

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **USA: Guantánamo review fails to address key human rights issues**

On 22 January 2009, President Barack Obama signed three executive orders on detentions and interrogations. One of them committed his administration to closing the detention facility at the US Naval Base in Guantánamo Bay within a year, and directed officials to conduct an immediate review of the cases of the approximately 240 detainees currently held there to determine what should happen to them. As part of the executive order, the Secretary of Defense was required to undertake an immediate review of the conditions of detention at Guantánamo. The review was made public in February 2009.

Amnesty International noted that the review recommended increased socialization and recreational activities for detainees, including those held in the maximum security Camps 5 and 6. The review also reported that a new outdoor recreation area for group exercise and a classroom had recently been added to Camp 6 and that further modifications were underway to provide open communal living for some detainees. While such measures are long overdue, there is concern that many detainees may not have access to such "privileges" - the report made a distinction between "compliant" and "non-compliant" detainees of whom the latter could continue to be confined to cells for 22 hours a day. According to lawyers, most detainees in Camp 6 are still held in 22 hour cellular confinement in individual sealed cells with no window to the outside, in conditions Amnesty International believes flout international human rights standards for humane treatment.

Amnesty International is further concerned that detainees may be considered "non-compliant" for minor incidents, or due to behaviour resulting from years of confinement in cruel conditions, with the stresses from being held indefinitely without charge or trial. Many of the detainees reportedly suffer from severe psychological and physical impairment resulting from their conditions of confinement. Amnesty International believes that all detainees must have opportunities for adequate exercise and socialization and rehabilitation programs.

Amnesty International is also concerned that the report makes no mention of the fact that detainees who were juveniles at the time of their capture have been held, and some continue to be held, in conditions of isolation with no rehabilitation or educational opportunities, treatment which is directly contrary to international standards.

The Review Team -- which looked only at present conditions not past abuses -- dismissed claims that detainees were subjected to violence by guards, including beatings and excessive force during cell extractions (forcible removal by guards from cells), or that they were ill-treated during forced feeding. However, Amnesty International continues to receive reports of ill-treatment of detainees, including reports of beatings and cruel methods of force feeding. Some detainees, for example, have alleged they were beaten for resisting being force-fed and that some had tubes inserted through their noses without anaesthetic, claims which the Review Team did not substantiate.

The discrepancies in accounts given by lawyers for the detainees and detainees themselves, including those recently released, and the findings of the Review Team who spoke mainly to military leaders and staff, underscore the need for ongoing independent scrutiny of the facility,

including independent oversight and scrutiny of internal military police investigations of abuses, and access from independent experts, including medical experts and human rights bodies. One of the report's recommendations was that the government "consider inviting non-governmental organizations and appropriate international organizations to send representatives to Guantánamo". While the recommendation is a positive move, any such access must allow meaningful opportunities for such representatives to speak with detainees in private as well as view all parts of the facility.

Despite concern that in practice the improvements to Guantánamo may be limited, the Review Team report contains some welcome recommendations which, if fully implemented, are in line with those contained in Amnesty International's April 2007 report and would go some way to meeting international standards for the treatment of prisoners. These include increased communal activities, educational and recreational programs, and recommendations to seek ways to provide better access to the outside world through more frequent telephone calls and family visits. The Review Team also acknowledged the tension and anxiety among detainees caused by the uncertainty of their situation, as well as the importance of having trusting relationships between medical staff and detainees in providing quality health care. These stated concerns must be translated into immediate, concrete steps to fundamentally change conditions for all detainees while the facility remains open.

The report also expressed "great concern" that there are still some detainees in Guantánamo despite court orders that the US had failed to meet its burden that they are "enemy combatants". The Review Team urged the government to expedite efforts to repatriate or find third countries for the detainees, something Amnesty International has long been calling for and strongly endorses.

Amnesty International is also concerned by the Review Team's assertion -- repeating a long-held position taken by the former administration -- that none of the detainees in Camps 5 or 6 were held in "isolation" or "solitary confinement", on the ground that the cells allowed "easy communication" with detainees in adjoining cells. In practice, according to reports, detainees can only communicate by shouting through the gap under the solid steel door or briefly when the food slot is opened and at least in the past have reportedly been punished for doing so. Amnesty International believes that by any meaningful standard, holding someone in a sealed cell for most of the day, with minimal human contact or opportunities for exercise, constitutes severe isolation, even without the other deprivations, such as lack of family visits.

The Review Team also rejected claims that detainees were held in conditions of sensory deprivation and asserted, among other things, that they had ample natural light source. This is despite the fact that there is apparently no direct light entering many of the Camp 6 cells, or even in some of the exercise enclosures, and continuing claims that some detainees are offered opportunity to exercise only at night. Again, Amnesty International are concerned that this is too narrow a definition that may serve to perpetuate such conditions at least for some detainees.

The Review Team described conditions in Camp 7 where the high value detainees are held. It conceded that these detainees were held in cells that did not allow any communication with the outside, including adjacent cells, while reporting that Camp 7 detainees could, however, exercise four hours a day adjacent to one other detainee. The team "strongly" recommended increased detainee-to-detainee contact in Camp 7, including the ability to communicate with each other in their cells; again it is not known how many would be denied such contact through being deemed "non-compliant".

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