

WEB UPDATES – TACTICAL CAMPAIGN AGAINST TORTURE

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Title

USA: US Congress gives green light to human rights violations in the “war on terror”

Feature

By passing the Military Commissions Act, the US Congress has given its stamp of approval to human rights violations committed by the USA in the “war on terror”, and has turned bad executive policy into bad domestic law.

Amnesty International had repeatedly called for the Military Commissions Act to be rejected in its entirety and will campaign for the repeal of the bill if President Bush signs it as expected. The organization fully expects the constitutionality of this legislation to be challenged in the courts.

In the “war on terror”, the US administration has resorted to secret detention, enforced disappearance, prolonged incommunicado detention, indefinite detention without charge, arbitrary detention, and torture or other cruel, inhuman or degrading treatment.

Thousands of detainees remain in indefinite military detention in US custody in Iraq, Afghanistan and Guantánamo Bay. Congress has failed these detainees and their families.

The Military Commissions Act contravenes human rights principles.

What you need to know about the Military Commissions Act

- Strip the US courts of jurisdiction to hear or consider *habeas corpus* appeals challenging the lawfulness or conditions of detention of anyone held in US custody as an “enemy combatant”. Judicial review of cases would be severely limited. The law would apply retroactively, and thus could result in more than 200 pending appeals filed on behalf of Guantánamo detainees being thrown out of court.
- Permit the executive to convene military commissions to try “alien unlawful enemy combatants”, as determined by the executive under a dangerously broad definition, in trials that would provide foreign nationals so labeled with a lower standard of justice than US citizens accused of the same crimes. This would violate the prohibition on the discriminatory application of fair trial rights.
- Permit the use in military commission trials of evidence extracted under cruel, inhuman or degrading treatment or punishment.
- Give the military commissions the power to hand down death sentences after trials that did not meet international standards.
- Permit the executive to determine who is an “enemy combatant” under any “competent tribunal” established by the executive, and endorse the Combatant Status Review Tribunal (CSRT), the wholly inadequate administrative procedure that has been employed in Guantánamo to review individual detentions.
- Prohibit any person from invoking the Geneva Conventions or their protocols as a source of rights in any action in any US court.

- Narrow the scope of the War Crimes Act by not expressly criminalizing acts that constitute “outrages upon personal dignity, particularly humiliating and degrading treatment” banned under international law. Amnesty International believes that the USA has routinely failed to respect the human dignity of detainees in the “war on terror”.
- Endorse the administration’s “war paradigm” – under which the USA has selectively applied the laws of war and rejected international human rights law. The legislation would backdate the “war on terror” to before the 11 September 2001 in order to be able to try individuals in front of military commissions for “war crimes” committed before that date.

Links

Want to know more about the bill and Amnesty International's position?

- **Flash news:** [USA: Congress rubber stamps torture and other abuses](#) and **public statement** (29/09/2006)
- **Feature:** [AI urges US Senate to reject 'war on terror' legislation passed by House of Representatives](#) (28/09/2006)
- **Feature:** [US 'war on terror' detention policy at the crossroads](#) (27/09/2006)
- **Report:** [USA: Justice at last or more of the same? Detentions and trials after *Hamdan v. Rumsfeld*](#) and **public statement** (18/09/2006)