

# AMNESTY INTERNATIONAL

## Public Statement

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### USA / Afghanistan: More deaths and impunity

Amnesty International said today that recent revelations about deaths in custody and abuses by US troops in Afghanistan are further evidence of a culture of disrespect for fundamental rights in the “war on terror” which the US has failed to adequately address.

Earlier this month it was reported that US troops had burned the bodies of two Taliban fighters and used their charred corpses to taunt villagers suspected of harbouring insurgents. Although the Pentagon announced a criminal investigation into the allegations, this is only the latest in a series of cases of abuse by US troops in Afghanistan since 2001.

Amnesty International has long expressed concerns at a pattern of impunity and military leniency as well as delays and cover-ups in the investigation of deaths in US custody and abuses in Afghanistan and Iraq.

These concerns were demonstrated in the recent trials of US soldiers accused of abusing two Afghan detainees who died in the Bagram US airbase in December 2002. The two, Dilawar and Mullah Habibullah, died from multiple blunt force injuries inflicted while they were being interrogated in an isolation section of the facility. There was evidence of initial attempts to cover up the abuses and information only came into the public domain as a result of investigative reporting and leaks.

Army investigative reports later revealed that both men were chained to a ceiling and kicked and beaten during sustained assaults by numerous military personnel. According to one medical examiner, Dilawar’s legs were so badly damaged that they would have had to be amputated had he survived. He was also forced into painful positions with water poured into his mouth so he could not breathe.

Despite the horrific, calculated nature of the assaults, no-one to date has been charged directly with causing either of the two deaths. Seven low ranking soldiers, charged variously with assault, maltreatment, dereliction of duty and making false statements, were convicted earlier this year and received sentences ranging from five months’ imprisonment to reprimand, loss of pay and reduction in rank. Trials of five other soldiers on similar charges in the case are still pending.

Given the horrendous nature of the torture and ill-treatment to which these men were subjected, Amnesty International finds it astonishing that no-one has been charged directly with the deaths – and that the charges do not go further up the chain of command.

The lack of accountability at higher levels in the Bagram deaths is particularly disturbing because the treatment was not isolated but formed part of a pattern of abuse. One of the convicted soldiers – who reportedly acknowledged inflicting more than 30 consecutive knee strikes to Dilawar as he stood shackled

and chained to a ceiling – said the beatings were “standard operating procedure” for uncooperative detainees. Hooding, shackling, deprivation of food or water, and holding detainees for prolonged periods in painful stress positions – all of which played a role in the torture or ill-treatment of Dilawar and Habibullah – were techniques authorized at the time by senior military commanders and the Pentagon.

The killings of Dilawar and Habibullah form part of a pattern of torture and ill-treatment at the Bagram base, during a period in which the International Committee of the Red Cross (ICRC) had no access to a crucial part of the facility. Yet no-one in central command or in the government has been held accountable in the case.

The organization is also concerned that, despite the grave nature of the abuses in this and other cases, no-one has been charged with war crimes or torture.

Amnesty International is concerned that conditions in Afghanistan remain conducive to torture or ill-treatment. In a report published in June 2005, the organization noted that hundreds of detainees remained in US custody in Afghanistan without charge or trial or access to families or lawyers and that, while the ICRC had access to detainees in Bagram and Kandahar bases this was not immediately after arrest – a period in which abuses are most likely to occur. The ICRC is believed still to have no access to detainees held in an unknown number of US Forward Operating Bases in Afghanistan. There have been continuing reports of detainees being subjected to abuses, including beatings, hooding, shackling and deprivation of sleep and water.

The organization is further concerned that the CIA may still be holding people in secret detention in Afghanistan and elsewhere in situations which would amount to “disappearance”.

Amnesty International is deeply concerned by statements by senior members of the US administration that non-US nationals held in US custody outside the USA are not legally entitled to protection from “cruel, inhuman or degrading treatment”. Earlier this month, the US Senate attempted to rectify this by passing an amendment introduced by Senator John McCain which would extend a bar on cruel treatment under existing US law to anyone held anywhere in US custody. However, the government was recently reported to be seeking an exemption from such provision with regard to the CIA.

US detention practices in Afghanistan – as well as in Iraq and Guantánamo Bay – shows that the US government still needs to take basic steps to ensure the rights of all those in custody. This should include prompt access to lawyers and the courts as well as to bodies such as the ICRC. Accepting the McCain amendment without exemption would also be a minimum step toward bringing the US into compliance with its international obligations.

Amnesty International continues to call on the US Congress to establish an independent, impartial and non-partisan commission of inquiry into all aspects of the USA’s “war on terror” detention and interrogation policies and practices, and for a Special Counsel to be appointed to carry out a criminal investigation into the possible involvement of administration officials in crimes.

### **Background Information**

At least 27 people who died in US custody in “war on terror” detentions have had their deaths listed by the army as confirmed or suspected criminal homicides, in some cases after substantial evidence of torture. Human Rights First, a US-based international lawyers’ group, reported last week that record-keeping in such cases had been “grossly inadequate” and that delays and deficiencies in investigations had hampered prosecutions. Amnesty International also expressed concern about the way deaths in custody were investigated in its June 2005 report: United States of America: US detentions in Afghanistan, an aide-memoire for continued action (AI Index: AMR 51/093/2005).

In January 2005 then White House Counsel Alberto Gonzales (now Attorney General) reported to the Senate that the Justice Department “has concluded ... there is no legal prohibition under the

Convention against Torture on cruel, inhuman or degrading treatment with respect to aliens overseas”, citing US reservations to the Convention.

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