

UNITED STATES OF AMERICA

Head of state and government: George W. Bush

Death penalty: retentionist

UN Women's Convention: signed

Optional Protocol to UN Women's Convention: not signed

More than 600 foreign nationals were detained indefinitely without charge or trial or access to family members or legal counsel in the US naval base in Guantánamo, Cuba, on grounds of possible links with al-Qa'ida; others were held in undisclosed locations. There were allegations of torture or ill-treatment of detainees held at a US base in Afghanistan and of detainees held by US forces in Iraq following the US-led invasion and occupation.

Three people were held incommunicado without charge or trial in the USA as "enemy combatants".

Death sentences continued to be imposed and carried out under federal and state law. There were reports of police brutality, deaths in custody and ill-treatment of prisoners.

Background

Thousands of people were detained in the context of the US-led war against Iraq and subsequent occupation of Iraq by the Coalition Provisional Authority (see Iraq entry). Others were held in US bases in Afghanistan, Cuba and elsewhere as part of the ongoing "war against terrorism". While calling for those responsible for the 11 September 2001 attacks on the World Trade Center and other crimes to be brought to justice, AI condemned the US denial of basic rights to many of those detained.

International Criminal Court

In July the USA announced that it was cutting military aid to 35 countries which had refused to enter into an impunity agreement not to surrender US nationals accused of genocide, crimes against humanity or war crimes to the International Criminal Court. Such agreements are in breach of states' obligations under international law.

Detentions outside the USA

Hundreds of detainees from around 40 countries remained in legal limbo in the US naval base in Guantánamo Bay. In April, the US authorities revealed that children as young as 13 years old were among those held at the base. None of the detainees were charged, tried, or given access to lawyers, relatives or the courts.

In October, the US Supreme Court said that it would decide whether the US courts "lack jurisdiction to consider challenges to the legality" of the Guantánamo detentions, as lower federal courts had earlier held. The Supreme Court ruling was expected to be handed

down in 2004. Meanwhile, in December, the Court of Appeals for the Ninth Circuit ruled that foreign nationals held as "enemy combatants" in Guantánamo Bay had a right to seek court review of the legality of their detention. The appeal judges concluded that the government position was "inconsistent with the fundamental tenets of American jurisprudence and raises serious concerns under international law". This ruling may also form part of the Supreme Court's review.

During 2003, concern continued to grow about the psychological impact on the detainees of the indefinite and isolating detention regime in Guantánamo. The International Committee of the Red Cross (ICRC), the only international non-governmental organization with access to the detainees, took the unusual step of publicly criticizing the lack of legal process and spoke of the deterioration in mental health that the organization had witnessed among large numbers of the detainees. There were numerous suicide attempts among the detainees during the year.

The US air base in Bagram, Afghanistan, continued to be used as a detention facility. There, too, detainees were denied any sort of legal process. The ICRC did not have access to all those held there. During the year, allegations were made that detainees had been tortured or ill-treated in Bagram. Former detainees interviewed by AI in Afghanistan alleged that they were subjected to prolonged enforced standing and kneeling, sleep deprivation and the cruel use of shackles. By the end of the year, the US authorities had not announced any results of the military investigation into the deaths of two Afghan men in US custody in Bagram in December 2002. Their autopsies had revealed "blunt force injuries" in both cases and gave the cause of death as "homicide". Another man died in custody in a US holding facility in Asadabad in Kunar province, Afghanistan, in June.

There were also allegations of torture and ill-treatment by US forces in Iraq (see Iraq entry). Twelve US soldiers charged with ill-treating Iraqi detainees were awaiting court martial at the end of the year.

An unknown number of prisoners continued to be held incommunicado in undisclosed locations without access to the ICRC or any sort of legal process.

There were continuing concerns about the possible transfer of prisoners to countries where it was feared they might face torture during interrogation.

Military commissions

On 3 July, the Pentagon announced that President Bush had selected six foreign detainees to be subject to the provisions of the Military Order he signed in November 2001. The Order provides for non-US nationals suspected of involvement in "international terrorism" to be held indefinitely without trial or to be tried by military commissions. The names of the six were not made public by the US authorities, but it emerged that two were United Kingdom (UK) nationals, Moazzam Begg and Feroz Abbasi, and one, David Hicks, was an Australian national. The UK and Australian authorities pursued discussions with their US counterparts over the detainees' future. In December, the

Pentagon revealed that Guantánamo detainee Salim Ahmed Samdan, a Yemeni national, was among the six. By the end of the year, no detainee had been brought to trial before a military commission.

Detentions in the USA following attacks of 11 September 2001

A government watchdog agency reported in June that there had been "significant problems" in the treatment of hundreds of foreign nationals detained in the aftermath of the 11 September attacks on the Pentagon and World Trade Center. The investigation, by the Justice Department's Office of Inspector General (OIG), confirmed many of the concerns raised by AI and other groups that detainees' basic rights had been violated.

Violations included denying detainees prompt access to lawyers and family members and failing to charge detainees promptly or to "clear" them for release or removal from the USA, leaving many to languish for months in detention centres despite having no connection with the attacks. The report found evidence of a "pattern of physical and verbal abuse" by some correctional officers towards some 11 September detainees.

Although most of those detained – many for minor immigration violations – in the original sweeps had been released or deported by the time of the report, the OIG made 21 recommendations to the US government to improve procedures during any similar arrests, including speedier reviews and more objective criteria in detention decisions.

US nationals Yaser Esam Hamdi and José Padilla continued to be held in military custody without charge or trial as "enemy combatants", despite their detentions being criticized as "arbitrary" by the UN Working Group on Arbitrary Detention. In January, a three-judge panel of the Fourth Circuit Court of Appeals upheld the right of the US government to detain Yaser Esam Hamdi without trial or access to an attorney. However, in December the Pentagon announced that it had decided to allow Yaser Esam Hamdi to meet with his lawyer, while stressing that this "is not required by domestic or international law and should not be treated as a precedent". The announcement came one day before the government was scheduled to file a response to an appeal to the US Supreme Court in the case.

In December the Second Circuit Court of Appeals ruled that the President did not have the power, without authorization by Congress, "to detain as an enemy combatant an American citizen seized on American soil outside a zone of combat", and ordered José Padilla's release from military custody within 30 days. The judges said the government could then bring criminal charges against him in civilian courts or seek to have him held as a material witness, stating that "under any scenario" he would be entitled to his constitutional rights. However, José Padilla remained in incommunicado military detention at the end of the year, pending a government appeal against the court's decision. A government appeal also continued to place on hold a 2002 federal court order granting José Padilla access to a lawyer.

In July Ali-Saleh Kahlah Al-Marri, a Qatari national facing trial on criminal charges, was removed from the judicial system on the order of President Bush and designated an

"enemy combatant" for alleged links to al-Qa'ida. He remained held incommunicado in military custody at the end of the year.

Some people detained for alleged links to al-Qa'ida were deported to countries where they were at risk of torture or ill-treatment. In October, AI called on the US government to hold a full inquiry into its treatment of Maher Arar, a Canadian citizen deported from the USA in October 2002 to his native Syria, where he was allegedly tortured and held for months in cruel conditions before being returned without charge to Canada.

A "special registration" program introduced in late 2002 which required boys and men aged 16 and over from 25 countries, mostly in the Middle East, to register annually with the authorities to be questioned, photographed and fingerprinted, ended in December 2003, although exit and entry registration requirements remained. The measure had been criticized by human rights groups as discriminatory. Many people who had complied with the order were detained, often for minor visa irregularities, and many continued to face deportation even though they had proceedings under way to regularize their status.

Refugees, migrants and asylum-seekers

In April the Attorney General ruled that Haitian asylum-seekers must be kept in detention, stating that the policy was necessary as a deterrent and on national security grounds. The ruling was given in the case of 18-year-old David Joseph, whose release on bail had been ordered by an immigration judge and upheld by the Board of Immigration Appeals. David Joseph was one of some 200 Haitian asylum-seekers detained in October 2002 after their boat ran aground off the Florida coast.

AI urged the government to rescind the blanket detention policy, which the Attorney General said in his ruling could be applied to other groups on similar grounds, in line with international human rights and refugee standards.

There were continuing concerns about between 5,000 and 6,000 unaccompanied migrant children who, contrary to the USA's own guidelines and international standards, were detained in some cases for months.

Many were held in punitive conditions alongside juvenile offenders, and subjected to humiliating treatment such as shackling and strip searches.

Ill-treatment and excessive use of force by law enforcement officials

There were reports of ill-treatment, excessive use of force by police and prison officers, and deaths in custody. Incidents included misuse of stun weapons and chemical spray. Nine people died after being struck by police Tasers. Although the cause of death was attributed to other factors or autopsy results were still pending, questions remained about the health risks of such equipment. There were continued reports of cruel conditions in prison isolation units.

- In September a police officer from Bayton, Texas, was charged with using unnecessary force against a disabled 59-year-old Latina woman. The officer struck Naomi Autin three

times with a Taser as she knocked on her brother's door with a brick after getting no answer.

The trial was pending at the end of the year.

- John Allen Muhammad was given an electric shock twice with a stun belt in August while in hospital in the custody of the Prince William County Sheriff Department, Virginia. The belt, which was wrapped round his arm, was activated after he refused to submit to a head X-ray by moving his head and trying to sit up while strapped to a stretcher. He allegedly suffered welts on his arm from the 50-70,000-volt shock.
- In October the state of Virginia paid out an undisclosed sum to the family of Larry Frazier, who died in prison in July 2000 after being repeatedly shocked with a stun gun. The Corrections Department suspended the use of the Ultron 11 stun gun shortly after the incident when an autopsy found it could have contributed to Larry Frazier's death.
- Fort Lauderdale Police Department, Florida, tightened its procedures after the Medical Examiner ruled that police use of pepper spray had contributed to the death in April of 21-year-old Raymond Sterling who suffered from sickle cell trait. The new procedures provided that anyone pepper sprayed or injured by police must be taken to hospital instead of jail.
- A lawsuit was filed against the Florida prison authorities alleging that prisoners were repeatedly sprayed with pepper spray and tear gas while trapped in their cells, causing breathing difficulties, burning and skin blisters. According to the lawsuit, chemical agents had become the most common force used in Florida prisons.

Conditions in prison isolation units, including "supermaximum security" facilities, remained extremely harsh in many states.

- In Unit 32 of Parchman Prison, Mississippi, nearly 1,000 prisoners, many severely mentally ill, were reportedly confined to insect-infested, insanitary cells for between 23 and 24 hours a day and were not allowed fans or sufficient water despite extreme summer heat.

Litigation to improve conditions for death row prisoners in Unit 32 was being pursued at the end of the year.

There were allegations of police brutality and excessive use of force against anti-war protesters in several US cities, including Chicago, Illinois and Oakland, California. In November, police in Miami were alleged to have fired rubber bullets, pepper spray, Tasers, gas canisters and concussion grenades at crowds demonstrating against the Free Trade Area of the Americas negotiations. Several protesters required hospitalization as a result of police action and dozens more were treated for injuries.

Women prisoners

In October AI called on the California prison authorities to rescind a policy allowing male guards to conduct "pat down" (clothed body) searches of women prisoners which included touching intimate parts of the inmate's body. Contrary to international standards, California and other US states continued to allow male guards unsupervised access to women prisoners. In several states, including New York, prisoners alleged they were sexually abused by male guards.

Supreme Court overturns sodomy laws

In June the Supreme Court issued a far-reaching decision overruling a Texas sodomy law on the ground that adults had a constitutional right to private sexual conduct (Lawrence v Texas). The ruling invalidated laws in Texas and three other states – Kansas, Oklahoma and Missouri – which criminalized sodomy between same-sex partners, as well as laws in nine other states – Alabama, Florida, Idaho, Louisiana, Mississippi, North Carolina, South Carolina, Utah and Virginia – which made sodomy a crime in all cases.

Death penalty

In 2003, 65 people were executed, bringing to 885 the total number of prisoners put to death since the US Supreme Court lifted a moratorium on executions in 1976. The USA continued to violate international standards in its use of the death penalty, including by executing people who were under 18 at the time the crime was committed. The US government carried out its third federal execution since 1963 – all three were carried out under the current administration. Texas carried out its 300th execution since 1976 and accounted for 24 of the USA's executions during 2003.

In January, Mexico brought a case in the International Court of Justice (ICJ) on behalf of more than 50 of its nationals on death row in the USA. The case concerned alleged violations of the UN Vienna Convention on Consular Relations which requires states to inform foreign nationals upon arrest of their right to seek consular assistance. There were more than 100 foreign nationals on death row in the USA in 2003, the majority of whom were denied this right. The ICJ was expected to make its judgment in 2004.

- On 11 January 2003, the outgoing governor of Illinois, George Ryan, emptied the state's death row. He pardoned four condemned prisoners whom he believed had been tortured into confessing to crimes they did not commit, and commuted the death sentences of 167 others on the grounds that the system that sentenced them was flawed.
- In July, Joseph Amrine was released after more than 16 years on Missouri's death row for the murder of a fellow prisoner. He had been convicted on the basis of testimony from other inmates which was later retracted. Joseph Amrine became the 111th person to be released from death row in the USA since 1973 on the grounds of innocence. The 112th such case occurred in December, when a Pennsylvania prosecutor announced that he would not retry Nicholas Yarris who had been on the state's death row for two decades. A federal judge had ordered a new trial after DNA testing supported Nicholas Yarris' claim of innocence.

- On 3 April, Scott Hain was executed in Oklahoma for a crime committed when he was 17 years old. On 8 December, the outgoing governor of Kentucky, Paul Patton, commuted the death sentence of Kevin Stanford, on death row for a crime committed in 1981 when he was 17. Governor Patton had described the death sentence as an "injustice" because of Kevin Stanford's age at the time of the crime.
- James Colburn was executed in Texas on 26 March and James Willie Brown was put to death in Georgia on 4 November. Both men had long histories of mental illness, including diagnoses of schizophrenia.
- In October the US Supreme Court refused to take Arkansas death row prisoner Charles Singleton's appeal against a lower federal court ruling that the state could forcibly medicate him for his mental illness even if that rendered him competent for execution.
- In November, two years after Mexican national Gerardo Valdez came within days of his execution in Oklahoma, a jury resentenced him to life imprisonment. In 2001, the state parole board had recommended clemency after reviewing evidence that Gerardo Valdez had been denied his right to seek consular assistance. The Governor denied clemency, despite the board's recommendation and a personal appeal from President Vicente Fox of Mexico. A state court subsequently granted Gerardo Valdez a new sentencing hearing.

AI country visits

Reports

USA: Special registration process must be reviewed

(AI Index: AMR 51/004/2003)

USA: Texas – in a world of its own as 300th execution looms

(AI Index: AMR 51/010/2003)

USA: Another planned killing by the US government – the imminent federal execution of Louis Jones

(AI Index: AMR 51/020/2003)

USA: Death by discrimination – the continuing role of race in capital cases

(AI Index: AMR 51/046/2003)

USA: Not in the jury's name – the imminent execution of Abu-Ali Abdur'Rahman

(AI Index: AMR 51/075/2003)

USA: One year in detention without charge

(AI Index: AMR 51/085/2003)

USA: Shameful isolation – US leads worldwide execution of child offenders

(AI Index: AMR 51/102/2003)

USA: Urgent Action appeal in case of Ali-Saleh Kahlah Al-Marri

(AI Index: AMR 51/112/2003)

USA: The threat of a bad example – undermining international standards as "war on terror" detentions continue

(AI Index: AMR 51/114/2003)

USA: Degrading treatment for women at Valley State Prison

(AI Index: AMR 51/135/2003)

USA: Deporting for torture?

(AI Index: AMR 51/139/2003)

USA: A lethal ideology – more state killing on Human Rights Day as 900th execution looms

(AI Index: AMR 51/149/2003)

USA: Death and the President

(AI Index: AMR 51/158/2003)

USA: Holding human rights hostage

(AI Index: AMR 51/164/2003)

"Why am I here?" Children in immigration detention (published by AIUSA, June 2003)

Visits

An AI delegate visited the USA in October. An AI delegation visited Afghanistan in July to interview former US detainees.
