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USA: President Obama signals continuation of detention without trial

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The ICJ expressed alarm today at the plans of the Obama administration to continue and regularize a scheme of indefinite detention without trial that has been emblematic of the worst US abuses in its counter terrorism programs since 11 September 2001.

President Obama set forth the administration's plans yesterday in a wide-ranging address on terrorism and national security, in which he addressed the disposition of the cases of Guantanamo detainees. While, welcoming the reaffirmation of the commitment to close the detention facility at Guantánamo Bay, the ICJ is concerned that the administration may continue to hold a significant number of detainees without charge and that it will continue in some cases to use a system of irreparably flawed military commissions.

"More than simply closing the facility, the administration should gear its efforts toward ending the system of detention without charge or trial that characterized it", said Wilder Tayler, Acting ICJ Secretary General. "The planned establishment of schemes of prolonged or indefinite detention without charge or trial can hardly be reconciled with the fundamental notion of the rule of law, even with the safeguards outlined by President Obama. Similar laws and practices carry a record of abuse worldwide and have been criticized internationally with good reason. Detention without charge or trial after more than seven years will also set a dangerous example to other countries around the world."

The ICJ recognizes the stark difficulties the administration has inherited, including that policies of arbitrary detention and interrogations have produced information tainted by torture which may not be used in any legal proceedings. The ICJ welcomes the unequivocal commitment to end interrogations by torture and cruel, inhuman and degrading treatment. But the resulting inability to try persons in accordance with the law cannot lead to their detention without trial for indefinite duration.

It is of concern that some of the proposed solutions remain grounded in the war paradigm, which has been at the root of so many of the "war on terror" abuses of the past 7 years," said Wilder Tayler. The ICJ is concerned that detainees held outside of armed conflict will continue to be classified as combatants subject to trial by military commissions and continuous detention.

The ICJ welcomes the review of the application of the "state secrecy" doctrine that has been abused to pre-empt transparency in investigating the "war or terror" practices, and to prevent the right to remedy by victims of abuse, including in cases of extraordinary renditions. As President Obama further stated in relation to proposals for an independent commission of inquiry, the justice system is able to prosecute violations of the law.

"It is now time that it demonstrates this capacity and complies with obligations under international law to investigate allegations of torture and cruel and inhuman or degrading treatment and other serious human rights violations and holds accountable those responsible," said Wilder Tayler.

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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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