

Guantanamo Under Obama

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As The New York Times reported on January 22, Barack Obama signed Executive Orders (EOs) banning torture and “directing the CIA to shut what remains of its network of secret prisons and ordering the closing of the Guantanamo detention camp within a year, government official said.”

The closure EO is titled: “Executive Order — Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities.”

Sec. 3 reads: “Closure of Detention Facilities at Guantanamo. The detention facilities at Guantanamo for individuals covered by this order shall be closed as soon as practicable, and no later than 1 year from the date of this order. If any individuals covered by this order remain, they shall be returned to their home country, released, transferred to a third country, or transferred to another United States detention facility in a manner consistent with law and the national security and foreign policy interests of the United States.”

The EO also orders an “immediate review of all” detainees (by the Secretary of Defense within 30 days), diplomatic efforts with other governments relative to this order, halting all proceedings in the “United States Court of Military Commission Review to which charges have been referred but in which no judgment has been rendered,” and assuring that “humane standards of confinement” are observed in accordance with international humanitarian laws, including Common Article 3 of the Geneva Conventions.

It prohibits the following:

- “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- outrages of personal dignity, in particular humiliating and degrading treatment;”
- carrying out sentences or executions “without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples;” and
- caring for the wounded and sick, including by an impartial body like the ICRC “offer(ing) its services to the Parties to the conflict.”

On February 23, the Center for Constitutional Rights published a report titled: “Current Conditions of Confinement at Guantanamo – Still in Violation of the Law.” Below is a summary of its findings.

Guantanamo’s existence and practices violate the letter and spirit of international and US

laws, including the Constitution's First, Fifth, and Eighth Amendments. The latter two prohibit cruel and unusual punishment and protect prisoners against treatment "that shocks the conscience," such as unsafe conditions, denial of social or family contact, and prolonged isolation. The First Amendment assures prisoners are allowed religious texts and books and may observe their faith freely.

Yet for over seven years, 240 men have had no rights and remain under the worst of "inhumane conditions." Most have never been charged and are innocent. Many were seized for bounty, and few have been able to challenge their detention in a habeas hearing, let alone get a fair trial in a US court.

Most are kept in supermax solitary confinement in Camps 5 and 6 or Camp Echo. Treatment is harshly punitive and includes isolation, sensory and sleep deprivation, brutal assaults, forced tube-feeding of hunger strikers, and environmental manipulation that combined gravely impair physical and psychological health and well-being.

Despite Obama's EO, "conditions at Guantanamo have not improved" and continue in violation of the law. Since it opened in 2002, CCR enlisted over 500 pro bono lawyers to represent hundreds of detainees. This report is based on "direct accounts from (them) and their attorneys," as recently as January and February 2009. The results are deeply disturbing.

Current Guantanamo Conditions

In a word, they're unchanged, outrageous, and illegal. Inmates struggle for their sanity and say conditions are like living in a tomb. The Pentagon and Obama administration deny it and describe isolation as greater "privacy" and "single-occupancy cells." Conditions, however, "speak for themselves."

Solitary Confinement

- inmates spend 20 or more hours daily "confined to small steel and concrete cells (with) virtually no human contact or mental stimulation;"
- they eat alone;
- discipline violations result in loss of "privileges" like toothpaste, a toothbrush, soap and blankets that can be denied for any reason or none at all;
- Camp 6 has no windows facing outside, and Camp 5 "has only a thin opaque window slit in each cell;
- toilets are just holes;
- faucets are provided but no wash basins;
- Camp 5 lights burn 24 hours a day;
- "recreation" consists of two - four daily hours in an outdoor cell; in Camp 6, it's in a pen surrounded by high mesh wire-topped concrete walls blocking out most sunlight; in Camp 5, it's in a "cage-like pen;" attempts to use "recreation" for exercise result in immediate removal to their cells, at times forcefully; some "recreation" is scheduled late at night, and if

declined, inmates stay isolated for days;

- the penalty for any infraction is 24-hour isolation;

- except for “the gloved hands of guards,” practically no human contact is allowed; and

- current conditions under Obama are no different than earlier and in some respects are worse.

Sensory Deprivation and Environmental Manipulation

Sensory over and under-stimulation is used as follows:

- cell temperatures are too cold causing discomfort, health problems, and mental stress;

- discipline is imposed on any inmate trying to block a/c vents;

- one inmate described the combination of cold and 24-hour lights as “indirect torture.”

Sleep Deprivation

Besides round-the-clock lights, guards routinely kick cell doors and awaken prisoners as late as 2AM for “recreation.” In addition, bed sheets are called a privilege to be denied as a disciplinary measure.

Physical Attacks by an “Immediate Reaction Force (IRF)”

Inmates “live in constant fear of physical violence,” and anything or nothing may trigger it. Attacks are frequent, violent and spontaneous. One example was as follows after a minor provocation. Guards accused an inmate of attacking them. He did not. They left him in a “recreation” cage as punishment. He fell asleep on the floor, then was awakened by an IRF team in the dark. They shackled and beat him, blocked his nose and mouth to create an asphyxiation effect, hit him repeatedly in the ribs and head, and caused serious injuries. Back in his cell, a guard urinated on his head.

Another inmate described painful forced feedings to hunger strikers, constant IRF cell intrusions inflicting “cruelty, beatings and bodily torture....the administration is giving the soldiers all the authority to practice violence against us....we are in very bad condition, suffering from aggression, beatings and IRF teams, as well as the inability to sleep except for a few hours.”

After years of torture and deprivation, some prisoners want to die. In the words of one: “I’m in despair right now and I don’t know what to do. I’m going crazy.”

Abuse of Psychologically Ill Detainees

According to experts, the combination of torture, sensory deprivation, and a state of constant fear and hopelessness “can cause serious and potentially permanent psychological and physical damage.” The former include hallucinations, severe anxiety, hostility, panic attacks, nightmares, confusion, loss of memory and appetite, self-mutilations, profound depression, and suicidal thoughts.

Lawyers and others report these observations. Detainees say many times they tried to harm

or kill themselves. Instead of help, “detainees have faced further abuse – gross mistreatment that exacerbates their pain and suffering.” Psychiatric visits are few and cursory, and when inmates report problems they’re placed in more restricted isolation and punished.

Attempted suicides are downplayed as “manipulative self-injurious behavior.” Torture is “enhanced interrogation.” Medical staff often are complicit. They impose unwanted care, verbally abuse detainees, and often laugh at their pain. They deny information about medical tests, existing diseases, what drugs are administered and their risks. They ignore the brutalizing effects of mistreatment causing serious physical and emotional harm as well as chronic weight loss, rotted teeth, receded gums, renal pain, and a constant state of emotional stress and ill health.

Washington under Bush and Obama withholds inmate access to independent medical help, leaving them exclusively in prison hands to continue mistreatment or none at all. What happened to Muhammed Khan Tumani is typical.

Imprisoned at age 17, he’s been at Guantanamo for a third of his life, separated from his father who’s also an inmate. The effect is telling:

- signs of serious mental trauma;
- in December 2008, he cut multiple slashes across his inner arm and a vein in his hand;
- nearby detainees report that he bangs his head against his cell walls and smears them with his excrement;
- during a recent attorney visit, he was too anxious to concentrate in spite of “his intense desire to challenge his detention;”
- “in complete despair, he threatened to harm himself again;” the same is true for many others;
- after cutting himself, Tumani was harshly disciplined; when he failed to clean up his excrement, a ten-guard IRF team severely beat him; sprayed him with tear gas or another noxious substance leaving his skin red and burning days later; and stripped his cell of everything, including a thin sleeping mat; instead of treating his psychotic state, prison personnel beat and punished him.

Hunger Strikes and Force-Feeding

As a result of continued mistreatment, torture, isolation, and deprivation, detainee hunger strikes are common as their only way to protest. The response is to restrain them in chairs, force tubes through their noses and throats abrasively enough to draw blood, and pump food into their stomachs – a procedure causing excruciating pain.

Strikes began as early as February 2002, involving as many as 200 or more prisoners at a time, and continuing on and off for months. Constant abuse sparks them or just an individual act.

Introduced in December 2005, “restraint chairs” are called “padded cell on wheels” because

they confine legs, arms, shoulders, and head. A thickness of a finger tube is then forcibly inserted up the nose to the stomach for as much as 1.5 liters of formula, or more than a stomach can hold – causing severe pain, bloating, nausea, vomiting, diarrhea, and shortness of breath.

No sedatives or anesthesia are given, and men are kept strapped in for an hour to prevent purging. The procedure is generally repeated twice daily with the same tubes, covered in blood and stomach bile, reportedly used from one inmate to another with no proper sanitation. “The policy of force-feeding with restraint chairs continues to this day under the Obama administration.”

One inmate described the experience as “torture, torture, torture.” Another refusing force-feeding was beaten so badly he was hospitalized on January 8, 2009 but failed to receive proper treatment for multiple injuries.

US Bureau of Prison regulations require that force-feeding be humane. The World Medical Association, of which the AMA is part, states that force-feeding violates medical ethics, and when accompanied by “threats, coercion, force, and the use of physical restraints is considered inhuman and degrading treatment.” For inmates, it’s excruciating torture.

Religious Abuses

They include humiliation, the invasion of privacy, forced nudity, preventing communal prayer, and allowing no Muslim chaplain.

Forced Separation of Family Members and Denial of Adequate Family Communications

Only recently has even “extraordinarily limited” familial telephone access been allowed. For the first six years there was none. Now at most one annual monitored call is permitted compared to Federal Bureau of Prisons regulations requiring at least one a month, and at the Florence, Colorado supermax facility, two a month is procedure. For prisoners under special disciplinary measures, it’s one every 90 days.

In the few cases where two family members are detained together, total separation with no communication is enforced, “causing further trauma.” In one such instance at Guantanamo, extreme pressure continues to be exerted on a son to provide “evidence” against his father.

Efforts to Whitewash Inhumane Conditions

Like its predecessor, “the Obama administration to date has continued (the same practice of) sanitiz(ing) the conditions for the men detained in the most restrictive facilities (at Camps 5, 6 and Echo).” Deception and deliberate lies suppress the daily brutalization of inmates.

Following Obama’s EO to close Guantanamo, officials responded “by instituting minor changes that fail to address the fundamental inhumanity (and daily torment) of this facility.” Nothing fundamentally has changed. Nothing from the White House addresses it, and inmates exhibiting the severest psychological trauma face even harsher restrictive and punitive responses. “Inexplicably, their psychological deterioration is presented as a failure to comply with camp rules, rather than a medical issue (demanding) concern and care.”

“The most psychologically vulnerable men in the prison are kept in the most coercive and

damaging (state) of confinement,” further exacerbating their condition. The more traumatized they get, the more they’re punished, and Guantanamo’s military command has little interest in investigating physical, psychological and religious abuses. Mistreatment instead is whitewashed.

Minor cosmetic changes have done nothing to relieve daily brutality and suffering or the violation of US and international laws. So far, Obama’s EO is empty, meaningless, and fails to address similar practices at secret Pentagon/CIA prisons globally, housing “ghost detainees.”

Some are on “prison ships,” addressed by this writer in July 2008 as follows:

“....in 2005, the UN’s Special Rapporteur on Human Rights and Counter-Terrorism took note. He spoke of ‘very, very serious’ allegations that the US was secretly detaining terrorist suspects aboard special ships at various locations around the world, notably in the Indian Ocean.

The UK legal action charity, Reprieve, believes up to 17 floating prisons (were and likely still are) involved where detainees are held under torturous conditions and subjected to harsh and brutal treatment, in some cases worse than Guantanamo. Details have emerged from US administration and military sources as well as the Council of Europe, various parliamentary bodies, journalists, and former prisoner testimonies.

The USS Bataan is one ship mentioned, and a former Guantanamo detainee described his treatment on board. About 50 in total were there. They were closed off in the ship’s bottom area and beaten more severely than at Camp X-Ray. Reprieve’s Director, Clive Stafford Smith, said: ‘The US administration chooses ships to try to keep their misconduct as far as possible from the prying eyes of the media and lawyers. We will eventually reunite these ghost prisoners with their human rights.’

‘By its own admission (then and likely now), the US government (is detaining up to) 26,000 people without trial in secret prisons, and information suggests that around 80,000 have been ‘through the system’ since 2001. The US government must show a commitment to rights and basic humanity by immediately revealing who these people are, where they are, and what has been done to them.’ The Bush administration’s response (at the time was) silence.” So far, it’s no different under Obama.

On February 22, the UK Independent’s Stephen Foley headlined: “Very Bad News – Afghanistan’s Bagram Air Base Will Be Obama’s Guantanamo.” It’s to undergo a \$60 million expansion to hold 1100 more prisoners, above the 600 now there, and nearly five times the 240 at Guantanamo. Other than occasional ICRC visits, human rights groups and journalists are barred from a facility notorious for the worst of mistreatment, according to the few former inmates released.

Reprieve’s Clive Stafford called the scheme “the Bagram bait and switch....a diversionary tactic in the ‘war on terror,’ ” a willful case of hypocritical deceit to keep thousands of prisoners in illegal black holes and brutalize them to the point of despair or death.

Executive director Tina Foster of the New York-based International Justice Network warned that “leaving Bagram open (let alone tripling its capacity) turns the closure of Guantanamo into essentially a hollow and symbolic gesture.” The status quo is unchanged. Bagram

prisoners “have been tortured to the point that they have died; it is a rallying cry for those who oppose the US actions in Afghanistan (and a travesty regarding) everything we (say we) stand for as a country.”

The Obama administration’s justification is that Bagram is a special case in a war theatre. Unmentioned is that US and international laws allow no “special cases” for illegal detentions or torture anywhere, at any time, for any reason with no exceptions ever.

CCR demands better. Prior to Guantanamo’s closure, it wants camp conditions improved, legal standards observed, and humane practices restored as stipulated under Geneva, the Constitution, and all applicable international human rights laws. This must be initiated “promptly and thoroughly.” Specifically, the following practices must be implemented at Guantanamo and all other US run or supervised detention facilities:

- solitary confinement must end, and at Guantanamo Camps 5, 6 and Echo closed;
- religious freedom must be observed;
- all forms of IRF physical and psychological abuse must cease;
- force-feeding must stop; forcible medications also;
- detainees must have immediate access to independent medical and psychological professionals;
- illegal interrogations must be halted; and
- independent and international human rights observers must have access to inmates.

Above all, full and unequivocal US and international humanitarian law observance is mandatory immediately. No deviations can be tolerated.

Human Rights Organizations Reveal A Secret Pentagon/CIA Prison Network

CCR, the Center for Human Rights and Global Justice (CHRGJ) at New York University School of Law, and Amnesty International (AI) released documents revealing secret Pentagon/CIA black sites housing “ghost detainees.”

Most of the material contained news articles. Much else was heavily redacted, but reference was made to facilities in Iraq and an undisclosed prison at Bagram Air Base, Afghanistan.

A Pentagon “Information Paper” dealt with the “Applicability of the Geneva Conventions to ‘Ghost Detainees’ in Iraq,” suggesting that DOD and CIA may conceal their identity if “absolute military security” dictates to facilitate intelligence collection and justify denying ICRC visits “for reasons of imperative military necessity.”

Reference is made to “spies and saboteurs; persons who have committed such acts (and have) forfeited the rights of communication.” A partly redacted email cites the “need to definitely think about hold(ing) off (bad press by delaying inmate releases) for 45 days or so until things cool down.” CCR attorney Gitanjali Gutierrez called it “astonishing that the government (might delay) releasing men from Guantanamo (or elsewhere) to avoid bad press.” Obama vowed to close black sites. So far, his words are an empty gesture.

ACLU Report of US Prisoners Tortured to Death

On February 11, the ACLU released previously classified documents concerning “abusive” interrogation practices (to the point of death) in Iraq, Afghanistan, and Guantanamo. The report referred to “clearly abusive (behavior), clearly not in keeping with any approved interrogation policy or guidance.” It noted instances of “deaths follow(ing) interrogation sessions in which unauthorized techniques were allegedly employed, but (in two cases cited) these sessions were followed by further alleged abusive behavior outside of the interrogation booth.”

Deaths took place in Iraq and Afghanistan:

- two at Bagram “determined to have been killed by pulmonary embolism caused as a result of standing chained in place, sleep deprivation and dozens of beatings by guards and possibly interrogators;” other evidence reveals torture at Guantanamo and American-Afghan prisons in Kabul;
- a homicide or involuntary manslaughter of detainee Dilar Dababa by US forces in Iraq;
- torture and abuse at the US Special Operations Force Compound at Mosul Airfield, Mosul, Iraq;
- torture and abuse at Abu Ghraib; and
- causing death to a detainee by asphyxiation.

Torture was official policy under George Bush through numerous “findings,” Military and Executive Orders, memoranda, and memos like the infamous March 14, 2003 “Torture Memo,” written by John Yoo, Alberto Gonzales (as White House counsel), Jay Bybee (now a federal judge), and David Addington. It bypassed existing laws, sanctioned all interrogation methods short of producing organ failure, and legalized everything in the “war on terror,” including supreme presidential power.

On January 22, Obama signed a series of Executive Orders, including the banning of torture. The proof of the pudding is in the execution, and so far very little is in sight, including at Guantanamo where the worst of abuses continue.

Most important is accountability – prosecuting Bush administration officials for crimes of war and against humanity, including the practice of torture. CCR states:

“Evidence of the criminal activities of the Bush administration is exceedingly well documented. It is apparent in (its) memos,” various memoranda and other internal papers, “FOIA documents, congressional hearings, court documents, the testimony of victims, innumerable investigative news articles and books and direct admissions by intelligence, military and administration officials.”

The evidence points right to the top, including the president, vice-president, two defense and state secretaries, and heads of CIA among others. Given volumes of damning evidence, “now is the time for accountability (to) hold these officials (liable) for their (crimes) and dissuade future government officials” from committing them again knowing full well the consequences if they do.

It's critical for the Obama administration to "reassert the rule of law," affirm that no one is exempt, and set an example that lawlessness no longer will be tolerated. Nothing less is acceptable.

Military officials like Major General Antonio Taguba and retired judge and head of the Guantanamo military commissions, Susan Crawford, acknowledged high official guilt. Taguba said:

"There is no longer any doubt as to whether the current (Bush) administration has committed war crimes. The only question....is whether those who ordered the use of torture will be held to account."

The Convention Against Torture's Article 4 requires the Obama administration to convene a criminal investigation to hold those responsible accountable. Torture is prohibited under all circumstances, at all times, with no exceptions allowed ever. Those in violation must be investigated, tried, prosecuted and sentenced in accordance with the law. Nothing short of full and meaningful justice is acceptable, and no administration promising change can do less.

Adds CCR president Michael Ratner:

"The only way to prevent this from happening again is to make sure that those who were responsible for the torture program pay the price for it. I don't see how we regain our moral stature by allowing those who were intimately involved in the torture programs to simply walk off the stage and lead lives where they were not held accountable."

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