

PUBLIC

AI Index: AMR 51/105/2004

24 June 2004

Further information on UA 199/03 (AMR 51/099/2003, 8 July 2003) and follow-ups (AMR 51/106/2003, 25 July 2003; AMR 51/131/2003, 28 October 2003; AMR 51/028/2004, 11 February 2004; AMR 51/066/2004, 22 April 2004) - Legal concern / Death penalty / Health concern

USA **Feroz Ali Abbasi (m), UK national, aged 23**
Moazzam Begg (m), UK/Pakistan national, aged 35
David Hicks (m), Australian national, aged 28
Salim Ahmed Hamdan (m), Yemen national, aged 34
Ali Hamza Ahmed Sulayman al Bahlul (m), Yemen national
Ibrahim Ahmed Mahmoud al Qosi (m), Sudan national

The six men named above remain in solitary confinement in US military custody in Guantánamo Bay, Cuba. They are the only detainees so far made subject to the Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism signed by President Bush in November 2001. Those held under the Order can be detained indefinitely without charge or trial. They can also be tried by military commissions, whose verdicts, including death sentences, cannot be appealed in any court. Three of them, Ali Hamza Ahmed Sulayman al Bahlul, Ibrahim Ahmed Mahmoud al Qosi and David Hicks, have been charged with conspiracy to commit war crimes. No dates for their trials have been set, but reportedly David Hicks may face a military commission in August.

All six men are believed to be held in Camp Echo, the part of the Guantánamo facility where pre-commission detainees are held. Each man is held for 23-24 hours a day in a reportedly windowless cell with no possibility of communication with other detainees. Prolonged isolation in conditions of reduced sensory stimulation can cause severe physical and psychological damage. In a declaration signed on 31 March 2004, psychiatrist Dr Daryl Matthews, who visited Guantánamo in 2003 at the invitation of the Pentagon, stated that the solitary confinement places the detainees "at significant risk for future psychiatric deterioration, possibly including the development of irreversible psychiatric symptoms".

The announcement that these six detainees were subject to the Military Order came on 3 July 2003, and they were transferred to Camp Echo after this. Salim Ahmed Hamdan, who has been in US custody since November 2001, was transferred to Camp Echo in early December 2003, while Feroz Abbasi and Moazzam Begg are believed to have been held there longer. In a separate development, Ali Hamza Ahmed Sulayman al Bahlul's military lawyer said on 22 June that he has not met with his client for two months because of delays obtaining security clearance for an interpreter.

Amnesty International is concerned that any guilty pleas or detainee testimony before the military commissions could be the result of the coercive nature of the conditions in which the detainees have long been held without any legal process. The conditions in Camp Echo are likely to leave the detainees there even more susceptible to psychological coercion and false confession. According to Dr Matthews's declaration, Salim Ahmed Hamdan has said that he has "considered confessing falsely to ameliorate his situation". Also a legal petition filed in a US federal court on behalf of Salim Hamdan's military lawyer claims that the authorities have told the prisoner that he "shall remain in custody until such time as he wishes to plead guilty to some unspecified crime against the United States in a manner satisfactory to [the authorities], and that his appointed defense counsel is not authorized to mount any legal defense to either his detention or the circumstances of his incarceration, but rather is available only to assist Mr Hamdan in pleading guilty to some unspecified offense".

The military commissions, designed to secure convictions on lower standards of evidence, will have the power to admit coerced evidence. A February 2002 memorandum from the Justice Department to the Pentagon, made public on 22 June 2004, states that "incriminating statements may be admitted in proceedings before military commissions even if the interrogating officers do not abide by the requirements of *Miranda* [the US Supreme Court decision controlling the rights of suspects and conduct of interrogators]". The memorandum describes the military commissions as "entirely creatures of the President's authority as Commander in Chief... and are part and parcel of the conduct of a military campaign". Other administration memoranda from 2002 and 2003, *inter alia*, approved interrogation techniques for use at Guantánamo that go beyond normal US Army doctrine (for example, hooding, isolation, 20-hour interrogations), and discussed how US agents might avoid criminal liability if accused of torture. In addition to the torture committed by US agents in Iraq, there have been widespread allegations of cruel, inhuman or degrading treatment of detainees elsewhere in the "war on terror".

Two former Guantánamo detainees from the UK wrote to a US Senate Committee in May recalling: "After three months in solitary confinement under harsh conditions and repeated interrogations, we finally agreed to confess [to being present at a meeting with Osama bin Laden]. Last September an agent from MI5 [British secret service] came to Guantánamo with documentary evidence that proved we could not have been in Afghanistan at the time... In the end we could prove our alibis, but we worry about people from countries where records are not as available."

Amnesty International believes that the Military Order should be revoked, and that any trial before the commissions, which are executive bodies, not independent courts, would contravene international fair trial standards. The USA should abandon these proposed trials and only countenance proceedings that meet international standards, without recourse to the death penalty.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- opposing trials by military commissions, which will not comply with international fair trial standards;
- expressing concern for the mental health of the Guantánamo detainees, particularly those held in prolonged solitary confinement in Camp Echo, and calling for an immediate improvement in conditions;
- expressing concern at the coercive nature of Camp Echo conditions, widespread allegations of cruel, inhuman and degrading treatment of detainees in US custody in the "war on terror", and that coerced testimony or pleas may be admitted in trials before military commissions;
- urging that the Guantánamo detainees be charged with recognizably criminal offences, brought to trial, without recourse to the death penalty, in proceedings which fully meet international standards for fair trial, including the right to appeal to a court of law, or else released.

APPEALS TO:

John D. Altenberg, Jr., Appointing Authority for Military Commissions
1931 Jefferson Davis Highway, Arlington, VA 22202, USA

Fax: + 1 703 602 4291

Salutation: Dear Mr Altenburg

COPIES TO:

Colin Powell, Secretary of State, Department of State, 2201 C Street, NW, Washington DC 20520, USA. **Fax:**
+ 1 202 261 8577

Donald Rumsfeld, Secretary of Defense, The Pentagon, Washington DC 20301, USA

Fax: + 1 703 697 8339

and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 1 August 2004.