

## **Federal Court Ruling Powerfully Lays Out Human Rights Failings In Canada's Afghan Prisoner Policy**

Federal Court Justice Anne Mactavish has ruled today that she will not grant a temporary injunction prohibiting Canadian Forces from transferring detainees into Afghan custody. She concluded that there is no way of knowing whether transfers will ever resume in future given the risk of torture in Afghan prisons, or, if they do resume, what additional safeguards may be put in place to protect detainees while they are in the hands of the Afghan authorities. The Judge dismissed the motion on this ground alone, without prejudice to the parties' right to seek another injunction if transfers resume.

The ruling catalogues a litany of very serious human rights shortcomings in Canada's past approach to prisoner transfers. Justice Mactavish indicates that the evidence "clearly establishes the existence of very real concerns as to the effectiveness of the steps that have been taken thus far to ensure that detainees transferred by the Canadian Forces to the custody of Afghan authorities are not mistreated." She highlights in particular:

- Deficiencies in record-keeping by Afghan authorities, making it very difficult to track detainees once they leave Canadian custody.
- Concerns about missing detainees, noting that at least four detainees transferred since May 2007 cannot be located, and that Canada is unable to verify Afghan assertions that prisoners have been released.
- Denial of access to prisons on at least one occasion.
- Complaints of mistreatment before November 5, 2007 which were consistent with reports as to the nature of torture in Afghanistan and were frequently corroborated by physical and mental signs of torture.

- The serious and disturbing allegation of torture received on November 5, 2007.
- Well-documented reports with respect to the “serious, systemic problem of detainee torture and abuse in Afghan prisons”, particularly in the province of Kandahar and Afghan secret police custody, where most Canadian detainees are transferred.
- Considerable doubt as to the “usefulness of post-transfer monitoring as a means of preventing torture.”

“The ruling powerfully and unequivocally confirms all of the serious human rights concerns that our two organizations have repeatedly raised with respect to prisoner transfers in Afghanistan,” noted Alex Neve, Secretary General of Amnesty International Canada. “It would be folly for the government to consider in any way resuming transfers without making substantial changes that would address the problems the Judge has identified, particularly given her expressed doubt that post-transfer monitoring is an effective way to prevent torture” Neve added that, “in light of Canada’s suspension of transfers for the past 3 months and today’s court ruling it is vital that other NATO countries follow suit and immediately suspend all prisoner transfers in Afghanistan.”

“The decision confirms the prevalence of torture in Afghani prisons and sets out a list of deficiencies the government must resolve before resuming transfers. The judgment affords Canadians much of the comfort of an injunction,” said Jason Gratl, President of the British Columbia Civil Liberties Association.

**For more information, please contact:**

Beth Berton-Hunter, Media Officer, Amnesty International  
416-363-9933, ext. 32, Cell 416-904-7158

Jason Gratl, President, BCCLA, 604-317-1919