

Guantanamo Bay: Why it must be closed

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More than 500 people from 35 countries have been incarcerated in the Guantanamo Bay prison complex since 2002. Since becoming the detention centre for prisoners captured in US President George Bush's unending "global war on terror", it has been the source of numerous allegations of physical and psychological abuse. It is a legal black hole in which detainees have waited for up to half a decade without charges being laid.

The prison is part of the US Navy's base at Guantanamo Bay, Cuba. Guantanamo Bay has been "leased" by the US since 1903, when a treaty was signed between Cuba and the US after the Spanish-American War. The US pays a nominal amount of US\$4085 per year to the Cuban government as part of the lease agreement. The agreement has an indefinite term that allows the US to continue to lease the bay regardless of the views of the Cuban government. In protest at the continued presence of the Naval base, Cuba has refused to cash all but one of the annual cheques that the US sends to pay for the lease since the Cuban Revolution overthrew the US-backed Batista dictatorship in 1959.

Because Guantanamo is controlled by the US but not part of US territory, it's in a unique legal situation. Until a 2005 Supreme Court ruling, Washington argued that US law does not apply to the area and that various international and constitutional rights are not available to detainees. This has allowed the US to use Guantanamo as a place to store "undesirable" persons free from scrutiny from human rights activists or the general public.

For example, Guantanamo was used in 1991 to detain refugees from Haiti, where a US-backed military coup had overthrown the democratically elected government of President Jean-Bertrand Aristide. A large proportion of the refugees were HIV positive and were detained in appalling conditions. This was because the US did not want to take responsibility for finding them asylum, particularly within its own borders. In 1993, the US Supreme Court ruled that the US government had a responsibility to give the refugees asylum, and by 1995, the last Haitian had left Guantanamo.

Since 2002, Guantanamo has been used to detain prisoners accused of backing the Taliban government during the 2001 US invasion of Afghanistan as well as alleged members or sympathisers of al Qaeda. The Bush administration argues that the detainees are neither people who can be charged with civilian crimes nor prisoners of war (POWs). Because the Taliban government was not "legitimate", anyone who fought on its behalf was an "illegal combatant", according to this logic, and therefore not protected by the Geneva Conventions' rules on the treatment of POWs. The same logic applies to suspected Al Qaeda agents because the group is a terrorist organisation not a government.

Detainees at Guantanamo, when and if they are charged, will face military tribunals, which have lower standards of evidence and fewer defence options available to the accused. Hearsay is sufficient evidence to convict. Secret evidence that may have been obtained through torture can be submitted. There is no legal limit on how long a suspect can be detained before charges are laid, which can be seen in the case of Australian David Hicks, who was detained for five years without

charges even being laid and is yet to face a trial.

Amnesty International has received a massive number of reports of abuse and torture of prisoners at the Guantanamo prison camp. Detainees allege that US soldiers deny inmates food for large periods of time and they are often interrogated for over 30 hours. Beatings and threats of violence, both to prisoners being interrogated and other family members at the site, are used to elicit compliance. Soldiers humiliate detainees by making them stand naked in public areas, denying them access to toilet facilities and forcing them to urinate or defecate on themselves. Attack dogs have also been used to threaten detainees and several have reported sustaining major injuries as a result of such attacks. The denial of proper procedure and the impression that they may never leave Guantanamo is also a form of torture, as defined (and rendered illegal) by the Geneva Conventions.

Amnesty doesn't estimate how many prisoners have died as a result of this treatment, but does note several instances where autopsies show that prisoners died as a result of beatings by soldiers. Vice-President Dick Cheney has denied that the US has used torture at the facility, claiming that torture is defined as "that which could reasonably cause death or major organ failure". No international convention, or US law, defines torture in such a way.

The Guantanamo facility allows Bush to show that his "war on terror" is working. By forcing confessions from prisoners he can produce as many "convicted terrorists" as he needs to justify his actions. It also is used to create a climate of fear for opponents of the "war on terror".

David Hicks has suffered five years in this hellhole. He is only now facing charges. The Australian government, facing massive domestic public outrage at Hicks's treatment, is now pushing for a trial to occur as soon as possible. Hicks's legal defence is arguing that the whole process is fundamentally flawed and, that after all this time, there is no way that Hicks can get a fair trial. They call for the dropping of all charges and Hicks's repatriation to Australia.

The return of Hicks to Australia would be a victory for supporters of human rights and civil liberties. However, until Guantanamo Bay is closed down, prisoners will continue to be denied their human (and legal) rights, be tortured, and be killed.

P.S.

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