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Afghanistan: Bagram prison transfer raises torture concerns

The transfer of hundreds of detainees at Bagram detention centre from US to Afghan custody raises serious concerns about the risk of torture, Amnesty International said, adding that transfers must not take place before these concerns are effectively addressed.

Afghanistan's President Hamid Karzai on 6 March announced that a final group of detainees at the Bagram detention centre north of Kabul would be transferred from US to Afghan custody on 9 March. The US government has a legal obligation to refrain from transferring persons to where they face a risk of torture and other ill-treatment.

Military officials in the Karzai administration have stated that the transfer of 400-500 Afghans will complete the detainee transfer process at Bagram that was initiated exactly a year ago (on 9 March 2012), through a Memorandum of Understanding (MoU) between the US and Afghan governments.

The 9 March transfer may be subject to the terms of last year's MoU, which indicates that the US will, at a minimum, still have some influence or control over the prospects for release of transferred Afghans. Whether the US will exert similar control over their treatment is unaddressed by the MoU and unclear at this juncture.

Under the MoU the US also "intends" to continue transferring newly captured Afghan prisoners to Afghan custody. In addition, the US military will retain exclusive and indefinite control over approximately 50 non-Afghans currently held at Bagram, some of whom have been in US custody without charge or trial for over a decade. The US authorities have also successfully litigated to continue detaining these prisoners without having their habeas corpus petitions heard in US federal court.

Amnesty International and others including the UN Mission in Afghanistan, UNAMA, have previously reported on the widespread use of torture and other ill-treatment, with impunity, by Afghanistan's National Directorate of Security (NDS), and other Afghan authorities at detention facilities. Only in January a UNAMA report expressed strong concern about torture in the Afghan prison system and noted that those suspected of ties to insurgent groups like the Taliban were at particular risk. The Afghan government subsequently undertook its own fact finding mission which confirmed the use of torture and ill-treatment in the detention system. Amnesty International believes it is now crucial that the Afghan authorities follow up on these findings and bring all those responsible to justice, regardless of their official position and rank.

The Afghan government must reform the detention system to prevent torture and other ill-treatment. Such reforms should include putting in place minimum human rights and due process safeguards for all detainees. All complaints of torture and other ill-treatment must be promptly, thoroughly and independently investigated and those responsible must be brought to justice, in fair proceedings, regardless of their official position and rank. The government must also provide reparations to victims and take all other legal, administrative and practical measures to eradicate torture and ill-treatment.

The US government must similarly investigate all reports of torture and other ill-treatment by its personnel, bring those responsible to justice and ensure reparations to victims.

Victims of human rights abuses perpetrated by armed groups equally have the right to justice, reparations and the truth. Amnesty International calls on the USA and Afghan governments to provide these victims the opportunity to see those detainees at Bagram suspected of crimes under international law brought to justice in fair trials, without recourse to the death penalty.