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Generalbundesanwalt beim Bundesgerichtshof
z.Hd. Herrn Bundesanwalt Dietrich
Postfach 27 20
76014 Karlsruhe

January 27, 2005

Re: Criminal Complaint against the United States Secretary of Defense Donald Rumsfeld et al. File No. 3 ARP 207/04-2.

Dear Mr. Bundesanwalt Dietrich,

This letter and the enclosed documents are to update you regarding the above case. In the last two months, significant new information has been revealed as to the complicity of the named defendants and others in war crimes and the widespread nature of those crimes. In addition, as we document below and in the affidavit of U.S. legal expert Scott Horton, there will not be any prosecutions of defendants named in this complaint.

Some of this extraordinary new information has come from documents obtained as a result of a Freedom of Information Act lawsuit filed by the Center for Constitutional Rights and the American Civil Liberties against the Department of Defense, the CIA and other government agencies. This lawsuit is continuing and we expect 10,000 additional documents from the Department of Defense within the next week and thousands more pages in the months thereafter. We would like additional time to submit this material.

Recent testimony by the President's counsel, Alberto Gonzales, at his confirmation hearing for Attorney General, demonstrates his involvement in setting a policy where torture and inhumane treatment was authorized at the highest levels of the Bush administration. We ask that he be made a defendant in this case. That policy is still continuing. A memorandum issued by the Department of Justice on December 30, 2005, while superseding the infamous torture memo of August 2002, is an admission that for over two years the policy of the Bush administration was to define torture so narrowly that abuses constituting torture would be deemed not to do so. The proof of the complicity of the defendants in the alleged war crimes is open and notorious.

All the more glaring is the utter and complete failure of authorities in the United States to take any action regarding the investigation and prosecution of higher-level officials. There is more and more evidence that no one named in this complaint or any other high official will be investigated or prosecuted. Instead, some of the very



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defendants allegedly involved in war crimes have been or are being rewarded with higher-level appointments and medals. The appointment and confirmation of defendant Alberto Gonzales as Attorney General insures that no investigation of the war crimes set forth in the complaint will ever occur. The Attorney General of the United States is charged with the overall responsibility for the investigation and prosecution of all crimes. Alberto Gonzales, who is now head the Department of Justice, which oversees the FBI, has testified that he does not believe what some of these FBI agents have said regarding the witnessing of torture. Defendant Gonzales will obviously not investigate himself or those with whom he worked. The U.S. Congress has been pressured to drop any serious investigations. At the recent court martial of a low level soldier, Specialist Charles Graner, the judge did not permit him to call witnesses from the chain of command, including defendant Sanchez. These witnesses may well have provided a defense of superior orders that could have mitigated the severity of Graner's punishment.

We are also sending separately the affidavit of attorney and Professor Scott Horton, the legal expert in the United States regarding the Bush administration's complicity in torture and its failure to hold high ranking officers accountable. He is currently teaching a course at Columbia Law School on the very subject matter of this complaint: "Prisoner Abuse and the Global War on Terror". In his expert affidavit, he concludes that "no such criminal investigation or prosecution would occur in the United States for the reason that the criminal investigative and prosecutorial functions are currently controlled by individuals who are involved in the conspiracy to commit war crimes"

This makes it all the more important for an investigation to be opened in Germany. Without such an investigation, the alleged crimes of the defendants outlined in the complaint will not be investigated and will not be prosecuted. This is not just a problem in the United States. The alleged crimes are international crimes; their perpetrators are enemies of all humankind. The crimes allegedly committed are a concern of all states. The most powerful country in the world should be setting the example of compliance with fundamental laws. Instead, the Bush administration is engaged in setting an example of impunity—an impunity that will lead to widespread violations of law by other states. It is imperative that Germany begins an investigation; without such an investigation the cause of a world governed by law would have received a major setback.

We are furnishing information on the following subjects, each of which will be briefly described below. The summaries below are keyed to a new set of documents, which are being furnished to your office.

- 1) **Despite new evidence of the involvement of higher-ups in the abuses, the Bush Administration has no intention of investigating or prosecuting high-ranking US officials**



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“The record of the past few months suggests that the administration will neither hold any senior official accountable nor change the policies that have produced this shameful record.” [Editorial, *War Crimes*, the Washington Post, December 23, 2004, App. A, # 12]

Documents released in mid-December 2004 confirm and provide new evidence as to the responsibility of high-ranking US officials for abuses committed against foreign detainees in US custody in Iraq and Guantanamo. These were released by the Center for Constitutional Rights and the American Civil Liberties Union as a result of a lawsuit. [American Civil Liberties Union, *U.S. Marines Engaged in Mock Executions of Iraqi Juveniles and Other Forms of Abuse, Documents Obtained by ACLU Reveal*, December 14, 2004, App. A, # 5. See also App. A, # 8, 10, 11]

The documents are striking and show that torture of detainees by US soldiers was widespread in Iraq and Guantanamo and also well-known, if not ordered, by the soldiers' superiors. They reveal cases of murder, rape, mock execution and systematic torture.

The documents confirm that interrogators at Guantanamo believed they were following orders from defendant, Secretary of Defense Donald Rumsfeld. For example, one FBI agent, on May 10, 2004, reported a conversation he had with defendant Maj. Gen. Geoffrey D. Miller, who defended the use of abusive interrogation techniques on the grounds that the military “has their marching orders from the Sec Def. [Secretary of Defense Rumsfeld]” [See Appendix H] These new revelations, like those before, contradict Secretary of Defense Donald Rumsfeld's repeated statements that the crimes were only carried out by a few low-ranking reservists.

The week following this remarkable disclosure of new evidence, Scott McClellan, official spokesman for U.S. President George W Bush said: “The president expects that if there are allegations of abuse, that those allegations need to be taken seriously. (...) They need to be fully investigated. People need to be held accountable and brought to justice if they're involved in wrongdoing, and preventative measures and corrective measures put in place to prevent it happening again.” [*U.S. Pledges New Jail Abuse Inquiry*, BBC News, 22 December 2004, available online at <http://news.bbc.co.uk/1/hi/world/americas/4116601.stm>.]

Despite such promises, the government has not indicated how, when and against whom these investigations should happen. All the evidence leads to the conclusion that this statement is a continuation of the cover-up. We conclude, as has been clear for a long time, that no investigation of the chain of command will occur. The Bush Administration has not changed its previous and recurrent assertion that the abuses were the exclusive responsibility of lower-level military personnel. There is absolutely no reason to believe that Mr. McClellan's statement referred to possible investigation of the high-level officials named in this complaint. All of the evidence, some of which is set forth below,



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demonstrates that no investigation will occur and that the higher ups allegedly involved in war crimes are being rewarded and not investigated.

A- The United States, rather than investigating high-ranking officials, including the defendants named in the complaint, has chosen to reward them.

Specific facts clearly confirm the United States Government's lack of intention to investigate its high-ranking officials, and most particularly the individuals named as defendants in the complaint filed in Karlsruhe. In fact, the U.S. has made a mockery of the domestic and international law against torture by rewarding those allegedly involved in war crimes.

- President George W. Bush has asked Defendant No. 1, **Secretary of Defense Donald Rumsfeld**, to stay for his second Presidential term. On December 20, the New York Times announced, "President Bush strongly defended Defense Secretary Donald H. Rumsfeld today, declaring that the Pentagon chief is doing "a really fine job" and that any suggestions that he is insensitive are simply wrong". [David Stout, *Bush Defends Rumsfeld, Saying He's Doing 'a Really Fine Job'*, New York Times, December 20, 2004, App. A, # 9] "I asked him to stay on because I understand the nature of the job," Mr. Bush said, "Members of the Senate and the House will recognize what a good job he's doing. (...) and I look forward to continuing to work with him." This clearly establishes that Rumsfeld will not be investigated, much less indicted, for his alleged responsibility for war crimes.
- Last December 14, 2004, Defendant No. 2, **George J. Tenet**, was awarded the Presidential Medal of Freedom by President George W. Bush, as were Gen. Tommy R. Franks and L. Paul Bremer III. The President said the three men had "made our country more secure and advanced the cause of human liberty". "George Tenet was one of the first to recognize and address the growing threat to America from radical terrorist networks." [David Stout, *Bush Honors 3 Ex-Officials Instrumental to Iraq Policy*, New York Times, December 14, 2004, See App. A, # 9 bis.] This also shows the Bush administration has decided not to investigate Tenet for his alleged role in authorizing torture, unlawful transfers and unlawful detentions.
- Defendant No.3, **Lieutenant General Ricardo Sanchez**, as already mentioned in the complaint, is likely to be soon awarded with a fourth star. [John Hendren, *Officer Who Oversaw Iraq Prisons May Be Promoted*, Los Angeles Times Oct. 15, 2004] In the U.S. Armed Forces, when a Lieutenant General is awarded a fourth star, he is elevated to the rank of General, which is the second highest rank after the one of General of the Army.



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- **Former White House Counsel Alberto Gonzales**, a new defendant in this complaint, has been nominated by President George Bush to become U.S. Attorney General, and is about to be confirmed by the Senate. His testimony implicates him in the war crimes scandal. See the following summaries of this testimony, section 2) B of this letter. The full testimony is available online at <http://www.washingtonpost.com/wp-dyn/articles/A53883-2005Jan6.html> and is also attached, Appendix I.
- **Jay Bybee**, who, as a former Justice Department official, signed the infamous August 2002 Torture Memorandum, was elevated by Mr. Bush to the federal bench. He is now a judge on the 9th U.S. Circuit Court of Appeals. [*Justice Dept. Rewrites Memo on Torture*, The Associated Press, December 31, 2005, App. A, # 15]

All of this demonstrates, without a doubt, that there are not, and will not be, any investigations and prosecutions in the United States concerning the responsibility of those at the top of the chain of command. There will be no investigation of those who have ordered, induced, tolerated or failed to prevent torture and war crimes from being committed against detainees in the context of the war on terror.

B- The Bush Administration has brought pressure on the Congress to drop any investigations into torture and war crimes and has prevented the passage of additional anti-torture legislation

It has been nearly four months since the last hearing on prisoner abuse occurred in the US Congress and no serious investigation is anticipated. [Editorial, *War Crimes*, The Washington Post, December 23, 2004, App. A, # 12]

Furthermore, the New York Times revealed that the White House acknowledged having “urged Congress last year to drop a legislative proposal that would have curbed the ability of U.S. intelligence agencies to use extreme interrogation tactics.” [Douglas Jehl and David Johnston, *White House Fought New Curbs on Interrogations, Officials Say*, the New York Times, January 13, 2005 and Reuters, *White House Fought Curbs on Interrogations*, January 13, 2005. App. A, # 23 and 24] The proposal in question would have obliged the CIA and the Pentagon to report to Congress on interrogation methods being used and would have explicitly extended to intelligence officers the prohibition against torture or inhumane treatment. These restrictions on the use of extreme interrogation techniques were deleted in their entirety from the final legislation.



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We believe, as a Congressional Democrat said, "that the administration wanted an escape hatch to preserve the option of using torture" against prisoners held by the CIA. [See App. A, # 23 and 24] It is an option, sadly, that is still being employed.

C- The new December 30th Torture Memorandum of the U.S. Department of Justice states that the August 2002 Bybee Memorandum's narrow definition of torture was wrong, but acknowledges that the erroneous definition was in effect for over two years and still provides no guidance on the legality of various abusive interrogation techniques

On December 30, 2004, the Office of Legal Counsel of the Department of Justice released a new legal memorandum (the "Levin Memorandum") on the definition of torture. [See App. A, # 15, quoted *supra*] It is said to supersede in its entirety the much criticized Bybee August 2002 Memorandum (the "Bybee Memorandum"), which was used as guidance by the Defense Department to justify "aggressive" interrogation practices, practices that were clearly war crimes. The new memo was issued in time for the appearance of White house Counsel Alberto Gonzales before the Senate Judiciary Committee the following week.

The August 2002 Torture Memorandum, now repudiated, maintained, contrary to international law, that in order to constitute torture, the level of pain inflicted must be "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." The new memo, based on domestic and international law, rejects this opinion and says that physical pain amounting to torture need not to involve severe physical pain equivalent to organ failure, but must be more than "mild and transitory".

Harold Koh, Dean of Yale Law School, commented that: "the August 1, 2002 OLC Memorandum is perhaps the most clearly erroneous legal opinion I have ever read." [See App. D]

The new memo confirms that for two and half years, high-level US officials provided the US Government with a definition of torture directly contrary to domestic and international law. The memorandum of August 2002 thus, authorized the use of torture and war crimes. While the new memo clearly distances itself from the definition of torture in the Bybee Memorandum, it still provides little guidance on what constitutes torture under domestic and international law.

The new memo does not even address the prohibition in the Convention Against Torture on cruel, inhuman and degrading treatment. That is also confirmed by Gonzales's testimony that the Bush administration still believes the prohibition on cruel, inhuman



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and degrading treatment does not apply to aliens held outside the United States. This an astounding assertion. It means that the Bush administration is continuing to violate the prohibition on cruel, inhuman and degrading treatment and is engaged in the commission of war crimes. In addition, the 2004 Levin Memorandum does not address the prohibitions in the Geneva conventions on inhuman treatment. Thus, the administration continues to authorize conduct, even today, that constitutes war crimes.

Furthermore, a footnote in the new memo is intended to cover up the past and to exonerate US officials who engaged in torture under the guidance of the previous August 2002 torture memorandum. The footnote plainly means that the interrogation techniques and statements on prisoner's treatments described by high-ranking officials were not and are not in contradiction to the new memo. Therefore, the new memo implies that these officials cannot be accused of ordering torture, even when they acted in compliance with the previous memo, now officially repudiated as legally wrong. Footnote 8 reads as follows:

While we have identified various disagreements with the August 2002 Memorandum, we have reviewed this Office's prior opinions addressing issues involving treatment of detainees and do not believe that any of their conclusions would be different under the standards set forth in this memorandum.

The note says that official opinions addressing detainees' treatment under the advice of the previous memorandum have been reviewed and were found not to violate the new memo. As the New York Times put it, "[t]he footnote meant, the officials said, that coercive techniques approved by the Justice Department under the looser interpretation of the torture statutes were still lawful even under the new, more restrictive interpretation." [See App. A, # 23 and 24 quoted *supra*]

When one contrasts the findings of law contained in the first memo to the new one, the differences in the definitions are at polar opposites. It is therefore very unlikely that actions taken pursuant to the first memo can possibly be in accordance with the much-restricted definition of torture in the new version of the memo. This is an astounding assertion in view of the fact that, as shown in the complaint, several detainees were beaten to death and suffered organ failure such as the loss of hearing, which would have constituted torture even under the Bybee August 2002 definition.

The new memo has therefore a very limited scope. It also underlines, once more, the lack of intention of the US Government to punish those involved, by commission and omission, in torture, cruel, inhuman and degrading treatment and war crimes.



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D- The recent court martial of Specialist Charles A. Graner Jr. confirms the unwillingness of the US military justice system to investigate and inculcate high ranking officials, including the defendants

At his court martial held in mid-January 2005 at Fort Hood, Texas, Specialist Graner based his defense on obedience to superior orders. "The defense contends that Graner was told by higher-ranking soldiers and intelligence agents to rough up the detainees prior to interrogation, and that he had no choice but to obey despite personal misgivings." [*G.I. Accused of Prison Abuse in Iraq Faces Military Trial*, The Associated Press, January 10, 2005]

Graner's attorney requested the testimony of Lieutenant General Ricardo Sanchez. This military judge, Col. James Pohl, denied this request.

In the words of Reed Brody, Special Counsel of Human Rights Watch: "the United States is doing what every dictatorship and banana republic does when its abuses are discovered: covering up and shifting blame downwards." [Reed Brody, *Justice for Abu Ghraib*, the International Herald Tribune, January 19, 2005, App. A, # 27]

As we mentioned in the complaint, seven lower-rank military officers have been charged with the Abu Ghraib mistreatment by the US military justice system. After the conviction of Graner, two individuals still remain to be tried. A few other lower ranking soldiers have been disciplined for some other abuses. However, none of those charged or any of the trials so far have gone up the chain of command. The military justice system has not announced any decision to investigate the higher-ups, even when the lower rank personnel charged raised the defense of obedience to superior orders and submitted to the courts facts alleging the involvement of higher ups.

E- No independent investigations are likely to start in the United States

As we said in the complaint none of the investigations by the Bush administration were independent or examined the role of those in the chain of command. Nor are any such investigations contemplated.

The recently announced investigation by the Department of Justice follows this pattern. The documents released to the CCR and the ACLU revealed that the FBI had complained about some of the interrogation techniques used by low-level soldiers. Following these revelations, the Federal Bureau of Investigations has started, according to the [Reuters, *Military to Investigate F.B.I. Prison Abuse Charges*, The New York Times, January 5, 2005], investigations into some of the allegations. However, this investigation is not about higher-ups, but about lower-level officials and is first meant to determine whether or not the FBI agents were honestly reporting what they saw. In other



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words, it is to investigate those who are revealing the abuse. Alberto Gonzales, the new head of the Department of Justice, as we have said earlier, has self-interest in insuring that the investigations of higher ups will never take place. The matter remains in the hands of the Department of Justice which Gonzales, one of the defendants here, will control. No independent investigations are to be started and no one sees this Justice Department investigation as an investigation of the chain of command's role including that of Gonzales.

The two leading human rights organizations in the United States have recognized that there has not been any investigation of the role of higher-ups in the war crimes scandal. As a result, and frustrated by this utter lack of accountability, Human Rights Watch (www.hrw.org) the leading human rights organization in the United States has called for the appointment of a Special Prosecutor to investigate and, if appropriate indict, high-ranking officials. [See App. A, # 25] Initially, organizations had called for an independent investigation, but as more and more evidence has been revealed the culpability of the chain of command has become evident and the call for a Special Prosecutor has become warranted. Sadly, this call has fallen on deaf ears. As demonstrated above, the Bush administration has no intention of ever independently investigating the role of the chain of command in war crimes; in fact, it is engaged in a major cover-up and a rewarding of some of those implicated.

We want to bring to your attention in this letter one such instance of a cover-up involving Defendant No. 7 Colonel Pappas. A 10 page report entitled Whitewashing Torture? published last December 2004 has been attached in Appendix B and relates the case of U.S. Sergeant Frank Greg Ford. While Sgt. Ford was deployed at Samarra's detention facilities in Iraq, of which Defendant No. 7 Colonel Pappas was the commanding officer, he witnessed soldiers torturing Iraqi detainees. Thirty-six hours after having requested to his chain of command a formal investigation for the acts of torture, he was forcibly flown out of Iraq directly to Germany, and then to the United States.

In the United States, Frank Ford filed reports on his allegations to the FBI which passed it along to the Department of Justice. When he met with investigators from this department, he affirmed that "it was obvious that they mission was to cover up for DoD [Department of Defense] and the Army."

The author of the article concludes: "If Ford's allegations are proven, the Army would be faced with evidence that its prisoner abuse problem is even more widespread than previously acknowledged -- and that some of its own officers not only turned a blind eye to abuses but actively participated in covering them up." [See App. B]



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All the above-mentioned facts are undeniable indications that no action will be taken against high-ranking officials. This is all the more deplorable as new evidence has been made public, emphasizing the gravity of the abuses, their widespread character and the recurrent involvement of superior officials in these crimes.

2) **Additional evidence has been revealed of the widespread character of the abuses and of the knowledge and involvement of high ranking U.S. officials**

A- Many reports and documents made public since the filing of the complaint clearly confirm the allegations made in the complaint, while also indicating that the abuses committed and responsibility by high ranking officials for them is not open to doubt.

- On the day the complaint was filed in Karlsruhe, a report by the International Committee of the Red Cross (ICRC) was made public. It stated that US interrogation techniques, combined with detention conditions of foreigners in US custody, were “tantamount to torture”. [Neil Lewis, *Red Cross Finds Detainee Abuse in Guantanamo*, the New York Times, November 30, 2004] In the continuation of the cover-up, the Pentagon responded that it was treating detainees humanely.
- A 13 page confidential report by Col. Stuart A. Herrington, submitted to Army Generals in Iraq in December 2003, warned that members of an elite military and CIA task force were abusing detainees, and that US military leaders were told of these abuses from the very beginning. It further stated that problems of abuse were not restricted to Abu Ghraib. When Col. Herrington asked an officer whether he had alerted his superiors to the beating of detainees, the officer replied: “everyone knows about it”. [Josh White, *U.S. Generals in Iraq Were Told of Abuse Early, Inquiry Finds*, Washington Post, December 1, 2004, App. A, # 1]
- On December 14, 2004 and on January 6, 2005, the Center for Constitutional Rights, together with the American Civil Liberties Union, obtained the release of thousands of documents from the US Navy, the FBI and the US Army Criminal Investigation Command. The documents revealed that “abuse and even torture of detainees by U.S. Marines in Iraq was widespread.” [App. A, # 5, quoted *supra*. See also App. H]
New cases of detainees’ deaths, new accounts of abuses, including rape and mock executions, amounting to torture and cruel, inhuman or degrading treatment were revealed and show how systematic the pattern of abuse has been.
A June 25, 2004 FBI memo titled "URGENT REPORT" to the FBI director, provided details from someone "who observed serious physical abuses of civilian



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detainees" in Iraq (including strangulation, beatings, placement of lit cigarettes into the detainees' ears). [See App. H]

- Various documents and messages included in the above documents provide further evidence that defendants were not only informed of the ongoing abuses, but that they ordered or induced the widespread system of abuses. [See App. H] A memorandum was disclosed, written by the director of the Defense Intelligence Agency Vice Admiral Lowell .E. Jacoby and addressed to defendant Stephen Cambone (Defendant No. 10). [See App. H] It said that when two members of his agency objected to the treatment, they were threatened and told to keep quiet by other military interrogators. [See Neil A. Lewis, *Memos Say 2 Officials Who Saw Prison Abuse Were Threatened*, New York Times, December 7, 2004, App. A, # 2. See also App. H] Also, documents reveal that U.S. Defense Department interrogators impersonated FBI agents at Guantanamo to avoid being held accountable when they used "torture techniques" on a prisoner. The impersonation "was approved by the Dep Sec Def," a January 21, 2004, e-mail stated, referring to Deputy Defense Secretary Paul Wolfowitz. [See App. H and also *FBI E-Mail Refers to Presidential Order Authorizing Inhumane Interrogation Techniques*, American Civil Liberties Union Press Release, December 20, 2004, App. A, # 8]
- Documents also provide evidence on the failure of the US military and the CIA to seriously investigate and prosecute abuses. Perpetrators were given non-criminal punishments, procedures for autopsies were canceled, soldiers denouncing abuses were threatened by their superiors, told to keep quiet, and sometimes even flown out of Iraq. [See App. H]

B- The Gonzales testimony demonstrates his culpability for war crimes as well as that of other high officials

On January 6, 2005 Presidential counselor Alberto Gonzales testified at his confirmation hearing to be Attorney General of the United States. The testimony was shocking and revealed that alleged war crimes were authorized at the highest levels of the Bush administration. The complete testimony has been furnished to your office. [See App. I] Some of it is excerpted below, but it should be read in its entirety.

- Senator Leahy asked Mr. Gonzales whether he agreed with the August 2002 memorandum's conclusion that for an act to violate the torture statute, "it must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." Gonzales answered: "I don't recall today whether



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or not I was in agreement with all of the analysis, but I don't have a disagreement with the conclusions then reached by the department.”

- Senator Durbin asked Mr. Gonzales whether it was legally permissible for U.S. personnel to engage in “cruel, inhuman or degrading treatment” In a written response on this issue, Gonzales stated “that under Article 16 there is no legal obligation under the Convention Against Torture on cruel, inhuman or degrading treatment with respect to aliens overseas.” This means that, according to Gonzales, cruel, inhuman and degrading treatment of non-citizen detainees held outside the United States is permissible.
- In opening the hearing Senator Leahy stated that, “it has become clear to all, that these incidents at U.S. facilities around the world are not just the acts of a few low-ranking members of the military ; rather, in the upper reaches of the executive branch a process was set in motion that tolled forward, that produced scandalous results....” “Defense Secretary Rumsfeld and later Lieutenant General Ricardo Sanchez authorized the use of techniques that were contrary to both U.S. military manuals and to domestic and international law”.

Last January 7, 2005 Harold Hongju Koh, Dean of Yale Law School, formerly Assistant Secretary for Democracy, Human Rights and Labor at the U.S. Department of State and former attorney in the Office of Legal Counsel, submitted an 11 page statement regarding the nomination of Defendant Gonzales as Attorney General. In this document, attached in Appendix D along with the testimony of John D. Hutson, with regards to the issue of torture, cruel inhuman and degrading treatment and the application of the Geneva conventions, he demonstrates that the legal standards advanced and advocated by Alberto Gonzales are not only wrong, but also abhorrent. [See App.D]

Conclusion

We want to note that three major human rights organizations have joined the complaint. The Federation Internationale des Droits de l'Homme (FIDH), Lawyers against the War (LAW) and the International Legal Resources Centre (ILRC) are now co-plaintiffs in this complaint.

The FIDH is a federation of 116 Human Rights organizations in nearly 100 countries. It co-ordinates and supports their activities and provides them with a voice at the international level. FIDH's mandate is to act effectively and practically to ensure the respect of all the rights laid down in the Universal Declaration of Human Rights: the civil



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and political rights, but also the economic, social and cultural rights. FIDH makes use of all the available national and international mechanisms for fighting impunity. It gives daily support to victims of torture, war crimes, crimes against humanity and genocide, by accompanying them during the whole course of their legal proceedings. FIDH made a significant contribution to the setting up of the first permanent International Criminal Court, which came into force on 1 July 2002. [www.fidh.org]

LAW is a Canada-based international committee of jurists and others operating since October 2001 to oppose illegal war and to advocate for adherence to international humanitarian law and against impunity for violators. In furtherance of these goals, LAW prepares legal briefs and letters directed to heads of state and ministers in Canada, the United States and the United Kingdom and towards members of the Security Council; writes articles; engages in initiatives to enforce international law and provides support to other's initiatives to enforce international law. [www.lawyersagainsthewar.org]

The ILRC is a Canadian independent non-governmental organization concerned with the protection of human rights and the promotion of justice in Canada and abroad. The ILRC has been working on issues of "international justice and accountability" abroad and in Canada for the past six years. [www.cirj.org]

Support around the world for an investigation by Germany into these cases has been strong. Over eleven thousand (11,000) letters of support have been sent to your office by individuals from all over the world affirming their strong desire to see the investigations and eventual prosecution, if appropriate, go forward in Germany, which is seen as the court of last resort.

The evidence of war crimes by the defendants is irrefutable. The complete failure of the Bush administration to investigate or prosecute those high officials involved is cannot be denied. There is no international court to which these abuses can be addressed. The obligation on your office to initiate an investigation in this case is set forth in a well reasoned law review article which we have furnished. Andreas Fischer-Lescano, *Weltrecht als Prinzip, Die Strafanzeige in Deutschland gegen Donald Rumsfeld wegen der Folterungen in Abu Ghraib*, Kritische Justiz-Text, forthcoming issue of January 2005. [Appendix G]

We do not think it is an exaggeration to say that the future of the world's adherence to the fundamental prohibition of torture, cruel, inhuman and degrading treatment, and other war crimes depends on your decision. [Kenneth Roth, *Darfur and Abu Ghraib*, Human Rights Watch, January 2005, App. E] A decision not to investigate this case could really mean the end of human rights protections that have taken hundreds of years to establish. We implore you to do what is right in this and what we understand is the legal obligation under the CCIL— investigate these alleged war crimes and, depending on the result of your investigation, prosecute those responsible.




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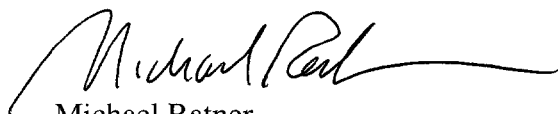
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Otherwise, the principle of universal jurisdiction, on which CCIL is based, will have no meaning.

Respectfully,



Peter Weiss,
Attorney
Vice President
Center for Constitutional Rights



Michael Ratner,
Attorney
President,
Center for Conditional Rights

