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USA/Malawi: Another unlawful transfer to US custody?

The reported secret transfer yesterday to US custody of five men arrested in Malawi on suspicion of being members of al-Qa'ida heightens concern about the United States of America's (US) attitude to the human rights of people detained in the so-called "war on terror", Amnesty International said today.

"Once again it seems that the US may have been involved in a transfer which circumvents basic human rights protections and national law", the organization emphasized. "Ironically, this alleged transfer took place on the same day that the State Department released a report about how much the US is doing to promote human rights worldwide".

The five men - said to be Turkish nationals Ibrahim Habaci and Arif Ulusam, Fahad al Bahli from Saudi Arabia, Sudanese national Mahmud Sardar Issa, and Kenyan national Khalifa Abdi Hassan - were arrested in Malawi last weekend. They were held at an undisclosed location, while lawyers attempted to prevent their rendition to US custody. The detained were not allowed access to their lawyers.

The Blantyre High Court ordered that the men should not be deported but should be brought before it by 19.30 local time yesterday. They never appeared. The Court has ordered another hearing tomorrow, but there are indications that the men were flown out of Malawi yesterday aboard a chartered flight bound for Zimbabwe in the company of US and Malawian officials. It is not known where the men are currently held.

"If true, this episode would be reminiscent of the unlawful transfer of six Algerians from Bosnia-Herzegovina in January 2002", Amnesty International continued. "Those men were subsequently spirited away to the US Naval Base in Guantánamo Bay where they are believed to remain, held without charge or trial, or access to the courts, legal counsel or relatives".

The representative in Bosnia-Herzegovina of the UN High Commissioner for Human Rights described that case as one of "extrajudicial removal from sovereign territory", and expressed concern about the involvement of both the Bosnian and US governments.

"The US authorities must make public what they know about the whereabouts of these five men", Amnesty International said, adding that assurances must be given that the detainees will not be subjected to any form of torture or ill-treatment during interrogation. "If they are in US custody, they should be brought before a court as soon as possible to be able to challenge the lawfulness of their detention".

If the men are suspected of crimes, they should be promptly charged, provided legal counsel, and

brought to trial within a reasonable time in accordance with fair trial norms, without recourse to the death penalty, or else released.

Earlier this week, the US Embassy in Malawi denied US involvement in the arrests.

According to Malawi law, suspects should be brought to court within 48 hours of their arrest, or released on bail.

Background

In another development related to Guantánamo Bay, yesterday Amnesty International received a letter from the Pentagon refusing the organization access to the hundreds of foreign nationals detained in Guantánamo Bay. The organization has made repeated requests since January 2002 for such access. This was the first reply received.

The US State Department's report : "*Supporting Human Rights and Democracy: The U.S. Record 2002-2003*" highlights US actions to promote human rights in other countries. In the preface, Secretary of State Colin Powell writes that the report "captures the tireless work of the U.S. Government to promote democratic structures and respect for human rights.

Public Document

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