



GUANTÁNAMO

SYMBOL OF WIDER INJUSTICE

Six years after the first detainees arrived in Guantánamo Bay, the US offshore facility remains a global symbol of injustice. It is, however, only one part of a wider detention regime removed from the protection of international law. Hundreds of detainees, for example, remain in indefinite detention without charge or trial at the US airbase at Bagram in Afghanistan, without access to lawyers or the courts.


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In July 2007, President George W. Bush gave the green light for the CIA's secret detention and interrogation programme to continue. If detainees are held as before – their fate and whereabouts concealed – the President will in effect have re-authorized enforced disappearance, a crime under international law. Over the years, at Guantánamo, Bagram, and at CIA “black sites”, detainees have been subjected to torture and other cruel, inhuman or degrading treatment. Accountability has been minimal.

A new renditions hub opened in East Africa in early 2007 after Ethiopian troops routed the forces of the Council of Somali Islamic Courts in the fight for Mogadishu. Somalia and its bordering states of Ethiopia and Kenya have since become pick-up points for scores of terrorist suspects, as well as their families. Kenyan authorities arrested 140 people between 30 December 2006 and

February 2007 as they tried to enter Kenya from Somalia, of which 85 men, women and children were then unlawfully transferred to Somalia, and then on to Ethiopia, without any legal process. Some detainees claim they were beaten by Kenyan police and left to sleep on cement floors in mixed cells, including several pregnant women. In Nairobi, most detainees were denied access to relatives and to lawyers. Several were questioned – their interrogators included US agents. Only one detainee was charged.

Under President Pervez Musharraf, Pakistan has become a key US ally in the “war on terror”. As of December 2007, at least 493 Pakistanis were said to have disappeared into their country's intelligence system, with more cases regularly coming to light. Some have emerged when relatives filed habeas corpus petitions, though around 100 have been quietly freed – seemingly to avoid drawing attention



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to Pakistan's extensive secret prison facilities. Less fortunate were 500 men handed over to US authorities without legal extradition proceedings, many of whom ended up in Guantánamo Bay. Others died in Pakistan after being tortured and dumped, even on garbage tips, according to human rights groups. This vividly demonstrates the Pakistani government's lack of respect for human dignity.

Europe has also featured in the global web of rendition, torture and other ill-treatment, and unlawful detention. Inquiries by the UN Human Rights Committee and Committee against Torture, the Council of Europe's Secretary General and Parliamentary Assembly as well as the European Parliament confirmed that renditions and secret detentions have occurred in and through Europe. They found, moreover, that officials of European states had been complicit in grave human rights violations linked to this programme. Reports released in 2006-07 as part of the inquiry of the Parliamentary Assembly of the Council of Europe revealed "the existence of a 'spider's web' of illegal transfers of detainees woven by the CIA in which Council of Europe member states were involved". They concluded to "a high degree of probability" that the CIA had operated secret detention centres in Poland and Romania, and did not rule out the possibility that secret CIA detentions may also have occurred in other European states.

Across the Atlantic, the US Supreme Court is now deciding whether legislation passed by Congress in 2006 – the Military Commissions Act – has unlawfully stripped the US courts of jurisdiction to consider habeas corpus petitions from the Guantánamo detainees. In addition, it is considering whether the limited judicial review to which the detainees now have access (but which has not yet been conducted six years after detentions began) is an adequate substitute for habeas corpus. Habeas corpus is a procedure that reflects a principle dating back 700 years in British common law, requiring authorities to justify a person's detention. The Supreme Court is expected to issue its judgment by mid-2008. The administration has interpreted previous landmark rulings against its "war on terror" detentions in ways that have kept this unlawful detention regime largely removed from the scrutiny of the courts.

HUB OF RENDITION

Guantánamo Bay is a central part of the global rendition web. The unlawful rendition programme, run by the CIA, has used planes leased by front companies as well as legitimate aviation firms, to secretly transfer suspects into the custody of other states – including Egypt, Jordan and Syria – where torture is known to accompany interrogation. Many of the individuals allegedly tortured at these destinations were subsequently transferred to Guantánamo. One of

the planes used by the CIA, a Gulfstream V variously registered as N379P, N8068V and N44982, has made more than 50 trips to Guantánamo, earning it the nickname “The Guantánamo Bay Express”.

FROM ‘BLACK SITES’ TO GUANTÁNAMO

The rendition programme has delivered people to other US-run prisons, including clandestine CIA-run detention facilities known as “black sites” around the world. These secret centres have been reported in Afghanistan, the British Indian Ocean territory of Diego Garcia, Jordan, Pakistan, Thailand and countries in Eastern Europe. President Bush confirmed the existence of the secret programme in September 2006. He did not say where the detention facilities were, nor did he explain what the CIA’s “alternative” interrogation techniques employed in the programme have entailed.

Despite being sued in court, the CIA has so far refused to confirm or deny the existence of an alleged presidential directive and an alleged Justice Department memorandum authorizing and outlining the secret detention programme and its interrogation methods. However, the methods are widely reported to have included techniques that would clearly violate international law, including “waterboarding” (simulated drowning), forced standing for more than 40 hours

while shackled to a bolt in the floor, and the “cold cell” (whereby the detainee is left standing naked in a cold cell while being repeatedly doused with cold water).

When confirming the CIA programme on 6 September 2006, President Bush simultaneously announced that 14 “high-value” detainees had just been transferred from secret custody to military detention at Guantánamo. They had been held incommunicado in secret locations for up to four and a half years. President Bush produced them as pawns while seeking to persuade Congress to replace the military commissions struck down by the US Supreme Court three months earlier, to strip the US courts of the jurisdiction to consider habeas corpus appeals from “enemy combatants”, and to provide legislative cover for the CIA secret programme and all those involved in it. He got what he wanted when Congress passed the Military Commissions Act. Signing the Act into law, President Bush emphasized that it would allow the CIA programme to continue.

The 14 have now had access to the International Committee of the Red Cross but the US administration is seeking to ensure that what the 14 detainees know about the CIA programme – such as the location of secret detention facilities, conditions of confinement in them, and the interrogation techniques used – remains secret. The government

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January 2008
AI Index: AMR 51/005/2008

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maintains that such information would cause “exceptionally grave damage” to national security if revealed. Secrecy is being used to cover up human rights violations, and to facilitate a further lack of accountability.

An executive order issued by President Bush in July 2007 allows the CIA’s detention and interrogation programme to continue. In December 2007, the Director of the CIA revealed that in 2005 the agency had destroyed videotapes of interrogations conducted in 2002 of detainees held in secret detention. In January 2008, the US Attorney General announced a criminal investigation into the destruction of the tapes.

AFGHANISTAN’S ‘PRISON OF DARKNESS’

In addition to operating a secret facility in Bagram air base in Afghanistan, the CIA allegedly ran a secret prison near Kabul that was known as the “prison of darkness” because detainees were subjected to darkness and loud music around the clock. Detainees have recounted being chained to the roof for prolonged periods, being deprived of sleep, and being interrogated for days on end. Binyam Mohammed, Abdulsalam al-Hela, Bisher al-Rawi, Jamil al-Banna, Walid al-Qadasi and Hassan bin Attash all say that they were held at this facility before being transferred to Guantánamo.

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