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US and Malawi: Rule of Law Compromised in Fight against Terrorism

The Centre for the Independence of Judges and Lawyers (CIJL) of the International Commission of Jurists (ICJ) today condemned the decision by the Government of Malawi to hand over five individuals to the United States Government on 23 June in violation of an injunction blocking their deportation.

The five men, none of them either Malawian or US citizens, are reportedly suspected of funnelling money to terrorist groups. They were arrested in a joint operation by the CIA and Malawi's National Intelligence Bureau on 22 June. An injunction obtained by the suspects' lawyer to block their deportation ordered the Government to either charge the men with an offence within 48 hours or release them on bail. On 23 June, the Malawian authorities decided to circumvent the proceedings and handed the suspects over to American officials, who flew them out of the country to an unknown destination. Unaware of this development, Malawi's High Court ruled on June 24 that the Government's deportation efforts were illegal and that the men should be either charged or freed.

"The detention and deportation of these individuals without due process of law is shocking", said Linda Besharaty-Movaed, Legal Advisor of the ICJ/CIJL. "The Executive completely disregarded the separation of powers and the rule of law by ignoring the legal proceedings that were taking place".

Now that these suspects are in US custody, they must be charged with a cognizable offense or released. While in detention, their fundamental human rights, including physical integrity, access to a lawyer, and the right to a fair trial before an independent and impartial tribunal must be fully respected. Furthermore, the ICJ/CIJL demands that the US Government inform family members of the whereabouts of the detainees.

For further information, please contact Linda Besharaty-Movaed, Legal Advisor, at +41 22 979 3809.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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