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United States of America: The threat of a bad example

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"The very core of American history, law and culture condemns the ideas of punishment before trial, denial of due process and secret government by fiat... Who is an enemy combatant? Today, it can be anyone the president wants. And that is terrifying." A former judge on the Superior Court of New Jersey.

The US has displayed a troubling tendency to seek unchallengeable executive power for itself in the context of its "war on terror". It has created a parallel justice system in which the executive has the power to detain, interrogate, charge or try suspects under the "laws of war", Amnesty International said as it published a new report today.

"All too often where the US leads others follow - increasingly by using the language of "war", governments have disregarded human rights obligations; by using the term "terror" they have endeavoured to avoid international human rights law; and by using the phrase "war on terror", they have challenged the very framework of human rights and international humanitarian law."

In the report -- *The Threat Of A Bad Example: Undermining International Standards As "War On Terror" Continues*-- Amnesty International calls on governments everywhere to ensure that a strict respect for human rights principles remains at the heart of their search for justice and security. The report highlights issues relating to foreign detainees in US custody outside the USA, such as those at Guantánamo Bay, Cuba, and the US air base at Bagram, Afghanistan, who have been denied access to their families and legal counsel for over a year now.

"Allegations of abuses such as arbitrary arrests, prolonged incommunicado detention, ill-treatment, interrogations without legal counsel and threats of unfair trials by military bodies are raised each year in the US State Department's reports on human rights practices in other countries," said Amnesty International. "Now they are being made against the US government in the context of its 'war on terror'".

Recent interviews conducted by Amnesty International with some of the few dozen people who have been released from Guantánamo confirm what Amnesty International has feared from the outset -- that the totality of the conditions, including the prolonged indefinite and isolating nature of the detention regime, amounts to an abuse of human rights.

"The USA has variously used hooding, blindfolding, handcuffing, and shackling of detainees in Afghanistan, Guantánamo and Iraq."

The persistence of ill-treatment allegations, the lack of access to independent human rights organisations and lawyers who can make their findings public, coupled with the possibility that the USA's understanding of what constitutes cruel, inhuman or degrading treatment may not meet international definitions, have left Amnesty International seriously concerned about the treatment of those in US custody.

Ill-treatment also reported to Amnesty International include prolonged sleep deprivation, inadequate exercise provision, prolonged restraint in painful positions, sometimes combined with exposure to loud music, and exposure to 24-hour lighting. The conditions may also be coercive in the context of the repeated interrogations to which the detainees have been subjected, interrogations which could be used for prosecutorial as well as intelligence-gathering purposes, or for coercing plea bargains.

One released prisoner told Amnesty International that his hours-long interrogations at Guantánamo were "like torture". Another, a taxi driver, Sayed Abassin, told the organization that he had been arrested en route from Kabul to Khost in April 2002, despite explaining that he was just a driver and did not know his passengers. An apparent victim of circumstance, he spent more than a year in US custody, first in Afghanistan and then in Guantánamo. He says that at Bagram Air Base he was held in handcuffs and shackles, kept in 24-hour lighting, deprived of sleep, not given enough food, not allowed to talk or look at other detainees, and forced to stand or kneel for hours. He was finally released from Guantánamo in April 2003, having never had access to a lawyer, court of law or other legal process. He has received no compensation for his ordeal.

"There were no human rights for me in that year," Abassin told Amnesty International. Other released prisoners claimed there were more innocent people held at Guantánamo, arbitrarily arrested and held without evidence of wrongdoing.

Currently, the US plans to try selected detainees in front of military commissions, at which the defendant's right to counsel of choice and to an effective defence will be severely restricted. The commissions, applicable only to non-US nationals, will also allow a lower standard of evidence than would be admissible in the ordinary courts, and will have the power to hand down death sentences. On 3 July President Bush named six foreign nationals who would be the first to appear before the commissions. They include Feroz Ali Abbasi and Moazzam Begg, British nationals and David Hicks, an Australian national.

"It will be a case of second-class justice for foreign nationals in violation of the prohibition on the discriminatory application of fair trial rights," Amnesty International stated.

The report is part of Amnesty International's ongoing efforts to persuade the US authorities to comply with international standards in their response to the atrocities of 11 September 2001. Among recommendations outlined in the report, the organisation is calling on the US government to drop all plans for trials by military commissions, ensure that all detainees are either charged with recognizable criminal offences or released, provide legal counsel to detainees, and treat all detainees humanely, ensuring they are not subjected to any treatment which would violate international law and standards. It also calls on the US government to grant Amnesty International access to detainees and officials at Bagram Air Base and the Naval Base at Guantánamo Bay.

"The administration has sought to insulate its actions from domestic judicial review and from the eyes of the international community. The USA is undermining the rule of law, and setting a dangerous example in so doing," Amnesty International concluded.

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566
Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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