



INTERNATIONAL COMMISSION OF JURISTS

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 "

COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

For immediate release

Geneva, 18 May 2009

P
R
E
S
S

R
E
L
E
A
S
E

United States:

Reinstating military commissions wrong way out

“Reviving Military Commissions is a setback for the rule of law. It will entrench a fundamentally flawed system with some amendments and set a terrible precedent to the rest of the world”, said Wilder Tayler, Acting ICJ Secretary General. “We need a clear break with the past and the laws and policies grounded in the ill-conceived concept of a ‘war on terror’.”

The comment comes as the US administration announced that it would revive the suspended military commission system to try certain detainees presently held in Guantánamo Bay. According to this information the administration will introduce amendments to the Military Commission Act (MCA) 2006 increasing legal protections, including the prohibition of evidence obtained by torture and cruel, inhuman and degrading treatment and the introduction of greater choice of legal counsel.

The ICJ considers that even with such improvements military commissions will have fundamental flaws, in particular the lack of full independence and jurisdiction over persons that have not taken part in armed conflict.

“Military Commissions were part and parcel of the system of abuse installed in Guantánamo Bay that President Obama promised to end. Their operation over seven years was an unmitigated disaster. Amending the procedure of military commissions alone is insufficient”, said Wilder Tayler.

The ICJ considers that terrorist suspects should be tried in full compliance with international human rights standards before ordinary courts that are competent, independent and impartial and who accord fully the right to a fair trial. In a system based on the rule of law confidence in legal process is essential. In light of the history of abuse it is inconceivable that military commissions will be perceived to deliver justice fairly.

A worldwide study by an independent panel of some of the leading jurists found no evidence that military courts are better equipped to try terrorism suspects. The panel found that typically the reason for such courts is precisely to circumvent ordinary judicial procedures of evidence to secure convictions (*‘Assessing damage, urging action’*, Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights).

The ICJ considers that civilian courts are fully equipped to adjudicate complex cases of terrorism and US courts have successfully prosecuted numerous cases of terrorism since 9/11. Rather than seeking amendments to the Military Commissions Act the new administration should seek its full repeal to overcome one of the worst legacies of the Bush administrations policy on terrorism.

For more information, please contact Gerald Staberock at the International Commission of Jurists (+41 22 9793803 or +41 793775446).

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

33, rue des Bains, P.O. Box 91, 1211 Geneva 8, Switzerland
Tel: +41(0) 22 979 3800 – Fax: +41(0) 22 979 3801 – Website: <http://www.icj.org> – E-mail: info@icj.org