

AMNESTY INTERNATIONAL

Public Statement

AI Index: AMR 51/095/2006 (Public)
News Service No: 161
22 June 2006

USA: Three years on -- Ali al-Marri remains in solitary confinement without charge or trial

On 23 June 2003 President George W. Bush issued an executive order for Qatari national Ali Saleh Kahlah al-Marri to be detained in US military custody as an 'enemy combatant'. In doing so, President Bush was once again seeking unchecked executive power in the "war on terror" and exposed Ali al-Marri to indefinite arbitrary detention. To date, Ali al-Marri's treatment has remained entirely at the discretion of the military and executive authorities.

Three years later Ali al-Marri remains detained without charge or trial in a military prison in Charleston, South Carolina, in solitary confinement, often shackled, in a cell measuring approximately three metres by two metres. Amnesty International is concerned that the totality of his conditions of detention have amounted to torture or other cruel, inhuman or degrading treatment in violation of international law and that he has not received adequate treatment for his deteriorating mental and physical health.

Ali al-Marri is the only person now held as an 'enemy combatant' on the US mainland. He is held in similar conditions to detainees at Guantánamo, facing the prospect of many more years of indefinite detention without charge or trial. In its report on the USA issued on 19 May 2006, the United Nations Committee Against Torture stated that detaining people indefinitely without charge constitutes per se a violation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which the USA is a State Party.

In contrast to the international outcry about the situation of the detainees at Guantánamo, Ali al-Marri's case has received little public attention. His indefinite detention without charge and the conditions in which he is held should be similarly condemned for the human rights violations that they are.

Background Information

In total, Ali al-Marri has been held in solitary confinement by US authorities for over four-and-a-half years. He was initially arrested in December 2001 and charged with fraud and making false statements to the FBI. He had reportedly entered the USA legally with his wife and five children on 10 September 2001 to pursue post-graduate studies.

Ali al-Marri was due to stand trial on these charges in a federal court in Peoria, Illinois on 21 July 2003. However, on 23 June 2003, the prosecution told the court it was dropping the charges and that he had been classified as an "enemy combatant". On the same day, he was removed from the jurisdiction of the Justice Department and transferred to the military prison, under the control of the Department of Defense where he remains to this day.

The presidential order which labelled Ali al-Marri an 'enemy combatant' stated that he was closely associated with al-Qa'ida and presented "a continuing, present, and grave danger to the national security of the United States". He was held incommunicado for over a year before his first visit from the International Committee of the Red Cross (ICRC) in August 2004 and was not granted access to a lawyer until October 2004.

Only two other people have been held as 'enemy combatants' on the US mainland to date. Unlike Ali al-Marri, both were US nationals. Yaser Esam Hamdi was released without charge in October 2004, more than three months after the Supreme Court ruled that a US citizen held in the USA as an 'enemy combatant' had the constitutional right to contest his detention before a "neutral decisionmaker". He was made to renounce his US citizenship and transferred to Saudi Arabia. In November 2005, Jose Padilla, was indicted on criminal charges unrelated to the alleged terrorist plot for which he had been held in untried military custody for more than two years. The government's announcement of Padilla's imminent transfer to Justice Department custody came shortly before the Supreme Court was due to review the legality of his detention.

In May 2006, a magistrate judge recommended that Ali al-Marri's habeas corpus petition challenging the lawfulness of his detention be dismissed. This issue is currently pending before a US District Judge.

Conditions of detention

Since his transfer to military custody three years ago, Ali al-Marri has been almost entirely isolated from the outside world. During the first year of detention he was interrogated repeatedly and on one occasion he says that interrogators threatened to send him to Egypt or Saudi Arabia where, they told him, he would be tortured and sodomized, and his wife would be raped in front of him. Prison officials are also alleged to have mistreated and disrespectfully handled his copy of the Qu'ran.

Prolonged isolation in conditions of reduced sensory stimulation can cause severe physical and psychological damage, and international standards increasingly favour the restriction or elimination of solitary confinement. In his 2004 report to the UN General Assembly, the UN Special Rapporteur on torture reiterated that solitary confinement can in itself "constitute a violation of the right to be free from torture". In its recent conclusions on the USA, the UN Committee Against Torture called on the USA to review "the practice of prolonged isolation". The Committee was particularly concerned about the effect that such isolation has on the mental health of prisoners.

A complaint filed in the US federal courts in August 2005 described Ali al-Marri's physical and psychological conditions resulting from his detention, including "sharp and debilitating tingling pains in his leg", "vision problems, including seeing flickering lights and white spots...constant headaches, back pain, dizziness, uncontrollable tremors...and ringing in his ears." He has still not received adequate medical treatment for some of these conditions.

The lawsuit, which is still pending, also stated that Ali al-Marri "has experienced a number of symptoms that demonstrate severe damage to his mental and emotional well-being, including hypersensitivity to external stimuli, manic behaviour, difficulty concentrating and thinking, obsessional thinking, difficulty with impulse control, difficulty sleeping, difficulty keeping track of time and agitation". His lawyers have argued that this behaviour is a direct result of the prolonged isolation and other inhumane treatment.

Amnesty International is seriously concerned for Ali al-Marri's physical and psychological well-being. Despite minor improvements to his detention conditions in recent months, he continues to be held in extreme isolation, with no contact with any human being other than military staff, occasional visits with his attorneys, the ICRC and a protestant cleric.

Amnesty International calls on the US authorities to release Ali al-Marri if he is not to be charged with a recognizable criminal offence and brought to trial without further delay in full accordance with international law and standards. The authorities must take immediate steps to improve his conditions of detention and

provide him with appropriate and continuing medical and psychological care, and access to family members.