

PUBLIC

AI Index: AMR 51/066/2004

22 April 2004

Further information on UA 199/03 (AMR 51/099/2003, 8 July 2003) and follow-ups (AMR 51/106/2003, 25 July 2003, AMR 51/131/2003, 28 October 2003, and AMR 51/028/2004, 11 February 2004) - Legal concern / Death penalty / Health concern

USA **Feroz Ali Abbasi (m), UK national, aged 23**
 Moazzam Begg (m), UK/Pakistan national, aged 35
 David Hicks (m), Australian national, aged 27
 Salim Ahmed Hamdan (m), Yemen national, aged 34
 Ali Hamza Ahmed Sulayman al Bahlul (m), Yemen national
 Ibrahim Ahmed Mahmoud al Qosi (m), Sudan national

Amnesty International remains concerned for the mental health of the six men named above, held in solitary confinement in US military custody in Guantánamo Bay, Cuba. The six are the only prisoners so far made subject to the Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism signed by President Bush on 13 November 2001. Those held under the Order can be detained indefinitely without charge or trial. They can also be brought to trial before military commissions whose verdicts, including death sentences, cannot be appealed in any court. Two of the six, Ali Hamza Ahmed Sulayman al Bahlul and Ibrahim Ahmed Mahmoud al Qosi have been charged with conspiracy to commit war crime and "terrorism". No dates for their trials have been set.

All six men are believed to be held in Camp Echo, the part of the Guantánamo facility where pre-commission detainees are held (and which has also reportedly been used for punishment). Even in the maximum security cells of Camp Delta, where most of the hundreds of Guantánamo detainees are held, the prisoners can communicate between cells, if they share a language. In Camp Echo, each man is held for 23-24 hours a day in a reportedly windowless cell with no possibility of communication with other detainees. In the case of non-English-speaking detainees, they will not even be able to communicate with the guard stationed outside the cell. Prolonged isolation in conditions of reduced sensory stimulation can cause severe physical and psychological damage. In a declaration signed on 31 March 2004, Dr Daryl Matthews, a psychiatrist who visited Guantánamo in 2003 on the invitation of the Pentagon, states that the solitary confinement places the detainees "at significant risk for future psychiatric deterioration, possibly including the development of irreversible psychiatric symptoms".

The announcement that these six detainees were subject to the Military Order came on 3 July 2003. It is not known how soon after this they were transferred to Camp Echo. Salim Ahmed Hamdan, who has been in US custody since November 2001, was transferred to Camp Echo in early December 2003. Feroz Abbasi and Moazzam Begg are believed to have been held there longer.

Amnesty International is concerned that any guilty pleas or detainee testimony brought before the military commissions could be the result of the coercive nature of the conditions in which the detainees have long been held without any legal process. The conditions in Camp Echo likely leave the detainees there even more susceptible to psychological coercion and false confession. According to Dr Matthews's declaration, Salim Ahmed Hamdan has said that he has "considered confessing falsely to ameliorate his situation". Amnesty International is further concerned by the claim contained in a legal petition filed in a US federal court on behalf of Salim Hamdan's military lawyer that the authorities have told the prisoner that he "shall remain in custody until such time as he wishes to plead guilty to some unspecified crime against the United States in a manner satisfactory to [the authorities], and that his appointed defense counsel is not authorized to mount any legal defense to either his detention or the circumstances of his incarceration, but rather is available only to assist Mr Hamdan in pleading guilty to some unspecified offense". This would be consistent

with the undermining of the presumption of innocence of the Guantánamo detainees by senior US officials, including those with control over the commissions, who have routinely labelled the detainees as “terrorists” and “killers”. It would also be consistent with the commission process itself which appears designed to secure convictions.

Amnesty International believes that the Military Order should be revoked, and that any trial before the commissions – executive bodies, not independent courts – would contravene international fair trial standards. All governments should seek to persuade the USA to abandon these proposed trials and only countenance proceedings that meet international standards, without recourse to the death penalty.

On 19 February 2004 United Kingdom Foreign Secretary Jack Straw said that “in the [UK] Attorney General's view the Military Commissions, as presently constituted, would not provide the type of process which we would afford British nationals.” On 20 April 2004, the Yemeni human rights minister, Amat al-Aleem Alsoswa, said that her government would give *al-Qa’ida* suspects in Yemen open trials before the normal civilian courts: “[W]e are trying our best to guarantee these people their basic rights and their right to have clear and open cases, to have an open trial”.

It is months since the International Committee of the Red Cross, the only international organization to have had access to the Guantánamo detainees, said that it had “observed a worrying deterioration in the psychological health of a large number of them”. The US authorities say that the 34th suicide attempt occurred in January 2004. The rate of such officially reported attempts has declined recently, apparently because the authorities have reclassified such bids as “manipulative self-injurious behaviour”.

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

- expressing concern that preparations continue for military commissions despite widespread concern that they will not comply with international fair trial standards;
- expressing concern for the mental health of the Guantánamo detainees, particularly those held in prolonged solitary confinement in Camp Echo, and calling for an immediate improvement in conditions;
- expressing concern at the coercive nature of Camp Echo conditions, and at the claim filed in a US District Court that Salim Ahmed Hamdan has been told that he will be detained until he pleads guilty;
- urging that the Guantánamo detainees be charged with recognizably criminal offences, brought to trial, without recourse to the death penalty, in proceedings which fully meet international standards for fair trial, including the right to appeal to a court of law, or else released;
- using the above information, urging the President of Yemen and the UK Foreign Secretary to ensure that their governments oppose any trials by military commission, of their nationals or anyone else.

APPEALS TO:

John D. Altenberg, Jr, Appointing Authority for Military Commissions, 3C967, 1600 Defense Pentagon, Washington, DC 20301-1600, USA

Fax: +1 703 602 4291

Salutation: Dear Mr Altenburg

Rt Hon Jack Straw MP, Secretary of State, Foreign and Commonwealth Office, King Charles Street, Whitehall, London SW1A 2AH, UK

Fax: +44 207 270 2144

Salutation: Dear Secretary of State

His Excellency General `Ali `Abdullah Saleh, President of the Republic of Yemen, Sana=a, Republic of Yemen

Fax: + 967 127 4147

Salutation: Your Excellency

COPIES TO: Diplomatic representatives of USA, Yemen, and UK accredited to your country

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 3 June 2004.