

AMNESTY INTERNATIONAL WEB UPDATES	
TACTICAL CAMPAIGN AGAINST TORTURE	
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One year of the Military Commissions Act

USA: A law that allows unlawful practices in the “war on terror” to continue

On 17 October a year ago, US President George W. Bush signed into law the Military Commissions Act of 2006 (MCA).

The MCA turned flawed executive policy into flawed domestic law and allowed the US administration to continue to avoid full judicial scrutiny of “war on terror” detentions.

Denied the right to challenge their detention via *habeas corpus*

Among other things, the MCA strips the courts of jurisdiction to consider *habeas corpus* petitions – a fundamental procedure allowing detainees to challenge the lawfulness of their detention in an independent and impartial court – from any foreign national held as an “enemy combatant”, in Guantánamo or elsewhere.

Beginning in July 2004, the cases of Guantánamo detainees have been reviewed by Combatant Status Review Tribunals which decide whether each detainee is “properly detained” as an “enemy combatant” or not. These bodies consist of panels of three military officers who can consider hearsay, classified and coerced information in making their determinations. The detainee does not have a lawyer or access to any classified evidence used against him. The decisions of the Tribunals are subject only to narrow judicial review, which has not yet occurred.

Removed from the protective mechanism of *habeas corpus*, detainees have been subjected to enforced disappearance, torture and other-ill-treatment, secret detentions and transfers, as well as arbitrary detentions at the hands of US forces.

Incompatible with international law

The Military Commissions Act is incompatible with international human rights law. The first anniversary of its passage into law serves as a reminder of the US government’s failure to respect the rule of law and fundamental human rights principles in its security and counter-terrorism policies and practices.

Amnesty International is campaigning for repeal or substantial amendment of the Military Commissions Act and for the Combatant Status Review Tribunals to be abandoned as part of restoring the rule of law and closing the Guantánamo detention facility.

Amnesty International is amongst numerous organizations and individuals to have filed *amicus curiae* briefs in the Supreme Court in August 2007, seeking to have the Court

recognize the Guantánamo detainees' right to *habeas corpus*. The Supreme Court is due to hear oral arguments in the case on 5 December 2007, and will issue its decision in 2008.

Amicus curiae

Translated as "friend of the court", *amicus curiae* refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect on a case to assist the court in deciding a matter before it. The decision whether to admit the information lies with the discretion of the court.