

US moves to limit lawyers' access to Guantánamo inmates

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27 April 2007

In the wake of recent revelations of widespread torture and abuse at the Guantánamo Bay prison camp, the US Justice Department has taken legal action to restrict lawyers' access to their clients incarcerated there. These lawyers have been an important source of news from inside the camp, despite being already subject to a strict set of rules established by the Pentagon and the DC Court of Appeals in 2004.

The Justice Department has asked the Washington DC Circuit Court of Appeals to limit the number of times lawyers can visit individual clients to four (they currently have unlimited visits), allow only one visit before which the prisoner must decide whether or not he will allow the lawyer to represent him, and prohibit lawyers from viewing "secret evidence" that can be used against their clients in the military tribunals. A court hearing on the filing will take place May 15.

The Justice Department provocatively claims in the filing that the interactions between civilian lawyers and Guantánamo prisoners have caused "intractable problems and threats to security at Guantánamo," blaming the lawyers for inciting disobedience, hunger strikes, and unrest.

Lawyers are also accused of providing detainees with news reports and accounts of events taking place outside the camp. "Such information threatens the security of the camp, as it could incite violence among the detainees," the filing stated. The *New York Times* quoted the reaction of lawyer Niel H. Koslowe, who called this a "McCarthy-era charge."

Lawyers' descriptions of the camp and the methods used to torture inmates there have contributed to numerous exposures by groups such as the American Civil Liberties Union, Amnesty International, the Center for Constitutional Rights, Human Rights First, the UN Human Rights Commission, and Physicians for

Human Rights, which have attracted international attention.

The Guantánamo Bay prison camp, located on a US naval base on the southern coast of Cuba, houses approximately 400 inmates of various nationalities, most ensnared during the initial stages of the US invasion and occupation of Afghanistan in 2002. The prison has become notorious for the physical abuse, religious persecution and humiliation of its inmates, who are denied all of their most basic rights under US and international law. Many have been incarcerated for more than five years without ever being charged with a crime.

Among the latest exposures were revelations by lawyers who visited the camp, amid statements by President Bush and Defense Secretary Gates that the camp should be closed, of the particulars of a new \$38 million concrete-walled facility the US military recently opened there dubbed "Camp 6."

The new facility, completed in December 2006, houses 165 inmates. Prisoners are kept locked in individual sealed cells for 22 hours a day and are only allowed two hours of exercise in mesh cages, sometimes only at night. Bright lights are kept on at all times in the cells, temperatures are kept low, contact with other prisoners is forbidden, and virtually no personal items such as pens, paper, or watches are allowed.

Lawyers whose clients were transferred to the new facility witnessed a rapid deterioration in their mental wellbeing. "They're just sitting on a powder keg down there," lawyer Sabin Willett told the *New York Times* earlier this month. "You're going to have an insane asylum."

Lawyers visiting the camp also exposed how a hunger strike involving more than a third of the camp's

population was brutally suppressed in October 2005. The hunger strikers were strapped to restraint chairs while feeding tubes were forced through their nostrils and into their stomachs without anesthetic. According to one lawyer who spoke with victims of the procedure, ordinary prison guards used tubes “with the bile and the blood still on the tube from the previous detainee.”

Al-Jazeera cameraman Sami al-Hajj, who is imprisoned at the camp, described the pain and terror of the force-feeding in his diary, which found its way to the public through his lawyer. “I said I would begin to scream unless they took it out,” he wrote. “They finally did.”

These revelations infuriated the US government, which would for obvious reasons prefer the conditions at the camp kept secret.

The Justice Department’s filing makes a menacing legal claim: “There is no right on the part of counsel to access to detained aliens on a secure military base in a foreign country.” In other words, the prisoners at Guantánamo have no legal right to a civilian attorney; the US military can therefore arbitrarily permit or forbid a prisoner access to a lawyer and vice versa.

After a Supreme Court ruling in *Hamdan v Rumsfeld* in 2006 called into question the legitimacy of the Pentagon military tribunals and affirmed the rights of Guantánamo detainees to seek habeas corpus relief through US courts, Congress responded by approving the infamous Military Commissions Act (MCA).

Passed into law with the help of Congressional Democrats, the MCA explicitly denies Guantánamo prisoners the right to habeas corpus—a person’s bedrock democratic right to have the charges against him presented before a judge.

The MCA instead restricted prisoners to challenging the decision made by the Guantánamo combatant status review tribunals designating them “enemy combatants,” within a narrowly-defined set of limits, in the DC Court of Appeals.

Given the composition of the DC Court of Appeals, it is not unlikely that it will grant in part or in full the Justice Department’s request.



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