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**Pursuing Justice not Revenge:
Bringing to justice those responsible for
the crimes of 11 September and for
abuses committed in Afghanistan**



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PURSUING JUSTICE, NOT REVENGE :
Amnesty International's position on bringing to justice those
responsible for the crimes of 11 September and for abuses committed
in Afghanistan

Bringing to justice the perpetrators of the crimes of 11 September

"No effort should be spared in bringing the perpetrators to justice, in a clear and transparent process that all can understand and accept. Let us uphold our own principles and standards, so that we can make the difference unmistakable, for all the world to see, between those who resort to terrorism and those who fight against it"

(UN Secretary-General Kofi Annan's address to the General Assembly, 24 September 2001)

Amnesty International has condemned in the strongest terms the hijacking on 11 September 2001 of civilian air planes and their use to carry out direct attacks on civilians, resulting in massive loss of life.

Fundamental principles to ensure justice

As with any serious abuses of human rights, Amnesty International calls for those responsible for the crimes of 11 September to be brought to justice, in proceedings which at all stages must be in accordance with international human rights standards, and for the victims to receive full reparation. Anyone reasonably suspected of such crimes should be tried fairly, in accordance with international standards for fair trial, and without recourse to the death penalty or other cruel, inhuman or degrading punishment. Suspects must never be tortured or ill-treated, as such treatment is absolutely prohibited by international law, and the presumption of innocence must be respected in all cases. (see Fair Trials Manual, AI Index Pol 30/02/98, December 1998).

Jurisdiction of the United States of America

The United States of America (US) has jurisdiction over the crimes of 11 September, as the territorial state where the crimes took place. Amnesty International believes that alleged perpetrators of serious human rights abuses should be tried before regular civilian courts. It calls for those suspected of the crimes of 11 September who are apprehended in, or handed over to, the US to be tried before the established civilian courts in the US, in accordance with international standards for fair trial, and without recourse to the death penalty.

Amnesty International believes that no suspect should be tried before the US military commissions provided for by the presidential order of 13 November 2001, as they violate the principle of non-discrimination (as the order applies only to non-US citizens) and lack fundamental safeguards for fair trial provided for in international law. Amnesty International has called for the presidential order to be revoked (see news release, USA: Presidential order on military tribunals threatens fundamental principles of justice, AI Index AMR 51/165/2001, 15 November 2001).

Trials outside US jurisdiction may also be appropriate for other reasons. The global impact of the 11 September attacks, and the fact that the victims came from many different countries around the world, have given this case a significant international dimension. Moreover, the very nature of the crimes means that many suspected perpetrators are believed not to be in the US, and may not be nationals of the countries where the crimes were allegedly prepared. To ensure that these suspects are brought to justice will require extensive international cooperation, likely to involve multiple jurisdictions. Within such a framework, it may be necessary to explore flexible alternatives consistent with international law. There is a need to ensure that justice is not only fair but is seen to be fair around the world.

Mechanisms, not necessarily mutually exclusive, for trials other than under US jurisdiction may include:

- a. Bringing suspects to trial in the national courts of a second country which could exercise jurisdiction over the offences. This option is outlined in Security Council resolution 1267 (1999), which requested the Taliban to hand over Usama bin Laden in connection with the 1998 attacks on US embassies in Africa. Paragraph 2 of the resolution demands "that the Taliban turn over Usama bin Laden without further delay to appropriate authorities in a country where he has been indicted, or to appropriate authorities in a country where he will be returned to such a country, or to appropriate authorities in a country where he will be arrested and effectively brought to justice."
- b. Establishing an international ad hoc tribunal with jurisdiction over the crimes of 11 September. Such an ad hoc tribunal should be modelled closely on the proposed International Criminal Court, and should only have jurisdiction over crimes which have been recognized in international law.

Bringing to justice perpetrators of abuses committed in Afghanistan

The impunity that continues to pervade Afghanistan must be ended if a stable institutional order respectful of human rights is to be ensured. The truth about past abuses of international human rights and humanitarian law must be established; perpetrators of abuses must be brought to justice regardless of rank or other status, in fair trials and without recourse to torture, the death penalty or other cruel, inhuman or degrading treatment or punishment; and victims must receive full reparation.

No amnesties for past abuses

There should be no amnesties, pardons and similar measures for alleged perpetrators of serious abuses of international human rights and humanitarian law, if such measures would prevent the emergence of the truth, a final judicial determination of guilt or innocence, and full reparation to victims and their families.

If there is evidence of crimes amounting to grave breaches of international humanitarian law by Coalition forces, and their governments are unwilling to investigate them, other states should exercise universal jurisdiction and initiate criminal investigations, as required by international humanitarian law. An international ad hoc tribunal for Afghanistan may also be given jurisdiction over such crimes.

KEYWORDS: POLITICAL VIOLENCE1 / FEAR OF UNFAIR TRIAL1 / FEAR OF DEATH SENTENCE / MILITARY TRIBUNALS / INVESTIGATION OF ABUSES / AFGHANISTAN / USA