

## **With “Assurances,” U.S. May Still Transfer Detainees to Torture**

Report by Columbia Law School’s Human Rights Institute Calls for Government Disclosure on Diplomatic Assurances against Torture

Media Contact: Nancy Goldfarb, 212-854-1584, [nancy.goldfarb@law.columbia.edu](mailto:nancy.goldfarb@law.columbia.edu)  
Public Affairs, 212-854-2650

**New York, Dec. 20, 2010**—A report released today by Columbia Law School’s Human Rights Institute finds that the U.S. government continues to take advantage of Bush-era secrecy in subjecting transferred detainees to the threat of torture.

The report, [“Promises to Keep.”](#) shows the government is bucking public scrutiny and judicial review to send terrorism suspects to foreign countries based on inadequate promises not to torture.

The U.S. obtains “diplomatic assurances” from known rights abusers, promising humane treatment and post-transfer verification. Since 9/11, the U.S. and allies have increasingly used assurances to deport and extradite terrorism suspects, or transfer military detainees when the risk of torture would, otherwise, render the transfers illegal.

“Even with the best assurances, some countries will continue to torture,” said [Peter Rosenblum](#), the Human Rights Institute director and Lief, Cabraser, Heimann & Bernstein Clinical Professor in Human Rights. “But the U.S. lags far behind allies in committing to reform like court review and public scrutiny.”

“Promises to Keep” is the culmination of several years of research and advocacy on diplomatic assurances by the Columbia Law School Human Rights Clinic. According to its primary author, [Naureen Shah ’07](#), U.S. secrecy is one of major impediments to meaningful assurances. “While Europe and Canada have compensated victims and disclosed essential details about the practice, the U.S. hides from past mistakes and refuses to disclose current practice,” she said. “U.S. secrecy creates the appearance of collusion with abusers. And it removes incentives for governments at either end to get things right.”

There are also signs that faulty assurances have led the government to inadvertently send people to torture.

In one of the quintessential cases of extraordinary rendition, the U.S. sent Canadian citizen Maher Arar to Syria in 2002. Caught on the defensive, the government claimed it had assurances. But according to an internal review by the Department of Homeland Security, the reliability of the assurances “appears not to have been examined” before the transfer. Once it learned that Arar was not an American citizen, the State Department failed to raise any concerns. Despite the assurances, Arar spent nearly a year in a coffin-like cell and was repeatedly beaten by Syrian interrogators.

But while internal procedures may have improved since then, they have not ended the failures. In 2007, the US sent Guantanamo detainees Rukhniddin Sharopov and Mokit Vohidov to Tajikistan based on assurances, despite what the State Department has called “life threatening” Tajik prison conditions. When the two later appeared in a Tajik court, they reportedly cried out that they were tortured. A leaked U.S. cable, however, suggests that the government did not pick this up. In fact, its seemingly crude monitoring may even have put one of the detainees in further danger.

“Without even acknowledging the error publicly, the government insists it can be trusted to prevent another Arar case,” Rosenblum said. “But to break from the past, it has to publicly revamp assurances policy.”

The report describes key reforms the US should make:

- Subject assurances to court and public scrutiny
- Rule out delivery of terrorism suspects to foreign countries with systematic levels of torture or patterns of abuse
- Set baseline requirements for the use of assurances, including explicit guarantees for US access to transferees
- Conduct effective monitoring based on international torture prevention standards.

A copy of the full report and a summary is available online at:

[http://www.law.columbia.edu/center\\_program/human\\_rights/NatSecHRs/DAs/promisestokeep](http://www.law.columbia.edu/center_program/human_rights/NatSecHRs/DAs/promisestokeep)

###

[Columbia Law School](http://www.law.columbia.edu), founded in 1858, stands at the forefront of legal education and of the law in a global society. Columbia Law School joins its traditional strengths in international and comparative law, constitutional law, administrative law, business law and human rights law with pioneering work in the areas of intellectual property, digital technology, sexuality and gender, criminal, national security, and environmental law.

Visit us at <http://law.columbia.edu>

Follow us on Twitter <http://www.twitter.com/columbialaw>