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## USA: Government must end all secret detention and guarantee fair trials

The US government must clarify the fate and whereabouts of all people who have been secretly detained and guarantee fair trials for all people in its custody, Amnesty International said today.

“President Bush has finally admitted what has long been reported – that, in the 'war on terror', the USA has been resorting to secret detentions and enforced disappearance, which is a crime under international law,” said Amnesty International's Secretary General Irene Khan.

The organization was responding to yesterday’s announcement by President Bush stating that 14 men held in secret CIA custody have been transferred to Guantánamo. In his address, President Bush indicated that the 14 would be brought to trial.

President Bush is pressing the US Congress to pass legislation authorizing the use of military commissions to try terror suspects, following the US Supreme Court’s ruling in June that the commissions he had established were unlawful.

"Congress should authorize nothing -- unfair trial procedures, indefinite executive detention or impunity for human rights violations committed -- that conflicts with international law or standards", Irene Khan said. "It must ensure full accountability for past actions and the full lawfulness of future actions."

The US has the right and duty to bring to justice anyone responsible for crimes, including the crime against humanity that was committed on 11 September 2001. It must do so in a manner that respects human rights and the rule of law. Secret detention; enforced disappearance; torture or other cruel, inhuman or degrading treatment; indefinite detention without charge; and unfair trials are all prohibited under international law.

"Amnesty International has been calling for a full independent commission of inquiry, with international expert input, into all the USA's 'war on terror' detention and interrogation practices. President Bush's admission that the US government has used secret detention highlights the urgent need for such an investigation, rather than for new laws 'legalising" such action," said Irene Khan.

A special prosecutor should also be appointed to conduct a criminal investigation into the conduct of any US personnel, including administration officials, against whom there is evidence of involvement in crimes in the "war on terror". It is not enough that the President says that the USA does not torture.

**Background information**
Amnesty International calls on the US government to guarantee fair trials for all detainees held in the context of the “war on terror”, particularly their right to:

be presumed innocent until proven guilty;
be represented by a lawyer of their choosing;
be present at their trial and be able to confront the evidence against him;
exclusion from trial of any evidence that has been extracted under torture or other cruel, inhuman or degrading treatment or punishment, except if brought against those responsible for such torture or ill-treatment.
appeal to a higher judicial body.

Amnesty International reiterates its opposition to the use of the death penalty under any circumstances.

President Bush’s speech follows the 29 June US Supreme Court ruling in Hamdan v. Rumsfeld, in which the Court blocked the administration’s proposed military commission trials finding that they were not established by US law and that their procedures violated both national and international law. It also found that common Article 3 to the Geneva Conventions – which guarantees fair trial and humane treatment in situations of armed conflict – applied to the case brought before it.

The US War Crimes Act currently makes violations of common Article 3 prosecutable in the USA. Amnesty International is disturbed that, among President Bush’s proposals to Congress, are provisions seeking to shield US personnel from prosecution for violations of common Article 3. President Bush also announced that he had sent Congress a proposal to authorize a new version of military commission trials.

While President Bush did not reveal the “alternative” interrogation techniques used by the CIA against detainees in secret custody, repeated reports indicate that “water-boarding” (simulated drowning) and “the cold cell” (detainees left naked in a cold cell and repeatedly doused with cold water) are among them.

The timing of President Bush’s statement places the issue of detentions, interrogations and trials for “war on terror” detainees squarely into the context of the 7 November congressional elections. Amnesty International urges the US authorities to they transcend party politics in ensuring that all measures taken to protect people from terrorism respects human rights and the rule of law.

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