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CLOSE GUANTÁNAMO

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USA

Guantánamo

Torture and other ill-treatment

"The United States is committed to the worldwide elimination of torture
and we are leading this fight by example."
President Bush, June 2003

Familiar refrains by US officials throughout the "war on terror" have been that the USA is leading the struggle against torture; that all detainees in US custody are treated humanely; and that there is full accountability on the rare occasions that this standard is not met. The reality has been very different.

Many of those held at Guantánamo have been ill-treated, whether in Afghanistan or elsewhere prior to their transfer to Guantánamo, or during their transfer, or as part of the interrogation process at the base, or as a result of the isolating, indefinite and punitive nature of detention in Guantánamo. By association, their families too have suffered the cruelty of this virtually incommunicado island incarceration.

Built-in impunity

In January 2002, White House Counsel Alberto Gonzales advised President Bush that a benefit of not applying the Geneva Conventions to detainees picked up in the Afghanistan conflict would be that prosecutions of US personnel under the US War Crimes Act would be more difficult. Two weeks later, on 7 February 2002, the President signed a memorandum confirming that no Taleban or al-Qa'ida detainees would qualify as prisoners of war, and that Article 3 common to the Geneva Conventions would not apply to them either.

Common Article 3 guarantees minimum standards of fair trial. It also prohibits torture, cruel treatment and "outrages upon personal dignity, in particular humiliating and degrading treatment". At the time, the War Crimes Act criminalized breaches of common Article 3 as war crimes that could be prosecuted in the USA.

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Hunger strikes

"When they vomited up blood, the soldiers mocked and cursed them, and taunted them with statements like 'look what your religion has brought you'."

Saudi Arabian detainee Yousef al-Shehri

During 2005 over 200 detainees participated in a hunger strike at Guantánamo to protest against conditions of detention and their long-term indefinite detention without trial. Hunger strikers were reportedly placed in isolation cells, strapped into restraint chairs, subjected to painful force feeding methods and deprived of "comfort items" such as blankets and books. Lawyers said that some hunger strikers were moved into isolation in cold rooms and strapped into restraint chairs. Guards allegedly taunted these detainees by rattling the doors of their cells, interrupting their prayers and disrupting their sleep.
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Almost five year s later, there have been no prosecutions under the Act. Yet at a Senate hearing in July 2006, six military lawyers all agreed that some of the interrogation techniques authorized in the "war on terror" had breached common Article 3. Indeed, in 2004 a military investigation confirmed that at least from 2002, US interrogators in Afghanistan were stripping detainees, isolating them for long periods, using stress positions, exploiting fear of dogs and using sleep and light deprivation. Such techniques have been used in Guantánamo.

In September 2006, the administration drafted the Military Commissions Act, which was passed by Congress and subsequently signed into law by President Bush. The new law narrows the War Crimes Act to exclude as war crimes unfair trials or "outrages upon personal dignity, in particular humiliating and degrading treatment", and backdates this to before the beginning of the "war on terror". Impunity has been entrenched.

Redefining torture allows torture

In a memorandum dated 1 August 2002, an Assistant Attorney General in the Justice Department advised the White House that the President could override the prohibition of torture; that interrogators could cause a great deal of pain before crossing the threshold to torture; and that there were a wide range of acts that might amount to cruel, inhuman or degrading treatment but would not amount to torture. Agents who used them, the memorandum argued, could not be prosecuted under the USA's extraterritorial anti-torture law. Even if their interrogation methods did constitute torture, "necessity or self-defence could provide justifications that would eliminate any criminal liability".

The euphemistically termed "stress and duress" techniques that emerged in the USA's "war on terror", including in Guantánamo, included forced standing and crouching, sleep deprivation, subjection to noise, prolonged isolation, and hooding. Some techniques, such as the use of dogs, forced nudity, forcible shaving, sexual humiliation by female interrogators, and removal of religious items, have had discriminatory undertones.

Alberto Gonzales said in 2005 that the memorandum had represented the position of the administration and that he, as White House Counsel, had accepted it. In the "war on terror", there have been no prosecutions of US personnel under the anti-torture law.

The USA's version of humane treatment

The memorandum signed by President Bush on 7 February 2002, which has not been withdrawn or amended, states that "as a matter of policy" detainees would be treated humanely, "including those who are not legally entitled to such treatment". There are no such detainees. All detainees, everywhere, have the right to be free from torture or other illtreatment. This is not a policy choice. It is a legal obligation on all governments.

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Indefinite detention

"We made this camp for people who would be here forever. You should never think about going home. You'll be here all your life… Don't worry. We'll keep you alive so you can suffer more."
Alleged statement of a US interrogator to Mohamed al-Gharani, a Chadian national held in Camp V

In May 2006, the UN Committee against Torture told the USA that indefinite detention without charge constitutes per se a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This expert body urged the USA to close the Guantánamo detention camp.
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The memorandum spoke of an approach to detainees that was "consistent with" the Geneva Conventions, but only to the extent that "military necessity" allowed it.

"Military necessity" was used to justify the "special interrogation plan" authorized by Secretary of Defense Donald Rumsfeld for use on Guantánamo detainee Mohamed al-Qahtani, considered to have high intelligence value but to be resistant to standard US army interrogation techniques. Mohamed al-Qahtani was subjected to extreme isolation for three months in late 2002 and early 2003. He was variously forced to wear women's underwear; was tied by a leash and led around the room while being forced to perform a number of dog tricks; was forced to dance with a male interrogator while made to wear a towel on his head "like a burka"; was subjected to forcible shaving of his head and beard during interrogation, stripping and strip-searching in the presence of women, sexual humiliation, culturally inappropriate use of female interrogators, and to sexual insults about his female relatives; was subjected to hooding, loud music, white noise, sleep deprivation, and to extremes of heat and cold; was made to stand for long periods; and was forced to urinate in his clothing when interrogators refused to allow him to go to the toilet.

Mohamed al-Qahtani was interrogated for 18 to 20 hours per day for 48 out of 54 consecutive days. During the period of his interrogation, Mohamed al-Qahtani was allegedly subjected to a fake rendition, during which he was injected with tranquilizers, made to wear blackened goggles, and taken out of Guantánamo in a plane.

A military investigation concluded that Mohamed al-Qahtani's treatment, while cumulatively "degrading and abusive... did not rise to the level of prohibited inhumane treatment". This should be borne in mind every time an official says that

detainees in US custody are treated humanely – clearly their concept of humane treatment does not match international standards.

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Brutal cell extractions

"Two or three guards immediately entered the cell while he was lying on the floor. One forced Mr Ait Idir's body onto the steel floor of the cell and jumped on his back, using his knees to pound Mr Ait Idir's body into the floor."

This testimony, contained in a lawsuit filed in a US court in April 2005 on behalf of Mustafa Ait Idir, is one of many allegations of beatings and other violence by the Initial or Extreme Response Force, groups of around five Guantánamo guards sent to detainees' cells to punish them for minor or imagined disciplinary infractions of prison rules.

On 24 January 2003, a man in an orange jumpsuit was brutally treated at Guantánamo and reportedly suffered a brain injury as a result. He was not a detainee, but a US military guard who had volunteered to pose as an unco-operative detainee in a training exercise. However, the five-man team sent in to extract him from his cell was not told it was an exercise. The guard says that they slammed him to the floor, put him in a painful chokehold, and pounded his head at least three times against the steel floor. [end of box]

Economical with the truth

The administration has sought to dispel allegations of torture and ill-treatment by pointing to the "Manchester document", an alleged al-Qa'ida training manual found in the UK which instructs members to claim that they were tortured or ill-treated in custody.

Amnesty International has spoken to numerous released detainees – including in Afghanistan, Australia, Bahrain, Canada, France, Germany, Sweden, the UK and Yemen. Their allegations of ill-treatment have been consistent, restrained and credible.

The Combatant Status Review Tribunals that the US administration set up to review the status of detainees held as "enemy combatants" and the military commissions that it intends to convene to try some of these detainees can rely on evidence extracted under torture or other ill-treatment. If it is true that such detainees routinely make false allegations of illtreatment, why has it been necessary to allow these tribunals and commissions to admit evidence that has been coerced? If all detainees are treated humanely, then these tribunals could rely on information lawfully gathered. It would appear that it is the government, as much as any detainee, whose "war" tactics have included being economical with the truth.

When three detainees died in Guantánamo in June, apparently as a result of suicide, the Commander of the base said that the detainees had not killed themselves out of

desperation, but as “an act of asymmetric warfare”. The Deputy Assistant Secretary of State for Public Diplomacy dismissed the deaths as “a good PR move”. As one US commentator said, such statements demand that the camp be closed, “not just because of what it’s doing to the prisoners but because of how it is dehumanizing the American captors”.

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