

# AMNESTY INTERNATIONAL

## PRESS RELEASE

### News Flash

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### USA: Six named under Military Order: Another backward step for human rights

Yesterday's decision by President Bush to name six detainees under the Military Order he signed in November 2001 is another retrograde step for human rights in the US-led "war against terrorism" and will further undermine the USA's claims to be a country that champions the rule of law, Amnesty International said today.

"The Military Order is a fundamentally flawed document and should be revoked", Amnesty International said. "We deeply regret that the President has taken his country one step closer to running trials that will flout basic standards of justice".

The six detainees have been named as people suspected of being members of *al-Qa'ida* or "otherwise involved in terrorism directed against the United States", according to the Pentagon. This means that they can be held indefinitely without charge or trial under the Military Order or charged and tried in front of military commissions, executive bodies with the power to hand down death sentences.

It now falls on the "appointing authority", currently Deputy Secretary of Defence Paul Wolfowitz, to determine whether or not to refer any charges that may be levelled against these six people to a military commission.

The fundamental flaws of this process include:

- The Military Order is **discriminatory**. US nationals will not be tried by military commission, even if accused of the same offence as a foreign national. Under the Order, selected foreign nationals will receive second-class justice, in violation of international law which prohibits discriminatory treatment, including on the basis of nationality.
- The commissions would allow a **lower standard of evidence** than is admissible in the ordinary courts, including hearsay evidence. The Pentagon guidelines for the operation of the commissions do not expressly exclude statements extracted under coercive methods.
- The military commissions would entirely **lack independence** from the executive. The President has given himself or Secretary of Defence Rumsfeld (who last week appointed his Deputy, Paul Wolfowitz, to this role) the power to name who will be tried by the commissions, to appoint or to remove the members of those commissions, to pick the panel that will review convictions and sentences, and to make the final decision in any case.

· In violation of international law, there will be **no right of appeal** to an independent and impartial court established by law. Instead, there would be a review by a three-member panel appointed by the Deputy Secretary of Defence.

"Any trial before these military commissions would be a travesty of justice", Amnesty International said. "We urge the US administration to rethink its strategy before it causes any further affront to international fair trial norms and any more damage to its own reputation".

### **Background**

The authorities have not made public the names of the six detainees. At a Pentagon briefing yesterday, a senior Pentagon official acknowledged that the authorities may not identify the six named individuals, saying that there would only be "as much transparency as practicable".

The Pentagon refused to say if the six detainees are among the more than 650 individuals currently held without charge or trial in its Naval Base in Guantánamo Bay. Many of these detainees have been held for well over a year in conditions the totality of which may amount to cruel, inhuman or degrading treatment in violation of international law. None has had access to a court, to legal counsel, or to relatives. Most are held in tiny cells for up to 24 hours a day with minimal opportunity for out-of-cell exercise.

Rooms are said to have been prepared at Guantánamo Bay in which to conduct military commissions, and the possibility of locating an execution chamber at the Naval Base have recently been discussed.

For further information, please see:

USA: The Guantánamo scandal continues <http://web.amnesty.org/library/index/engamr510782003>

USA - Military commissions: Second-class justice <http://web.amnesty.org/library/index/engamr510492002>

USA: Presidential order on military tribunals threatens fundamental principles of justice

<http://web.amnesty.org/library/index/engamr511652001>

### Public Document

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