

Guantánamo Bay

The Challenge

Of all the crimes and transgressions of the Bush Administration, none were more symptomatic of the decline of America's moral standing than the detention camp at Guantánamo Bay. Throughout the world, the image of the orange jumpsuit-wearing prisoner has become a symbol of a new dimension in moral decline on the part of the West, as well as being – by the President's own admission – the prime recruiting tool for Al Qaeda.¹ It was with this firmly in mind that in his first days in office, President Obama declared his intention to close down the facility within a year.² And it is the perfect and total reflection of how the Obama presidency has in many ways been a continuation of the Bush presidency, that over 3 years following that day, the camp remains open and operational as before.

The reason for locating the camp outside the US was simply to enable torture – otherwise the camp could simply have been located anywhere within the US. Indeed the Bush Administration waited for the ruling from the Department of Justice that the camp was indeed outside the bounds of US jurisdiction before transferring the first prisoners there on January 11th 2002.³ Since then, the location has become the world's most notorious torture camp, being condemned by NGOs and governments all over the world. The International Committee of the Red Cross stated that the system “cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture.”⁴ Amnesty International called the camp “the gulag of our times.”⁵ Even stalwart US allies in the UK, such as ex-Prime Minister Tony Blair, and ex-Attorney General Lord Goldsmith have criticized the camp in harsh terms, Goldsmith stating accurately that “the historic tradition of the United States as a beacon of freedom, liberty and of justice deserves the removal of this symbol”.^{6 7}

¹ <http://content.usatoday.com/communities/theoval/post/2010/12/obama-vs-rove-on-gitmo/1>

² http://www.whitehouse.gov/the_press_office/ClosureOfGuantanamoDetentionFacilities/

³ <http://www.globalresearch.ca/index.php?context=va&aid=17262>

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<http://www.nytimes.com/2004/11/30/politics/30gitmo.html?ei=5094&en=8d107165e454d8b6&hp=&ex=1101877200&adxnnl=1&partner=homepage&adxnnlx=1101843681-+nTyVVJpq8yXt1yEg4X28g>

⁵ <http://www.guardian.co.uk/world/2005/may/26/usa.guantanamo>

⁶ http://news.bbc.co.uk/2/hi/uk_news/politics/4722408.stm

⁷ http://news.bbc.co.uk/2/hi/uk_news/politics/4760365.stm

The facility has seen numerous deaths, suicides, as well as children being detained and tortured. Certain techniques used for torture have actually been lifted from some of our historical enemies, such as the Chinese Communists and the Viet Cong – tactics that we decried in the past for their inhumanity are now being utilized by us on a regular basis, and defended by our leaders.^{8 9} More often than not, they have been used on people who have no intention of committing terrorism against the “homeland” of the United States. They are generally insurgents – i.e. local people trying to fight off an invading army, as any American would do were we invaded by a foreign force. Many others were handed over in return for bounties. They were innocent of any crimes, but were “turned in” by Afghans and Iraqis in return for a cash reward.¹⁰ This has led to the absurd situation that over 75% of the prisoners detained at Guantánamo, far from being the “worst of the worst”, have been released without charge.^{11 12} Indeed former Chief of Staff to Colin Powell, Lawrence Wilkerson, has stated that “many of the prisoners detained at Guantánamo had been taken into custody without regard to whether they were truly enemy combatants, or in fact whether many of them were enemies at all,” and that innocent people languishing in Guantánamo for years was, tragically, justified by the broader war on terror and the capture of the small number of terrorists who were responsible for the September 11 attacks, or other acts of terrorism.”¹³

Torture is a moral abomination, period. Furthermore, it doesn’t work. One who is tortured will give any information, true or false, that will stop the torture. Ali Soufan, who interrogated Abu Zubaydah, stated that torture yields little in the way of tangible information, and emotional tactics are far more effective.¹⁴ Former US interrogators Matthew Alexander, who played a key role in tracking down Abu Musab Al Zarqawi, and Ali Soufan, who interrogated Abu Zubaydah, stated that not only does it yield little substantive information, any possible short-term gains are vastly outweighed by the recruiting effect that torture has on the opposition.¹⁵ Even former CIA Director Porter Goss concurred, stating that torture was “counter-productive”.¹⁶

⁸ <http://www.nytimes.com/2008/07/02/world/americas/02iht-02detain.14154569.html>

⁹ <http://abcnews.go.com/WNT/Investigation/story?id=1356870>

¹⁰ http://www.msnbc.msn.com/id/8049868/ns/world_news/t/guantanamo-inmates-say-they-were-sold/

¹¹ <http://projects.nytimes.com/guantanamo/about>

¹² <http://www.reuters.com/article/2011/05/19/us-usa-guantanamo-death-idUSTRE74I04I20110519>

¹³ <http://www.thenewamerican.com/usnews/politics/3285-bush-adm-knowingly-imprisoned-innocents>

¹⁴ http://www.democracynow.org/2009/5/14/former_fbi_interrogator_ex_state_dept

¹⁵ <http://harpers.org/archive/2008/12/hbc-90004036>

¹⁶ <http://abcnews.go.com/GMA/story?id=1353449#.T2QWCcz2JQM>

So closing Guantánamo should be a black and white case. Yet President Obama, despite vowing to close it down, has now changed tack, and is in effect supporting it. In January 2011 he signed the National Defense Authorization Act, which explicitly restricts the transfer of prisoners to other countries, thus impeding the closure of the camp. The camp for now seems likely to remain open for the foreseeable future.¹⁷ There are 179 prisoners still at Guantánamo, and if America wants to regain its moral standing in the world, it will empty the camp of the prisoners as soon as possible, and close it down, along with this dark chapter in the history of our nation.

The Record of the Democratic and Republican Parties

The facility was initiated in January 2002 by the Bush Administration as a way of preventing the “worst of the worst” from committing attacks against the US. Since then, around 800 inmates have been held, including 15 children.¹⁸ Eight people have died, of which six were suicides. Only three people have been convicted of anything, with five more charged with offenses, including Khalid Sheikh Mohammed and Ramzi bin-al Shibh.

The Bush administration became notorious for its attempts to bypass the law and obfuscate basic ethical standards in its desire to capture and torture suspects. Despite explicitly waiting for confirmation from the Department of Justice that the camp would be outside of U.S. jurisdiction before sending prisoners there, President Bush continued throughout his presidency to deny that his government had ever tortured anyone.¹⁹ The Department of Justice drafted what became known as “Torture Memos,” justifying acts of torture under a radically expanded interpretation of presidential authority, and setting the scene for a continuation of the torture regime. Continuing the contradiction of the official, innocuous public line that nothing sinister was going on, the government tried to assert that the prisoners were not entitled to any protections afforded by the Geneva Conventions (clearly, in order to legitimize the torture that was going on). These assertions were rejected by the Supreme Court, which ruled that the prisoners were entitled to Geneva Convention protections, and that they were entitled to *habeas corpus*

¹⁷ <http://www.nytimes.com/2011/12/13/opinion/guantanamo-forever.html>

¹⁸ http://www.news.ucdavis.edu/search/news_detail.lasso?id=9918

¹⁹ http://www.msnbc.msn.com/id/21148801/ns/us_news-security/t/bush-says-us-does-not-torture-people/

rights under the U.S. Constitution. It wasn't until 2009 that a Bush official finally admitted that the administration's line about not torturing prisoners was untrue.²⁰

The Administration also leveraged Guantánamo Bay to push through one of the most horrifying, subversive pieces of legislation in US history, the 2006 Military Commissions Act, which allows the President to designate certain people, including U.S. citizens, as “unlawful enemy combatants,” thus making them subject to a military commission, which could sentence them to indefinite detention.

Guantánamo Bay is yet another issue where Candidate Obama and President Obama have revealed themselves as two different people. As a candidate, Obama said, “As president, I will close Guantánamo, reject the Military Commissions Act, and adhere to the Geneva Conventions.”²¹ As President, he has done no such thing. Guantánamo is still open, the Military Commissions Act remains operational, and prisoners are still being tortured by the US around the world. The faith that Obama professed in the U.S. court system has been proven to be illusory, as the prospect of civilian trials for the suspects has evaporated. To subject prisoners to a transparent trial process would mean that due process, in the best American tradition, would be afforded all defendants.

More worrying is the trend in public opinion. Though there was major opposition to Guantánamo under Bush, while the camp remains open in its identical incarnation under Obama, support for it has vastly increased. At the end of the Bush Presidency, 51% of Americans wanted it closed. That number has dropped to 39%.²² This illustrates a serious tendency regarding public opinion under Obama. While Bush was president, we at least had the semblance of an opposition party – or at least part of the Democratic Party was in opposition. However, with Obama engaging in the same practices and policies, it has, dangerously, stifled that opposition. In this respect, it appears that with Obama in office, abuses that many thought were simply aberrations under Bush, are now, tragically, more institutionalized under Obama – with little opposition from Democrats.

²⁰ <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/13/AR2009011303372.html?hpid=topnews>

²¹ <http://www.truthout.org/obama-reverses-course-no-civilian-trial-911-plotters/1301900400?q=the-unmaking-a-campaign-promise-obama-and-military-tribunals57493>

²² <http://politicalticker.blogs.cnn.com/2010/03/29/cnn-poll-big-shift-on-closing-of-guantanamo-bay-facility/>

Rocky Anderson's Approach Toward a Solution

An Anderson administration would recognise that Guantánamo Bay is an abomination and international embarrassment, and should be closed as soon as feasible. It would further recognize that there is a distinction between terrorists – individuals trying to commit attacks against U.S. civilians for a political or ideological goal – and insurgents – individuals who are trying to defend themselves legitimately against an invading or occupying army. If the U.S. were invaded by, say, China, we all know that it would be our duty to be insurgents. The Anderson administration would also advocate the repeal of the Military Commissions Act. Finally, consistent with the rule of law, Anderson believes strongly that people who have broken the law need to be held accountable, regardless of position or power. Thus President Anderson's position on Guantánamo would be structured around the following four points:

1. **Empty the camp of its inmates, and close it down.** Given that we as Americans support the principle of “innocent until proven guilty,” those against whom we have no evidence will be released back to their home country immediately. Those who have been engaged in attacks against U.S. troops will be held as prisoners of war, in line with the Geneva Conventions and the principles of international law; and the tiny minority who are terrorist suspects will be tried in civilian courts. Since torture is explicitly illegal under the War Crimes Act of 1996 and the federal anti-torture statute, anyone who engages in it or who authorizes it would be held accountable under the law.
2. **Try terrorist suspects in civilian courts.** Given that we have an excellent legal system, under which most terrorist defendants tried have been convicted, we should be able to convict people like Khalid Sheikh Mohammed, against whom we have significant amounts of evidence, while maintaining a higher moral standing and observing the best of U.S. legal traditions. We must have faith – and there is good reason to believe -- that our justice system will lead to the right verdict for suspects, be it guilty or innocent. That way not only will the right thing be done, but also we will send a signal to the world that America's integrity and commitment to due process will not be compromised.
3. **Work to repeal the Military Commissions Act.** As with other reprehensible pieces of legislation, such as the PATRIOT Act, Anderson recognises that we need to do what we can to repeal laws that serve no purpose other than to

restrict our freedom. The Military Commissions Act is decidedly un-American; an Anderson administration would work tirelessly to ensure its repeal, and a reversion to the standards that we as Americans cherish.

4. **Put Bush and Obama-era torturers on trial.** Critically, if we believe in justice, then we believe that the laws apply to all people, regardless of rank or reputation. It is now clear that torture was approved at the highest levels of the Bush administration.²³ The individuals responsible need to be held to account, as in any fair system of justice. The U.S. should stand for “justice for all,” not justice for some. Rocky has been a strong advocate for prosecuting torturers, pointing out that when the U.S. Senate ratified the Convention Against Torture, President Ronald Reagan stressed that the Convention requires prosecution or extradition of anyone responsible for torture.²⁴ There should be no immunity for torturers.

²³ http://www.nytimes.com/2009/04/22/us/politics/22report.html?_r=1

²⁴ <http://www.dailykos.com/story/2009/04/24/724008/-Protest-Immunity-from-Prosecution-for-Torture-Uphold-American-Values-and-the-Rule-of-Law->