

PUBLIC

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**Further Information on UA 68/05 (AMR 51/058/2005, 17 March 2005)
Fear of forcible return to torture or ill-treatment**

5 August 2005

USA Hundreds of detainees in US custody in Guantánamo and Afghanistan

Approximately 110 Afghan nationals, currently detained at Guantánamo are to be returned to Afghanistan. A further 350 Afghan nationals, currently held by US forces in Afghanistan are also to be transferred to the control of Afghan authorities.

Amnesty International fears that they may face further human rights abuses, including torture and ill-treatment. They also face the prospect of further prolonged, indefinite detention without charge or trial. While the organization has been calling for, and would welcome, releases of detainees from Guantánamo, it is concerned to ensure that no detainee is forcibly returned to a situation where he would face further human rights abuses.

On 4 August, a joint statement was issued announcing that an agreement had been reached between US and Afghan authorities to transfer the detainees. Matthew Waxman, deputy assistant secretary of defense for detainee affairs stated that "We, the United States, don't want to be the world's jailer" and has stated that this move is not a prelude to closing Guantánamo. Under the agreement US authorities will help Afghanistan build prison space for the men and train the guards. Gradual transfers will then take place once the facilities are in place.

The statement announced that "the Government of Afghanistan will accept responsibility for the returning Afghan citizens and will work to ensure that they do not pose a continuing threat to Afghanistan, the coalition, or the international community as a whole." It is not clear whether all of the detainees will return to continued detention or whether some will be released. A Defense Department spokesman has stated that "The disposition of the detainees will be the decision of the Afghan government."

Pierre-Richard Prosper, US ambassador at large for war crimes has stated that the United States is pursuing similar transfer agreements with Saudi Arabia and Yemen stating "We're now engaging the countries with the largest populations, so we expect to see the largest potential movement from Guantánamo."

Discussions between a US delegation led by Pierre-Richard Prosper and Saudi Arabian authorities regarding the Saudi Arabian nationals held at Guantánamo were cut short recently following the death of Saudi Arabian King Fahd. The Saudi Arabian detainees number around 121. Four men have previously been transferred to Saudi Arabia.

A Yemeni national, Walid al-Qadasi, was returned to Yemen from Guantánamo Bay at the beginning of April 2004. He remains detained without charge or trial one year and four months later. Yemeni officials have told Amnesty International that he is being held in continued detention at the request of US authorities. There are over 100 Yemeni detainees estimated held at Guantánamo.

BACKGROUND INFORMATION

There are currently approximately 510 detainees from about 35 countries held in Guantánamo. Some have been held for over three years without charge or trial. According to the Department of Defense 167 detainees have previously been released and 67 transferred to other governments (29 to Pakistan, five to Morocco, seven to France, seven to Russia, four to Saudi Arabia, one to Spain, one to Sweden, one to Kuwait, one to

Australia, nine to Great Britain and two to Belgium). Some of these have since been released, including those transferred to the UK, Russia, Sweden, Australia and Kuwait.

The 2004 State Department Report for Afghanistan reported that prisoners reportedly were beaten, tortured, or denied adequate food. Torture and other forms of cruel, inhuman or degrading treatment are common practices in Saudi Arabia, as are harsh prison conditions, indefinite detention without charge or trial, and incommunicado detention. Arbitrary arrest and detention without charge or trial is a long standing pattern of human rights violations in Yemen in the context of the 'war on terror'.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

To US authorities:

- noting the joint statement that the USA is intending to transfer the detainees from Guantánamo and US custody in Afghanistan to the control of the Afghan authorities. Also noting statements that similar arrangements are being sought with the Saudi Arabian and Yemeni authorities;
- reminding the US authorities of their absolute obligation not to forcibly return anyone to a country or situation where there are substantial grounds for believing that they would be subjected to torture or other cruel, inhuman or degrading treatment, as defined by international law;
- reminding the US authorities that harsh prison conditions, indefinite detention without charge or trial, and incommunicado detention can amount to torture or cruel, inhuman or degrading treatment;
- stressing that diplomatic assurances have been shown to be inadequate in protecting transferred detainees, and must never be used to circumvent a state's international obligations.

To Afghan authorities:

- noting the joint statement that the USA is intending to transfer the detainees from Guantánamo and US custody in Afghanistan to the control of the Afghan authorities;
- seeking assurances that all detainees will be released in Afghanistan if they are not to be charged with recognizable criminal offences and brought to prompt, full and fair trial;
- seeking assurances that all detainees will be humanely treated and protected against any form of torture or ill-treatment; seeking assurances they will be provided with appropriate medical care and given access to lawyers and families.

APPEALS TO:

Donald Rumsfeld, Secretary of Defense
Office of the Secretary of Defense, The Pentagon, Washington DC 20301, USA

Fax: + 1 703 697 8339

Salutation: Dear Secretary of Defense

Condoleezza Rice, Secretary of State,
Department of State, 2201 C Street, NW, Washington DC 20520, USA

Fax: + 1 202 261 8577

Salutation: Dear Secretary of State

Fax numbers and e-mail addresses for the Afghan authorities are not available. Please send appeals via the Afghan embassy or diplomatic representative in your country, asking them to forward your appeals to President Hamid Karzai.

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.

Cruel. Inhuman. Degrades us all.

Stop torture and ill-treatment in the "war on terror"

For more information on AI's campaign see <http://web.amnesty.org/pages/stoptorture-index-eng>