



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

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**ICJ Intervention on the Assessment of Mandate
Of the Working Group on Arbitrary Detention
6th Session of the UN Human Rights Council
17 September 2007**

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Distinguished Mr. President,
Madam Chairperson-Rapporteur,

The International Commission of Jurists would like to commend the achievements of the Working Group on Arbitrary Detention over the past sixteen years. Despite the development of international law and domestic legislation on issues related to deprivation of liberty, incidents of arbitrary detention still prevail. Arbitrary detention takes place in disregard of the limits set forth by legal procedures, and frequently takes on a form of preventive measures. The ICJ supports the Working Group's continuous focus on such practices, including pre-trial detentions and the practice of renditions that violate the guarantee of non-refoulement.

The ICJ considers essential the following elements of the Working Group's mandate:

Communications through which the Working Group learns about alleged arbitrary detentions and on which bases it may undertake necessary urgent action are unique, forming the only universal complaint mechanism. The ICJ supports the refinement of the communications system and encourages governments to submit their responses to allegations within the 90 days stipulated by the procedure. In addition, the non-requirement of exhaustion of domestic remedies must be preserved.

Urgent appeals and swift replies by governments help establish the facts, allowing for interim protection measures and can also facilitate the release of persons arbitrarily detained.

The ICJ regards the Working Group's country visits as a key mechanism assessing the legality of detentions, and providing for analysis of domestic legislation and its application.

The ICJ also commends the Working Group for taking a courageous stance on renditions and arbitrary detentions in the context of counter terrorist measures. In this regard, the ICJ supports the recommendations contained in the last report of the Working Group (A/HRC/4/40), including that time spent in pre-trial detention should be credited towards the sentence to be served and that detainees must enjoy judicial guarantees including before an independent body even if they are transferred into the custody of another Government. Such an independent body must allow arguing that removal would expose rendered persons to extrajudicial killing, torture or other cruel, inhuman or degrading treatment and denial of a fair trial.

Mr. President, the ICJ supports the extension of the Working Group's mandate, with a focus on preventive detentions.

I thank you.