

Amnesty International report condemns US treatment of immigrant detainees

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On March 14, Amnesty International (AI) issued a comprehensive and chilling report exposing the treatment of people detained in the US as a result of the anti-immigrant sweeps initiated following the events of September 11.

This 47-page portrait of events in America, drawn up as a result of scores of interviews with attorneys, detainees, relatives and visits to prisons, provides a glimpse of a growing repressive apparatus in the US. It shows the weakening of democratic restraints and a frightening disregard for human rights, international law, civil rights and democratic traditions. In short, the report provides a graphic exposure of the dramatic impetus towards police-state and dictatorial powers, for which the September 11 attacks provided the pretext.

The American media has ignored this report, with only minor mention in the *New York Times* and other major dailies, in its continuing cover-up of the extreme right-wing trajectory of government policy.

As far as Amnesty International can determine, detainees currently in custody number 347, out of the more than 1,200 non-nationals rounded up in the Justice Department sweep over the last six months. An unknown number of the original detainees have been deported or released, often after months of incarceration.

It appears that this may be just the beginning of the government dragnet. Attorney General John Ashcroft announced March 20 that the Justice Department will conduct an additional 3,000 “voluntary interviews” of immigrants over the next 60 days, resulting in potential new detentions.

In announcing the publication of the report, entitled “Amnesty International’s Concerns Regarding Post September 11 Detentions in the USA,” the human rights organization begins with an excerpt of a detainee’s letter. It is truly Kafkaesque and deeply disturbing: *“I have now been in solitary confinement for 3½ months and at the time of my next hearing I will have been here for four months.... Why am I imprisoned? Why in solitary confinement? And why under maximum security measures? I have many questions and no answers.... What are they accusing me of? Nobody knows.”* (detainee held at the Metropolitan Detention Center in Brooklyn, New York for an immigration violation)

The Amnesty International report exposes that this man’s case is not atypical of those of many immigrant detainees in the wake of September 11.

The first and most basic right under attack in these cases is protection from arbitrary detention. Under international law, anyone deprived of his or her liberty is to be informed of the reasons for the detention, must be able to challenge the lawfulness of the detention, must have prompt access to and assistance from a lawyer and must be presumed innocent. On all the above counts, Amnesty International has found substantial evidence to show that the US is acting in defiance of international protocols which it has signed.[1]

The Immigration and Naturalization Service (INS) has broad powers to arrest and detain people for suspected immigration violations. But last September 17 the Department of Justice issued an “interim”

administrative rule which extended the time a non-national can be held in INS custody without being charged with a crime or INS violation from 24 hours to 48 hours “except in the events of an emergency or other extraordinary circumstance in which case the service must make such determinations within an additional reasonable period of time.” This provision dramatically enlarges the USA Patriot Act—the “anti-terror” legislation enacted by Congress last October—which allows detention if a non-national is “certified” as a “terrorist suspect” for up to seven days before being charged. The new rule makes no definition of “reasonable,” nor does it require any link to “terrorism.”

Amnesty International has so far documented that out of 718 cases, 317 people were charged after 48 hours. In 36 cases individuals were charged 28 days or more after their arrest. One Saudi national was held for 119 days before being charged. All the charges eventually filed were immigration violations, some of them routine. AI says two Pakistani men were held for 49 days in custody and another man held for 30 days before being charged with overstaying their visas.

Many of those individuals released by the INS have been held pending “clearance” from the Federal Bureau of Investigation (FBI). This additional detention can last weeks or months, without information. AI says that in most cases it appears that no further details are given and the nature of the investigation remains a mystery. In other cases where INS judges have set bond the INS has refused to accept bond. Another “interim” rule issued by the Department of Justice on October 29 allows the INS to stay a release order by an immigration judge. No grounds need to be given other than stating that the person is a security or flight risk.

The report raises the grave concern that the above rules violated the principle of the separation of powers between the executive and the judiciary, enshrined in the international guarantee of the independence of tribunals.

Other immigrants who have been kept under harsh conditions for weeks or months have agreed to “voluntary departure.” Under US immigration law, the INS has between 60 and 120 days to deport someone after a final order of deportation. People have been held by order of the FBI longer than this deadline. For example, Shakir Baloch, a Canadian citizen of Pakistani origin, was arrested in New York on September 22 while undergoing advanced study to improve his doctor’s degree from Pakistan. He has been in jail 100 days and is still waiting for a voluntary deportation.

According to the *New York Times*, 87 foreign nationals are now awaiting voluntary deportation, many of whom have spent more than 100 days in jail with no end in sight. AI points out that individuals and attorneys alike report that it is impossible to get a straight answer from the FBI and INS regarding anyone’s “clearance” or status.

International law demands the humane treatment of detainees. In this regard, AI cites the case of Rabih Haddad, one of numerous detainees who have been subjected to solitary confinement, shackling and denied family visits. [See Interviews with supporters of Rabih Haddad : Muslim cleric

the target of Bush “anti-terror” dragnet]

The Amnesty report particularly cites the conditions at the federal Metropolitan Detention Center (MDC). The INS denied a request by AI to visit the facility, despite INS regulations which explicitly allow such visits. MDC is considered “supermaximum security”—designed for the most dangerous and disruptive inmates, according to US authorities. The approximately 40 INS detainees are reportedly confined to sealed, usually solitary cells for 23-24 hours a day. The cells have a toilet and shower and detainees receive their food through a slot in the door. Their sleep is disturbed by 24-hour lighting. Conditions are cold and prisoners are only given a sheet. While “exercise time” is provided, often it is offered at 5:30 or 6:30 a.m.

Attorneys told AI that detainees are brought to family and legal visits in leg shackles with their wrists in handcuffs locked to waist chains, even though the visits are “non-contact”, i.e., prisoners and family or lawyers are separated by a thick plexi-glass screen. Legal visits are videotaped, further undermining any legal confidentiality between client and lawyers.

AI points out that the conditions at MDC qualify as “reduced sensory stimulation,” which causes physical and/or psychological damage. “According to lawyers who have clients in MDC, several detainees have shown signs of depression and mental stress. Several were described as on a “razor’s edge,” “visibly shaking” and crying continually.

Attorneys also described these cases:

- A Nepalese Buddhist was held about 60 days in solitary in MDC. He did not speak a language in which he could communicate with authorities. The FBI “cleared” him a month after his arrest and he agreed to Voluntary Departure from the US. But he remained in solitary “because he was crying so much and would disrupt the other prisoners.”

- An Egyptian national was detained for an immigration violation and held for more than five months. His window was blacked out as punishment because he failed to stand up when a guard came into his cell during prayer. As further punishment, he was not allowed to see his wife for two months. He is considered suicidal.

Rule 32(3) of the United Nations Standard Minimum Rules requires that prisoners in close confinement be allowed daily visits by a medical officer. Prisoners at MDC are not being monitored in this way.

The human rights organization goes on to state: “Amnesty International believes that prolonged solitary confinement, particularly when imposed with other deprivations, can constitute torture or other cruel, inhuman or degrading treatment, in violation of the international standards [Article 7 of the ICCPR].” Lack of exercise and unnecessary use of restraints both accompany solitary confinement in many cases noted by Amnesty International.

These include:

- Dr. Mazen Al-Najjar, a Muslim cleric and academic, was arrested in November 2001. Despite having no violent or criminal record, he is being held in solitary confinement in a high security federal prison in Florida, locked in a cell for 23 hours a day. He was denied all family visits for 30 days. As a stateless Palestinian, he could remain indefinitely detained.

- A Palestinian man arrested September 22 for a visa violation was detained in Denton County, Texas in solitary with one hour of exercise a week. He was shackled during non-contact visits with his wife. After more than two months in such conditions, he accepted voluntary departure to Jordan. Upon arrival there, he was arrested and held by Jordanian authorities for two additional weeks.

Other human rights abuses include verbal and physical attacks on detainees, especially during their initial period in police custody or in jail. One Pakistani man was interrogated by the INS while handcuffed to a chair from 8 a.m. to 3 p.m. and denied access to a lawyer. When the lawyer found him the next day, he was in shock and crying. Another man was denied food for 11 hours and slept in a room with 12 to 13 other detainees with only six mattresses. Detainees report physical assaults and

use of dogs to intimidate and threaten them. In other cases, criminal inmates attacked the detainees as “terrorists” while prison authorities stood by.

The unnecessary use of restraints is another form of torture and degradation used by authorities. AI cites the case of an Egyptian in custody for a visa violation who was chained to a bed for two weeks while hospitalized at the University of Medicine and Dentistry in New Jersey. His hands and feet were cuffed and his feet shackled to the bed.

Another fundamental legal principle of international law that is being routinely violated in post-September 11 detentions is the right of an arrested or detained person to access legal counsel.[2] AI has learned of many cases where detainees’ requests to contact attorneys were denied. Several detainees have alleged that they were threatened or abused during questioning. Examples provided by AI include:

- A Pakistani man arrested in Florida said he asked repeatedly for a lawyer while being interrogated by the INS in Miami. He was questioned for several hours, all the time handcuffed to a chair. His request was denied and his attorney spent a day trying to find out where he was detained.

- Five Israelis were held incommunicado for about a week after their arrest on September 11, and were allegedly interrogated while blindfolded and in their underwear.

- A Jordanian, 33, was held for three days before being given access to a telephone to call an attorney or his family.

According to the report, detainees also have been routinely denied access to telephones, prohibited from making phone calls during the business day when lawyers could be reached, only allowed one “designated” legal phone number, allowed to make only collect calls, and in numerous ways prevented from legal communication.

Moreover US authorities have flouted the international law which demands that prisoners be given information in a language they can understand. AI cited the case of an elderly Pakistani national, detained for three months for a minor immigration violation, who did not understand English. After 90 days, he spoke to an AI representative in Urdu, the first person who could understand him. He did not understand what was happening to him and did not have a lawyer.[3]

To this day, the US government refuses to release a complete list of detainees, state where they are being held or provide the reasons for their detention. While 327 people are known to still be held, this does not include those being detained under sealed indictments, as material witnesses or those seeking asylum.

This report is a warning as to the depth of the present attacks on democratic rights in America. The methods being used against non-nationals today can be used against citizens tomorrow. The systematic and cavalier disregard for decades of international law, not to mention US Constitutional safeguards, demonstrate a fundamental realignment of the governmental apparatus.

The American government’s targeting of Arab and Muslim immigrants—for “questioning” by the thousands, detention by the hundreds, deportation, inhumane treatment, and denial of basic rights to the point of torture—constitutes a campaign of vilification of an entire ethnic minority. As Leon Trotsky pointed out during World War II, “Bourgeois patriotism manifests itself first of all in the brutal treatment of defenseless foreigners.... The governments of the entire world ... have written the blackest chapter in our epoch through their treatment of the refugees, the exiles and the homeless.”[4]

Notes:

1. These include Article 9 of the International Covenant on Civil and Political Rights (ICCPR) ratified by the US in 1992 and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by consensus by the UN General Assembly in 1988.

2. Principle 7 of the UN Basic Principles on the Role of Lawyers states that access to a lawyer must be granted “promptly.” The Inter-American Commission has concluded that the right to counsel set out in Article 8(2) of the American Convention on Human Rights applied on the first interrogation.

3. Principle 14 of the UN Body of Principles stipulates that a person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive information promptly in a language he understands, including the reasons for his detention and an explanation of his rights.

4. Leon Trotsky, Manifesto of the Fourth International, Pathfinder Press, p. 193.



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