

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

AI Index: AMR 51/086/2012  
08 October 2012

### **USA must respect rights of individuals extradited from the UK**

The United States of America (USA) must respect the human rights of the individuals extradited to the USA from the United Kingdom (UK) on 5 October 2012 to face trial on terrorism-related charges.

In the wake of the extradition of Babar Ahmad, Syed Talha Ahsan, Khaled Al-Fawwaz, Adel Abdul Bary, and Mustafa Kamal Mustafa (commonly known as Abu Hamza), Amnesty International underscores that their treatment during any pre-trial detention must meet international human rights standards and be conducted in a manner that is consistent with the presumption of innocence. The conditions in which each individual is held should, at a minimum, comply with the UN Standard Minimum Rules for the Treatment of Prisoners. The individuals must be afforded adequate time and facilities to prepare their defence; this requires, among other things that they be able to meet with and communicate in confidence with their lawyers from the outset of any detention.

Detention pending trial is a preventative measure rather than a punishment. It should be aimed at purposes such as preventing obstruction of the investigation or the course of justice, or further harm. Restrictions placed on a pre-trial detainee's contact with the outside world and with other detainees, must be necessary in the individual case and proportionate to a legitimate aim, regularly reviewed and subject to challenge.

The criminal proceedings against each of the individuals must meet international standards for fairness.

If any individual is convicted, the US authorities must ensure that the conditions and regime of imprisonment for each of them is humane, and respects the prohibition of cruel, inhuman or degrading treatment or punishment. While serving a sentence, restrictions placed on the individual's contact with other prisoners, family members and others in the outside world must be necessary in the individual case and proportionate to a legitimate aim. Both individually and in their cumulative effect such measures must not amount to treatment prohibited by international human rights law. Decisions on such restrictions must be individualized, not based solely on the crime for which the individual has been convicted; they must also be reasoned, reduced to writing and time limited. Decisions on such restrictions must be regularly reviewed and subject to challenge, including in a court.

Depending on its duration and intensity, as well as the legitimacy of the reasons cited for its imposition, isolation from the outside world and from others within the prison can violate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The UK authorities should monitor the treatment of all the men extradited and ensure that it meets international standards. Independent human rights experts should also be permitted to visit the places of detention where these individuals are held, to speak in private with any prisoner of their choosing, and publicly to report their findings on the treatment and conditions in those places.

Amnesty International notes that the European Court of Human Rights rejected the claim that if extradited, convicted and imprisoned in a "supermax" prison in Florence, Colorado, the individuals would face a real risk of torture or other inhuman or degrading treatment or punishment that would prohibit their extradition to the USA. Particularly in light of its own

past research on similar cases in the USA, and the recent statement by the UN Special Rapporteur on Torture, Mr Juan Mendez, on these cases, the organization has concerns about the reasoning that led the Court to this conclusion. Among other things, its judgment does not explain in any detail why the Court seemed to give such heavy weight to representations from the government of the USA, relative to all the other evidence before the Court. However, Amnesty International is not presently in a position to determine whether or not, in light of all the evidence available at the time and subsequently, the Court's judgment will ultimately prove to have been well-founded.

Amnesty International will continue to monitor the transfer of suspects, trials and conditions of detention as part of its human rights work in the context of governments' counter-terrorism laws, policies and practices.

#### **BACKGROUND INFORMATION**

Amnesty International is making these calls in light of its research that raises concern that the conditions in which some or all of the individuals extradited may be detained prior to trial or, if convicted, imprisoned following trial may violate international standards, and amount to cruel, inhuman or degrading treatment or punishment. Concerns about the conditions of isolation under which the individuals are likely to be held following their extradition are shared by the Special Rapporteur on torture, other NGOs and lawyers.

In particular Amnesty International has previously raised concern about a regime imposed at the Metropolitan Correctional Center (MCC) in New York, where two of the individuals may be held while awaiting trial. Amnesty International considered that the pre-trial detention regime at MCC imposed on several individuals charged with terrorism-related offences breached international standards for humane treatment. They included two detainees who had been extradited from Europe on suspicion of terrorism-related offences who were confined to solitary cells for 23 or 24 hours a day with little natural light, no outdoor exercise and limited contact with the outside world. One individual, Syed Fahad Hashmi, who was extradited from the UK in 2007, was held for nearly three years in solitary confinement, was subject to 24-hour electronic monitoring, and subjected to strip search before being allowed to exercise in a small interior cage. He was not allowed to associate with other detainees, had only limited, non-contact visits with family members and his access to reading materials, including media, was severely restricted.

Amnesty International is also concerned that, if convicted and imprisoned in the ADX in Florence, Colorado, the individuals will spend at least a year in conditions of severe social isolation. Prisoners at this facility spend the minimum of a year – and some have spent considerably longer – under a regime in which they are housed alone in a cell, for 22-24 hours per day with minimal human contact. Possibilities of communicating with inmates in adjoining cells are limited to speaking through in-cell air-vents, and during the relatively short exercise periods in which people are placed in individual cage-cells a few times a week. Furthermore additional restrictions on communication with people in the outside world are placed on prisoners subject to “Special Administrative Measures” (known as SAMs). The European Court of Human Rights itself found the conditions at ADX Florence, and particularly for prisoners subjected to SAMs to be “highly restrictive” and designed to “prevent all physical contact between an inmate and others and to minimise social interaction between inmates and staff”.

Although according to representations from US authorities as cited by the European Court of Human Rights, the restrictions under these regimes at ADX Florence may apparently be gradually reduced, following reviews, and some prisoners may be transferred from ADX Florence altogether, it is likely that a prisoner subject to the most stringent measures in ADX Florence will spend several years with minimal social contact before being permitted meaningful interaction with other prisoners.

A request by Amnesty international to visit ADX Florence, to view the conditions first-hand, was turned down by the US authorities in July this year.

There is ample evidence in the USA and elsewhere that prolonged confinement to a cell with social isolation can cause serious physical and psychological harm. Concerns about such impact are heightened with regard to individuals, like some of those extradited, who have pre-existing medical conditions or mental disabilities. The availability of medical and mental health treatment for those imprisoned at ADX Florence, while both required and necessary, does not neutralise the harm that such isolation regimes pose.

Like the Special Rapporteur on torture and other human rights bodies, Amnesty International considers that solitary confinement – defined as confinement of a person deprived of their liberty to a cell on their own for 22-24 hours per day – if imposed at all – should be an exceptional measure of last resort, to protect the safety of others deprived of their liberty or prison staff, and should last only for the shortest time possible. The procedural safeguards set out above must be respected, genuine and effective.

Depending on its duration, intensity, and the legitimacy of the reasons for its imposition, isolation of prisoners from the outside world or from others in the place of detention can violate the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment. Such restrictive measures are even more frequently in violation of the obligation to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person. The USA is bound by these obligations under international law, including through the operation of treaties such as the International Covenant on Civil and Political Rights, and the UN Convention against Torture.