

Criminal Complaint

Against

United States Secretary of Defense Donald Rumsfeld, Former Director of Central Intelligence of the United States George Tenet, former U.S. Deputy Assistant Attorney General John Yoo and Assistant Attorney General for the Office of Legal Counsel ("OLC") in the United States Justice Department of Justice Jay S. Bybee, Lieutenant General Ricardo Sanchez, and Other Members of the Government and Military of the United States for War Crimes and Torture Perpetrated against Iraqi Detainees at Abu Ghraib, Iraq (2003/ 2004), and in Guantánamo Bay Naval Station.

With the attached powers of attorney and substitute powers of attorney I hereby give notice that I represent the legal interests of the following organizations and individuals:

1. Center for Constitutional Rights, represented by the president, Attorney at Law Michael Ratner and the Vice- President, Attorney at Law Peter Weiss, 666 Broadway New York, NY 10012 USA
2. Republikanischer Anwältinnen- und Anwälteverein (RAV), represented by the secretary general, Attorney at Law, Hannes Honecker, Greifswalder Straße 4, 10405 Berlin, Germany
3. Fédération Internationale des Ligues des Droits de l'Homme (FIDH), represented by their President, Sidiki Kaba, 17 Passage de la Main d'Or, 75011 Paris, France
4. Noble Peace Prize Winner in 1980, Adolfo Perez Esquivel, c/o Servicio Paz y Justicia en América Latina, Buenos Aires, Argentina
5. The former UN Special Rapporteur for Torture, Theo van Boven, Faculteit der Rechtsgeleerdheid, Bouillonstraat 1-3, 6211 LH Maastricht, Netherlands

6. Noble Peace Prize Winner 1910, International Peace Bureau, 41 Rue de Zurich, CH-1201 Geneva, Switzerland
7. The Alternative Noble Prize 2002, Attorney at Law Dr. Martin Almada, Av. Carlos Antonio López 2273, Ascunción, Paraguay
8. National Lawyer's Guild, represented by the president, Attorney at Law Marjorie Cohn, 132, Nassau Street, Suite 922, New York NY 10038, USA
9. Veterans for Peace, represented by the Executive Director, Michael T. McPhearson, 216 South Meramec Ave, St. Louis, MO 63105, USA
10. Dianna Ortiz, Torture Abolition and Survivors Support Coalition International (TASSC), 4121 Harewood Road NE – Suite B, Washington, DC 20017, USA
11. Abogados Europeos Democrátas (AED), represented by the president, Attorney at Law August Gil Matamala, Rambla de Catalunya, No. 10, 2, 08007 Barcelona, Spain
12. Verein Demokratischer Juristinnen und Juristen (VDJ), Bundessekretariat, represented by the secretary general Attorney at Law Christian Fraatz, Schönhauser Allee 84, 10439 Berlin, Germany
13. Europäische Vereinigung von Juristinnen und Juristen für Demokratie und Menschenrechte in der Welt e.V. (EJDM), represented by Attorney at Law Thomas Schmidt, Plantanen Straße 13, 40233 Düsseldorf, Germany
14. International Association of Democratic Lawyers, represented by the president Mrs. Jitendra Sharma, 17 Lawyers Chamber, Supreme Court, New Delhi 110001, India
15. IALANA, German Section of the International Association Of Lawyers Against Nuclear Arms, represented by the president, Attorney at Law Dr. Peter Becker, Wilhelm-Roser-Straße 25, 35037 Marburg/Lahn, Germany
16. Lawyers against the War, represented by Attorney at Law Gail Davidson, 3220 West 13th Ave., Vancouver, BC, Canada
17. Liga Argentina por los Derechos Humanos (LADH), represented by Attorney at Law Rodolfo N. Yanzón, Avenida Corrientes 1785, 2° C de la Ciudad Autonoma de Buenos Aires, Argentina

18. Comité de Acción Jurídica (CAJ), Argentinien, 951 Tabuari, 1071 Buenos Aires, Argentina
19. Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), Mexico, Tehuantepec N 155, Colonia Roma Sur 06670, Mexico DF, Mexico
20. Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH), Mexico, Avenue Azcapotzalco 275 Col Claveria, 02090 Mexico DF Mexico
21. Centro Nicaraguense de Derechos Humanos (CENIDH), Mexico, Texaco Montoya 1 Y 1/2 C Al Sur Apartado 4402, Managua, Nicaragua
22. Colectivo de Abogados José Alvear Restrepo, Kolumbien, Calle 16 N 6-66 Of 2506 ED Avianca – Apartado 33035 Santa Fe De Bogota DC, Colombia
23. Palestinian Center for Human Rights, represented by the director Raji Sourani, 29, Omar al-Mukhtar St., PO Box 1328, Gaza City, Gaza
24. Egyptian Organization for Human Rights (EOHR), Cairo, Egypt
25. Amman Center for Human Rights Studies (ACHRS), Amman, Jordan
26. Bahrain Human Rights Society (BHRS), Bahrain, PO Box 20306, Manama Bahrain
27. Guantanamo Human Rights Commission, represented by Vanessa Redgrave, 26, Prebend Mansions, Chiswick High Road, London, 2042 LU, UK
28. The Haldane Society of Socialist Lawyers, represented by Attorney at Law Liz Davies, Barrister Garden Court Chambers, Garden Court Chambers, 57-60 Lincoln's Inn Fields, London WC2A 3LS, UK
29. Ligue des Droits de l'Homme (LDH), France, 138-140 Rue Marcadet, 75018 Paris, France
30. Association Africaine des Droits de l'Homme (ASADHO), Democratic Republic of Congo, BP 16737 Kinshasa 1, RDCONGO
31. Association Tchadienne pour la Promotion et la Defense des Droits de l'Homme (ATPDH), Tschad, BP 4082 N'Djamena, Tchad
32. Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), Sicap Amotie II Villa 4024 Allees Seydou Nourou Tall/BP 15246 Dakar Fann, Senegal

And the Iraqi citizens:

1. Ahmed Hassan Mahawis Derweesh
2. Abdul Hafeeth Sha`alan Hussein
3. Abdulkareem Hussain Ma´roof
4. Umer Abdulkareem Hussein
5. Ali Abdulkareem Hussein
6. Ibraheem Jebar Moustafa
7. Faisal Abdualah Abdualatif
8. Ahmed Salah Nouh
9. Ahmed Shihab Ahmed
10. Mufeed Abdul Ghafoor Al-Ann
11. Buthaina Khalid Mohammed

As well as the Saudi Arabian citizen detained in Guantánamo,

12. Mohamed al Qahtani, represented by his defense attorney Gitanjali Gutierrez, Center for Constitutional Rights, 666 Broadway, New York, NY 10012, USA

The plaintiff 1), the Center for Constitutional Rights, is a civil rights organization (www.ccr-ny.org) that has, since 2002, been representing the detainees at Guantánamo and former prisoners of Abu Ghraib in numerous civil and criminal law proceedings, including writs of habeas corpus. Michael Ratner, lawyer, is the President of the Center for Constitutional Rights. Peter Weiss, lawyer, is a Vice President of the Center for Constitutional Rights. The Iraqi citizens listed in 1) to 11) are individuals who have been victims of torture and maltreatment at the Abu Ghraib Detention Center and other Iraqi detention facilities in 2003 and 2004; the individual in 12), Mohamed al Qahtani, is a Saudi Arabian citizen detained in Guantánamo.

On behalf of and with the power of attorney of my clients I submit the following

Criminal complaint for all crimes within the scope of the Criminal Code of Crimes Against International Law (CCIL), namely war crimes against people and criminal responsibility of military commanders and other superiors §§ 8, 4, 13 and 14 CCIL and grievous bodily harm, §§ 223, 224 German Criminal Code in connection with §§ 1 CCIL, 6 No. 9 Criminal Code and the UN Convention on Torture and Article 129 GK against the following U.S. citizens:

1. The former Secretary of Defense, Donald H. Rumsfeld,
1400 U.S. Department of Defense, Pentagon, Washington, DC 20301-1000, USA
2. The former Director of Central Intelligence, George Tenet,
CIA Headquarters, Langley, Virginia 23664, USA
3. The Under-Secretary of Defense for Intelligence in the U.S. Defense Department
Stephen Cambone, 1000 Defense Pentagon, Washington DC 2031-1000, USA
4. Lt. Gen. Ricardo S. Sanchez, V Corps, last known position: 5th Corps
Commander, Romestr. 168; D-69126 Heidelberg, Germany
5. Major General Geoffrey Miller, at present Bagdad, Iraq
6. Major General Walter Wojdakowski, last known position: 5th Corps, Romestr.
168, 69126 Heidelberg, Germany
7. Colonel Thomas Pappas, last known position: Brigade commander of the 205th
Military Intelligence Brigade, Army Airfield, Wiesbaden, Germany
8. Major General Barbara Fast, Commanding General U.S. Army Intelligence Center
and Ft. Huachuca, Attn: ATZS-CG, Fort Huachuca, AZ 85613-6000, COM:
520/533-1140, USA
9. Marc Warren, Center for Military Law and Operations, United States Army,
Rosslyn, VA, Office of the Judge Advocate General, Attn: DAJA-IO, 1777 North
Kent St., 11th Floor, Rosslyn, VA 22209-2194, USA

10. Attorney General and former White House Counsel Alberto Gonzales, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001, USA
11. William J. Haynes, II, General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301-1600, USA
12. David S. Addington, The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500, USA
13. John Yoo, Professor of Law, U.C. Berkeley School of Law, 890 Simon Hall, Berkeley, CA 94720, USA
14. Jay Bybee, U.S. Attorney's Office, 100 West Liberty, Suite 600, Reno, NV 89501, USA

and all those known by name and those unnamed associated with the crimes described in the following text.

Outline

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- 2. Starting point: Near total impunity of the torture crimes in Abu Ghraib – no execution of primary jurisdiction (USA, Iraq, ICC)**
 - 2.1. Legal and political framework in the USA
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 - 2.3. Criminal proceedings in torture cases only against low-ranking soldiers
 - 2.4. Reward instead of punishment: the lack of criminal proceedings against high-ranking military personnel, responsible politicians and jurists
 - 2.5. Active cover-up by high-ranking military personnel and government members of torture cases
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- 3.1. Justification of German Penal Power
 - 3.1.1. Universal Jurisdiction, § 1 CCIL
 - 3.1.2. Universal Jurisdiction, § 6 Nr. 9 German Criminal Code in connection with the UN Convention on Torture and § 129 GK
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- 3.3. Points of departure for German Criminal Justice Authorities

4. Facts of the case: The practice of torture – Why it had to come to the maltreatment of prisoners at Abu Ghraib

- 4.1. The road to Abu Ghraib: The Bush administration and the systematic use of torture as an interrogation method
 - 4.1.1. The first phase of the torture programs from September 11, 2001 to the beginning of 2002
 - 4.1.2. The second phase of the torture program from the beginning of 2002 to the beginning of 2003
 - 4.1.3. Practices contrary to human rights at Guantánamo
 - 4.1.4. The export of illegal interrogation methods from Washington and Guantánamo to Iraq
- 4.2. The consequences and the excesses of the torture program: Cases of death and maltreatment of prisoners in U.S. custody in Iraq and in Afghanistan as well as unregistered prisoners and rendition
 - 4.2.1. The uninvestigated and insufficiently investigated cases of death
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 - 4.2.3. Unofficial prisoners and rendition of prisoners to torture states
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 - 4.2.5. Suspicion of additional war crimes
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 - 4.3.1. Guantánamo detainee 063 - Mohammed al Qahtani
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1. Donald H. Rumsfeld
2. George Tenet
3. Stephen Cambone
4. Ricardo S. Sanchez
5. Geoffrey Miller
6. Walter Wojdakowski
7. Thomas M. Pappas
8. Barbara Fast
9. Marc Warren
10. Alberto Gonzales
11. William Haynes
12. David S. Addington

5.2.3. The legal architects of the torture programs: The criminal responsibility of John Yoo and Jay Bybee as authors of the torture memorandum

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7. Final Note