



AFGHANISTAN

Amnesty International's campaign to stop torture and ill-treatment in the 'war on terror'

Human rights are under threat. The absolute ban on torture and other cruel, inhuman or degrading treatment – one of the most universally accepted human rights – is being undermined. In the “war on terror”, governments are not only using torture and ill-treatment, they are seeking to justify it. They argue that interrogation methods which amount to torture or ill-treatment, and detention conditions which constitute ill-treatment, are both justifiable and necessary.

This is a crisis in the struggle to eliminate torture and ill-treatment, and Amnesty International is therefore redoubling its efforts. The organization is urging the widest possible network of people to join it in reasserting the absolute ban on torture and ill-treatment, including methods currently being described as “coercive interrogation”. No euphemisms can justify the unjustifiable. Amnesty International wants to stop the torture and ill-treatment that is being inflicted in the “war on terror”. It also wants the prohibition on such brutal treatment to emerge all the stronger from its campaign.

Torture and other ill-treatment in Afghanistan

Amnesty International is concerned that the US military and other agencies, possibly including other coalition forces, have committed serious human rights violations on Afghan territory. The organization is also concerned that despite the Afghan government's efforts to re-establish the rule of law and restore peace and stability, it is allowing violations to continue without serious protest. Moreover, US forces have reportedly used Afghan government facilities and, in some cases, involved Afghan officials in abusive practices in the context of the “war on terror”.

Since 2001, thousands of Afghans and some non-Afghans have been arbitrarily detained, held incommunicado (without access to the outside world) and subjected to torture and other cruel, inhuman or degrading treatment or punishment by US forces and by armed groups acting under US control. The detention facilities have included those known as “the Salt Pit” in Kabul and “the Discotheque”, a centre reportedly connected to the Bagram Detention Facility, north of Kabul. With these two facilities now closed, Bagram is the main detention site.

Former detainees from Bagram say that they were stripped naked, hooded, humiliated, handcuffed and shackled for days, forced to maintain painful postures for hours at a time, and subjected to sleep deprivation. Conditions for many detainees reportedly improved in the latter half of 2005.

Eight Afghans are known to have died in US custody in Afghanistan. The identity of two of them remains unknown to Amnesty International. US military investigations have determined that the cause of death of Dilawar, Habibullah, Abdul Wali and Mohammed Sayari was homicide. The cause of death of Jamal Naseer and Sher Mohammed Khan remains undetermined. It is not known how many others may have been tortured or ill-treated or may have died in military camps located in the areas where conflict is taking place, known as Forward Operating Bases.

The hundreds of detainees currently held in US-controlled facilities have no recourse to human rights safeguards such as the right to challenge their arrest or detention. Some have been detained without charge or trial for more than a year, without access to lawyers or relatives. The International Committee of the Red Cross (ICRC) has been able to visit all detainees in Bagram, but not in the Forward Operating Bases or unacknowledged places of detention.

The indefinite, incommunicado or virtually incommunicado, and arbitrary detention of these people may in itself amount to cruel, inhuman or degrading treatment and leaves them at risk of further ill-treatment and torture during interrogations.

Amnesty International fears that detainees held in incommunicado detention in the US military's Forward Operating Bases – or any who may be held in the secret custody of the Central Intelligence Agency (CIA) in Afghanistan – may be at particular risk of torture or other cruel, inhuman or degrading treatment.

It is not known how many detainees are held at the Forward Operating Bases or whether any other, undisclosed, centres continue to be used. What is known is that hundreds of detainees remain in US custody, outside any clear legal framework, in the main US airbase in Afghanistan – Bagram.

No legal basis for US detentions

Amnesty International is concerned about the lack of clear or recognized legal framework governing the US forces' actions in Afghanistan, including in respect of detention and interrogation. The international armed conflict between the US-led coalition forces and Taliban-led Afghanistan ended in June 2002, and was followed by an internal armed conflict between the new Afghan government, supported by the USA, and armed groups including the Taliban. However, the USA claims that its forces are still carrying out operations in the context of an international "war on terror". This in effect means that the USA does not recognize any role for the Afghan authorities with regard to people captured on Afghan territory. An August 2005 agreement between the USA and Afghanistan to transfer Afghan detainees from US detention facilities at Bagram and Guantánamo Bay, Cuba, to the control of the Afghan authorities has yet to be implemented.

Systematic failure to address abuses

Although the ICRC has access to the Bagram facility, detainees spend up to 10 days – between arrest and transfer to Bagram – at the Forward Operating Bases, where they are held incommunicado, beyond the reach of even the ICRC. Other independent human rights monitors, including from the UN, Amnesty International and the Afghanistan Independent Human Rights Commission, have been denied access even to Bagram.

In mid-2005, more than 20 US military personnel were tried in connection with the death in custody of two Afghan nationals in 2002. Many were charged with dereliction of duty and found guilty of minor offences, such as maltreatment, and faced moderate penalties. However, no one was held responsible for the deaths.

Responsibility of the government of Afghanistan

The Afghan government has an obligation under international law to protect the right to life and to prevent torture and other ill-treatment on its territory and within its jurisdiction.

Amnesty International is not aware of any investigations by the Afghan government into cases of deaths in US custody. Nor is the organization aware of any efforts by the Afghan government to put an end to torture and ill-treatment by individuals – including members of armed Afghan groups –working under the control of US forces in Afghanistan, to bring perpetrators to justice or to ensure reparations for survivors or the families of those who have died in custody.

While initially much of the torture and ill-treatment inflicted by US forces on detainees in Afghanistan took place when the country was under military occupation, the Afghan government now has jurisdiction over the territory. Amnesty International is aware of the many challenges facing the government, including in its relations with the USA. However, the Afghan government is legally bound to ensure that not only people in its own custody but all those within its jurisdiction are free from torture and other ill-treatment.

US and other forces are stationed on Afghan territory with the Afghan government's consent. Amnesty International stresses that the Afghan government shares responsibility for their conduct. Under international law, the Afghan government is bound to exercise that responsibility. The Afghan government should insist that foreign forces conduct their operations in strict compliance with international law. This includes the absolute prohibition on torture and other cruel, inhuman or degrading treatment and must be a condition for the Afghan government's consent to their continued presence on its territory.

What you can do

- Take action as part of AI's campaign – see www.amnesty.org and the campaign home page at www.amnesty.org/stoptorture
- Contact your national section/structure to get involved in their work on the campaign: see <http://web.amnesty.org/contacts/engindex> for contact details.
- Please write to the Afghan President, President Karzai, stating that torture and other ill-treatment are human rights violations, condemned by the international community as a crime and an offence to human dignity and prohibited in all circumstances under international law.

Urge the Afghan government to:

- establish and ensure the implementation of effective system-wide measures incorporating all the elements of Amnesty International's *12-Point Programme for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Agents of the State* (AI Index: ACT 40/001/2005)
<http://web.amnesty.org/library/index/engact400012005>
- officially and publicly condemn torture and other ill-treatment and order that these practices cease, making clear that they are prohibited absolutely and will not be tolerated.
- ensure that all allegations of torture or ill-treatment are promptly, impartially and effectively investigated by a body independent of the alleged perpetrators.
- ensure that anyone responsible for having committed, ordered or authorized torture or other ill-treatment, irrespective of their nationality, be brought to justice in compliance with international fair trial standards, without recourse to the death penalty.
- state unequivocally that all foreign forces on Afghan territory adhere to all relevant provisions of international law, and to the prohibition on torture and other ill-treatment in particular.
- commission an independent investigation into violations of international law by US and coalition forces and publish its findings, which should include recommendations for action by the Afghan authorities such as the National Security Directorate.

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