

36
(03)

009a

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME



UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

RELEASED IN FULL

TEL: (41-22) 917 90 04
TELEGRAMS: UNATIONE, GENEVE
TELEX: 41 29 02
TELEPHONE: (41-22) 917 93 13
Internet: www.unhcr.ch
E-mail: unhcr@unhcr.ch

Address:
Palais des Nations
CH-1211 GENEVE 10



REFERENCE:
O/80 214 (53-18)
USA 02/2003

21 August 2003

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on torture, pursuant to Commission on Human Rights resolution 2001/62.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding Ridwan Isamuddin aka Hambali an Indonesian national who is believed to be the operations chief of Jemaah Islamiyah (JI), a Southeast Asian extremist Islamic group, with suspected links to al-Qa'ida. He was reportedly arrested on 11 August 2003 in the city of Ayutthaya, Thailand, and he is alleged to be currently held in the custody of the United States of America at an undisclosed location for interrogation. According to the information received, authorities in Indonesia have publicly called for him to be transferred to their custody and the authorities of Philippines, Singapore and Malaysia are also said to want him for questioning. In view of his alleged incommunicado detention at an unknown place, fears have been expressed that he may be subjected to torture and other forms of ill-treatment.

Without in any way implying any conclusion as to the facts of the case and acknowledging the duty of governments to protect public safety and to investigate crime, I should like to appeal to your Excellency to seek clarification of the circumstances with a view to ensuring that the right to physical and mental integrity of the above-named person is protected. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. I would also like to draw your Excellency's attention to Commission on Human Rights resolution 2001/62 and 2003/32 which remind all States that "prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person." (paras 10 and 14 respectively).

H.E. Mr. Kevin E. Moley
Ambassador
Permanent Representative of the United States
Chambésy
Suisse

Received Time 21 Aug. 17:15

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: FRANK E SCHMELZER
DATE/CASE ID: 10 DEC 2004 200303827

UNCLASSIFIED

DOS-000483

36
(03)

Furthermore, the Human Rights Committee, in its General Comment 20 on article 7, has stated that State Parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." I would mention that under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no State Party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In our opinion, the principle contained in the Human Rights Committee's statement and the above provision of the Convention against Torture represents an inherent part of the overall fundamental obligation to avoid contributing in any way to a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

I would also like to appeal your Excellency's Government to refrain from deporting the aforementioned person to Indonesia, unless your Excellency's Government obtains an unequivocal guarantee from the Government of Indonesia that the aforementioned person would not be subjected to torture or any other forms of ill-treatment upon return, and that an effective system to closely monitor the treatment of the person in question has been put into place with a view to ensuring that they will be treated with respect for their human dignity.

I would greatly appreciate receiving information from Your Excellency's Government concerning the steps taken by the competent authorities in compliance with the provisions contained in the international legal instruments referred to above, as they apply to the aforementioned person.

Accept, Excellency, the assurances of my highest consideration.

Theo Van Boven
Special Rapporteur on torture

Received Time 21 Aug. 17:15