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DEPARTMENT OF STATE
EXECUTIVE SECRETARIAT
TRANSMITTAL

SEP 22 PM 11 33

S/ES 200317574

Date: 9/22 / 04

FOR: Gregory L. Schulte
Executive Secretary
National Security Council
The White House

REFERENCE:

TO: The President
FROM: Mabeth Bertrand-Henry
DATE: May 12, 2003
SUBJECT: Juvenile detainees at Guantanamo Bay, Cuba

WH Referral Dated: July 10, 2003
NSC ID# (if any) 0305817

Attached item was sent directly to the Department of State.

ACTION TAKEN:

☐ A draft reply is attached.
☐ A draft reply will be forwarded.
☐ A translation is attached.
☐ An information copy of a direct reply is attached.
☐ We believe no response is necessary for the reason cited below.
☐ The Department of State has no objection to the proposed travel.
☐ Other (See remarks.)

REMARKS:

Charles W. Alexander
for Office of the
Executive Secretary

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 25 NOV 2009 200900076

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United States Department of State

Ambassador-at-Large for
War Crimes Issues

Washington, D.C. 20520

September 17, 2004

Mr. Mabeth Bertrand-Henry
Cabinet Bertrand
6, place Sainte Veronique
4000 Liege/Belgium

SE22A

Dear Mr. Bertrand-Henry:

Thank you for your letter of May 12, 2003 to President Bush expressing concern regarding juveniles detained by the United States at Guantanamo Bay, Cuba. Please excuse the delayed response. These juveniles were released from U.S. control at Guantanamo and sent home earlier this year.

The detention of juveniles was in accordance with the laws of war and consistent with the U.S. obligations under the Convention on the Rights of the Child. The United States recognized and respected the special needs of younger detainees and the difficult circumstances surrounding their situations, and treated the young enemy combatants in a manner appropriate to their status and age.

Sincerely,

Pierre-Richard Prosper

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NATIONAL SECURITY COUNCIL

ID 0305817

REFERRAL

DATE: 10 JUL 03

MEMORANDUM FOR: DEFENSE

SE 22B

DOCUMENT DESCRIPTION:

TO: PRESIDENT

SOURCE: BERTRAND-HENRY, MABE

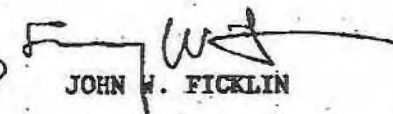
DATE: 12 MAY 03

SUBJ: LTR FM UNION INTL DEL AVOCATS RE CHILDREN HELD AMONG DETAINEES AT
GUANTANAMO BAY

REQUIRED ACTION: DIRECT REPLY FURNISH INFO COPY

DUEDATE: 19 JUN 03

COMMENT: POC: JOHN BELLINGER NSC/LEGAL X456-9111

FOR 
JOHN W. FICKLIN
NSC RECORDS MANAGEMENT OFFICE

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 25 NOV 2009 200900076

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5817INTERNATIONAL ASSOCIATION OF LAWYERS
INTERNATIONALE AVOCATS-UNIONUNION INTERNACIONAL DE ABOGADOS UNIONE
INTERNACIONALES DE LOS ABOGADOS

الاتحاد الدولي للمحامين

SE22C

Mabeth BERTRAND-HENRY
President of the Commission on Children's
Rights

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Georges W Bush
President
The White House, Office of the President
1600 Pennsylvania Avenue
Washington DC 20500 USA

Fax: + 1 202 456 2461

12th May 2003

Dear Mr President,

The Commission on Children's Rights was concerned to learn that military authorities at the US Naval Base on Guantanamo Bay have discovered a handful of children between the ages of 13 and 15 years among the detainees.

Following our information, the children were transferred from Afghanistan earlier this year. US Army spokesman Lieutenant Colonel Barry Johnson has declared that all the teenagers were "captured as active combatants against US forces".

We are deeply disturbed to learn that those children -- as well as the adults - have had no access to lawyers or relatives and have been denied their right to challenge the lawfulness of their detention in a court of law.

We are informed that most of the 600 detainees in Guantanamo are confined to tiny cells for 24 hours a day and allowed to exercise in shackles for only 15 minutes twice a week. Such conditions are of concern for all detainees, but they are particularly shocking when applied in the case of juveniles.

Association de Droits Belge - siège Social : Palais de Justice, Place Poelaert - 1000 Bruxelles (Belgique)

Dossiers suivis au : CENTRE ADMINISTRATIF UIA - 25, RUE DU JOUR - 75001 PARIS (FRANCE)

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UNITED STATES DEPARTMENT OF STATE N° SIRET : 775 749 237 000 68 - CODE APE : 911 A

REVIEW AUTHORITY: SHARON E AHMAD

DATE/CASE ID: 25 NOV 2009 200900076

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Those conditions of detention if they are verified, coupled with the denial of access to families, lawyer or to courts are a grave breach of the protection afforded to juvenile detainees by international law.

We would like to remind you that the United States has signed the *Convention on the Rights of the Child*, thereby binding itself under international law not to do anything to defeat the object and the purpose of the treaty.

The Convention states that "every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action" (art. 40). Article 39 adds "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a last resort and for the shortest appropriate period of time". This provision reflects a consensus also expressed in the *UN Standards Minimum rules for the Administration of Juvenile Justice* and the *UN Rules for the Protection of Juveniles deprived of their Liberty*.

Furthermore, the United states has ratified the *Optional protocol to the Convention on the rights of the Child on the involvement of children in armed conflicts* which reaffirms that "the rights of children requires special protection" and calls "for continuous improvement of the situation of children". It also obliges state parties to ensure that children within their jurisdiction who have been used in hostilities should be provided with all appropriate assistance for their physical and psychological recovery and their social reintegration.

Following international standards, all children under the age of eighteen are entitled to the special protections and considerations outlined above.

Therefore the Commission on Children's Rights calls for the immediate release of the children in detention at Cap Delta in Guantanamo Bay and urges you to do anything that can be done to put an end to this situation. If not released these children should at least be charged with a recognizable offence, provided with full judicial safeguards and transferred to juvenile detention facilities.

Respectfully yours,

Mabeth BERTRAND-HENRY

President of the Commission on Children's Rights

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