

PUBLIC

AI Index: AMR 51/127/2006

02 August 2006

Further Information on UA 234/03 (AMR 51/112/2003, 06 August 2003) and follow-up (AMR 51/124/2005, 11 August 2005) - Incommunicado detention/detention without charge/legal concern/torture/ill-treatment/health concern

USA

Ali Saleh Kahlah al-Marri (m), aged 40, Qatari national

Amnesty International remains seriously concerned for the physical and psychological welfare of Ali Saleh Kahlah al-Marri who has been held in US custody without charge or trial for more than three years. He is held in a military detention facility in Charleston, South Carolina.

According to his lawyers, Ali al-Marri's mental health has deteriorated in the past few months due to his prolonged isolation. Despite this he has not yet had access to an independent mental health expert. His conditions of detention are also reported to have worsened, leading to a decline in his physical health.

Ali al-Marri suffers from permanent nerve damage to his back which is believed to have been caused by years of confinement in a solitary cell and sleeping on a metal bed. On doctor's advice, he was provided with a special chair to alleviate the back pain and a special mattress for the bed. This mattress is reported to have been removed more than one month ago as punishment for his alleged "non-compliance" and he is said now to be suffering from extreme pain to his hip and shoulder and tingling in his legs.

In a lawsuit challenging his conditions of detention in August 2005, his lawyers stated that he "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."

Ali al-Marri has also been denied any telephone calls with or visits from his family. Letters from his family, which are heavily censored, take up to five months to reach him due to delays in the screening procedures. He has also been denied access to an Imam or Muslim cleric.

Long-term solitary confinement and the reduced sensory stimulation which results may amount to cruel, inhuman or degrading treatment. It can also have serious effects on the physical and mental health of prisoners and may facilitate torture. Amnesty International believes no prisoner should be confined long-term in conditions of isolation and reduced sensory stimulation, and that conditions of detention should conform to the UN Standard Minimum Rules for the Treatment of Prisoners and other international human rights standards.

In its findings on the USA in May 2006, the UN Committee Against Torture noted 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. On 28 July 2006, the UN Human Rights Committee expressed its concern that detainees in US custody in the "war on terror" had been held "for months or years in prolonged incommunicado detention" in violation of international law. The Human Rights Committee was also concerned by the USA's detention of people "in places where their enjoyment of the protection of domestic or international law is blocked or substantially curtailed."

BACKGROUND INFORMATION

Ali al-Marri 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.

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.

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

- expressing serious concern that Ali Saleh Kahlah al-Marri remains held in solitary confinement without charge or trial after more than four-and-a-half years and stating that he should be released unless he is brought to full and fair trial;
- urging that he be given immediate access to an independent mental health expert;
- expressing concern that his medically prescribed mattress has been removed because of his alleged "non-compliance" and urge that it be returned immediately and that he be given appropriate treatment for his medical complaints.

APPEALS TO:

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Salutation: Dear Commander

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Salutation: Dear Secretary of Defense

COPIES TO: diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 13 September 2006.