

Afghan Observers Need Access to Bagram

Afghan Working Group Calls for U.S. Detention Transparency

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KABUL, Afghanistan—The U.S. government should allow the Afghanistan Independent Human Rights Commission (AIHRC) to monitor detention conditions and new detainee review proceedings at the Bagram detention facility, the newly formed Afghanistan Working Group on Conflict-Related Detentions said today.

The AIHRC has long requested access to the Bagram detention facility, and new reforms announced by the U.S. Department of Defense earlier this year make monitoring all the more urgent. The AIHRC entered negotiations for a memorandum of understanding with the U.S. Forces Commander in Afghanistan, but these discussions have been stalled since 2007.

“New detainee review procedures at Bagram improve the treatment of detainees in principle, but it remains to be seen how well the United States will implement the reforms,” said Farid Hamidi, a member of the working group and a commissioner at the AIHRC. “AIHRC access to Bagram will help ensure that the United States is following the procedures in good faith and deploying enough personnel to thoroughly review evidence and find witnesses.”

The new system will permit detainees to call and question “reasonably available witnesses” and appear before a military review panel that determines if they should remain in detention. Detainees will also be notified of the reason for their detention and have a personal representative who will have access to all “reasonably available information,” including classified evidence. The personal representative will be a U.S. commissioned officer, but not necessarily a lawyer. The ICRC—and possibly non-governmental organizations as well—will be allowed to attend the new review proceedings.

Nevertheless, the Working Group is concerned that even if implemented, the new procedures still fall short of protecting the basic rights of detainees. The procedures fail to provide detainees with their right to legal counsel, respect Afghan laws that protect the rights of detainees, and include Afghans in the review board. The review proceedings may allow the use of evidence obtained through torture, which is unacceptable.

“It is critical that Bagram is no longer seen by Afghans as being outside the law,” said Lal Gul, a member of the Working Group and head of the Afghanistan Human Rights Organization. “Respecting the rights that Afghan law provides to detainees, including banning the use of evidence gathered by torture, will dramatically increase the legitimacy and accuracy of the new process. This also sets a good example for the Afghan justice system, which too often fails to safeguard the rights of Afghan detainees in practice.”

Recognizing the widespread use of detentions by foreign and domestic governments in the Afghanistan conflict, the Working Group was formed in July 2009 to advocate for detention policies and practices that respect human rights and strengthen rule of law in Afghanistan.

The Afghanistan Working Group on Conflict-Related Detentions advocates for conflict-related detention policies and practices that respect human rights, the rule of law, and the lives of ordinary Afghans. It consists of the Afghanistan Human Rights Organization, the Afghanistan Independent Bar Association, the Afghanistan Independent Human Rights Commission, the Afghanistan Legal and Social Services Organization, and other Afghan organizations working on conflict-related detention issues. The working group was formed in July 2009.