

UN report denounces US torture and calls for closure of Guantánamo prison camp

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A United Nations investigation has found that the US is committing acts amounting to torture at Guantánamo Bay, Cuba. The report, released Thursday, is a stinging rebuke to the American government's illegal practices, justified in the name of the so-called "war on terrorism." The UN body is calling for the prison camp to be closed.

The probe was conducted by a five-member panel of the UN Commission on Human Rights. Its report says detainees at the US facility have been subjected to force-feeding, prolonged solitary confinement and other abuses, and have been denied the right to a fair trial, as well as religious freedom.

The UN panel rejects the legal arguments made by the US to justify its detention of prisoners as "enemy combatants," and calls for the detainees to either be immediately released or brought to trial. It also calls for the US to revoke all special interrogation techniques authorized by the Defense Department.

In the view of the report's authors, "The legal regime applied to these detainees seriously undermines the rule of law and a number of fundamental universally recognized human rights, which are the essence of democratic societies."

The US government immediately attacked the report and made clear it had no intention of accepting its findings. The abusive and dismissive US response was an implicit affirmation that Washington did not consider itself in any way bound by the recommendations of the United Nations or any other international body or legal convention.

The Bush administration made no attempt to answer the comprehensive evidence of torture and mistreatment at Guantánamo set down in the panel's 54-page report. A preliminary response to the report by Kevin Moley, permanent representative of the US to the UN, said US authorities "categorically object to most of [the report's] content and conclusions as largely without merit and not based clearly in the facts."

White House Press Secretary Scott McClellan repeated the Bush administration's "we do not torture" line, adding, "These are dangerous terrorists that we're talking about." He dismissed the UN report as "a rehash" of past claims.

The report provides a chilling and detailed account of how the US is flouting international law and human rights standards. While drawing on the evidence gathered by previous human rights groups and non-governmental organizations (NGOs), it is the first report on Guantánamo by the UN Commission on Human Rights, the highest world body governing international human rights laws and treaties.

The report's findings are based on interviews conducted by the UN panelists with former Guantánamo detainees, responses from lawyers acting on behalf of current detainees, reports prepared by NGOs, and

other information available in the public domain, as well as a questionnaire filled out by US government authorities.

The report notes that US authorities failed to cooperate with the investigation, declining a request by the panel to speak personally with detainees at the prison camp. The five members of the commission had been requesting permission from the US to visit Guantánamo since 2002. Three were finally offered a visit last year, but turned down the offer in November when they were told that face-to-face interviews with the detainees would not be allowed.

Manfred Nowak, the UN special investigator on torture and one of the expert panel members, commented, "Fact-finding on the spot has to include interviews with detainees. What's the sense of going to a detention facility and doing fact-finding when you can't speak to the detainees? It's just nonsense."

The US has allowed only representatives of the International Committee of the Red Cross to interview detainees, but the ICRC does not make its findings public, reporting only to US authorities.

Approximately 500 detainees are still imprisoned at Guantánamo. In total, more than 750 prisoners have been brought to the facility since January 2002, most of them rounded up in Afghanistan in the aftermath of the September 11 attacks. But others thrown into the Guantánamo gulag were picked up in their homes or at other locations far away from any battlefield.

The UN panel dismissed US claims that the "war on terror" constitutes an armed conflict and said that there had been insufficient due process to determine that the detainees were "enemy combatants." The report determined that the primary purpose of their confinement was for interrogation, not to prevent them from taking up arms against the US. It rejected as well the claim that the so-called war on terror exempts the US from international conventions on torture and civil and political rights.

The report also rejected one of the key contentions of US authorities in their operation of the prison camp—the claim that the camp is outside the legal jurisdiction of the United States and therefore not subject to American laws—noting that the "particular status of Guantánamo Bay under the international lease agreement between the United States and Cuba and under United States domestic law does not limit the obligations of the United States under international human rights law toward those detained there."

The Guantánamo detainees, the panel concluded, should be afforded universally accepted legal and human rights, including "the right to challenge the lawfulness of the detention before a court... and the right to a fair trial by a competent, independent and impartial court of law," as well as the presumption of innocence and protections against arbitrary detention and unjust punishment.

The Guantánamo detainees have been systematically denied these rights. The report notes: “At the time of writing (i.e., more than four years after detention at Guantánamo started), not a single habeas corpus petition has been decided on the merits by a United States Federal Court.”

The UN report also rejected the legality of the military order setting up Military Commissions (or tribunals)—“created ad hoc for Guantánamo detainees”—which it said “denies them the well-established procedures of ordinary civilian courts or military tribunals.”

In the section entitled “Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” the report exposes the systematic use of torture against Guantánamo detainees, and asserts that these methods have been authorized at the highest levels of government.

It cites the interrogation techniques authorized by US Defense Secretary Donald Rumsfeld on December 2, 2002. These included:

- * Interrogation for up to 20 hours
- * The use of stress positions for four hours
- * Solitary confinement for 30 days
- * Hooding during transport and interrogation
- * Deprivation of light and auditory stimuli
- * Forced grooming (shaving of facial hair, etc.)
- * Using detainees’ phobias (such as fear of dogs) to induce stress

On April 16, 2003, Rumsfeld authorized a new set of interrogation methods, which remain in force, including exposure to extreme temperatures, subjecting prisoners to unpleasant smells, reversing sleep cycles, and isolation.

It should be noted that the Bush administration and the US military contend that none of the above measures constitutes torture, and that the Guantánamo prisoners have been treated “humanely” at all times. It has denied, however, any access to the detainees—such as that requested by the UN body—that would result in public exposure of their treatment or conditions.

The report indicates three contexts in which excessive force has been routinely used against detainees: “during transportation, with regard to operations by the ‘Initial Reaction Forces’ (IRF), and by force-feeding during hunger strikes.” (The IRF is tasked by prison authorities as a first-response team.)

The UN panel cites photographic and video evidence documenting “that during transport and IRF operations, detainees [were] shackled, chained, hooded, forced to wear earphones and goggles. They also show beating, kicking, punching, but also stripping and force shaving by IRF where detainees resisted, which have been corroborated by testimonies of former detainees.”

There also have been consistent reports of the forcible return of prisoners to home countries where they face serious risk of torture. The report cites the case of detainee Al Qadasi, who was returned to Yemen in April 2004:

“According to his lawyer, [Mr. Al Qadasi] was not warned about his imminent return to Yemen and therefore had no possibility to appeal. In early April he received an injection against his will, which led to loss of consciousness and hallucinations. When he woke up several days later, he found himself in prison in Sana’a [Yemen], where he alleges he was beaten and deprived of food.”

The report’s section titled “Freedom of Religion or Belief and Religious Intolerance” notes instances where particularly degrading interrogation techniques were authorized for use against members of certain religions. These included “lap dances during interrogations”

by female interrogators before prayer time, following which detainees were not allowed to wash themselves and subsequently were not able to pray.

The US government has itself identified five confirmed cases of mishandling of the Koran, including kicking and stepping on the book. Regulations currently in force allow for the removal of religious items, such as the Koran, constituting “an impermissible limitation on the right to freedom of religion or belief of detainees,” according to the UN report.

The UN panel also found that health professionals at Guantánamo Bay have systematically violated widely accepted ethical standards. These violations include: “(a) breaching confidentiality by sharing medical records or otherwise disclosing health information for purposes of interrogation; (b) participating in, providing advice for or being present during interrogations; and (c) being present during or engaging in non-consensual treatment, including drugging and force-feeding.”

US Defense Department policy allows health professionals to force-feed a detainee when they determine a hunger strike threatens his life or health. This stands in contradiction to the Declarations of Tokyo and Malta, which prohibit doctors from participating in force-feeding “provided the detainee is capable of understanding the consequences of refusing food.” The World Medical Association and the American Medical Association have endorsed the Declaration of Tokyo.

Force-feeding of hunger strikers has been one of the most brutal practices at the prison camp. According to a recent report in the *New York Times*, US military authorities have aggressively moved to put down a widespread hunger strike at Guantánamo through violent force-feeding and placing hunger-strikers in extended isolation.

In a desperate response to their indefinite detention and inhumane treatment, as many as 84 detainees were on hunger strike as recently as last December. In recent weeks, according to the *Times*, guards have been strapping hunger-strikers into “restraint chairs,” sometimes for hours on end, to force feed them through plastic tubes and prevent them from vomiting afterwards. The number of hunger-strikers has dropped to four in recent days, according to military officials.

Attorney Joshua Colangelo-Bryan said that one of his Bahraini clients, Jum’ah al-Dossari, told him that more than half of a group of 34 long-term hunger strikers ended their protest after being strapped in the restraint chairs and having the thick tubes inserted and removed so violently that some bled or fainted. Other detainees reported a substance being added to the feeding formula that resulted in the prisoners defecating on themselves while in the restraint chairs.

A Pentagon spokesman contended that the prison authorities were “not trying to reduce the hunger strike, but they are going to feed people to protect life.” He claimed the force-feeding was being administered in “a humane and compassionate manner.”



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