

Another criminal violation of human rights

US admits jailing children at Guantanamo Bay

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Another instance of the Bush administration's remorseless attack on basic democratic rights came to light last week after US officials admitted they were imprisoning children under 16 years of age at the Camp Delta military prison in Guantanamo Bay, Cuba.

The young prisoners, some of whom have been jailed in US military prisons for over 12 months, are defined as "enemy combatants" and are being interrogated for suspected links to Al Qaeda or Afghanistan's former Taliban government.

Like the more than 660 prisoners currently jailed at Guantanamo Bay, the children have not been charged with any offense or given access to legal counsel. They have been given no indication if they will be released, whether they will be returned to their native countries, or when, if ever, they will see their parents and families again.

It is believed that one of the prisoners could be Canadian born Omar Khadr, who was 15-years-old when captured on July 27 last year by US Special Forces in eastern Afghanistan. Press reports quote unidentified US military sources claiming that Khadr was involved in Al Qaeda weapons training and that he threw a hand-grenade that killed a US soldier. This allegation has not been substantiated, and Khadr has not been charged with any offense.

The first US admission of the long-rumoured child prisoners came on April 23, a day after Australian ABC television and a Canadian newspaper reported that there were juveniles at Camp Delta.

Responding to these reports, military spokesman Lieutenant Colonel Barry Johnson revealed that Guantanamo Bay prison officials were "detaining" at least three children but refused to divulge their countries of origin, names or exact ages.

Johnson claimed the children had the "potential to provide important information in the ongoing war on terrorism". Their release, he declared, was "contingent on the determination that they are not a threat to the [US] nation and have no further intelligence value." In other words, the US government will continue to imprison and interrogate the children as long as it deems fit.

This cruel and sadistic treatment breaches the most fundamental tenets of international law, the Geneva Conventions and the recently adopted Convention on the Rights of the Child in Armed Conflict.

Johnson's admissions immediately produced a wave of angry denunciations by Human Rights Watch, Amnesty International and other human rights organisations.

Amnesty International described the conditions at Guantanamo Bay as "cruel, inhuman and degrading" and called for the immediate release and repatriation of the children. "That the US sees nothing wrong with holding children at Guantanamo and interrogating them is a shocking indicator of how cavalier the Bush administration has become about respecting human rights," Amnesty International spokesman Alistair Hodgett said.

Human Rights Watch declared that the US was in breach of the Convention on the Rights of the Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles Deprived of their Liberty. It said the accepted international definition of a child was anyone under the age of 18.

Human Rights Watch pointed out that the installation of the Hamid Karzai government in Afghanistan meant that the US no longer had any legal authority to imprison former Taliban fighters, including children.

The United Nations special representative for the rights of children in war, Olara Otunnu, also called for the release of the children. "Whatever the circumstances, children should be reunited with their families. We do not sentence children to jail. We do not punish them. We give them healing and get them rehabilitated," he said.

US Defence Secretary Donald Rumsfeld and General Richard Myers, chairman of the Joint Chief's of Staff, rejected these appeals out of hand at a Washington press briefing on April 25.

Rumsfeld alleged the prisoners were "not children" and criticised what he described as a "constant refrain of 'the juveniles', as though there's 100 children in there." He claimed the US was treating Guantanamo Bay prisoners "properly".

Myers told the media that the boys "may be juveniles but they're not on the Little League team anywhere. They're on a major league team, and it's a terrorist team and they're in Guantanamo for a very good reason—for our safety, for your safety."

None of these comments was challenged by any of the journalists present or reported in the mainstream US press.

In fact, the few newspapers that bothered to write on the child

prisoners glibly repeated military assertions that the juveniles' ages were not discovered until they underwent medical checks at Guantanamo Bay. The Hearst Corporation-owned *Seattle Post-Intelligencer* even claimed there had not been any "credible reports of abuse nor substantial complaints about the physical conditions of the [Guantanamo Bay] detainees."

Guantanamo Bay can only be described as a hellhole. Adult prisoners, who are subjected to sleep deprivation and other forms of torture, are held in tiny 6.8 feet by 8 feet cells (2.1 x 2.4 metres) and are only allowed out for two 15-minute shower and exercise sessions per week. According to recent news reports, 10 percent of the inmates have mental health problems and are being treated with anti-depressants.

On April 27 Lieutenant Colonel Barry Johnson, in an attempt to deflect the criticisms of human rights organisations, told Associated Press that the children were being kept in separate facilities from adult prisoners and allowed to watch videos and play games. "I'm not sure where else in the world—given their status as enemy combatants—they would get this type of setup, an environment designed to facilitate their development," he said.

Notwithstanding this chilling claim, the children's jailing is a criminal offense under international law and the various human rights protocols to which the US is a signatory.

International law and human rights standards recognise that children under the age of 18, who are still developing physically, mentally and emotionally, are particularly vulnerable to psychological pressure and thus entitled to special care and protection at all times. If children are involved in combat during war and captured, international legal conventions rule that detention can only be a measure of last resort. Child war prisoners must be able to maintain contact with their families at all times and be released and repatriated as soon as possible. If charged with any crime, they must have full legal rights, including the prompt determination of their cases.

The first attempt to legally codify and guarantee the rights of children during military conflict, and secure international approval, was made by the Red Cross in 1939. These efforts, however, collapsed with the outbreak of World War II, when Nazi officials in Eastern Europe arrested, imprisoned and even executed children involved in the anti-fascist resistance.

To prevent any repeat of these crimes, 17 special protocols were included in the 1949 Geneva Conventions to specifically protect children. In 1977, the convention signatories adopted additional measures.

Further legal protection was established under the United Nations Convention of the Rights of the Child on the involvement of children in armed conflict. In December 2002, the US endorsed the additional protocols to this convention.

Under the agreement, the US must assist in the demobilisation of former child soldiers and provide assistance, including family reunification, counselling, education and vocational training, to aid their reintegration into society as soon as possible.

But these legal protocols, which constitute the most minimal standards of civilised human behaviour, are being violated on a daily basis by the US government at Guantanamo Bay.

The Bush administration is not only tearing up the human rights

established in the aftermath of Nazi rule in Europe, but turning the clock back hundreds of years on basic democratic principles. US courts, for example, have rejected several habeas corpus challenges on the detention, without charge or trial, of Afghanistan war prisoners at Guantanamo Bay.

On March 11, a US court of appeal unanimously ruled that Guantanamo Bay prisoners had no right to a trial or legal hearing in any American court. The appeal was organised by lawyers representing two Australians, David Hicks and Mamdouh Habib; two British citizens, Safiq Rasul and Asif Iqbal; and 12 Kuwaitis imprisoned in Guantanamo Bay by the US military since January 2001.

Appeal lawyers argued, in line with the Magna Carta principles of 1215, that no one should be imprisoned without due process of law and that the prisoners should either be charged and given a trial in a US court or released. The appeal court ruling, however, declared that the prisoners had no legal or constitutional rights because writs of habeas corpus were "unavailable to aliens held outside US territory".

Last year US District Judge Colleen Kollar-Kotelly made the extraordinary ruling in one court hearing that prisoners were not being deprived of their legal right to due process because they had not been charged with any offence.

Human rights organisations have warned that the indefinite detention of juveniles at Guantanamo Bay will have a serious and possibly irreparable impact on their psychological development and overall health and lead to increasing incidences of suicide and self-harm.

Last week Guantanamo Bay authorities revealed that a Camp Delta prisoner receiving treatment in the acute care wing of the jail's mental health ward attempted to commit suicide on April 21. This brings the number of suicide attempts at the prison to 25 by 17 individuals, with 15 attempts made this year alone.

One prisoner suffered serious brain damage when he tried to hang himself on January 16. The damage was so severe that he is unable to walk or talk and has been fed through a tube since his suicide attempt. US officials have refused to release the age or nationality of any of those who have tried to kill themselves. They have also refused to notify the families.



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