AMNESTY INTERNATIONAL

Media Briefing

AI Index: AMR 51/087/2004 (Public)
News Service No: 127
19 May 2004

USA: Amnesty International calls for a commission of inquiry into ‘war on terror’ detentions

Amnesty International is calling for an impartial and independent commission of inquiry to be set up by the United States Congress to conduct a thorough investigation into the USA’s "war on terror" detentions across the globe. Such a commission, composed of credible experts independent of government, must have broad-ranging powers to examine the administration’s detention policies and practices and ensure accountability at the highest level.

The investigation must have the full cooperation of the government. Its purpose must be to ensure that from now on the USA adopts policies that fully meet its international obligations, as well as to identify any officials who may have authorized, condoned or committed war crimes and other human rights abuses in Iraq, Afghanistan, Guantánamo Bay or elsewhere.

The evidence of war crimes committed in Abu Ghraib prison in Iraq has followed persistent claims of cruel, inhuman or degrading treatment against detainees during the past two and a half years of the "war on terror". The USA continues daily to violate international law and standards in its detention policy -- by holding detainees outside the protection of the law, including in Guantánamo, Afghanistan and in secret locations. Its alleged transfer of detainees to face torture in third countries has also been a matter of deep concern throughout this period.

Since the outset of the "war on terror", the US administration has fostered a climate conducive to torture and cruelty. A contemptuous approach to international law and standards, the use of incommunicado and secret detention, and the repeated dehumanization and labelling of all detainees as "killers" and "terrorists", have created conditions ripe for torture and other crimes under international law.

Even the International Committee of the Red Cross (ICRC) has not had full access to all detainees. The military investigation into Abu Ghraib by Major General Antonio Taguba raised the situation of "ghost detainees", who were moved around within the facility to hide them from the ICRC. The ICRC’s own report in February on Coalition detentions in Iraq "establishes that persons deprived of their liberty face the risk of being subjected to a process of physical and psychological coercion, in some cases tantamount to torture". Failure to notify relatives of detainees’ whereabouts resulted "in the de facto ‘disappearance’ of the arrestee for weeks or even months." The ICRC report also said that ill-treatment of detainees deemed to have high intelligence value was systematic, and that the use of solitary confinement in small cells devoid of daylight against such detainees violated the Geneva Conventions.

The commander of the US forces in Iraq has now barred interrogators from using some of the "stress and duress" techniques, reportedly including sleep deprivation, dietary manipulation, stress

positions, and the use of dogs, techniques which Secretary of Defense Rumsfeld told a Senate hearing on 12 May had been approved at the Pentagon. Although some such techniques violate the international prohibition on cruel, inhuman or degrading treatment, their use has not been precluded in interrogations in Afghanistan, Guantánamo or at secret locations.

In an open letter to President Bush on 7 May 2004, Amnesty International cited the case of a Yemeni national who told the organization in April that he was subjected to sleep deprivation and other cruel or degrading treatment by US agents, including being photographed naked, at a secret detention facility in Kabul. In another recent interview, a former Afghan police officer has said that he was subjected to beating, kicking, sleep deprivation, and sexual abuse during the more than a month he spent in US custody in Afghanistan in 2003. He also said he had been repeatedly photographed, often while naked.

Last week the New York Times published evidence that torture -- including water submersion -- has been used against "high value" detainees at secret locations. The latest edition of the New Yorker magazine reports that the Secretary of Defense approved the expansion of a secret operation -- a "special-access program" (SAP) -- originally for use against such detainees, to prisoners incarcerated in Iraq in the insurgency there. The secret tactics, it is stated, allowed for sexual humiliation and physical coercion. The Department of Defense has issued a general denial of the New Yorker's thorough report, characterizing it as "outlandish, conspiratorial, and filled with error and anonymous conjecture", but has not provided a detailed response to the allegations made.

There is growing evidence that the abuse of prisoners in US custody has been widespread and resulted from US policies as well as a leadership failure. However, the administration continues to claim that only a few soldiers have been responsible. President Bush himself, Commander-in-Chief of the Armed Forces, is promoting this message. The most appropriate way to get to the bottom of this and to meet international concern is to establish an expert inquiry independent of government. To ensure its effectiveness and the appearance of impartiality in the eyes of the world, the inquiry would benefit form the advice of international experts such as the United Nations Special Rapporteur on torture.

Prosecuting the "few" alleged perpetrators caught on film in Abu Ghraib prison would clearly not be enough. Full accountability, of persons at all levels of the chain of command, including officers in the armed forces, Central Intelligence Agency personnel and private contractors, with no hint of scapegoating of low-level soldiers and reservist officers, is crucial.

A commission of inquiry must not be a substitute for bringing to justice anyone who has committed human rights violations, including war crimes. As a matter of principle, across all countries, Amnesty International takes the position that justice is best served by prosecuting war crimes and other grave violations of international law, such as torture, in independent and impartial civilian courts. Any trials, however, whether military or civilian, must conform fully to international standards for fair trial.

The problem does not begin or end at Abu Ghraib. The rule of law and promotion of security and human rights demand that daylight be shone onto all US detention policies and practices.

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