4, 2004 at A10.

⁹ Eric Schmitt & Douglas Jehl, “Army Says CIA hid More Iraqis than it Claimed,” The New York Times, Sept. 9, 2003 at A1.

¹⁰ *Id.*

¹¹ Inigo Gilmore & Robin Gedy, “Jordan Ghost Jail ‘holds al-Qa’eda men’ Israeli Intelligence Expert Claims to have Solved Mystery of Missing Terrorist Leaders Captured by American Forces in Past Three Years,” The Daily Telegraph, Oct. 14, 2004 at 16.

¹² See Dave Goldliner, “Saddam’s Pals on Hunger Strike,” Daily News, December 13, 2004 at 20.

¹³ Human Rights Watch, “The United States Disappeared: The CIA’s Long Term ‘Ghost Detainees’” October, 2004.

CIA officials have employed a policy under which “ghost prisoners” captured in Iraq and Afghanistan have been interrogated by CIA agents and have had their “identities and locations withheld from relatives, the International Red Cross and even Congress.”¹⁴ Finally, reports have stated that CIA agents have spirited detainees in Iraq to third countries for interrogation under conditions which might violated the requirements of international humanitarian law.¹⁵

The Washington Post reports that other detainees captured during the war in Iraq are being held under the custody of an Army task force, “Task Force 6-26, in a secret facility in Iraq. According to that report, the Pentagon does not officially acknowledge the existence of the unit.”¹⁶

The Request seeks records relating to the identity of, transport and location(s) of, authority over, and treatment of all unregistered, CIA, and “ghost” Detainees interdicted, interrogated, and detained by any agency or department of the United States.

Both international and United States law unequivocally prohibit hiding individuals in such a manner even during wartime. The Geneva Conventions require the registration of all detainees with the Red Cross. They also prohibit “forcible transfers as well as deportations” of individuals, and ban all “physical or moral coercion . . . in particular to obtain information.” The Convention Against Torture (“CAT”), which the United States has signed and ratified, prohibits the use of torture and the infliction of other cruel, inhuman or degrading treatment or punishment.¹⁷ The prohibition against torture is also codified in United States law at 18 U.S.C. § 2340A.

¹⁴ Editorial, The Washington Post, “The CIA’s Disappeared,” October 26, 2004.

¹⁵ Eric Schmitt & Douglas Jehl, “Army Says CIA hid More Iraqis than it Claimed,” The New York Times, Sept. 9, 2003 at A1.

¹⁶ Barton Gellman & R. Jeffrey Smith, “Report to Defense Alleged Abuse by Prison Interrogation Teams; Intelligence Official Informed Defense Dept. in June,” The Washington Post, Dec. 8, 2004 at A1.

¹⁷ In this Request, the terms “torture” and “cruel, inhuman or degrading treatment or punishment” have the meaning accorded them in the CAT, as interpreted by the United Nations Committee Against Torture. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, art. I, S. Treaty Doc. No. 100-20 (1998), 1465 U.N.T.S. 85. The CAT defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” *Id.* The United Nations Committee Against Torture has held that the following techniques constitute “torture” as defined under the CAT: (1) restraining in very painful conditions, (2) hooding under special conditions, (3) sounding of loud music for prolonged periods, (4) sleep deprivation for prolonged periods, (5) threats, including death threats, (6) violent shaking, and (7) using cold air to chill. See Report of the Committee Against Torture, U.N. GAOR, 52d Sess., Supp. No. 44, at para 257, U.N. Doc. A/52/44 (1997). Our use of these terms also encompasses torture and/or “cruel inhuman or degrading treatment or punishment” under any other United States constitutional or statutory provision.

The CAT further provides that “[n]o State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”¹⁸ This provision is implemented in United States law by the Foreign Affairs Reform and Restructuring Act of 1998, which states that “[i]t shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.”¹⁹

To determine whether the United States is honoring its obligations under domestic and international law, Requesters seek the release of agency records as described in the numbered paragraphs below:

RECORD REQUESTS

Please disclose the following records:

1. All records that propose, authorize, report on, or describe, or that discuss the legality or appropriateness of holding Unregistered, CIA, and/or “Ghost” Detainees in special CIA or other agency facilities for purposes of interrogation.
2. All records that discuss the creation, use and/or closure of the various centers at which the CIA and/or any other agency of the federal government has held, and/or continues to hold Unregistered, CIA, and/or “Ghost” Detainees.
3. All records reflecting the use of any private companies, other U.S. officials or citizens, and/or officials or citizens of any foreign governments regarding the interdiction, arrest, transfer, detention, questioning, interrogation, and/or other treatment of any Unregistered, CIA, or “Ghost” Detainee
4. All records reflecting standards or policies governing who may be held as an Unregistered, CIA, and/or “Ghost” Detainee and what procedural protections or guidelines, if any, are used to review the arrest, detention, and treatment of these Detainees.
5. Every location from September 11, 2001 to the present at which the CIA or any other governmental agency has been or is now holding Unregistered, CIA, or “Ghost” Detainees, the dates of operation of each such facility, whether the facility remains

¹⁸ CAT, art. 3.

¹⁹ Pub. L. No. 105-277, § 2242(b), 112 Stat. 2681 (1999) (codified as Note to 8 U.S.C. § 1231).

open at this time, the purpose of the facility, a complete list of the Detainees held at the facility (both past and current with indications as to this status), a list of techniques used for interrogation at each facility, and a list of personnel who have worked and those who continue to work at each Center.

6. All records concerning the treatment of the Unregistered Detainees held in any CIA or other governmental facility in the world. Please include all records discussing the following interrogation methods at such facilities, including but not limited to records discussing their legality or appropriateness: using "stress and duress" techniques on Detainees; using force against them; subjecting them to physical injury; requiring them to stand or kneel for prolonged periods; depriving them of sleep, food or water; holding them in awkward and painful positions for prolonged periods; denying them painkillers or medical treatment; administering or threatening to administer mind altering substances, "truth serums" or procedures calculated to disrupt the senses or personality; subjecting them to prolonged interrogation under bright lights; requiring them to be hooded, stripped, or blindfolded; binding their hands and feet for prolonged periods of time; isolating them for prolonged periods of time; subjecting them to violent shaking; subjecting them to intense noise; subjecting them to heat or cold; or threatening harm to them or other individuals.
7. All records setting forth or discussing policies, procedures or guidelines²⁰ relating to the detention, questioning, interrogation, transfer, and treatment (including, but not limited to the interrogation with the use of torture or other cruel, inhuman or degrading treatment or punishment) of the Unregistered, CIA, and "Ghost" Detainees, including but not limited to policies, procedures or guidelines relating to the methods listed above.
8. All records relating to measures taken, or policies, procedures or guidelines put in place, to ensure that CIA Detainees were not, are not or will not be tortured or subjected to cruel, inhuman or degrading treatment or punishment. Please include all records indicating how any such policies, procedures or guidelines were, are, or will be, communicated to personnel involved in the interrogation or detention of CIA Detainees.
9. All records indicating or discussing actual or possible violations of, or deviations from, the policies, procedures or guidelines referred to in Paragraph 4, above.
10. All records indicating or discussing serious injuries, illnesses, and/or deaths of any Unregistered, CIA, and/or "Ghost" Detainees.

²⁰ In this Request, the phrase "policies, procedures or guidelines" means policies, procedures or guidelines that were in force on September 11, 2001 or that have been put in place since that date.

11. All records, including autopsy reports and death certificates, relating to the deaths of any Unregistered, CIA, and/or "Ghost" Detainees.
12. All records relating to investigations, inquiries, or disciplinary proceedings initiated in relation to actual or possible violations of, or deviations from, the policies, procedures or guidelines referred to in Paragraph 4, above, including but not limited to records indicating the existence of such investigations, inquiries or disciplinary proceedings.
13. All records relating to the actual or alleged torture or other cruel, inhuman or degrading treatment or punishment of any Unregistered, CIA, and/or "Ghost" Detainee.
14. All records relating to policies, procedures or guidelines governing the role of health personnel in the interrogation of the Unregistered, CIA, and/or "Ghost" Detainees, including but not limited to the role of health personnel in the medical, psychiatric, or psychological assessment of Detainees immediately before, during or immediately after interrogation. Please include all records indicating how any such policies, procedures or guidelines were, are or will be communicated to personnel involved in the interrogation or detention of Detainees.
15. All records relating to medical, psychiatric or psychological assessment of any Unregistered, CIA, and/or "Ghost" Detainee or guidance given to interrogators by health personnel immediately before, during or immediately after the interrogation of any Unregistered, CIA, and/or "Ghost" Detainees..
16. All records indicating whether and to what extent the International Committee for the Red Cross ("ICRC") had, has or will have access to Unregistered, CIA, and/or "Ghost" Detainees, including but not limited to records related to particular decisions to grant or deny the ICRC access to any Detainee or group of Detainees.
17. All records indicating whether and to what extent any other non-governmental organization or foreign government had, has or will have access to the Unregistered, CIA, and/or "Ghost" Detainees, including but not limited to records related to particular decisions to grant or deny them access to any Detainee or group of Detainees.

Fee Waiver

The Requester qualifies as "representatives of the news media" and the records are not sought for commercial use. Accordingly, fees associated with the processing of the Request should be "limited to reasonable standard charges for document duplication." 5 U.S.C. § 552(a)(4)(A)(ii)(II). These organizations are "entit[ies] that gather . . . information

of potential interest to a segment of the public, use . . . [their] editorial skills to turn the raw materials into a distinct work, and distribute . . . that work to an audience.” *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

The CCR is a legal and public education not-for-profit organization that engages in litigation, legal research, and the production of publications in the fields of civil and international human rights. CCR also publishes newsletters, know-your-rights handbooks, and other similar materials for public dissemination. These materials are available through CCR’s Development and Education & Outreach Departments. CCR also operates a website, www.ccr-ny.org, that addresses the issues on which the Center works. The website includes material on topical civil and human rights issues and material concerning CCR’s work. All of this material is freely available to the public.

The records requested are not sought for commercial use, and the requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above.

We also request a waiver of fees on the grounds that disclosure of the requested records is in the public interest and because disclosure “is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester[s].” 5 U.S.C. § 552(a)(4)(A)(iii). This Request aims at furthering public understanding of government conduct, and specifically to help the public determine whether or not the government’s commitment to domestic and international proscriptions against torture is honored in practice.

As indicated above, numerous news articles reflect the significant public interest in the records we seek. *See* articles cited *supra*; *see also* *Answers about Torture*, Washington Post, Mar. 16, 2003, at B06 (“The Bush administration has categorically denied that it is torturing people. But it has offered no details regarding its policies toward interrogations. . . . The secrecy surrounding U.S. policy makes any objective assessment of these allegations impossible. . . . The public is entitled to a fuller understanding.”). Disclosure of the requested records will contribute significantly to the public’s understanding of government conduct.

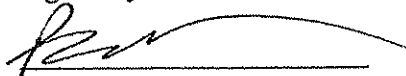
* * *

If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Thank you for your prompt attention to this matter.

Please respond to Barbara Olshansky, Deputy Legal Director, Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, New York 10012.

Signed by:

A handwritten signature in black ink, appearing to be 'Barbara Olshansky', written over a horizontal line.

BARBARA OLSHANSKY
RACHEL MEEROPOL
MICHAEL RATNER
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
Tel: (212) 614-6439
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WILMERHALE

April 25, 2006

Catherine Kane Ronis

Via Facsimile, Email and US Mail

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Re: Request Submitted Under the Freedom of Information Act for Records Concerning Detainees, including "Ghost Detainees/Prisoners," "Unregistered Detainees/Prisoners," and "CIA Detainees/Prisoners"

Dear Freedom of Information Officer:

This letter constitutes a request ("Request") pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). The Request is submitted on behalf of Amnesty International ("AI") and Washington Square Legal Services, Inc. ("WSLS"). AI is a non-government organization and a world-wide movement of members who campaign for internationally-recognized human rights. WSLS is the corporation that houses the International Human Rights Clinic ("the Clinic") of the New York University School of Law ("NYU Law School"). The Clinic is a project of NYU Law School's Center for Human Rights and Global Justice ("CHRGJ").

We are filing this request simultaneously with the Department of Defense (including its components, the Department of the Army, Navy and Air Force, the Marine Corps, and the Defense Intelligence Agency), the Department of Justice (including its components, the Federal Bureau of Investigation and Office of Intelligence Policy and Review), the Department of State, the Central Intelligence Agency, and the Department of Homeland Security (including its components the Office of Intelligence and Analysis, the Directorate for Policy, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, U.S. Coast Guard, and U.S. Customs and Border Protection). By this letter, we also request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).

We are seeking the opportunity to inspect and copy, if necessary, all records in the possession of the Department, including any officers, divisions or bureaus thereof, on the topics listed below.

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Definitions

For purposes of this request, the following terms shall be understood as described below:

The term "records" includes any and all reports, statements, examinations, memoranda, correspondence (including electronic mail), designs, maps, photographs, microfilms, computer tapes or disks, rules, regulations, codes, handbooks, manuals, or guidelines.

The term "government official" includes any U.S. government employee, and any person providing services to any agency of the United States government on a contractual basis, regardless of his or her rank or ability to speak or make decisions on behalf of the U.S. government.

The term "foreign official" includes any foreign government employee, and any person providing services to any agency of a foreign government on a contractual basis, regardless of his or her rank or ability to speak or make decisions on behalf of the foreign government.

The term "communication" means the giving, receiving, transmitting, or exchanging of information, including, but not limited to, any and all written, printed, telephonic, electronic, and in-person conversations by and with any person, and/or talk, gestures, or documents which memorialize or refer to any communications.

The term "detainee" means any person deprived of their liberty by one or more individuals or agencies who is prevented by any means from leaving the place in which he or she is being held. The term "detention" means depriving any person of their liberty such that they are prevented by any means from leaving the place in which they are held.

The term "place of detention" means any place or facility in which a "detainee" is kept, inside or outside the United States, regardless of whether it is officially recognized as a place of detention.

Scope of Request

Unless otherwise stated, this request refers to *individuals who were, have been, or continue to be deprived of their liberty by or with the involvement of the United States and about whom the United States has not provided public information. These individuals have been referred to, among other things, as "ghost detainees/prisoners," "unregistered detainees/prisoners," "CIA detainees/prisoners" and "Other Governmental Agency*

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Detainees" ("OGA Detainees"). These individuals have reportedly been held in various locations, including regular and irregular detention facilities, ships, aircraft, and military bases.

Although not limited to any specific geographic area, this request pertains particularly to the following places:

Afghanistan	Azerbaijan	Bulgaria	Djibouti
Egypt	Germany	Indonesia	Iraq
Jordan	Kosovo	Macedonia	Morocco
Pakistan	Poland	Romania	Syria
Thailand	Turkey	Ukraine	
United Kingdom (including Diego Garcia)			
United States (including all territories under the S.M.T.J)			
Uzbekistan	Yemen		

This Request does not seek records related to the formal extradition of individuals.

Requested records pertain to persons apprehended since September 11, 2001.

Background

Numerous media reports indicate that the United States is involved in the secret or irregular apprehension, transfer, and detention of individuals on foreign territory.¹ These reports

¹ See, e.g., Dana Priest, *CIA Holds Terror Suspects in Secret Prisons*, WASH. POST, Nov. 2, 2005, at A1; Jan Cienski, Christopher Condon, Caroline Daniel, Guy Dinmore, Andrei Postelnicu, & Demetri Sevastopulo, *Evidence CIA Has Secret Jails in Europe*, FINANCIAL TIMES (LONDON), Nov. 3, 2005, at 1; Siobhan Gorman & Tom Bowman, *Reports of Secret CIA Prisons Prompt Concern*, L.A. TIMES, Nov. 3, 2005, at A4; Douglas Jehl & David Johnston, *CIA Now Acting Independently to Move Prisoners*, INT'L HERALD TRIB., Mar. 7, 2005, at 4; Dana Priest, *Wrongful Imprisonment: Anatomy of a CIA Mistake: German Citizen Released After Months in Rendition*, WASH. POST., Dec. 4, 2005; Brian Ross and Richard Esposito, *Exclusive: Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons*, ABC NEWS, Dec. 5, 2005, at <http://abcnews.go.com/WNT/Investigation/story?id=1375123>; Eric Schmitt and Thom Shanker, *Rumsfeld Issued an Order to Hide Detainee in Iraq*, N.Y. TIMES, June 17, 2004, at A1; *US bars access to terror suspects*, BBC NEWS, Dec. 9, 2005; Josh White, *Army, CIA Agreed on 'Ghost' Prisoners*, WASH. POST, Mar. 11, 2005, at A16; *White House Mum on Secret CIA Prisons*, AGENCE FRANCE PRESSE ENGLISH WIRE, Nov. 2, 2005; *Yemen says U.S. sent prisoners to Europe*, UNITED PRESS INT'L (UPI), Dec. 11, 2005, at <http://www.upi.com/InternationalIntelligence/view.php?StoryID=20051211-051738-9694r>.

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suggest that the government secretly detains and transports individuals on U.S. ships, military bases, and U.S.-chartered planes, as well as in foreign states.²

Records Requested

Please disclose any records reflecting, discussing or referring to the policy and/or practice concerning:

1. The apprehension, transfer, detention, and interrogation of persons within the Scope of Request, including but not limited to:

(a) The transfer of intelligence by one or more U.S. agencies or government officials to one or more foreign agencies or officials, in connection with the apprehension or detention of a person.

(b) A request or direction by one or more U.S. agencies or government officials to one or more foreign agencies or officials regarding the apprehension of any person, and any related agreement concerning such apprehension.

(c) The apprehension of a person in a foreign country by, with the involvement of, or in the presence of one or more U.S. officials.

(d) The transfer of a person from any country to any other country for the purpose of detention and/or interrogation, at the direction or request or with the knowledge of one or more U.S. agencies or officials.

(e) The transfer of a person from one place of detention to another within the same country at the direction or request or with the knowledge of one or more U.S. agencies or officials.

(f) The detention of a person in a foreign country at the direction or request of one or more U.S. agencies or officials, including any agreement concerning the detention.

(g) One or more U.S. agencies or officials seeking and/or being granted access to a foreign national detained in a foreign country.

² See, *id.* and further *e.g.*, Craig Whitlock, *Europeans Probe Secret CIA Flights; Questions Surround Possible Illegal Transfer of Terrorism Suspects*, WASH. POST, Nov. 17, 2005, at A22; Eric Schmitt & Carolyn Marshall, *In Secret Unit's 'Black Room,' a Grim Portrait of U.S. Abuse*, N.Y. TIMES, Mar. 19, 2006.

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(h) One or more U.S. agencies or officials being present in a place of detention in a foreign country. This does not include visits to U.S. citizens by U.S. officials pursuant to the Vienna Convention on Consular Relations.

(i) One or more U.S. agencies having control, direction, or administration of a subdivision, portion, or "cell" of a place of detention in a foreign country.

2. Current and former places of detention where individuals within the Scope of Request have been or are currently held, including but not limited to:

(a) Any place of detention in a foreign country being under the control, direction, or administration of one or more U.S. agencies.

(b) Any place of detention that is not under the control, direction or administration of one or more U.S. agencies, where a detainee is held at the request or instruction of one or more U.S. agencies or officials.

(c) Any subdivision, portion, or "cell" of a place of detention in a foreign country under the control, direction, or administration of one or more U.S. agencies.

(d) Any agreement between the U.S. government or one or more U.S. agencies or officials, and a foreign government or one or more foreign agencies or officials, in relation to a place of detention in a foreign country, regardless of whether that place of detention is foreign or U.S.—controlled.

3. The names and identities of detainees who fall within the scope of this request.³

Fee Waiver

The requestors qualify as "representatives of the news media" and the records sought are not for commercial use. Moreover, this Request "is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester[s]." 5 U.S.C. § 552(a)(4)(A)(iii).

³ Because of the nature of their detention, the requestors do not know the names or identities of those within the scope of this request. For examples of individuals that the United States has acknowledged detaining, but about whom the United States has not provided public information, see Center for Human Rights and Global Justice, *Fate and Whereabouts Unknown: Detainees in the "War on Terror"* (2005), available at <http://www.nyuhr.org/docs/Whereabouts%20Unknown%20Final.pdf>; and Human Rights Watch, "List of 'Ghost Prisoners' Possibly in CIA Custody (2005), available at <http://hrw.org/english/docs/2005/11/30/usdom12109.htm>. The scope of this request extends far beyond these examples.

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Amnesty International is a non-governmental organization and a world-wide movement of members who campaign for internationally recognized human rights. AI publishes reports, press-briefings, newsletters and urgent action requests informing the public about human rights, including torture and disappearances. AI also disseminates information through its website www.amnesty.org.

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The International Human Rights Clinic is a project of CHRGGJ and an official program at NYU Law School, composed of students and directed by clinical professors, who engage in research and advocacy on human rights issues.

Washington Square Legal Services is a not-for-profit corporation that houses the clinical program of NYU Law School.

The requesters plan to disseminate the information disclosed as a result of this Request through the channels described above.

Expedited Processing

Expedited processing is warranted as there is a "compelling need" for the records sought in this Request. 5 U.S.C. § 552(a)(6)(E)(i)(I). This need arises because the requesters are "primarily engaged in disseminating information" and there is an "urgency to inform the public concerning actual or alleged Federal Government Activity." 5 U.S.C. § 552(a)(6)(E)(v)(II). *See also* 32 C.F.R. § 286.4(d)(3)(ii) (DOD); 6 C.F.R. § 5.5(d)(1)(ii) (DHS); 28 C.F.R. § 16.5(d)(1)(ii) (DOJ); 22 C.F.R. § 171.12(b)(2) (DOS).

AI is primarily engaged in disseminating information about human rights, through its reports, newsletters, press-briefings, urgent action requests, and on its website. CHRGGJ is engaged in disseminating information about human rights, including in particular, the Federal Government's role in upholding human rights. As indicated above, this information is disseminated through published reports and CHRGGJ's website. The Clinic actively supports this work, and WSLS houses the clinic. As reflected in the media articles cited above, there is an urgent need to provide the public with information relating to the U.S. government's practices concerning unregistered or ghost detainees.

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There is also a "compelling need" because failure to obtain the records on an expedited basis "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual." 5 U.S.C. § 552(a)(6)(E)(v)(I). *See also* 32 C.F.R. § 286.4(d)(3)(i) (DOD); 6 C.F.R. § 5.5(d)(1)(i) (DHS); 28 C.F.R. § 16.5(d)(1)(i) (DOJ); 22 C.F.R. § 171.12(b)(1) (DOS). This Request arises in the context of allegations of ongoing unlawful detention and abuse of individuals with the involvement of U.S. agents abroad. Failure to publicly expose and thereby halt any such practices could reasonably be expected to pose an imminent threat to the physical safety and lives of individuals whose identities we are unable to ascertain without the records sought herein.

Expedited processing is also warranted because this request involves "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv).

AI and WSLs certify that the foregoing statements regarding the basis for expedited processing are true and correct to the best of their knowledge and belief. 5 U.S.C. § 552(a)(6)(E)(vi). *See also* 32 C.F.R. § 286.4(d)(3)(iii) (DOD); 6 C.F.R. § 5.5(d)(3) (DHS); 28 C.F.R. § 16.5(d)(3) (DOJ); 22 C.F.R. § 171.12(b) (DOS).

* * *

If this Request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect release of all segregable portions of otherwise exempt material. We also reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

As indicated above, we are applying for expedited processing of this Request. Notwithstanding your determination of that application, we look forward to your reply to the Request **within twenty (20) days**, as required under 5 U.S.C. § 552(a)(6)(A)(i).

WILMERHALE

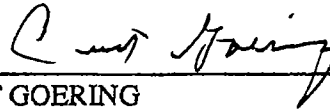
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Page 8

Thank you for your prompt attention. Please direct all questions and future responses to:

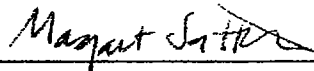
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Sincerely,



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WILMERHALE

April 25, 2006

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(Ph.) 202-514-5600
(Fax) 202-305-4211

Re: Request Under the Freedom of Information Act for Records Concerning Ghost Detainee Memoranda, Department of Defense Detainee Reporting, Reports to Certain U.N. Committees, and the Draft Convention on Enforced Disappearance

Dear Freedom of Information Officer:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The Request is submitted on behalf of Amnesty International (“AI”) and Washington Square Legal Services, Inc. (“WSLS”). AI is a non-government organization and a world-wide movement of members who campaign for internationally-recognized human rights. WSLS is the corporation that houses the International Human Rights Clinic (“the Clinic”) of the New York University School of Law (“NYU Law School”). The Clinic is a project of NYU Law School’s Center for Human Rights and Global Justice (“CHRGJ”).

We are filing this request simultaneously with the Department of Defense (including its components, the Department of the Army, Navy and Air Force, the Marine Corps, and the Defense Intelligence Agency), the Department of Justice (including its components, the Federal Bureau of Investigation and Office of Intelligence Policy and Review), the Department of State, the Central Intelligence Agency, and the Department of Homeland Security (including its components the Office of Intelligence and Analysis, the Directorate for Policy, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, U.S. Coast Guard, and U.S. Customs and Border Protection). By this letter, we also request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).

We are seeking the opportunity to inspect and copy, if necessary, all records in the possession of the Department, including any officers, divisions or bureaus thereof, on the topics listed below.

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Definitions

For purposes of this request, the following terms shall be understood as described below:

The term “records” includes any and all reports, statements, examinations, memoranda, correspondence (including electronic mail), designs, maps, photographs, microfilms, computer tapes or disks, rules, regulations, codes, handbooks, manuals, or guidelines.

The term “government official” includes any U.S. government employee, and any person providing services to any agency of the United States government on a contractual basis, regardless of his or her rank or ability to speak or make decisions on behalf of the U.S. government.

The term “foreign official” includes any foreign government employee, and any person providing services to any agency of a foreign government on a contractual basis, regardless of his or her rank or ability to speak or make decisions on behalf of the foreign government.

The term “communication” means the giving, receiving, transmitting, or exchanging of information, including, but not limited to, any and all written, printed, telephonic, electronic, and in-person conversations by and with any person, and/or talk, gestures, or documents which memorialize or refer to any communications.

The term “detainee” means any person deprived of their liberty by one or more individuals or agencies who is prevented by any means from leaving the place in which he or she is being held. The term “detention” means depriving any person of their liberty such that they are prevented by any means from leaving the place in which they are held.

The term “place of detention” means any place or facility in which a “detainee” is kept, inside or outside the United States, regardless of whether it is officially recognized as a place of detention.

Unless otherwise specified, this request relates to all records generated between September 11, 2001 and the present.

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Memoranda of Understanding

The practice of persons being kept as “off-the-record” detainees in military prisons has been well documented.¹ In this context, “ghost” or “unregistered” detainees are understood to refer to those detainees who were at some point during their detention, or remain: not “officially” registered at military facilities; “kept off the books”; and/or denied access to the International Committee of the Red Cross (ICRC).² Documents produced by the Department of Defense on March 3, 2005 pursuant to an ACLU FOIA request³ and a media report in the

¹ See Josh White, *Army, CIA Agreed on 'Ghost' Prisoners*, WASH. POST, Mar. 11, 2005, at A16. See also Jane Mayer, *A Deadly Interrogation: Can the C.I.A. Legally Kill a Prisoner?*, NEW YORKER, Nov. 14, 2005, at 44 (discussing the practice, particularly with respect to the death of Manadel al-Jamadi). See also the following Department of Defense documents released to the American Civil Liberties Union (ACLU) pursuant to a *Freedom of Information Act* request, all available at <http://www.aclu.org/torturefoia/released/030905/>: Transcript of deposition of Brig. Gen. Janis L. Karpinski, Appendix to Fay/Jones/Kern Report (July 18, 2004); Statement of MNF-I, C2, IMIR CW2, Annex to Fay/Jones/Kern Report (June 16, 2004); Sworn Statement of E-5, 519th MI Bn, Annex to Fay/Jones/Kern Report (June 4, 2004); Sworn Statement of 372nd MP Co SPC, Annex to Fay/Jones/Kern Report (May 7, 2004); Sworn Statement of 372nd MP Co SPC, Annex to Fay/Jones/Kern Report (May 7, 2004); Sworn Statement of [UNREADABLE], Annex to Fay/Jones/Kern Report; Sworn Statement of Deputy CJ2, CJTF-7, Annex to Fay/Jones/Kern Report; Sworn Statement of SGT, 372nd MP, Camp Victory, Annex to Fay/Jones/Kern Report (May 7, 2004); Sworn Statement of SPC/E4, B Co., 66th MI Group, 202nd MI BN, Annex to Fay/Jones/Kern Report (May 24, 2004); Sworn Statement of SGT, Member of GTMO team, “Shut Up Group,” Annex to Fay/Jones/Kern Report (June 4, 2004); Sworn Statement of CW2, A/519th MI Bn, Annex to Fay/Jones/Kern Report (May 19, 2004); Sworn Statement of SGT, 372nd MP Co, Annex to Fay/Jones/Kern Report (May 7, 2004); Statement of B/Co, 470th MI Grp. SGT, Annex to Fay/Jones/Kern Report (May 18, 2004). See further HUMAN RIGHTS FIRST, *BEHIND THE WIRE: AN UPDATE TO ENDING SECRET DETENTIONS 6* (2005), available at http://www.humanrightsfirst.org/us_law/PDF/behind-the-wire-033005.pdf (providing overview of the practice of ghosting in military facilities); HUMAN RIGHTS WATCH, *THE UNITED STATES' DISAPPEARED: THE CIA'S LONG-TERM "GHOST DETAINEES"* 5-15 (2004), available at <http://www.hrw.org/backgrounder/usa/us1004/us1004.pdf> (outlining practice of keeping CIA prisoners in military detention generally).

² *Id.*

³ See Sworn Statement of [UNREADABLE], Annex to Fay/Jones/Kern Report, in Department of Defense FOIA Release, at 000719-000725, available at <http://www.aclu.org/torturefoia/released/030905/> (“OGA and TF-121 routinely brought in detainees for a short period of time. The A/519th soldiers initiated the term 'ghost.' They stated they used this term as the detainees were not in-processed in the normal way via the MP database and were not yet categorized. It was difficult to track these particular detainees and I and other officers recommended that a Memorandum of Understanding be written up between OGA, the 205th MI BDE and the 800th MP BDE to establish procedures for a ghost detainee”); Sworn Statement of Deputy CJ2, CJTF-7, Annex to Fay/Jones/Kern Report, in Department of Defense FOIA Release, at 000726-000729, available at <http://www.aclu.org/torturefoia/released/030905/> (“...in reference to Ghost detainees, OGA would bring in detainees for a short period of time. [REDACTED] brought them in. These particular ghost detainees were not yet

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Washington Post dated March 11, 2005⁴ indicate that this arrangement for "ghosting" was not "ad hoc" but was embodied in a Memorandum of Understanding (MOU) between military officials and the CIA.⁵ The exact contours of this arrangement are not publicly known as a copy of this MOU was not included in the documents released by the Department of Defense.⁶

Records Requested

We seek the following records relating to the arrangement described above:

1. Any memorandum of understanding, or other record reflecting an agreement or proposed agreement between agencies, or between any agency and any subdivision or official, concerning the handling of ghost or unregistered detainees. This includes but is not limited to:
 - (a) Any record reflecting communications about whether or not to draft any memorandum of understanding or agreement regarding unregistered or ghost detainees.
 - (b) Any record reflecting communications about the content of any memorandum of understanding or agreement regarding unregistered or ghost detainees.
2. Any record reflecting a policy, whether formal or informal, about the reception, detention, or movement of unregistered or ghost detainees.
3. Any memorandum of understanding, or other record reflecting an agreement between any agencies, or between any subdivision or official or any other agency, regarding the transfer of detainees from the custody of one agency to that of another.

categorized and OGA was working on that. It was very difficult keeping track of these OGA because they were not processed until OGA decided to turn them over to us. COL PAPPAS was not happy with that procedure. [REDACTED] recommended that a Memorandum of Understanding be written up between OGA and MI on the procedures to drop off a ghost detainee. COL PAPPAS met with OGA and TF-121 and the memorandum on procedures for dropping ghost detainees was signed").

⁴ Josh White, *Army, CIA Agreed on 'Ghost' Prisoners*, WASH. POST, Mar. 11, 2005, at A16.

⁵ *Id.*

⁶ Press Release, American Civil Liberties Union, *Newly Released Army Documents Point to Agreement Between Defense Department and CIA on "Ghost" Detainees, ACLU Says: Declassified Annexes to Fay Report, Which Denied Link, Contain Further Evidence of Brutal Army Abuses* (Mar. 10, 2005), *available at* <http://www.aclu.org/safefree/general/17597prs20050310.html>.

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Department of Defense Detainee Reporting

The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, 118 Stat. 1811 (2004) (“the Act”), requires the Department of Defense to submit an annual report regarding certain detainees.

Records Requested

4. Any record generated in connection with the reporting requirement under Section 1093(c) of the Act, regardless of whether or not such record was actually submitted in the final report, and any record submitted to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives pursuant to Section 1093(c) of the Act.⁷ This includes but is not limited to records reflecting:

- (a) Any notice of investigation into any violation of international obligations or laws of the United States regarding the treatment of individuals detained by the U.S. Armed Forces or by a person providing services to the Department of Defense on a contractual basis.
- (b) Any discussions regarding whether any investigation described in Request 4(a) should be reported.
- (c) The number of detainees held in Department of Defense custody, or released from Department of Defense custody during the time period covered by the report, broken down into the greatest number of time intervals for which such information is available.
- (d) The number of detainees detained by the Department of Defense as “enemy prisoners of war,” “civilian internees,” and “unlawful combatants,” broken down into the greatest number of time intervals for which such information is available.
- (e) The number of detainees detained by the Department of Defense under any status other than “enemy prisoners of war,” “civilian internees,” and “unlawful

⁷ Section 1093(e) of the Act mandates that the reports “be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.” To the extent any records or portions of records responsive to this request are classified, please provide basic information as to the date, sender, recipient, and subject matter of the classified records.

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combatants,” broken down into the greatest number of time intervals for which such information is available.

- (f) The transfer or proposed transfer of detainees by the Department of Defense to the jurisdiction of other countries, and the countries to which those detainees were transferred.
- (g) Any communications regarding decisions to include or not include information in the Department of Defense’s report under Section 1093(c) of the Act and decisions as to whether to submit any information in unclassified or classified form pursuant to Section 1093(d) of the Act.

United States Report to the Committee Against Torture

On May 6, 2005, the U.S. submitted its Second Periodic Report to the United Nations (“U.N.”) Committee Against Torture, as required by the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Records Requested

All records reflecting:

5. Communications regarding the United States’ Second Periodic Report to the Committee Against Torture, including but not limited to:

- (a) Communications regarding whether any individual, place of detention, or practice should be mentioned or discussed in the report to the Committee Against Torture.
- (b) Communications with a foreign government, or agency of a foreign government, regarding any provision of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment relating to apprehension, transfer and detention, (including Articles 1, 3, 5, 16), or whether any individual, place of detention, or practice should be mentioned or discussed in the report.
- (c) Proposed language or earlier drafts of the report to the Committee Against Torture.

United States Report to the Human Rights Committee

On November 28, 2005, the U.S. submitted its Third Periodic Report to the U.N. Human Rights Committee, as required by the International Covenant on Civil and Political Rights.

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Records Requested

All records reflecting:

6. Communications regarding the United States' Third Periodic Report to the Human Rights Committee, including but not limited to:

- (a) Communications regarding whether any individual, place of detention, or practice should be mentioned or discussed in the report to the Human Rights Committee.
- (b) Communications with a foreign government, or agency of a foreign government, regarding any provision of the International Covenant on Civil and Political Rights relating to apprehension, transfer and detention, (including Articles 6, 7, 9), or whether any individual, place of detention, or practice should be mentioned or discussed in the report.
- (c) Proposed language or earlier drafts of the report to the Human Rights Committee.

The Convention on the Protection of all Persons from Enforced Disappearance

On September 23, 2005, a U.N. working group concluded the draft text of the Convention on the Protection of all Persons from Enforced Disappearance. In 2006, the draft convention will be submitted to the U.N. Commission on Human Rights and the U.N. General Assembly, before being opened for signature and ratification.

Records Requested

7. Any record reflecting communications regarding the negotiation or drafting of the draft Convention on the Protection of all Persons from Enforced Disappearance.

8. Any record reflecting communications with a foreign government, or an agency or official of a foreign government, regarding the drafting of the draft Convention on the Protection of all Persons from Enforced Disappearance.

Fee Waiver

The requestors qualify as "representatives of the news media" and the records sought are not for commercial use. Moreover, this Request "is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester[s]." 5 U.S.C. § 552(a)(4)(A)(iii).

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The requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above.

Expedited Processing

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There is also a “compelling need” because failure to obtain the records on an expedited basis “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” 5 U.S.C. § 552(a)(6)(E)(v)(I). *See also* 32 C.F.R. § 286.4(d)(3)(i) (DOD); 6 C.F.R. § 5.5(d)(1)(i) (DHS); 28 C.F.R. § 16.5(d)(1)(i) (DOJ); 22 C.F.R. § 171.12(b)(1) (DOS). This Request arises in the context of allegations of ongoing unlawful detention and abuse of individuals with the involvement of U.S. agents abroad. Failure to publicly expose and thereby halt the practices prompting this Request could reasonably be expected to pose an imminent threat to the physical safety and lives of such individuals.

Expedited processing is also warranted because this request involves “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 28 C.F.R. § 16.5(d)(1)(iv).

AI and WSLs certify that the foregoing statements regarding the basis for expedited processing are true and correct to the best of their knowledge and belief. 5 U.S.C. § 552(a)(6)(E)(vi). *See also* 32 C.F.R. § 286.4(d)(3)(iii) (DOD); 6 C.F.R. § 5.5(d)(3) (DHS); 28 C.F.R. § 16.5(d)(3) (DOJ); 22 C.F.R. § 171.12(b) (DOS).

* * *

If this Request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect release of all segregable portions of otherwise exempt material. We also reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

As indicated above, we are applying for expedited processing of this Request. Notwithstanding your determination of that application, we look forward to your reply to the Request **within twenty (20) days**, as required under 5 U.S.C. § 552(a)(6)(A)(i).

WILMERHALE

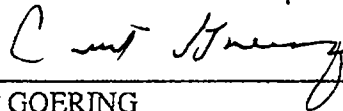
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Page 10

Thank you for your prompt attention. Please direct all questions and future responses to:

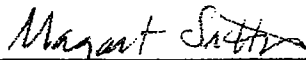
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Sincerely,



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MARGARET L. SATTERTHWAITE
Clinic Director

SMITA NARULA
Clinic Director

December 28, 2007

Via Facsimile and U.S. Mail:

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505
(Ph.) 703-613-1287
(Fax) 703-613-3007

Re: Request Under the Freedom of Information Act for Specific Records Concerning
Information on Secret Detention And Rendition

Dear Freedom of Information Act Officer:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The request is submitted by the International Human Rights Clinic of Washington Square Legal Services¹ (“WSLS”), on behalf of WSLS, Amnesty International (“AI”), and the Center for Constitutional Rights (“CCR”). We are currently engaged in litigation with your agency concerning two requests filed on April 25, 2006 by WSLS and AI, and one request filed on December 21, 2004 by CCR, all of which seek records pertaining to rendition and secret detention in connection with the U.S. Government’s anti-terrorism efforts.² The attorneys representing the U.S. Government in this litigation are being sent copies of this request.

We seek the opportunity to inspect and copy, if necessary, the specific records listed below, or, in the event that any of the specified records have been destroyed, any records which are integrally related to, summarize, or are interchangeable with said records. We seek records in the possession of the Central Intelligence Agency, including any officers, divisions, or bureaus thereof. We further request that you expedite processing pursuant to 5 U.S.C. § 552(a)(6)(e)(i).

Records Requested

For the purpose of this request, the term “records” includes any and all reports, statements, examinations, memoranda, correspondence, designs, maps, photographs, microfilms, computer tapes or disks, audio or videotapes or transcripts thereof, rules, regulations, codes, handbooks, manuals, or guidelines.

Please disclose the following records, or, in the event that they have been destroyed, any records that are integrally related to, summarize, or are interchangeable with said records.

¹ WSLS is the corporation that supports the International Human Rights Clinic (“the Clinic”) of the New York University School of Law. The Clinic is a project of NYU School of Law’s Center for Human Rights and Global Justice.

² Amnesty International USA et al. v. CIA, No. 07-cv-5435 (S.D.N.Y.).

1. The spring 2004 report by the Office of the Inspector General (OIG) on the CIA's compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The existence of this document was publicly revealed in October 2007 by the *New York Times*.
 - "A report by Mr. Helgeson's office completed in the spring of 2004 warned that some C.I.A.-approved interrogation procedures appeared to constitute cruel, inhuman and degrading treatment, as defined by the international Convention Against Torture." Mark Mazzetti and Scott Shane, *C.I.A. Watchdog Becomes Subject Of C.I.A. Inquiry*, N.Y. Times, October 12, 2007, at A1.
2. The list of "erroneous renditions" compiled by the CIA's OIG. This list was described by several intelligence officials in a December 2005 article in the *Washington Post*.
 - "The CIA inspector general is investigating a growing number of what it calls 'erroneous renditions,' according to several former and current intelligence officials. One official said about three dozen names fall in that category; others believe it is fewer. The list includes several people whose identities were offered by al Qaeda figures during CIA interrogations, officials said." Dana Priest, *Wrongful Imprisonment: Anatomy of a CIA Mistake*, Wash. Post, December 4, 2005, at A1.
3. The fax sent by the CIA to the Royal Canadian Mounted Police Criminal Intelligence Directorate (RCMP CID) in the afternoon or evening of Oct. 3, 2002, asking a number of questions about Maher Arar. The existence of this document was publicly acknowledged in the official report of the Canadian Government's inquiry into the rendition of Mr. Arar.
 - "Late in the afternoon of October 3, the CIA sent a fax to RCMP CID, asking a number of questions about Mr. Arar." Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, Report of the Events Relating to Maher Arar, Addendum: Disclosure of Information Authorized by the Federal Court of Canada in accordance with Sections 38.04 and 38.06 of the *Canada Evidence Act* 157 (2006) (based on 2005 testimony of Gar Pardy, Director General of the Consular Affairs Bureau of Foreign Affairs and International Trade Canada (DFAIT)) (Transcripts of Testimony available at <http://www.ararcommission.ca/eng/14b.htm>).
4. The document sent by the CIA to the RCMP CID, the Canadian Security Intelligence Service (CSIS), and Project A-O Canada on Nov. 5, 2002 in response to requests for information on the whereabouts of Mr. Arar. The existence of this document was publicly acknowledged in the official report of the Canadian Government's inquiry into the rendition of Maher Arar.
 - "On November 5, the CIA sent CSIS and Project A-O Canada a written response to CSIS' [sic] October 10 request for information about the circumstances of Mr. Arar's removal." Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, Report of the Events Relating to Maher Arar, Addendum: Disclosure of Information Authorized by the Federal Court of Canada in accordance with Sections 38.04 and 38.06 of the *Canada Evidence Act* 307 (2006). "An identical reply was also sent to RCMP Headquarters." *Id.* at 180

(based on testimony of Dan Livermore of the Security and Intelligence Branch of DFAIT).

5. The cables between the Deputy Director of Operations (or other agency official(s)) at the CIA and the operative(s) in the field discussing and/or approving the use of a slap on detainee Abu Zubaydah (Zein al Abideen Mohamed Hussein). The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007.
 - “There was discussion: ‘Should we slap him? What’s to be gained if we slap him?’ . . . The Deputy Director for Operations says, ‘Yes, you can slap him.’ The cable goes out. They slap him.” “*CIA – Abu Zubaydah*”: Interview with John Kiriakou (ABC News broadcast Dec. 10, 2007), available at http://abcnews.go.com/images/Blotter/brianross_kiriakou_transcript1_blotter071210.pdf and http://abcnews.go.com/images/Blotter/brianross_kiriakou_transcript2_blotter071210.pdf
6. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) and the operative(s) in the field discussing and/or approving the use of a slap on detainee Khalid Sheikh Mohammed. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*
7. The cables between the Deputy Director of Operations (or other agency official(s)) at the CIA and the operative(s) in the field discussing and/or approving the use of an ‘attention shake’ on Abu Zubaydah. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007.
 - “[W]e had these trained interrogators who were sent to his location-- to use the enhanced techniques as necessary to get him to open up... [T]hese enhanced techniques included everything from-- what was called an attention shake where you grab the person by their lapels and sha[ke] them.” *Id.*
8. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) and the operative(s) in the field discussing and/or approving the use of an ‘attention shake’ on Khalid Sheikh Mohammed. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*
9. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) to the operative(s) in the field discussing and/or approving the use of sleep deprivation on Abu Zubaydah. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*
10. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) and the operative(s) in the field discussing and/or approving the use of sleep deprivation on Khalid Sheikh Mohammed. The existence of such cables was

acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*

11. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) and the operative(s) in the field discussing and/or approving the use of waterboarding on Abu Zubaydah. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*
 - “Two people were water boarded, Abu Zubaydah being one.” *Id.*
12. The cables between the Deputy Director of Operations at the CIA (or other agency official(s)) and the operative(s) in the field discussing and/or approving the use of waterboarding on Khalid Sheikh Mohammed. The existence of such cables was acknowledged by former CIA employee John Kiriakou during an ABC News program on Dec. 10, 2007. *Id.*
 - “It’s my understanding that he [Khalid Sheikh Mohammed] was—that he was also water boarded.” *Id.*
13. Video tapes, audio tapes, and transcripts of materials related to interrogations of detainees that were acknowledged to exist during the case of *United States v. Zacharias Moussaoui* and described in a letter from United States Attorney Chuck Rosenberg to Chief Judge Karen Williams, United States Court of Appeals for the Fourth Circuit, and Judge Leonie Brinkema, United States District Court, Eastern District of Virginia, dated October 25, 2007, including, but not limited to two video tapes and one audio tape of interrogations of detainees, the transcripts of those tapes submitted for the court’s review in the *Moussaoui* case, and the intelligence cables summarizing the substance of those tapes.
 - Letter from Chuck Rosenberg, U.S. Attorney, to the Honorable Karen J. Williams and the Honorable Leonie Brinkema, (Oct. 25, 2007), *available at* http://graphics8.nytimes.com/packages/pdf/world/20071207_intel_letter.pdf.
14. The Sept. 13, 2007 notification (described in a letter from Chuck Rosenberg to Judges Williams and Brinkema, dated October 25, 2007) from the attorney for the CIA informing the United States Attorney for the Eastern District of Virginia that the CIA had obtained a video tape of an interrogation of one or more detainees. *Id.*
15. The communications between the CIA and the U.S. Embassy in Sana’a, Yemen, relating to the apprehension, transfer and/or detention of Mohamed Farag Ahmad Bashmilah (Muhammad Bashmilah). These communications likely occurred on or around March 5, 2005, and were preparatory to a communication between the U.S. Embassy in Sana’a and the Government of Yemen that has been acknowledged by the Government of Yemen.
 - “On March 5, 2005, the United States, through the Liaison Officer in Sanaa [sic], informed the Central Organization for Political Security in Yemen that Mr. Mohamed Bashmilah was being held in their custody.” Letter from the Embassy of the Republic of Yemen in France to Mr. Dick Marty, Council of Europe (Mar. 27, 2006) (filed as Exhibit G to Declaration of Mohamed Farag Ahmad Bashmilah in *Mohamed et al. v. Jeppesen Dataplan, Inc.*, No. 5:07-cv-02798 (N.D.Cal. Dec. 14, 2007)).

16. The communications between the U.S. Government and the Government of Yemen, and/or any documents pertaining to the transfer of Mohamed Farag Ahmad Bashmilah from U.S. custody to the custody of the Government of Yemen on or near May 5, 2005. The Government of Yemen has acknowledged the existence of communications between the U.S. Government and the Government of Yemen concerning Mr. Bashmilah's transfer. *Id.*
17. A copy of the files relating to Salah Nasser Salim Ali and Mohamed Farag Ahmad Bashmilah provided to the Government of Yemen on Nov. 10, 2005 by the United States Government. The Government of Yemen has acknowledged the existence of these files.
 - o Letter from Ghalib Mathar al-Qamish, Chief of the Central Department of Political Security, Yemen, to the Special Rapporteur on the question of Torture and the Special Rapporteur on the question of Human Rights and Counter-Terrorism (Dec. 20, 2005) (filed as Exhibit V to Declaration of Mohamed Farag Ahmad Bashmilah in *Mohamed et al. v. Jeppesen Dataplan, Inc.*, No. 5:07-cv-02798 (N.D.Cal. Dec. 14, 2007)).

Fee Waiver

The requesters qualify as “representatives of the news media” and the records sought are not for commercial use. Moreover, this Request “is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester[s].” 5 U.S.C. § 552(a)(4)(A)(iii).

The International Human Rights Clinic of WSLs is a project of the Center for Human Rights and Global Justice (“CHRGJ”) and an official program of NYU School of Law, composed of students and directed by clinical professors who engage in research and advocacy on human rights issues. CHRGJ is a research center at NYU School of Law. CHRGJ aims to advance human rights and respect for the rule of law through advocacy, scholarship, education, and training. CHRGJ publishes reports and also disseminates information through its website, www.chrgj.org.

Amnesty International is a non-governmental organization and a world-wide movement of members who campaign for internationally recognized human rights. AI publishes reports, press-briefings, newsletters, and urgent action requests informing the public about human rights, including torture and disappearances. AI also disseminates information through its website, www.amnesty.org.

The Center for Constitutional Rights is a legal and public education not-for-profit organization that engages in litigation, legal research, and the production of publications in the fields of civil and international human rights. CCR also publishes newsletters, know-your-rights handbooks, and other similar materials for public dissemination. These materials are available through CCR's Development and Education & Outreach Departments. CCR also operates a website, www.ccr-ny.org, that addresses the issues on which CCR works. The website includes material on topical civil and human rights issues and material concerning CCR's work. All of this material is freely available to the public.

The requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above. This Request aims generally to further public understanding of government conduct; and particularly to contribute to the current debate around the rendition and secret detention policies and programs put in place by the CIA.

Expedited Processing

Expedited processing is warranted under 5 U.S.C. § 552(a)(6)(E)(i)(I), as there is a “compelling need” for the records sought in this request: the requesters are primarily engaged in “disseminating information” and there is an “urgency to inform the public concerning the actual or alleged Federal Government Activity” under 5 U.S.C. § 552(a)(6)(E)(v)(II). There is also a “compelling need” because failure to obtain the records on an expedited basis “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” 5 U.S.C. § 552(a)(6)(E)(v)(I).

CHRGJ is engaged in disseminating information about human rights, including in particular, the Federal Government’s role in upholding human rights. As indicated above, this information is disseminated through published reports and CHRGJ’s website. The Clinic actively supports this work, and WSLs houses the clinic. AI is primarily engaged in disseminating information about human rights, through its reports, newsletters, press-briefings, urgent action requests, and on its website. CCR disseminates information through newsletters, publications, handbooks, and through its website. All three organizations seek the documents listed in this request to educate the public about the CIA’s secret detention and rendition program, which is currently the subject of high-profile debate.³

Moreover, failure to obtain the records can reasonably be expected to pose an imminent threat to the physical safety of individuals undergoing or at risk of undergoing ongoing unlawful detention and abuse with the involvement of or at the behest of U.S. agents abroad. 5 U.S.C. § 552(a)(6)(E)(v)(I). Allegations of torture and ill-treatment have surrounded the secret detention and rendition program. Failure to publicly expose and thereby halt the practices prompting this Request could reasonably be expected to pose an imminent threat to the physical safety and lives of at least one individual. CIA director Michael Hayden recently admitted that the secret detention and rendition program remains in operation.⁴

³ See, e.g., Joby Warrick & Dan Eggen, *Waterboarding Recounted: Ex-CIA Officer Says It 'Probably Saved Lives' but Is Torture*, Wash. Post., Dec. 11, 2007, at A1; Pamela Hess, *Congress Wants Answers on CIA Tapes*, Wash. Post., Dec. 11, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/12/10/AR2007121000087.html>; Mark Mazetti, *CIA Destroyed Two Tapes Showing Interrogations*, N.Y. Times, Dec. 7, 2007, at A1; CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *SURVIVING THE DARKNESS: TESTIMONY FROM THE U.S. "BLACK SITES" (2007)*, available at <http://www.chrgj.org/projects/docs/survivingthedarkness.pdf>.

⁴ CIA Director Hayden recently discussed the secret detention and rendition program on the *Charlie Rose Show*, explaining that as of 2007, the U.S. program of “rendition” and CIA detention continued. *The Charlie Rose Show: Interview with Director Michael Hayden* (PBS television broadcast Oct. 22 & 23, 2007) (transcript available at <https://www.cia.gov/news-information/press-releases-statements/interview-with-charlie-rose.html>).

* * *

If this request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect release of all segregable portions of otherwise exempt material. We also reserve the right to appeal a decision to withhold any information.

We look forward to your reply to the Request **within twenty (20) days**, as required under 5 U.S.C. § 552(a)(6)(A)(i).

Thank you for your prompt attention. Should you have any questions in this matter, please contact Margaret L. Satterthwaite, International Human Rights Clinic, Washington Square Legal Services, Inc., New York University School of Law, 245 Sullivan Street, New York, NY 10012; tel.: (212) 998-6657.

Sincerely,



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سفارة
الجمهورية اليمنية
باريس

Paris, le 27 mars 2006

L'Ambassade de la République du Yémen présente ses compléments à Monsieur Dick Marty président de la commission des questions juridiques et des droits de l'homme de l'Assemblée parlementaire du conseil de l'Europe.

Nous avons l'honneur de répondre au courrier, daté du 13 février 2006, que vous avez adressé à Monsieur le Ministre de la défense au Yémen concernant Monsieur BASHMILA.

Et nous avons le plaisir de vous communiquer les informations transmises par les autorités compétentes yéménites le 22 mars 2006 à ce sujet.

Le Yémen apprécie les efforts importants du parlement européen concernant les prisons secrètes dans les pays membres du conseil de l'Europe et l'enlèvement des personnes sur les territoires européens et leur transfert vers d'autres pays. Ce sont des efforts et des principes compatibles avec ceux auxquels nous croyons et voudrions défendre ensembles avec les Européens.

L'Ambassade de la République de Yémen à Paris vous souhaite beaucoup de succès et réussite et saisie cette occasion pour renouveler les assurances de sa haute considération.

Monsieur Dick Marty président de la commission des questions juridiques et des droits de l'homme de l'Assemblée parlementaire du conseil de l'Europe.



TRADUCTION

Le sujet :

La procédure de l'arrestation de Monsieur BASHMILA et son arrivée au Yémen

- Monsieur Mohamed Faraj Bashmila est un citoyen yéménite ordinaire, né en 1968 à Aden. Il a travaillé comme distributeur dans le prêt-à-porter.

- Depuis 2002 il a quitté le Yémen pour l'Indonésie où il s'est installé et s'est marié avec une Indonésienne, les autorités indonésiennes l'ont expulsé vers la Jordanie pour des raisons inconnues en novembre 2003

- Les services des renseignements jordanien l'avaient retenu pendant une semaine, ensuite ils l'ont livré, dans un aéroport jordanien, à une autre autorité qui l'a transféré au bord d'un avion à réaction vers une destination inconnue. Le vol a duré environ 3 heures et demi.

- Le détenu a été placé ensuite dans une ancienne unité de détention où il a été claustré dans une cellule individuelle souterraine pendant sept mois, surveillé par des soldats américains. Ces derniers ont infligé à leurs prisonniers des mauvais traitements et des pressions psychologiques ; tel que l'obligation de les faire écouter de la musique assourdissante, tous les jours et 24 heures sur 24.

Par la suite, le détenu a été transporté à nouveau au bord d'un avion à réaction pendant une durée de quatre heures. L'avion avait atterri dans un aéroport inconnu où le détenu y est resté seulement une heure ; puis il a été transporté dans un hélicoptère -durant deux heures - vers un endroit toujours inconnu où il a été incarcéré pendant un an dans une cellule individuelle.

- Le 11 mars 2004, le service des renseignements jordanien informait le service des renseignements et la sécurité yéménite que Monsieur Mohamed Bashmila a été libéré et qu'il lui permettait de quitter les territoires jordaniens pour l'Iraq.

- Le 5 mars 2005 l'officier de liaison au service militaire à l'Ambassade américaine à Sanaa avait prévenu le service des renseignements et de la sécurité yéménite que Monsieur Bashmila a été capturé et détenu par les autorités américaines.
- Le 5 mai 2005, Bashmila est arrivé par avion à réaction au Yémen avec d'autres détenus également de nationalité yéménite (Monsieur Salah Nasser Saleem (kraou) et Monsieur Mohamed Abdullah Saleh Alassad). Ce déplacement a duré cette fois-ci 6 à 7 heures environ.
- Les autorités compétentes yéménites confirment qu'ils n'ont pas incarcéré Monsieur **Bashmila, mais qu'il leur a été remis par les autorités américaines comme détenu inculpé d'être membre d'Alqayda.** Les autorités yéménites ont, par la suite, arrêté et interpellé Monsieur Bashmila selon l'article numéro 13 du code pénal de l'année 1994 et l'ont incarcéré.
- Monsieur Bashmila a comparu devant la justice et a eu un procès dont le verdict satisfait par la durée d'incarcérations qu'il a fait auparavant dans les prisons secret et il sera libéré après avoir les garanties nécessaire.
- Plusieurs membres actifs des organisations humanitaires européennes et de droit de l'homme ont demandé instamment à l'Ambassade du Yémen à Berlin de libérer M. Bashmila ainsi que d'autres détenus comme Salah Nasser Saleem.
- Certaines organisations américaines se sont intéressés à cette cause et ont envoyé une équipe d'avocats (Douglas KOKS, Sarah HENZ, Nita FOSTER), tous de nationalité américaine.
- Amnistie internationale s'est également intéressé au cas de Monsieur BASHMILA et Salah Nasser Saleem ainsi que d'autres. Et avait publié des rapports expliquant essentiellement les conditions et les étapes de leur détention après avoir rencontré les détenus le 7 et 12 février 2006 par l'équipe de :

Mme ANNE VITS GIRARD	Conseiller de l'organisation
Mme Madame LINNE WEISMAN	Ancienne Conseiller de l'organisation
MR AKRAM AL KHATIB	Traducteur

- **Le croix rouge internationale** avait également suivi le cas et chargé une de ses représentants, Madame Maya BETROVITSHE, de les rencontrer le 8 mars 2006.

Le service des renseignements et de la sécurité yéménite n'a pas cessé de demander aux autorités américaines de lui remettre les dossiers de tous les détenus et de lui présenter les arguments justifiant leur implication dans cette inculpation.

الموضوع: إجراءات اعتقال ووصول السيد/محمد فرج باشميله إلى اليمن

- السيد/محمد باشميله هو مواطن يمني عادي من مواليد عام 1968م في مدينة عدن وكان يعمل في توزيع الملابس الجاهزة.
- كان مقيما في اندونيسيا منذ العام 2002م ومتزوجا من امرأة اندونيسية والسلطات في ذلك البلد رحلته في نوفمبر 2003م إلى الأردن - لأسباب غير معروفة- حيث تم احتجازه من قبل المخابرات العامة الأردنية لمدة أسبوع.
- قام الأردنيون بتسليم المذكور في إحدى مطاراتهم إلى (جهة أخرى) حيث تم نقله بطائرة نفائثه إلى مكان مجهول مدة الطيران إليه حوالي ثلاث ساعات ونصف وغير معروف المطار الذي هبطت الطائرة به، ونقل منه إلى وحدة احتجاز قديمة تحت الأرض وأودع في سجن انفرادي مكث به سبعة اشهر، وكان الحراس المشرفين عليه أمريكيين، ومن ضمن ممارسات الضغط على نفسية المسجونين كان تشغيل الموسيقى الصاخبة خلال الـ 24 ساعة يوميا.
- تم نقل المذكور مرة أخرى على طائرة نفائثه مدة الطيران تقريبا 4 ساعات وهبطت في مطار غير معروف ومكث به مدة ساعة، ونقل من جديد على طائرة مروحية إلى مكان مجهول مدة الطيران إليه ساعتين ونقل بعدها إلى سجن انفرادي مكث به سنة.
- في تاريخ 11 مارس 2004م قام جهاز المخابرات العامة الأردنية بإبلاغ الجهاز المركزي للأمن السياسي في اليمن بأن السيد/ محمد باشميله قد تم إخلاء سبيله وسمح له بالمغادرة إلى العراق.

- في تاريخ 5 مارس 2005م قام الجانب الأمريكي عبر ضابط الارتباط في صنعاء بإبلاغ الجهاز المركزي للأمن السياسي في اليمن بأن السيد/محمد باشميلة موقوف طرفهم.

- في تاريخ 5 مايو 2005م نقل المذكور من السجن الذي كان به على طائرة نفائه إلى اليمن واستغرقت الرحلة من 6-7 ساعات، وكان معه في الطائرة كل من المواطنين اليمنيين صلاح ناصر سليم (قرو) ومحمد عبد الله صالح الأسد.

- تؤكد السلطات اليمنية المختصة أنها لم تقم باعتقال المذكور وإنما تسلمته من قبل السلطات الأمريكية في 5 مايو تحت تهمة انتمائه لتنظيم (القاعدة) وتم احتجازه باليمن وفقا لقانون الإجراءات الجزائية رقم (13) لسنة 1994م للتحقيق معه والتأكد من صحة ما نسب إليه من الأمريكيين.

- تم تقديم المذكور إلى القضاء اليمني لاستكمال الإجراءات القانونية تجاهه وصدر حكم قضائي بحقه بالاكْتفاء بالمدة التي قضاها في السجون السرية وسيتم الإفراج عنه في ضوء الحكم الصادر من القضاء بعد اخذ الضمانات.

- قدمت العديد من المناشدات الإنسانية من ناشطين أوروبيين في مجال حقوق الإنسان إلى سفارة اليمن في برلين بألمانيا للمطالبة بإطلاق سراح السيد/باشميلة وآخرون (منهم صلاح ناصر سليم).

- اهتمت بعض المنظمات الأمريكية بالقضية، فقام فريق من المحامين الأمريكيين بالالتقاء بهم يوم 20 يونيو 2005م وهم التالية أسماؤهم:

- السيد/جولاس كوكس

- السيدة/ساره هنز

- السيدة/نيّتا فوستر.

- اهتمت منظمة العفو الدولية بموضوع السيد/محمد باشميله وصلاح ناصر سليم وآخرون ونشرت تقرير يتضمن مراحل اعتقالهم وما مروا به من ظروف مختلفة وذلك بعد أن أجرى معهم فريق ممثلي منظمة العفو الدولية في اليمن لقاءين يومي 7 و 12 فبراير 2006م وكان الفريق مشكل من التالية أسماؤهم:

- السيدة/آن فيتز جيراد
- السيدة/لين وسمن
- السيد/أكرم الخطيب
- مستشارة في المنظمة
- مستشارة سابقة في المنظمة
- مترجم

- اهتمت منظمة الصليب الأحمر الدولي بالقضية وأرسلت السيدة/مايا بيتروفتش مندوبة الحماية في اللجنة الدولية للصليب الأحمر للالتقاء بهم يوم 8 مارس 2006م.
- مازال الجهاز المركزي للأمن السياسي اليمني يطالب الجانب الأمريكي بتسليم ملفات المذكورين وتقديم الأدلة التي تثبت تورطهم فيما نسب إليهم واحتجازهم في سجون سرية خلال تلك الفترة، إلا أنه لم يتم الاستجابة للطلب حتى الآن.

س/ج

Embassy of the Republic of Yemen
25, rue Georges-Bizet-75116 Paris
Tel. 01 53 23 87 87 – Fax 01 47 23 69 41

[emblem] The Embassy of the
Republic of Yemen Paris

Paris, 27 March 2006

The Embassy of the Republic of Yemen congratulates Mr. Dick Marty, President of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly.

We are honored to answer the letter, dated February 13, 2006, that you have addressed to the Yemeni Minister of Defence concerning Mr. Bashmila.

And we are delighted to communicate to you the information transmitted by the competent Yemeni authorities on March 22, 2006, on that subject.

Yemen appreciates the significant efforts of the European Parliament pertaining to the secret prisons in the member states of the Council of Europe, to the kidnapping of individuals on European territories and to their transfer to other states. These efforts and principles are compatible with those in which we believe and will want to defend together with the Europeans.

The Embassy of the Republic of Yemen in Paris wishes you great success and seizes this opportunity to renew its high regards.

Mr. Dick Marty, President of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly.

(Seal)

TRANSLATION

The issue:

Mr. BASHMILA's arrest procedure and his arrival in Yemen

- Mr. Mohamed Faraj Bashmila is an ordinary Yemeni citizen, born in 1968 in Aden. He worked as a distributor in the ready to wear industry.
- **Since 2002, he left Yemen for Indonesia, where he settled and married an Indonesian, the Indonesian authorities have expelled him to Jordania for unknown reasons in November 2003.**
- The Jordanian intelligence services had withheld him for a week, and then **delivered him, in a Jordanian airport, to another authority which tranferred him in a jet airplane** to an unknown destination. **The flight lasted approximately three hours and a half.**
- The detainee was then placed in a **former detention unit where he was confined in an individual cell underground during seven months, surveilled by American soldiers.** The latter inflicted on their prisoners mistreatment and psychological pressures; such as the obligation to make them listen to deafening music every day, twenty four hours a day.

The detainee was later transported once again in a **jet airplane** for a time period of **four hours**. The plane had landed in an unknown airport where the detainee only stayed an hour; he was then transported in a **helicopter – during two hours –** to a destination still unknown **where he was incarcerated for a year in an individual cell.**

- On March 11, 2004, **the Jordanian intelligence service informed the Yemeni intelligence and security services that Mr. Mohamed Bashmila had been released and that he was allowed to leave Jordanian territory to go to Iraq.**
- On March 5, 2005, **the liaison officer for the military service at the US Embassy in Sanaa had warned the Yemeni intelligence and security services that Mr. Bashmila was captured and detained by the American authorities.**
- **On May 5, 2005, Bashmila arrived in Yemen by jet airplane, with other detainees of Yemeni nationality as well (Mr. Salah Nasser Saleem (kraou) and Mr. Mohamed Abdullah Saleh Alassad).** This time, the displacement lasted more or less six to seven hours.
- **The competent Yemeni authorities confirm that they did not incarcerate Mr. Bashmila, but that he was returned to them by the American authorities as a detainee charged with being an Al Qaida member.** The Yemeni authorities later arrested and took in for questioning Mr. Bashmila under article 13 of the 1994 criminal code, and incarcerated him.

- **Mr. Bashmila appeared in court and obtained a trial whose verdict satisfies by the duration of incarcerations he previously underwent in secret prisons, and he will be released once the necessary guarantees will have been made.**
- **Several active members of European humanitarian and human rights organizations have insistently asked the Yemeni Embassy in Berlin to release Mr. Bashmila as well as other detainees such as Salah Nasser Saleem.**
- Some American organizations have also been interested in this cause and have sent a delegation of lawyers (Douglas KOKS, Sarah HENZ, Nita FOSTER), all of American nationality.
- **Amnesty International** has also been interested in the case of Mr. Bashmila and Salah Nasser Salem as well as others. And had published reports explaining mainly the conditions and phases of their detention after having met the detainees on February 7 and 12, 2006, by:

Mrs. ANNE VITS GIRARD
Mrs. LINNE WEISMAN
Mr. AKRAM AL KHATIB

Advisor of the Organization
Former Advisor of the Organization
Translator

- **The International Red Cross** has also followed the case and charged one of its representatives, Mrs. Maya BETROVITSHE, to meet them on March 8, 2006.

The Yemeni intelligence and security service kept asking the American authorities to deliver them the files of all detainees and to present the arguments justifying these charges against them.

Subject: **Chronology of the detention of Mr. Mohamed Farag Bashmilah and his arrival in Yemen**

- Mr. Mohamed Bashmilah is an ordinary citizen of Yemen, born in 1968 in the city of Aden, and used to work as a distributor of ready-to-wear clothes.
- He was living in Indonesia since 2002, being married to an Indonesian woman, when the authorities in that country deported him in November 2003 to Jordan for unknown reasons, and he was detained by the Jordanian General Intelligence for one week.
- The Jordanians handed over the aforementioned to another agency at one of their airports and he was transported by a jet aircraft to an unknown location about three and a half hours away by air. The landing airport is unknown. From there, he was transported to an old underground detention unit, where he was kept in solitary confinement for seven months. The guards were Americans. Among the psychological pressure tactics used against prisoners was to play loud music 24 hours a day.
- The aforementioned was transferred again by a jet aircraft, flying approximately four hours, and landing at an unknown airport, where it remained for an hour. He was then transported by a propeller aircraft to an unknown location two hours away by air. Afterwards, he was transferred to a solitary prison where he stayed for a year.
- On March 11, 2004, the Jordanian General Intelligence informed the Central Organization for Political Security in Yemen that Mr. Mohamed Bashmilah had been released and allowed to depart to Iraq.
- On March 5, 2005, the United States, through the Liaison Officer in Sanaa, informed the Central Organization for Political Security in Yemen that Mr. Mohamed Bashmilah was being held in their custody.
- On May 5, 2005, the aforementioned was transported from the prison where he was being held by a jet aircraft to Yemen. The flight lasted 6-7 hours. On board, he was accompanied by two Yemeni citizens, Salah Nasser Saleem (Qaru) and Muhammad Abdullah Saleh Al-Asad.
- The relevant Yemeni authorities confirm that they did not arrest the aforementioned. Rather, it received him from the U.S. authorities on May 5, being accused of membership in al Qa`ida. He was held in Yemen per Penal Procedure No. 13 of the year 1994 for questioning and verifying what the Americans have alleged against him.
- The aforementioned was brought before the Yemeni judicial system to complete the legal process in his case. A judicial sentence was issued making the time spent in secret prisons sufficient time served. He will be released per the judicial sentence, pending guarantees.
- Numerous humanitarian appeals were submitted by European human rights activists to the Yemeni Embassy in Berlin, Germany, demanding the release of Mr. Bashmilah and others (including Mr. Salah Nasser Saleem).
- Some American organizations were interested in the case. A team of American lawyers met with them on June 20, 2005, namely:
 - Mr. Douglas Cox
 - Ms. Sarah [Havens]
 - Ms. [Tina] Foster
- Amnesty International was interested in the case of Mr. Mohamed Bashmilah, Mr. Salah Nasser Saleem, and others. It published a report containing a narrative of their detention

and the various conditions they had endured after a team of Amnesty International representatives conducted two interviews with them in Yemen on February 7 and 12, 2006. The team consisted of:

Ms. Anne FitzGerald, organization advisor

Ms. Lynn Wessman [phonetic], former organization advisor

Mr. Akram al Khatib, Interpreter

- The International Committee of the Red Cross was interested in the case. It dispatched Ms. Maya Petrovich [phonetic], ICRC Protection Delegate, to meet with them on March 8, 2006.
- The Central Organization for Political Security in Yemen continues to press the U.S. to hand over the files of the aforementioned and to present the evidence for what has been alleged against them [and for which] they were held in secret prisons at that time. Until now, the request has not been granted.

UNITED
NATIONS

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HUMAN RIGHTS COUNCIL
Fourth regular session
Item 2 of the provisional agenda

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

Opinions adopted by the Working Group on Arbitrary Detention

The present document contains the Opinions adopted by the Working Group on Arbitrary Detention at its forty-fourth, forty-fifth and forty-sixth sessions, held in November 2005, May 2006 and August 2006, respectively. A table listing all the opinions adopted by the Working Group and statistical data concerning these opinions is included in the report of the Working Group to the Human Rights Council at its fourth regular session (A/HRC/4/40).

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and redressed, if necessary by putting the perpetrators to justice. Yet, any procedure aiming to put right gross human rights violations, as such welcomed by the Working Group, shall scrupulously respect the rules and standards drawn up and accepted by the international community to respect the rights of any person charged of a criminal offence. The violation of the rights of the person charged may easily backfire. This is particularly true in the present case; any lack of respect for the rights of the leaders of the former regime in the criminal proceedings against them may undermine the credibility of the justice system of the newly emerging democratic Iraq.

39. The Working Group believes that under the circumstances the proper way to ensure that the detention of Saddam Hussein does not amount to arbitrary deprivation of liberty would be to see to it that his trial is conducted by an independent and impartial tribunal in strict conformity with international human rights standards.

40. On the basis of what precedes, the Opinion of the Working Group is that:

(a) It will not take a position on the alleged arbitrariness of the deprivation of liberty of Mr. Saddam Hussein during the period of international armed conflict;

(b) It will follow the development of the process and will request more information from both concerned Governments and from the source. In the meantime and referring to paragraph 17 (c) of its methods of work, it decides to keep the case pending until further information is received.

Adopted on 30 November 2005.

OPINION No. 47/2005 (YEMEN)

Communication: addressed to the Government on 9 August 2005.

**Concerning: Messrs. Walid Muhammad Shahir Muhammad al-Qadasi;
Salah Nasser Salim Ali and Muhammad Faraj Ahmed Bashmilah.**

The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of Opinion No. 38/2005.)
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
3. (Same text as paragraph 3 of Opinion No. 38/2005.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted to the source the reply provided by the Government. The Working Group believes that it is in a position to render an Opinion on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto, as well as the observations by the source.

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5. The source reports that Mr. Walid Muhammad Shahir Muhammad al-Qadasi, a citizen of Yemen, was arrested in the Islamic Republic of Iran in late 2001. He was held there for about three months before being handed over, with other detained foreign nationals, to the authorities in Afghanistan, who in turn handed them over to the custody of the United States of America. He was held in a prison in Kabul, where he was blindfolded, interrogated, threatened with death and accused of belonging to Al-Qaida. Walid Muhammad Shahir Muhammad al-Qadasi and his fellow detainees were kept in underground cells, 10 of them in a cell measuring approximately two by three metres, and constantly exposed to loud music. After three months in detention in Kabul, he was transferred to a detention centre of the United States military forces at Baghrum Air Base, outside Kabul. After a month there, Walid Muhammad Shahir Muhammad al-Qadasi was taken to the United States military base at Guantánamo Bay, Cuba.

6. Walid Muhammad Shahir Muhammad al-Qadasi was transferred from Guantánamo Bay to Yemen at the beginning of April 2004. On his arrival, he was detained in the Political Security Prison in Sana'a. He was denied access to a lawyer and not brought before a court. Walid Muhammad Shahir Muhammad al-Qadasi was visited in detention by representatives of the source in mid-April 2004. The prison staff informed the source that Walid Muhammad Shahir Muhammad al-Qadasi was under investigation and would be released as soon as the investigation was completed. Subsequently, he was transferred to Ta'iz prison, where a lawyer from the United States non-governmental organization Centre for Constitutional Rights met with him on 21 June 2005. He currently remains in detention there. He has not been charged with a criminal offence, nor been given the opportunity to challenge the legality of his detention. The Head of the Political Security Department in Sana'a informed the source that Walid Muhammad Shahir Muhammad al-Qadasi and other detainees who returned from Guantánamo Bay were being held at the request of the United States authorities and would remain detained in Yemen pending receipt of their files from these authorities for investigation.

7. With regard to Mr. Salah Nasser Salim 'Ali, the source reports that he is a 27-year-old Yemeni citizen who lived in Jakarta until 19 August 2003. On that day he was detained in Jakarta by agents of the Indonesian police and taken to an immigration centre. After four days of detention, during which his passport expired, Salah Nasser Salim 'Ali was told that he would be deported to Yemen, via Jordan. Upon arrival at the airport in Amman, however, he was taken to a detention facility of the Jordanian intelligence service, where he was interrogated about a past stay in Afghanistan and tortured repeatedly for four days.

8. As to Mr. Muhammad Faraj Ahmed Bashmilah, aged 37, the source reports that he is a Yemeni citizen, who also lived in Indonesia. In October 2003, he travelled to Jordan with his wife. On arrival at Amman airport, Jordanian immigration authorities took his passport. Three days later, on 19 October 2003, he was arrested by the Jordanian Da'irat al-Mukhabarat al-'Amah (General Intelligence Department, who kept him in custody for four days. During this period he was allegedly repeatedly tortured.

9. The source further states that from detention in Jordan, Messrs. Salah Nasser Salim 'Ali and Muhammad Faraj Ahmed Bashmilah were transferred to a detention centre under United States control. They were taken blindfolded to this detention centre by a several hours' long plane flight and detained underground, and are therefore not able to identify the location

of the detention centre. Both the forces in charge of transferring them thereto and those in charge of the detention centre were, however, from the United States. They were subsequently transferred, again blindfolded, by plane and helicopter, to a second detention centre under United States control. They are therefore not able to identify the location of the facility. In both places, the two men were interrogated about their activities in Afghanistan and Indonesia, and about their knowledge of other persons suspected of terrorist activities.

10. According to the source, Messrs. Salah Nasser Salim 'Ali and Muhammad Farah Ahmed Bashmilah were kept in United States custody for 20 and 18 months, respectively. During this period, they were held in solitary confinement and incommunicado, without contact with anyone other than the prison guards, interrogators and interpreters. Western music was piped into their cells uninterruptedly, 24 hours a day. In the second facility they were given books, including the Koran, and videos, and had an opportunity to exercise. Salah Nasser Salim 'Ali was visited by a doctor twice a month.

11. On or around 5 May 2005, without explanation, Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali were transferred to Yemen, where they were detained in the central prison of Aden. They were subsequently briefly taken to Sana'a and back to Aden. They are currently detained at the Fateh political security facility in Aden, where they have received visits by their family.

12. The source states that neither Muhammad Farah Ahmed Bashmilah nor Salah Nasser Salim 'Ali have been charged or tried with any offence, nor have they been informed of the reason for their continued detention. Representatives of the Yemeni authorities have told the source that the reason for their detention is that their transfer from United States detention was conditional upon them being held in Yemen.

13. According to the source, the detention of Walid Muhammad Shahir Muhammad al-Qadasi, Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali is devoid of any legal basis and thus arbitrary. In particular, the three above-mentioned persons were released from United States custody without charges and were never charged with any criminal offence in Yemen, where they have been detained for 18 months (Walid Muhammad Shahir Muhammad al-Qadasi) and three months (Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali), respectively. No decision concerning their detention and or statement setting forth the grounds therefor has been issued by any Yemeni authority. They have not been informed of any charges against them, have not been provided with legal assistance, have not had the right to challenge the lawfulness of their detention, and have not had a single hearing in their case.

14. The source adds that the detention of Walid Muhammad Shahir Muhammad al-Qadasi, Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali is in violation of Yemeni domestic law, as well, because, according to it, suspects have the right to see a judge or prosecutor within 24 hours of being detained, the right to challenge the legal basis of their detention and the right to seek prompt legal assistance. Furthermore, Yemeni law provides that detention is not permitted except for acts punishable by law.

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15. In its reply to these allegations, the Government confirms that Messrs. Walid Muhammad Shahir Muhammad al-Qadasi, Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali were handed over to Yemen by the United States. They are held in a security police facility because of their alleged involvement in terrorist activities related to Al-Qaida. The Government of Yemen adds that the "competent authorities are still dealing with the case pending receipt of their [the persons'] files from the United States of America authorities in order to transfer them to the Prosecutor".

16. In replying to the Government's observations, the source informs that, as of 8 November 2005, the three men remain in detention, while the Government continues to state that it is awaiting the files concerning their cases from the United States authorities.

17. The Working Group, based on the above information provided by the source and the Government, which coincide, is in the position to render an Opinion.

18. The Government states that Messrs. Al-Qadasi, Bashmila and Salim were handed over to Yemen by the United States. It is waiting for the files from the American authorities so as to transfer them to the prosecutor. This clearly shows that the Yemen authorities do not currently have any files on them.

19. The Working Group notes with concern that the transfers that the three persons experienced before being detained in Yemen occurred outside the confines of any legal procedure, such as extradition, and do not allow the individuals access to counsel or to any judicial body to contest the transfers.

20. No charges have been made by the Government of Yemen against these three men. They have not been informed of any accusation against them, nor have been brought before any judicial authority. No legal procedure has been followed to accuse them. Their deprivation of liberty is, as such, devoid of any legal basis.

21. In the light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Messrs. Walid Muhammad Shahir Muhammad al-Qadasi, Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali, is arbitrary, being in contravention of article 9 of the Universal Declaration of Human Rights, and article 9 of the International Covenant on Civil and Political Rights, and falls within category I of the categories applicable to the consideration of the cases submitted to the Working Group.

22. Consequent upon the Opinion rendered, the Working Group requests the Government:

To release the three above-mentioned persons, or otherwise subject them to a competent judicial authority, bringing these cases in conformity with the standards and principles set forth in the International Covenant on Civil and Political Rights.

Adopted on 30 November 2005.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

MISSION DE LA RÉPUBLIQUE DU YÉMEN



الوفد الدائم للجمهورية اليمنية

No. 758
OI/ 68

The Permanent Mission of the Republic of Yemen to the United Nations Office and Other International Organizations presents its compliments the Special Rapporteur on the question of Torture and to the Special Rapporteur on Human Rights and Terrorism and has the honor to attach herewith,

Our country's reply to the note verbale Ref. ALG/So214 (53-02) YEM12/2005 on the case of the two Yemeni citizens, **Salah Nasser Ali** (27 years old) and **Muhammad Farah Ahmed Bashmilah** (37 years old).

The Permanent Mission hopes that constructive dialogue and cooperation continue between our government and your Special Rapporteurs in a positive atmosphere so as to understand the conditions and circumstances of each case separately.

And as you all know, the cases related to international terrorism and its relation with external factors are extremely sensitive and it is difficult to settle them quickly and to come to clear facts.

The Permanent Mission of the Republic of Yemen avails itself of this opportunity to renew to the Special Rapporteur on the question of Torture and the Special Rapporteur on Human Rights and Terrorism the assurances of its highest consideration.

Geneva, December 20th 2005

OHCHR REGISTRY

27 DEC 2005

Recipients : SPB



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الرقم ٢٠٠٥/١٢/٧
التاريخ ٢٠٠٥/١٢/٧
الموافق ١٤
المرفقات



الجمهورية اليمنية
رئاسة الجمهورية
الجهاز المركزي للأمن السياسي

الأخ الدكتور/أبو بكر عبدالله القربي

المحترم وزير الخارجية

بعد التحية :

رداً على مذكرتكم رقم رقم ١٠/٢١٤/١٠ بتاريخ ٢٠٠٥/١٢/٧ م
بخصوص مذكرة الوفد الدائم بجنتيف بناء على بلاغ المقرر الخاص بالتعذيب
والمقرر الخاص بحقوق الإنسان والارهاب بشأن المواطنين /صلاح ناصر سالم
علي ومحمد فرج أحمد باشميله .. وبناء عليه :-
نود افادتكم بما يلي :-

أولاً :

فيما يتعلق بصحة الوقائع الواردة في البلاغ حول تعرضهما (المذكوران انفاً)
للضرب والاهانة والتعذيب والتهديد بالتحرش والاحتجاز السري بمعزل عن
العالم ، من قبل السلطات الادونيسيه والاردنيه والامريكيه كما ورد في
البلاغ ، فهي من مسئولية المقرر الخاص بالتعذيب والمقرر الخاص بحقوق
الإنسان والارهاب بمتابعة السلطات في البلدان المذكوره حول صحة الوقائع
الوارده في البلاغ ..

ثانياً :

حول مزاعم التعرض للتعذيب أشار المذكوران انفاً من خلال التحقيق معها
إلا انها قد تعرضا للتعذيب من قبل السلطات المشار اليها انفاً ..

ثالثاً :

المسوغات القانونية :
تؤكد السلطات اليمنية بأنه لم يجري اعتقال المذكوران وإنما سلما للسلطات
اليمنية من السلطات الامريكية تحت تهمة انتمائهما إلى مايسمى بتنظيم

الرقم ٢٢٦٧
التاريخ ٢٠٠٥/١٢/١٢
الموافق ١٤
المرفقات



الجمهورية اليمنية
رئاسة الجمهورية
الجهاز المركزي للأمن السياسي

- ٢ -

القاعده ، وقد قامت السلطات اليمنية باحتجازهما وفقاً لقانون الاجراءات الجزائية رقم (١٣) لسنة ٩٤م للتحقيق معهما والتأكد من صحة مانسب اليهما من جانب السلطات الامريكية ، وقد جرى احتجازهما بناء على مسوغات قانونية وفقاً للقانون المشار اليه انفاً ويخضع موضوعهما للمراجع القانونيه للتأكد من سلامة الاجراءات القانونية من قبل النيابة العامة ومدى ملاءمة ومطابقة هذه الاجراءات للقانون وقد تسلمت السلطات اليمنية ملفاتها من السلطات الامريكية بتاريخ ١٠/نوفمبر/٢٠٠٥م ، ويجري استكمال الاجراءات القانونية لاحتجازهما إلى القضاء .

رابعاً :

الرعاية الصحية وبرامج اعادة التأهيل :
يحظى المحتجزون على ذمة قضايا بالرعاية الصحية وكذلك برامج اعادة التأهيل وفقاً للقانون سوى كان ذلك في مراكز الاحتجاز أو في السجون بناءً على قانون تنظيم السجون في حالة الادانة والحكم بالحبس ، وهناك لوائح داخلية تنظم وتقر مثل هذه الرعاية ، ويجري متابعتها والاشراف عليها من قبل النيابة العامة .

للاطلاع واجراءاتكم ..

وتقبلوا تحياتنا ،،

رئيس الجهاز المركزي للأمن السياسي
مظفر القميش

نسخه للاخ/مدير مكتب رئاسة الجمهورية .
نسخه للاخ/وزير الداخليه .
نسخه للأخت/وزيرة حقوق الإنسان .

(Translated from Arabic)

Republic of Yemen

Office of the President

Central Political Security Department

Sir,

In response to your note No. 10/214/10, dated 7 December 2005, regarding a note from the Permanent Mission in Geneva about a report from the Special Rapporteur on torture and the Special Rapporteur on Human Rights and counter terrorism concerning Yemeni citizens Salah Nasser Salim Ali and Muhammad Faraj Ahmed Bashmilah, we should like to provide you with the following information:

1. With regard to the accuracy of the facts alleged in the report, namely, that the two men were beaten, verbally abused, tortured, threatened with sexual abuse and held in incommunicado detention by the Indonesian, Jordanian and United States authorities, it is up to the Special Rapporteur on torture and the Special Rapporteur on Human Rights and terrorism to check with the authorities of the countries concerned whether the facts alleged in the report are accurate.
2. With regard to the allegations about torture, both of the above-mentioned persons stated, when questioned, that they had not been tortured by any of the authorities mentioned above.
3. Legal basis:

The Yemeni authorities confirm that the two men were not arrested but rather were handed over to them by the United States authorities after having been accused of being members of the organization known as Al-Qa`ida. The Yemeni authorities detained them under

Mr. Abubakr Abdallah Al-Qirbi
Minister for Foreign Affairs

CHR/NONE/2005/426
GE.05-16867 (E) 240106 240106

the Code of Criminal Procedures No. 13 of 1994, with a view to questioning them and verifying the allegations made by the United States authorities. The legal basis on which they were held was the aforementioned Code. The lawfulness of detention is subject to judicial review. Steps are taken to verify that the Department of Public Prosecutions has followed the proper legal procedures and that the procedures are consistent with the law. The Yemeni authorities received the files on these two men from the United States authorities on 10 November 2005, and the legal procedures are being completed pending their arraignment before the courts.

4. Medical treatment and rehabilitation programmes:

Under the Prisons Act, detainees awaiting trial are legally entitled to access to medical treatment and rehabilitation programmes, whether at a detention centre or, if they have been convicted and sentenced to imprisonment, at a prison. There are internal rules that regulate and establish the parameters for such treatment. The Department of Public Prosecutions oversees the implementation of these rules.

Accept, Sir etc.

(Signed): Ghalib Mathar al-Qamish
Chief
Central Department of Political Security

cc.: Director, Office of the President of the Republic
Minister for Internal Affairs
Minister for Human Rights

UNITED
NATIONS

A



General Assembly

Distr.
GENERAL

A/HRC/4/G/17
30 March 2007

ENGLISH
Original: ARABIC/ENGLISH

HUMAN RIGHTS COUNCIL
Fourth session
Agenda item 2

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

**Note verbale dated 22 March 2007 from the Permanent Mission of
Jordan to the United Nations Office at Geneva addressed to the
Office of the High Commissioner for Human Rights**

The Permanent Mission of the Hashemite Kingdom of Jordan presents its compliments to the Office of the High Commissioner for Human Rights and the secretariat of the Human Rights Council, and has the honour to attach herewith a copy in Arabic* of the Government's comments on the addendum to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Nowak (A/HRC/4/33/Add.3) of 5 January 2007 on his mission to Jordan.

The Permanent Mission of the Hashemite Kingdom of Jordan would be grateful to the Office of the High Commissioner if the above comments were made available on the website of the Council as an official document, together with its annex.

* Reproduced in the annex in the language of submission and in English only.

provided with every facility, including access to the Department's custody wing. The Special Rapporteur met with all prisoners on their own and without any interference by the security officers present. The Special Rapporteur's claims about torture at the Department's custody centre are all being investigated and those responsible will be punished, if found guilty.

The Special Rapporteur refers to allegations about persons being held and tortured in secret prisons run by United States forces in Jordan:

In this regard, we note that the Special Rapporteur had already made up his mind that there were secret prisons in Jordan being run by United States forces and that, as far as he was concerned, this was a certainty. Therefore, he treated the replies of security officials to his requests for clarification with contempt and incredulity, even though the officials assured him that there are no such centres in Jordan and that these are just allegations. As for the allegations concerning the persons whom the Special Rapporteur mentions as being held in Jordanian prisons, we should like to state the following:

- Salah Naser Salim Ali and Mohammed Faraj Ahmad Bashmila, both Yemeni nationals: their claims about being tortured in secret prisons run by United States forces in Jordan are baseless. The first-mentioned person (Salah) was arrested on 4 September 2005 because of his connection to Al-Qaeda and for entering the country on a forged passport bearing the name of his brother (Wadah Nasir Salim Ali). He was deported on 8 September 2005. The second-mentioned person (Mohammed) was brought back to the Department for questioning on 21 October 2003. He was then told to leave the country, which he did on 26 October 2003;
- Maher Irar, a Syrian national who also has Canadian nationality: there is nothing new to add to the information contained in the previous report on this subject;
- Sajidah Mubarak Atrus al-Rishawi, an Iraqi national: she was a member of a terrorist group that carried out suicide bombings at hotels in Amman on 9 November 2005, killing over 60 people and injuring hundreds of others. She was arrested based on information indicating that she was staying with a person in the town of Salt and had an explosive belt in her possession. The public prosecutor notified the State Security Court, which ordered the seizure of the explosive belt and the woman's arrest. From the very outset, the case was conducted under the authority and supervision of the Prosecutor-General, who conducted the questioning himself. It was at his request that she was placed in the detention centre of the General Intelligence Directorate. Her claims that she was tortured and threatened with rape are nothing but an attempt to obtain a lenient sentence from the court. On 12 December 2005, a delegation from the National Centre for Human Rights met with her. This meeting is mentioned in the 2005 report on the human rights situation in the Kingdom;
- Mundhir Abu Zahir and Marwan Ali Hamid: their allegations about being detained and tortured at the General Intelligence Directorate are false, since they have never been detained by the Directorate.

A/HRC/4/G/17

page 18

In this connection, we should like to affirm that the security forces at all levels investigate complaints of this kind in order to ensure respect for human rights and to punish anyone who takes it upon himself to infringe these rights. The following are just some examples of cases in which individuals were investigated and tried for committing acts amounting to torture or ill-treatment:

- Case of Zahir Abd al-Jalil Abu al-Rish: this man was arrested on 24 June 2006 on suspicion of having robbed the Hijazi and Gawsha food company in the Marka area and having stolen 100,000 dinars from the company's iron safe. (It should be mentioned that he had a previous record for robbery and other offences.) He was detained for further questioning. While he was being processed, two criminal investigators beat him, in breach of the strict instructions issued to all general security officers that they must not use coercion during questioning and must stick to lawful investigation methods when dealing with any kind of case. Zahir was sent for a medical examination and the initial medical report concluded that his general health was good and that he had not sustained any fractures or serious injuries. When questioned, he asked for no charges to be brought against the two culprits.

The commission of inquiry decided to refer the two culprits to the police court to be tried for:

- Conspiracy to wound, in violation of article 334 of the Criminal Code and pursuant to article 76 of the same Code;
- Disobeying orders and instructions, in violation of article 37, paragraph 4, of the General Security Act;
- With regard to prisoner Ramey Mohammed Najib al-Kirki: he was detained by the Amman public prosecutor on a robbery charge and has a criminal record (25 previous convictions). The police public prosecutor investigated his complaint;
- Prisoner Sami Abd al-Ra'uf Ahmad al-Ramhi was convicted of issuing bad cheques, and has a previous criminal record;
- Prisoner Hikmat Adnan Ibrahim Sarih is in detention on a robbery charge;
- Prisoner Marwan Ali Hamid has 72 previous convictions for forgery and deception;
- Khalid Sabah Ya'qub, Mahmud Walid and Ali Ahmad Abd al-Rahman al-Shawbki do not appear to have been held in correction centres; their names may not be correct (we need the prisoners' correct names).

As for the case of the deputies to which the report refers, it is worth noting that they were all released.

With regard to the allegations in the report that some inmates of detention, correction and rehabilitation centres have been tortured during interrogation, a serious and transparent investigation was conducted into these claims and allegations. It showed that most of the complaints were misleading and groundless and were the result either of fighting between the inmates concerned and other prisoners or of the security forces being constrained to use force to control certain prisoners resisting or assaulting them while attempting to make an arrest. These measures are consistent with the police's legal powers pursuant to article 9 of the General Security Act. In other cases, evidence was found of an attempt by complainants to plea in court that they had been tortured or ill-treated in order to avoid a conviction. In other cases again, after in-depth investigations had been carried out and evidence gathered from medical tests, the complaints were shown to be true and the security officers involved were referred to the courts for the infliction of appropriate and exemplary penalties. Members of the security services do not enjoy any form of immunity against criminal prosecution in respect of any offence, particularly torture and ill-treatment.

Conclusion

The Government takes a positive interest in the reports produced by most international and domestic human rights organizations. It views the opening of channels for dialogue and debate with these organizations as an important and necessary means of supporting the reform process on which the State has embarked with a view to the promotion and protection of human rights.

The Government should like to reassure the Special Rapporteur of its willingness to continue cooperation with him in full transparency and objectivity in order to promote, protect and develop human rights in Jordan. While the Government does not agree with most of the conclusions reached by the Special Rapporteur, it will give serious consideration to the recommendations in his final report - some recommendations have already been implemented - and will examine and decide on the other recommendations.

The Government should like to reaffirm its condemnation of all practices of torture and ill-treatment and its intention of imposing the highest penalties on any public official found guilty of torture and ill-treatment. The Government should also like to affirm its commitment to the Convention against Torture and all the human rights treaties to which Jordan is a party.

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

AMNESTY INTERNATIONAL USA, CENTER
FOR CONSTITUTIONAL RIGHTS, INC. and
WASHINGTON SQUARE LEGAL SERVICES,
INC.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,
DEPARTMENT OF DEFENSE, DEPARTMENT
OF HOMELAND SECURITY, DEPARTMENT
OF JUSTICE, DEPARTMENT OF STATE, AND
THEIR COMPONENTS,

Defendants.

ECF CASE

07 CV 5435 (LAP)

DECLARATION OF FUAD YAHYA

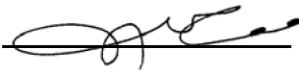
Fuad M. Yahya, address 4627 Summer Lakes, Sugar Land, Texas 77479, pursuant to penalty of perjury under 28 U.S.C. § 1746, does hereby state the following:

1. I am fluent in both the English and Arabic languages, and fully qualified to translate written documents from Arabic to English. My linguistic competency has been screened by the Federal Bureau of Investigations, and I received a “meet or exceed the minimum requirements” evaluation. I am an associate member of the American Translators Association, No. 222052.
2. At the request of Washington Square Legal Services, I have translated the following Arabic document to English:

Yemeni Court Decision dated February 27, 2006, in the case of Mohammed Abdullah Saleh Al-Asad, Mohamed Farag Bashmilah, and Salah Naser Salem Ali Qaroo.
3. The English translation has been excerpted and is submitted with corresponding Arabic text.
4. The translation is true and accurate to the best of my knowledge and ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22nd day of December, 2008.

By: 
Fuad M. Yahya

Republic of Yemen
Ministry of Justice
Specialized Penal Court

In the name of God, the
Compassionate, the Merciful
[emblem]

Ruling No. 1/A of the year 1427 [Hijri]

Judgment

In the proceeding publicly held at the Specialized Penal Court on Monday, 28 Muharram 1427 [Hijri], 27 FEB 2006;

Presiding Judge: **Najeeb Mohammed Saleh Al-Qadiri** President of the Court

Present: **Khalid Al-Mawri**, Prosecutor General, and **Himyar Qays**, of the P.G. Office

Also present: **Mahdi Mohammed Haydar Al-Dhubaibi** Proceeding Secretary

I have issued Judgment No. 1/A of the year 1427 [Hijri]

in the Penal Case No. 3 of the year 1427 [Hijri]

Filed by the Office of Prosecutor General

Against

1.;

2. Mohamed Farag Bashmilah (a.k.a. Julaybeeb Al-Adani); 37 years old; self-employed; residing at Qaf/Meem Street, Makalla, Aden; imprisoned;

3. Salah Naser Salem Ali Qaroo (a.k.a. Marwan Al-Adani); 28 years old; resident of Al-Buraiqa, Aden; imprisoned;

Regarding the factual matters alleged against them in the Decision to Charge, quoted below:

“The Office of Prosecutor General charges the named defendants as follows:

I. ...

II. The second defendant: Used a forged document of a foreign country, namely an identification card as an Indonesian named Mohamed Farag Ahmed, with which he married an Indonesian woman, knowing that it was forged, as shown in detail in the papers.

III. The third defendant: Used two forged official documents, namely two passport, one Iraqi and the other Yemeni, the first being in the name of Sa`eed Ahmed Ra'fat, with which he traveled from Iran to Malaysia; and the second being in the name of Waddah Naser Salem Ali, with which

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Specialized Penal Court
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Republic of Yemen
Ministry of Justice
Specialized Penal Court

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Republic of Yemen
Ministry of Justice
Specialized Penal Court

In the name of God, the
Compassionate, the Merciful
[emblem]

Ruling No. 1/A of the year1427 [Hijri]

he traveled from Malaysia to Indonesia; while knowing they were forged; as shown in detail in the papers....

Trial Procedures

....

The second defendant was then asked: What do you have to say regarding the matters alleged against you? He replied:

“I have admitted obtaining the card, and I have received my penalty in Indonesia in an Indonesian prison. They released me upon paying a monetary fine with the intervention of the Yemeni Embassy. I spent a month and a half in prison, and then I left, through the Yemeni Embassy, to Yemen. I was not tried for that incident, but rather paid a fine and was deported to Yemen via Jordan. I was accompanied by my wife and mother. I was arrested in Jordan without legal justification, as I was bearing the Yemeni passport in the name of Mohamed Farag Bashmilah. After being tortured, I was handed over to the United States [where I remained] for one year and seven months in secret prisons that we do not know, in very bad conditions. Afterwards, we were handed over to Yemen on 5/5/2005, as none of the prior charges of which we were accused could be proven, which are different from the charges against us in the Decision to Charge. We remained in prison for no reason other than a suspicion, and now we are in Yemeni prisons since 5/5/2005, without trial. The Yemeni authorities have declared that we had committed no violations, but they said that we were in prison by a request from the U.S. embassy in Yemen. I read this in the press. I ask the court to release me on bail as soon as possible, in addition to referring me to a specialized physician, and improving our conditions in prison in terms of food.”

The third defendant was then asked regarding the matters ascribed to him. He replied, “Yes, I bear the forged Yemeni passport.”

In the proceedings, Mr. Mohammed Abdulraqueeb Al-Saqqaf was assigned to argue in their defense.

The third defendant, Salah, continued saying, “I obtained the Yemeni passport in the name of Waddah for the purpose of coming to Yemen. I was arrested in Indonesia and spent three weeks

Republic of Yemen
Ministry of Justice
Specialized Penal Court

In the name of God, the
Compassionate, the Merciful
[emblem]

Ruling No. 1/A of the year1427 [Hijri]

in prison in Indonesia. Then, I got a ticket to Yemen via Jordan. I was arrested in Jordan, and was told that this was due to some suspicion. There, I was subjected to all kinds of torture. After some time, they transferred us to the Americans at night. For one year and nine months, I did not know where [I was]. They said we were in Guantanamo, while we were not there. We could not see the sun or hear anything other than non-stop Western music. We suffered psychological torture, sleep deprivation, and food deprivation. With regards to the Iraqi passport, I had nothing to do with the forgery, as it was handed to me by the Iranian authorities. I have been imprisoned here for nine months. We demand release on parole.”

With regards to the passport in his brother’s name, he replied, “Yes, I use it.” ...

Grounds for Sentencing

....

.... Based on all the above, it is determined that ... the second defendant knowingly and willingly committed the act of using a forged document; and that the third defendant knowingly and willingly committed the two acts of using the two forged documents. This being the case, they must be convicted of the acts alleged against them, pursuant to the provisions of Article 321 of the Law of Penal Procedures. ...

Sentence

I. To consider the time that the first convict ..., the second convict Mohamed Farag Ahmed Bashmilah, and the third convict Salah Naser Salem Qaroo, spent in prison sufficient.

II. To count the time of imprisonment that the convicts endured outside the country as part of their determined sentence.

This is what I have stated and ruled. God is my satisfaction. He is the best of advocates. This was issued in court on Monday, 28 Muharram 1427 [Hijri], 27 February 2006.

Secretary
[signature]
Mahdi Mohammed Haydar Al-Dhubaibi

President of the Specialized Penal Court
[signature]
Najeeb Mohammed Saleh Al-Qadiri

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Specialized Penal Court
Copy True to the Original

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Republic of Yemen
Ministry of Justice
Specialized Penal Court

حكم رقم (أ/1) لسنة 1427 هـ



الجمهورية اليمنية
وزارة العدل
المحكمة الجزائية
المتخصصة

حكم

بالجلسة المنعقدة علناً بالمحكمة الجزائية المتخصصة في يوم الاثنين 28 من شهر
محرم 1427 هـ الموافق 2006/2/27م

برئاسة القاضي / نجيب محمد صالح القادري رئيس المحكمة

وبحضور الأستاذ / خالد الماوري وكيل النيابة وحمير قيس عضو النيابة العامة

وبحضور / مهدي محمد حيدر الضبيبي أمين سر الجلسة

أصدرنا الحكم رقم (أ/1) لسنة 1427 هـ
في القضية الجزائية رقم (3) سنة 1427 هـ
المرفوعة من النيابة العامة

ضد

1. ...

2. محمد فرج أحمد باشميلة (جليبيب العدني)، 37 سنة، أعمال حرة، مقيم عدن، المكلا شارع
ق/م - محبوس

3. صلاح ناصر سالم علي قرو (مروان العدني) 28 سنة، مقيم عدن، البريقة، محبوس
بشأن الوقائع المنسوبة إليهم في قرار الاتهام التالي نصه: تتهم النيابة العامة المتهمين المذكورين
لأنهم

أولاً : المتهم الأول: - ...

ثانياً: المتهم الثاني: - استعمل محرر مزور متعلق بدولة أجنبية هي بطاقة إثبات الشخصية
على أنه إندونيسي، واسمه / محمد فرج أحمد، وتزوج من امرأة إندونيسية بتلك البطاقة مع
علمه بتزويرها، وعلى النحو المبين تفصيلاً في الأوراق.

ثالثاً: - المتهم الثالث - استعمل محررين رسميين مزورين هما: جوازي سفر عراقي ويمني،
الأول باسم / سعيد

[توقيع]

[ختم]
الجمهورية اليمنية
وزارة العدل
المحكمة الجزائية
المتخصصة

[ختم]
المحكمة الجزائية المتخصصة
صورة طبق الأصل

[توقيع]
[signature]

حكم رقم (أ/1) لسنة 1427 هـ

بسم الله الرحمن الرحيم



الجمهورية اليمنية
وزارة العدل
المحكمة الجزائية
المتخصصة

أحمد رأفت وسافر به من إيران إلى ماليزيا، والثاني باسم / وضاح ناصر سالم علي وسافر به من ماليزيا إلى إنдонيسيا مع علمه أنها مزورة، وعلى النحو المبين تفصيلاً في الأوراق....

إجراءات المحاكمة

....

وتم سئل المتهم الثاني: ما قولك فيما نسب إليك؟ فأجاب: أنا معترف فيما يتعلق باستخراجي للبطاقة وقد أخذت جزائي في أندونوسيا أمام السجن الأندونوسي وأفرجوا عني بغرامة مالية وبواسطة السفارة اليمنية واستمررت في الحبس لمدة شهر ونصف ثم رحلت عن طريق السفارة اليمنية إلى اليمن، ولم أحكم على تلك الواقعة وإنما دفعت غرامة وترحلت إلى اليمن عن طريق الأردن وكان برفقتي زوجتي ووالدتي وتم إلقاء القبض عليا في الأردن بدون أي مسوغ قانوني حيث أنني أحمل الجواز اليمني باسم محمد فرج باشميلة وتم تسليمي بعد تعذيبي في الأردن إلى أمريكا لمدة سنة وسبعة أشهر في سجون سرية لا نعلمها وأوضاع سيئة جداً، بعد ذلك تم تسليمنا إلى اليمن في تاريخ 2005/5/5م لعدم ثبوت أي أدلة ضدنا حول ما نسب إلينا من تهمة سابقة غير تلك المنسوبة إلينا في قرار الاتهام وظلينا في السجون لمجرد الاشتباه ونحن الآن في سجون اليمن من 2005/5/5م من دون محاكمة وقد صرحت الأجهزة اليمنية الأمنية بأنه لا يوجد علينا أي مخالفات ولكن قالوا بأن بقاءنا في السجن بناء على طلب السفارة الأمريكية في اليمن وقرأت هذا في الصحافة وأطلب من المحكمة الإفراج عني بضمانة مالية بأسرع وقت ممكن إضافة إلى إحالتي إلى طبيب مختص للعلاج وتحسين أحوالنا داخل السجن من ناحية الطعام.

ثم سئل المتهم الثالث عما نسب إليه فأجاب: نعم أنني أحمل الجواز اليمني المزور.

وفي الجلسات قررت المحكمة نذب الأستاذ / محمد عبد الرقيب السقاف للترافع والدفاع عنهم.

ثم واصل المتهم الثالث صلاح قائلاً أخذت الجواز اليمني باسم وضاح لغرض المجيء لليمن وقبض عليا في أندونوسيا وجلست ثلاثة أسابيع في أندونوسيا محبوس ثم أخذت تذكرة إلى اليمن وعن طريق الأردن قبضوا

عليا في الأردن، وقالوا أنه اشتباه وهناك تعرضت لأنواع التعذيب وبعد فترة في الليل سلمونا للأمريكان وحوالي سنة وتسعة أشهر لا أدري أين وهم يقولوا أن أحنا في جوائتنا وما ونحن

حكم رقم (أ/1) لسنة 1427 هـ

بسم الله الرحمن الرحيم



الجمهورية اليمنية
وزارة العدل
المحكمة الجزائية
المتخصصة

لسنا هناك ولا نرى الشمس ولا نسمع أي شيء إلا الموسيقى الغربية واصل وعندنا سماعة وعندنا التعذيب النفسي والسهر والحرمان من الطعام، أما فيما يتعلق بالجواز العراقي فقد أعطتنا هذه الجوازات السلطات الإيرانية سافرنا به من إيران إلى ماليزيا وليس لي دخل في عملية التزوير ولكن سلم إليا من السلطات الإيرانية ولي هنا تسعة أشهر في السجن ونطالب بالإفراج عني بضمان.
وأجاب فيما يتعلق بالجواز الذي باسم أخيه نعم أستعمله....

...

حيثيات الحكم

...

... وحيث يتبين من كل ما تقدم أن ... المتهم الثاني ارتكب واقعة استعمال محرر مزور عن علم وإرادة وأنّ المتهم الثالث ارتكب واقعتي استعمال المحررين مزورين عن علم وإرادة، الأمر الذي يقتضي معه إدانتهم بالوقائع الثابتة نسبتها إليهم إعمالاً لحكم المادة (321) من قانون الإجراءات الجزائية...

المنطوق

أولاً: الاكتفاء بالمدة التي قضاها المدان الأول ... في الحبس، والمدانين الثاني محمد فرج أحمد باشميلة والثالث صلاح ناصر سالم علي قرو؛
ثانياً: احتساب مدة الحبس التي قضاها المدانين خارج البلاد من العقوبة المقررة عليهم.
هذا ما توجه لدي وبه حكمت والله حسبي ونعم الوكيل. صدر بقاعة المحكمة في يوم الاثنين 28 محرم 1427 هـ الموافق 27 فبراير 2006م.

رئيس المحكمة الجزائية

القاضي / [توقيع]
نجيب محمد صالح القادري

[ختم]
الجمهورية اليمنية
وزارة العدل
المحكمة الجزائية المتخصصة

أمين السر
المتخصصة

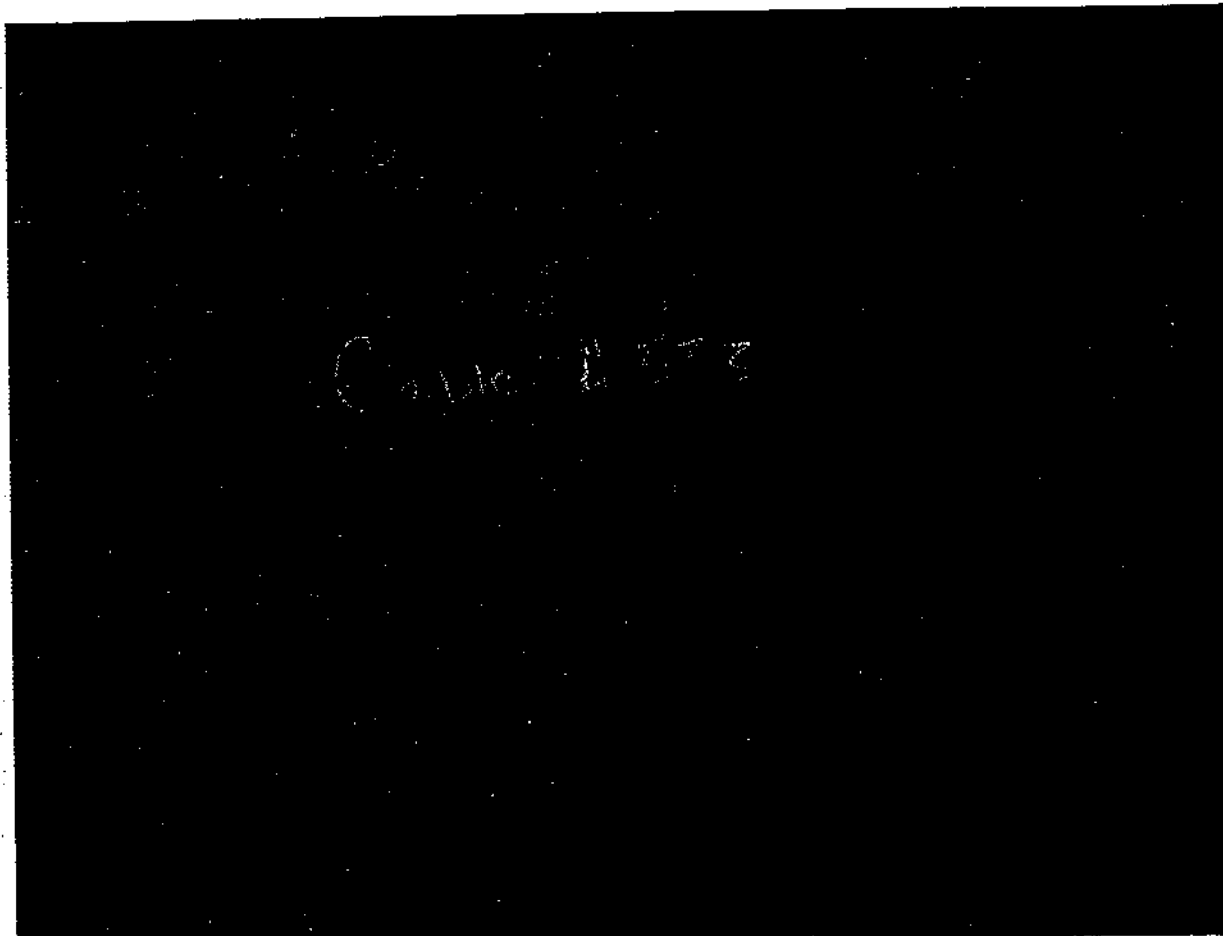
[توقيع]
مهدي محمد حيدر الضبيبي

[ختم]
المحكمة الجزائية المتخصصة
صورة طبق الأصل

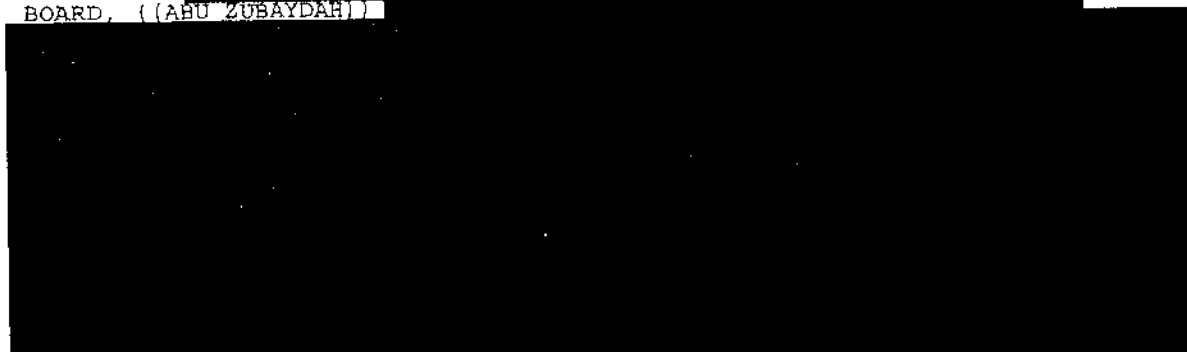
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UNDERGOING APPROVED TECHNIQUES INCLUDING THE WATER AFTER BOARD, ((AHU ZUBAYDAH))



INTERROGATION SESSIONS INVOLVED USE OF THE WATER BOARD,



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[REDACTED]

[REDACTED]
[REDACTED] CERTIFIED INTERROGATORS [REDACTED] HAVE
EMPLOYED THE FOLLOWING STANDARD AND ENHANCED INTERROGATION METHODS
WITH KHALID SHAYKH ((MURHAMAD)) [REDACTED]

[REDACTED] THE WATERBOARD [REDACTED]

[REDACTED]

[REDACTED]

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