

amnesty international

UNITED STATES OF AMERICA

International standards for all

25 March 2003

AI Index: AMR 51/045/2003

“There are international standards that civilized regimes adhere to and then there are regimes like Saddam Hussein[’s] ...”. US Secretary of Defence, 23 March 2003¹

On 23 March 2003, following the news that US soldiers had been captured by Iraqi forces during the US-led attack on Iraq, President George Bush said that “we expect them to be treated humanely, just like we’ll treat any prisoners of theirs that we capture humanely... If not, the people who mistreat the prisoners will be treated as war criminals.”²

Secretary of Defence Donald Rumsfeld added that “the Geneva Convention indicates that it’s not permitted to photograph and embarrass or humiliate prisoners of war, and if they do happen to be American or coalition ground forces that have been captured, the Geneva Convention indicates how they should be treated.”³ His statement came after interviews with five captured US soldiers had been broadcast on Iraqi television.⁴

On the same day, about 30 more detainees were flown from Afghanistan to the US Naval Base in Guantánamo Bay in Cuba. This brought to about 660 the number of foreign nationals held in the base.⁵ They come from more than 40 countries. Most were taken into custody during the international armed conflict in Afghanistan. Some have been held in Guantánamo, without charge or trial, and without access to lawyers, relatives or the courts, for more than a year. Their treatment has flouted international standards.

From the outset, the US Government refused to grant any of the Guantánamo detainees prisoner of war (POW) status or to have any disputed status determined by a “competent tribunal” as required under Article 5 of the Third Geneva Convention. In April 2002, Amnesty International warned the US administration that its selective approach to the Geneva Conventions threatened to undermine the effectiveness of international humanitarian law protections for any US or other combatants captured in the future.⁶ The organization received no reply to this or other concerns it raised about the detainees.

On the 9 February 2002, the International Committee of the Red Cross (ICRC), the most authoritative body on the provisions of the Geneva Conventions, revealed that there were

¹ *Secretary Rumsfeld Stakeout following CNN Interview*, 23 March 2003.

² *President Bush Discusses Military Operation*. White House. 23 March 2003.

³ *Secretary Rumsfeld Interview-Bob Schieffer and David Martin*, CBS *Face The Nation*, 23 March 2003.

⁴ *Iraq: Amnesty International calls for respect of all prisoners of war* (AI Index: MDE 41/037/2003, 24 March 2003).

⁵ Eighteen or 19 Afghan nationals were released from the Guantánamo facility on 21 March 2003 and sent back to Afghanistan.

⁶ *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay* (AI Index: AMR 51/053/2002, April 2002).

“divergent views between the United States and the ICRC on the procedures which apply on how to determine that the persons detained are not entitled to prisoner of war status”.⁷ The ICRC news release said that the organization would pursue its dialogue with the US Government on this issue. Nevertheless, to this day none of the Guantánamo detainees have been granted POW status or appeared before a tribunal competent to determine their status.

The US has ignored not only the ICRC on this issue, but also the United Nations High Commissioner for Human Rights and the Inter-American Commission on Human Rights. More recently, on 16 December 2002, the UN Working Group on Arbitrary Detention noted that “the authority which is competent to determine prisoner-of-war status is not the executive power, but the judicial power”, as specified under article 5 of the Third Geneva Convention.

When the first of the detainees arrived in Guantánamo in January 2002, the Pentagon released a photograph of the detainees in orange jumpsuits, kneeling before US soldiers, shackled, handcuffed, and wearing blacked-out goggles over their eyes and masks over their mouths and noses. The photograph shocked world opinion and led Secretary Rumsfeld to acknowledge that it was “probably unfortunate” that the picture had been released, at least without better captioning. He added: “My recollection is that there’s something in the Geneva Conventions about press people being around prisoners; that – and not taking pictures and not saying who they are and not exposing them to ridicule”.⁸

The USA’s selective approach to the Geneva Conventions has been widely noted. For example, with US soldiers captured in Iraq and shown on Iraqi television to the anger of US officials, a Saudi Arabian newspaper, claiming to be receiving one million visitors a day on its website, wrote: “Rumsfeld’s newfound affection for the Geneva Convention is remarkable... The US does not believe that the prisoners now being held at Guantánamo Bay are prisoners of war under the Geneva Convention. Pictures of the men there, shackled and living in cages, were distributed by the Bush administration to the world’s media.”⁹

Meanwhile the US continues to hold the Guantánamo detainees in very harsh conditions, most of them confined alone to tiny cells for 24 hours a day and reportedly allowed to “exercise” in shackles for only 30 minutes a week – conditions which Amnesty International believes in their totality amount to cruel, inhuman and degrading treatment in violation of international standards. The detainees remain in their legal black hole, unable to challenge the lawfulness of their detention, and with no indication as to how long they might be so held. There have been numerous suicide attempts. Family members are subject to the emotional distress of not knowing how their loved ones are being treated, why exactly they are being held, or when or if they will see them again.

Serious allegations of human rights violations do not stop with the Guantánamo detainees. US soldiers are reported to have mistreated people detained during the military conflict in Afghanistan. Villagers taken into custody in 2002 alleged that they were tied up, blindfolded, hooded, kicked, punched, and subject to other ill-treatment. As far as Amnesty International is aware, no appropriate investigation has been carried out into the allegations by the US authorities.¹⁰

⁷ *Geneva Convention on prisoners of war*, ICRC news release, 9 February 2002.

⁸ Department of Defence News Briefing - Secretary Rumsfeld and Gen. Pace, 22 January 2002. Article 13 of the Geneva Convention relative to the Treatment of Prisoners of War, states: “Prisoners of war must at all times be treated humanely... Likewise prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity”.

⁹ Editorial, Arab News, 24 March 2003, www.arabnews.com

¹⁰ *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay* (AI Index: AMR 51/053/2002, April 2002), pages 17-21.

In a letter to President Bush on 10 March 2003, Amnesty International called for a full, impartial inquiry into allegations of torture and ill-treatment by US personnel against alleged *al-Qa'ida* and Taliban detainees held in the US Air Base in Bagram, Afghanistan. Autopsies revealed that two prisoners who died in the Bagram detention facility in December 2002 had sustained “blunt force injuries”. It has also been alleged that detainees have been subjected to “stress and duress” techniques, including hooding, prolonged standing in uncomfortable positions, sleep deprivation and 24 hour illumination. The ICRC has reportedly not been granted access to the section of the Bagram facility where this treatment has allegedly taken place.

The repeated assertions by members of the current US administration that they remain committed to international human rights standards rings hollow as US officials flout those very same standards. This may not be a new phenomenon – Amnesty International has for many years been concerned with the USA’s pick and choose approach to international standards. But, as the Assistant Secretary of State for Human Rights said in March 2002, “the protection of human rights is even more important now than ever” and gave assurances that “the US Government is deeply committed to the promotion of universal human rights”.¹¹ His government’s failure to live up to those words since the attacks of 11 September 2001 has caused great damage to the international image of the USA.

In a recent letter to Secretary of State Colin Powell resigning from the Foreign Service of the United States, US diplomat John Brady Kiesling wrote: “We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America’s ability to defend its interests.”¹²

The US Government must ensure that all those in its custody are afforded their full rights under international human rights and humanitarian law and standards.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

¹¹ Lorne W. Craner, Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor. Release of the Country Reports on Human Rights Practices for 2001. US State Department, Washington, DC, 4 March 2002.

¹² *US diplomat’s letter of resignation*. New York Times, 27 February 2003.