



amnesty international

**CLOSE GUANTANAMO BY**

## Close Guantanamo Bay

### Release People under Enforced disappearances

Our demand

Close Guantánamo Bay

**STOP!**

- Close Guantánamo Bay: shut down the detention camp

Set up on a US naval base on the island of Cuba, Guantánamo Bay was designed as an attempt to put detainees beyond the reach of the rule of law - *any* law, whether US or international. As a result of the campaign by Amnesty International and other Human Rights Organizations, the US Supreme Court ruled that challenges to detention could be brought in the US courts, but not a single case of a Guantánamo detainee has been reviewed by a US court - the US government continues, so far successfully, to block any such reviews.

The detention camp at Guantánamo Bay has become the site and symbol of failure to respect human rights in the so called “war on terror”, and the call for its closure a rallying cry for those demanding respect for human rights and the rule of law.

The US government’s preferred option, if there is to be trial of detainees at all, is trial by military commissions. The commissions do not comply with international standards of fairness. They can impose the death penalty, are not independent of the executive and can admit secret evidence, and evidence obtained under torture or other coercion. There are severe restrictions on the rights to choose a lawyer and to mount an effective defence, and no right of appeal from them to the courts. They are discriminatory, only non US nationals can be tried.

The “Combatant Status Review Tribunals” which determine the status of Guantánamo detainees rely on similarly flawed processes, including the admissibility of evidence extracted under torture or other ill-treatment in making its determinations. The detainee has no access to secret evidence used against him in this process or to legal counsel to assist him. One federal judge found that the CSRT process was unlawful.

If there is no evidence against detainees they should be released. If there is evidence against them then they should be charged and tried, in accordance with internationally accepted standards of fairness, in an independent court that does not impose the death penalty.

## Stop secret and incommunicado detention

- Stop secret and incommunicado detention, and “disappearance” - human rights violations in themselves and conditions in which torture thrives. Official US reports documented “ghost detainees”, held in secret in known prisons and moved around the prison to hide them from the International Committee of the Red Cross. An unknown number of other “war on terror” detainees are held in secret custody in unknown locations.

Holding people in secret detention, with the detainee’s fate or whereabouts, or the very fact of their detention, undisclosed, amounts to “disappearance”, a human rights violation in itself and one that puts those “disappeared” at risk of further torture and ill-treatment. “Disappearance” has itself been found to amount to torture or ill-treatment, of the disappeared person, or of families and communities, deprived of any information and desperate for news.

Other “war on terror” detainees are held incommunicado in known locations and even where this is not the case, many face severe restrictions on access to the outside world.

Governments should clarify the fate and whereabouts of all detainees and end the practices of secret, and of incommunicado detention. They must ensure that all detentions are matters of record and that detainees are brought before an independent court without delay after being taken into custody and are able to challenge the legality of their detention. Detainees should have access to relatives, lawyers and doctors.

## 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

Torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) are violations of human rights, condemned by the international community as an offence to human dignity and prohibited in all circumstances under international law. Yet they happen daily and across the globe. Immediate steps are needed to confront these abuses wherever they occur and to eradicate them. Amnesty International calls on all governments to implement the following 12-point programme and invites concerned individuals and organizations to ensure that they do so. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to end torture and other ill-treatment and to work for their eradication worldwide.

### **1. Condemn torture and other ill-treatment**

The highest authorities of every country should demonstrate their total opposition to torture and other ill-treatment. They should condemn these practices unreservedly whenever they occur. They should make clear to all members of the police, military and other security forces that torture and other ill-treatment will never be tolerated.

### **2. Ensure access to prisoners**

Torture and other ill-treatment often take place while prisoners are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. The practice of incommunicado detention should be ended. Governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Prisoners should have access to relatives, lawyers and doctors without delay and regularly thereafter.

### **3. No secret detention**

In some countries torture and other ill-treatment take place in secret locations, often after the victims are made to "disappear". Governments should ensure that prisoners are held only in officially recognized places of detention and that accurate information about their arrest and whereabouts is made available immediately to relatives, lawyers, the courts, and others with a legitimate interest, such as the International Committee of the Red Cross (ICRC). Effective judicial remedies should be available at all times to enable relatives and lawyers to find out immediately where a prisoner is held and under what authority, and to ensure the prisoner's safety.

### **4. Provide safeguards during detention and interrogation**

All prisoners should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention. Judges should investigate any evidence of torture or other ill-treatment and order release if the detention is unlawful. A lawyer should be present during interrogations. Governments should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. The authorities responsible for detention should be separate from those in charge of interrogation. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

#### **5. Prohibit torture and other ill-treatment in law**

Governments should adopt laws for the prohibition and prevention of torture and other ill-treatment incorporating the main elements of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other relevant international standards. All judicial and administrative corporal punishments should be abolished. The prohibition of torture and other ill-treatment and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.

#### **6. Investigate**

All complaints and reports of torture or other ill-treatment should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The scope, methods and findings of such investigations should be made public. Officials suspected of committing torture or other ill-treatment should be suspended from active duty during the investigation. Complainants, witnesses and others at risk should be protected from intimidation and reprisals.

#### **7. Prosecute**

Those responsible for torture or other ill-treatment should be brought to justice. This principle applies wherever those suspected of these crimes happen to be, whatever their nationality or position, regardless of where the crime was committed and the nationality of the victims, and no matter how much time has elapsed since the commission of the crime. Governments should exercise universal jurisdiction over those suspected of these crimes, extradite them, or surrender them to an international criminal court, and cooperate in such criminal proceedings. Trials should be fair. An order from a superior officer should never be accepted as a justification for torture or ill-treatment.

#### **8. No use of statements extracted under torture or other ill-treatment**

Governments should ensure that statements and other evidence obtained through torture or other ill-treatment may not be invoked in any proceedings, except against a person accused of torture or other ill-treatment.

#### **9. Provide effective training**

It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture and other ill-treatment are criminal acts. Officials should be instructed that they have the right and duty to refuse to obey any order to torture or carry out other ill-treatment.

#### **10. Provide reparation**

Victims of torture or other ill-treatment and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

#### **11. Ratify international treaties**

All governments should ratify without reservations international treaties containing safeguards against torture and other ill-treatment, including the International Covenant on Civil and Political Rights and its first Optional Protocol; and the UN Convention against Torture, with declarations providing for individual and inter-state complaints, and its Optional Protocol. Governments should comply with the recommendations of international bodies and experts on the prevention of torture and other ill-treatment.

#### **12. Exercise international responsibility**

Governments should use all available channels to intercede with the governments of countries where torture or other ill-treatment are reported. They should ensure that transfers of training and equipment for military, security or police use do not facilitate torture or other ill-treatment. Governments must not forcibly return or transfer a person to a country where he or she would be at risk of torture or other ill-treatment.

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This 12-point programme sets out measures to prevent the torture and other ill-treatment of people who are in governmental custody or otherwise in the hands of agents of the state. It was first adopted by Amnesty International in 1984, revised in October 2000 and again in April 2005. Amnesty International holds governments to their international obligations to prevent and punish torture and other ill-treatment, whether committed by agents of the state or

by other individuals. Amnesty International also opposes torture and other ill-treatment by armed political groups.

### **Denying the undeniable: Enforced disappearances in Pakistan**

*“For us relief is only when our loved one is safe and sound standing freed before us. [...] I believe that my husband Masood is held only three kilometres from my home, yet he continues to suffer unknown ill-treatment and we, his wife, his children and his very old parents cannot even see him. They [the new government] must act now to bring them back immediately.”*

- Amina Masood Janjua, July 2008

The last time Amina Masood Janjua saw her husband, Masood Janjua, was on 30 July 2005 when he left home to meet his friend Faisal Faraz. Pakistani security forces apprehended both men on that day while on a bus journey to another city.

Since then, Pakistan’s government has been holding them in secret without charge or trial, repeatedly denying any knowledge of their whereabouts despite eyewitness testimony as to their detention.

Masood Janjua and Faisal Faraz are among hundreds of victims of enforced disappearance in Pakistan, including children as young as nine and ten years old. Many of them were detained after the attacks in the USA on 11 September 2001, their detentions justified in the name of the US-led “war on terror”.

The practice, rare before 2001, then spread to activists involved in pushing for greater ethnic or regional rights, including Baloch and Sindhis.

Despite undeniable evidence, the government of President Pervez Musharraf consistently denied subjecting anyone to enforced disappearances.

In the report **Denying the undeniable, enforced disappearances in Pakistan**, Amnesty International uses official court records and affidavits of victims and witnesses of enforced disappearances to confront the Pakistani authorities with evidence of how government officials obstructed attempts to trace those who have “disappeared.”

### **New government brings opportunity for change**

The report urges the newly elected government of Pakistan - which has pledged to improve Pakistan’s human rights record - to end the policy of denial, investigate all cases of enforced disappearance and hold those responsible to account.

“By holding people in secret detention the government of Pakistan has not only violated their rights, but also failed in its duty to charge and try those suspected of involvement in attacks on civilians”, said Sam Zarifi, Amnesty International’s Asia Pacific director.

Crucially, Pakistan’s new government must reinstate deposed judges who had previously been investigating disappearance cases and were deposed by President Pervez Musharraf when he imposed a state of emergency in the country in November 2007.

### **Complicity of other governments**

The report also calls on other governments - most notably the USA - to ensure that they are not complicit in and do not contribute to or tolerate the practice of enforced disappearance in Pakistan.

Many of those unlawfully held at the US detention centre in Guantánamo Bay, and those who have been held in secret CIA custody were arrested in Pakistan. Others were unlawfully transferred from Pakistan to countries where they faced torture and other ill treatment.

Many people who have been secretly held in detention centres in Pakistan say they were interrogated by Pakistani intelligence agencies, but also by foreign intelligence agents.