

AMNESTY INTERNATIONAL

PRESS RELEASE

AI Index: AMR 51/113/2004 (Public)
News Service No: 172
8 July 2004

USA: Administration continues to show contempt for Guantánamo detainees' rights

The US administration continues to show contempt for basic human rights standards in its treatment of the Guantánamo detainees, Amnesty International said today.

"The government should be doing all it can to facilitate full judicial review of the lawfulness of these detentions," Amnesty International said. "Instead, it appears to be trying to narrow the scope of this review and at the same time proceeding with its plans to hold trials by military commission that flout basic standards."

Around 600 detainees of about 40 nationalities continue to be held without charge or trial in the US Naval Base in Guantánamo Bay. Some have been there since early January 2002. Last week the US Supreme Court rejected a central tenet of the administration's "war on terror" detention policy when it ruled that the Guantánamo detainees have the right to challenge their detentions in the US courts. Yesterday, the Pentagon announced the formation of the Combatant Status Review Tribunal scheme under which Guantánamo detainees will be able to challenge their so-called "enemy combatant" status.

"The detainees will not be provided a lawyer for this process, the entirety of which will be conducted within the military," Amnesty International noted. "All forms of evidence will be admissible, including from anonymous witnesses and testimony that may have been coerced."

Amnesty International fears that the narrow record that emerges from this process will then be used to put in front of the US courts when a detainee challenges his detention. The Pentagon has said that the detainees will be informed of their right to file a habeas corpus petition in the US courts.

"We are concerned that what the administration is planning is to have the courts restrict their review to the narrow record that emerges from this Combatant Status Review Tribunal scheme," Amnesty International said. "What it should be doing, at a minimum, is informing the detainees of their right to full judicial review in court and facilitating their access to legal counsel to enable a full and fair process to go ahead."

Yesterday, the Pentagon also announced that President Bush has made nine more foreign detainees subject to the Military Order he signed on 13 November 2001. This order provides for indefinite detention without trial or trial by military commission, executive bodies with the power to hand down death sentences against which there would be no right of appeal to any court. This announcement brings to 15 the number of detainees named under the Military Order. Three have been charged.

"Trials before military commissions -- executive bodies, not independent or impartial courts -- would flout basic standards," Amnesty International said. "No right of appeal, restrictions on the defence, and the discriminatory application of fair trial rights are all cause for concern."

The six so far named under the Military Order have been held for months in solitary confinement in reportedly windowless cells in Camp Echo. There is serious concern for their psychological health and that they may be coerced into making guilty pleas or incriminating statements that could be admitted into the military commission process. Amnesty International fears that some or all of the nine detainees newly named under the Military Order could be transferred to the cruel conditions of isolation in Camp Echo.

In a report last month, Amnesty International emphasised that judicial review of the lawfulness of one's detention is a fundamental principle of international human rights law which now covers all those held in Guantánamo. Judicial review is an integral component of the prohibition against arbitrary detention and a fundamental protection against torture or other cruel, inhuman or degrading treatment.

The organization has also called for a full commission of inquiry, independent of government, to investigate all the USA's "war on terror" detention policies, practices and facilities with a view to bringing to account anyone found to have authorized, committed or condoned torture or ill-treatment.

Amnesty International is calling for all Guantánamo detainees to be released unless they are charged and brought to trial, without recourse to the death penalty, in proceedings which fully meet international fair trial standards.

Public Document

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