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Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

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United States: Broader mandate for prosecutor essential to achieve accountability over torture and other “war on terror” crimes

The International Commission of Jurists (ICJ) today welcomed the decision of United States Attorney General Eric Holder to mandate Assistant US Attorney John Durham to “conduct a preliminary review into whether [US] laws were violated in connection with the interrogation of specific detainees at overseas locations.”

The Attorney General’s initiative marks a first step towards full disclosure of and accountability for unlawful US practices concerning the treatment of detainees secretly held by the CIA as part of the Bush administration’s counter-terrorism strategy. Those practices included serious human rights violations amounting to crimes under international law.

The ICJ nonetheless is deeply concerned by the statement of the Attorney General that “the Department of Justice will not prosecute anyone who acted in good faith and within the scope of the legal guidance given by the Office of Legal Counsel regarding the interrogation of detainees.”

“The Office of Legal Counsel (OLC) under the Bush administration provided advice countenancing criminal conduct by its officials, including acts amounting to torture. Instead of providing a shield for the prosecution of those administering torture, OLC lawyers who gave such advice and high-level officials who authorized torture should themselves be included as subjects of this investigation,” said ICJ Senior Legal and Policy Adviser, Ian Seiderman. “The position of the Attorney General seems to be that only those who failed to carry out torture within the rules and procedures established by their superiors should be punished.”

International and United States law require the investigation and, if the evidence so warrants, criminal prosecution both of officials who carry out acts of torture and those who authorize or are otherwise complicit in torture. The ICJ is concerned that the seemingly narrow scope of the preliminary investigation will provide for impunity for some of the most serious offences.

This Attorney General’s announcement came on the same day as the release of a 2004 CIA Inspector General’s report, detailing abusive techniques used by CIA officials against specific detainees, including “waterboarding”, mock executions, and threats to kill or rape detainees’ family members. The report, though partially redacted, thickens further a record of US detainee abuse already replete with widespread incidents of torture and other cruel, inhuman or degrading treatment.

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

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