



# human rights *first*

FORMERLY THE LAWYERS COMMITTEE FOR HUMAN RIGHTS

March 7, 2005

The Honorable Edward J. Markey  
House of Representatives  
2108 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Markey:

Human Rights First welcomes your introduction of H.R. 952, the *Torture Outsourcing Prevention Act*, aimed at ending the practice of transferring detainees to countries where they are likely to face torture. The United States pledged more than a decade ago that it would never send anyone to a place where there was a substantial likelihood they would be tortured. But that pledge rings hollow today, as reports continue to surface of cases in which detainees in United States custody have been sent – in some cases for the explicit purpose of interrogation – to countries where they have been tortured. Your bill is designed to reinforce the ban on this practice, and make that ban effective. We applaud your effort.

The Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment bars parties from sending anyone to a country where “there is substantial grounds for believing that he would be in danger of being subjected to torture.” The United States is a party to the Convention and accepted this provision unqualifiedly. Thereafter, Congress reiterated the commitment of the United States to honor this obligation, and instructed federal agencies to promulgate regulations to ensure compliance.

It is an unfortunate reality, however, that despite these clear expressions of legislative intent, the United States has continued to engage in this practice, referred to as “extraordinary rendition.” In our 2003 report, *Assessing the New Normal: Liberty and Security for the Post September 11 United States*, Human Rights First analyzed reports that the United States had been secretly transferring terrorism suspects to foreign intelligence services in Jordan, Egypt and Morocco, countries known to torture and otherwise abuse prisoners. Since that time, U.S. officials have confirmed that such transfers have taken place and are continuing.

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Congressman Markey  
March 8, 2005

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Pentagon General Counsel William Haynes, along with other administration officials, has explained that transfer of detainees at risk of torture to the custody of other governments is undertaken pursuant to “diplomatic assurances” that the receiving government – no matter its dismal record on torture – will not torture the detainee rendered to their custody from the United States. But experience has shown that such assurances are unreliable and have been violated, without apparent protest from the United States.

For example, diplomatic assurances did not prevent Maher Arar, a dual citizen of Canada and Syria, from enduring ten months of torture in a Syrian jail after being sent there by U.S officials who apprehended him at JFK Airport in New York City while he was en route to his home in Canada. Upon releasing Arar, Syria declared that it never had any interest in holding him, but only jailed and interrogated him to curry favor with the United States. Investigations indicate that Arar was subjected to electric shocks and beatings. It is unclear what the United States expected, if indeed it even sought assurances in this case, from a government where, according to the State Department Country Reports released last week, torture is “a common occurrence” and torture methods include: “administering electrical shocks; pulling out fingernails; forcing objects into the rectum; beating, sometimes while the victim was suspended from the ceiling; hyper-extending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a backward-bending chair to asphyxiate the victim or fracture the victim's spine.” *Country Reports on Human Rights Practices for 2004*, United States Department of State, 2005. Your bill would ensure that there are no circumstances under which a person at risk of torture in a place like Syria would be sent there by the United States.

President Bush has said that “[t]he United States is committed to the world-wide elimination of torture and we are leading this fight by example.” But we cannot lead this fight until we ensure that we are not sending people to governments that will torture them. Your bill will help demonstrate that the United States is serious about living up to the President’s pledge. We look forward to working with you to ensure its passage, and we thank you for your leadership on this important issue.

Sincerely,



Elisa Massimino  
Washington Director