

## **Bush to The Hague**

### **International Criminal Court complaint filed against**

### **Bush, Cheney, Rumsfeld, Tenet, Rice and Gonzales**

### **Request for international arrest warrants**

19 January 2010

Dear Sir,

Please accept my personal compliments. I have the honour hereby to file with you and the International Criminal Court this Complaint against US citizens George W. Bush, Richard Cheney, Donald Rumsfeld, George Tenet, Condoleezza Rice and Alberto Gonzales (hereinafter referred to as the “Accused”) for their criminal policy and practice of “extraordinary rendition.” This term is really a euphemism for the enforced disappearances of persons, their torture, severe deprivation of their liberty, their violent sexual abuse and other inhumane acts perpetrated upon these Victims. The Accused have inflicted this criminal policy and practice of “extraordinary rendition” upon about one hundred (100) human beings, almost all of whom are Muslims/Arabs/Asians and people of colour. I doubt very seriously that the Accused would have inflicted these criminal practices upon 100 white Judaeo-Christian men.

The Accused’s criminal policy and practice of “extraordinary rendition” are both “widespread” and “systematic” within the meaning of Rome Statute Article 7(1). Therefore the Accused have committed numerous “Crimes against Humanity” in flagrant and repeated and longstanding violation of Rome Statute articles 5(1)(b), 7(1)(a), 7(1)(e), 7(1)(f), 7(1)(g), 7(1)(h), 7(1)(i), and 7(1)(k). Furthermore, the Accused’s Rome Statute Crimes Against Humanity of enforced disappearances of persons constitutes ongoing criminal activity that continues even as of today.

The United States is not a contracting party to the Rome Statute. Nevertheless, the Accused ordered and were responsible for the commission of these ICC statutory crimes on, in, and over the respective territories of several ICC member states, including many located in Europe. Therefore, the ICC has jurisdiction over the Accused for their ICC statutory crimes in accordance with Rome Statute Article 12 (2)(a), which provides as follows:

## Article 12

### Preconditions to the Exercise of Jurisdiction

...

2. In the case of Article 13, paragraph (a) or (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3:

(a) The State on the territory of which the conduct in question occurred...

So, the fact that United States is not a contracting party to the Rome Statute is no bar to the ICC's prosecution of the Accused because they have ordered and been responsible for the commission of Rome Statute Crimes against Humanity on, in, and over the respective territories of several ICC member states.

Consequently, I hereby respectfully request that the Court exercise its jurisdiction over the Accused for these Crimes against Humanity in accordance with Rome Statute Article 13(c), which provides as follows:

## Article 13

### Exercise of Jurisdiction

The Court may exercise its jurisdiction with respect to a crime referred to in Article 5 in accordance with the provisions of this Statute if:

...

(c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with Article 15.

Pursuant to Rome Statute Article 13(c), I hereby respectfully request that you initiate an investigation *proprio motu* against the Accused in accordance with Rome Statute Article 15(1): "The Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court." My detailed Complaint against the Accused constitutes the sufficient "information" required by Article 15(1).

Furthermore, I respectfully submit that this Complaint by itself constitutes “a reasonable basis to proceed with an investigation” under Rome Statute Article 15 (3). Hence, I also respectfully request that you formally “submit to the Pre-Trial Chamber a request for authorization of an investigation” of the Accused under Rome Statute Article 15(3) at this time. Please inform me at your earliest convenience about the status and disposition of my two requests set forth immediately above.

Based upon your extensive human rights work in Argentina, you know full well from direct personal experience the terrors and the horrors of enforced disappearances of persons and their consequent torture. According to reputable news media sources here in the United States, about 100 human beings have been subjected to enforced disappearances and subsequent torture by the Accused. We still have no accounting for these Victims. In other words, many of these Victims of enforced disappearances and torture by the Accused could still be alive today. Their very lives are at stake right now as we communicate. You could very well save some of their lives by publicly stating that you are opening an investigation of my Complaint.

As for those Victims of enforced disappearances by the Accused who have died, your opening an investigation of my Complaint is the only means by which we might be able to obtain some explanation and accounting for their whereabouts and the location of their remains in order to communicate this critical information to their next-of-kin and loved-ones. Based upon your extensive experience combating enforced disappearances of persons and their consequent torture in Argentina, you know full well how important that objective is. The next-of-kin, loved-ones, and friends of “disappeared” human beings can never benefit from psychological “closure” unless and until there is an accounting for the fates, if not the remains, of the Victims. In part that is precisely why the Accused’s enforced disappearances of about 100 human beings constitutes ongoing criminal activity that continues as of today and will continue until the fates of all their Victims have been officially determined by you opening an investigation into my Complaint.

Let us mutually suppose that during the so-called “dirty war” in Argentina the International Criminal Court had been in existence. I submit that as an Argentinean human rights lawyer you would have moved heaven and earth and done everything in your power to get the ICC and its Prosecutor to assume jurisdiction over the Argentine Junta in order to terminate and prosecute their enforced disappearances and torture of your fellow Argentinean citizens. I would have done the same. Unfortunately, the ICC did not exist during those darkest of days for the Argentine Republic when we could have so acted. But today as the ICC Prosecutor, you have both the opportunity and the legal power to do something to rectify this mass and total human rights annihilation, and to resolve and to terminate and to prosecute the

“widespread” and “systematic” policy and practice of enforced disappearances and consequent torture of about 100 human beings by the Accused.

Unfortunately, the new Obama administration in the United States has made it perfectly clear by means of public statements by President Obama and his Attorney General Eric Holder that they are not going to open any criminal investigation of any of the Accused for these aforementioned Crimes against Humanity. Hence an ICC “case” against the Accused is “admissible” under Rome Statute article 1 (complementarity) and article 17. As of right now you and the ICC Judges are the only people in the entire world who can bring some degree of Justice, Closure and Healing into this dire, tragic, and deplorable situation for the lives and well-being of about one hundred “disappeared” and tortured human beings as well as for their loved-ones and next-of-kin, who are also Victims of the Accused’s Crimes against Humanity. On behalf of them all, as a fellow human rights lawyer I implore you to open an investigation into my Complaint and to issue a public statement to that effect.

Also, most regretfully, the new Obama administration has publicly stated that it will continue the Accused’s policy and practice of "extraordinary rendition," which is really their euphemism for enforced disappearances of human beings and consequent torture by other States. Hence the Highest Level Officials of the Obama administration fully intend to commit their own Crimes against Humanity under the ICC Rome Statute – unless you stop them!

Your opening an investigation of my Complaint will undoubtedly deter the Obama administration from engaging in any more “extraordinary renditions” – enforced disappearances of human beings and having them tortured by other States. Indeed your opening of an investigation into my Complaint might encourage the Obama administration to terminate its criminal “extraordinary rendition” program immediately and thoroughly by means of issuing a public statement to that effect. In other words, your opening an investigation of my Complaint could very well save the lives of a large number of additional human beings who otherwise will be subjected by the Obama administration to the Rome Statute Crimes against Humanity of enforced disappearances of persons and their consequent torture by other States, *inter alia*.

The lives and well-being of countless human beings are now at risk, hanging in the balance, waiting for you to act promptly, effectively, and immediately to save them from becoming Victims of Rome Statute Crimes against Humanity perpetrated by the Highest Level Officials of the Obama administration as successors-in-law to the Accused by opening an investigation of my Complaint. Otherwise, I shall be forced to file with you and the ICC a follow-up Complaint against the Highest Level

Officials of the Obama administration. I certainly hope it will not come to that. Please make it so.

Finally, for reasons more fully explained in the Conclusion to my Complaint, I respectfully request that you obtain ICC arrest warrants for the Accused in accordance with Rome Statute articles 58(1)(a), article 58(1)(b)(i), article 58(1)(b)(ii), and article 58(1)(b)(iii). The sooner, the better for all humankind.

I respectfully request that you schedule a meeting with me at our earliest mutual convenience in order to discuss this Complaint. I look forward to hearing from you at your earliest convenience.

This transmission letter is an integral part of my Complaint against the Accused and is hereby incorporated by reference into the attached Complaint dated as of today as well.

Please accept, Sir, the assurance of my highest consideration.

Francis A. Boyle  
Professor of International Law