

# The outcasts of Guantanamo Bay

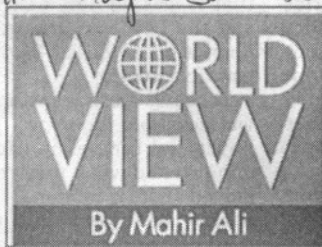
*With the poor people of this earth I want to share my lot. The little streams of the mountains Please me more than the sea.*

MANY decades after these verses were composed by the Cuban poet, writer and activist Jose Marti, they were among those put to a popular tune by a musician in Havana. Shortly afterwards the song found its way across the Florida Strait and entered the repertoire of American singer Pete Seeger. Before long it was known all over the world. What is less well known is that Guantamera was originally made up in the 1920s to satirize the women of Guantanamo (hence the surviving chorus, "Guajira Guantamera") who went out with American sailors.

The US military base at Guantanamo Bay, where Al Qaeda and Taliban prisoners are now being transported, was established in 1903 as part of an agreement between Washington and the less-than-sovereign administration in Havana. Over the years it has been put to uses never envisaged in that or any subsequent treaty, including aggression and subversion.

The government of Fidel Castro has, with plenty of justification, consistently regarded the 117.6 square kilometres of the base as occupied territory and refuses to cash the annual rent cheques of \$4,085. But it appears to have become reconciled to the fact that there is precious little it can do about reclaiming the land from its obscenely powerful northern neighbour.

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international law but even to the American legal system.

They are being characterized as "unlawful combatants" rather than as prisoners of war, simply to deny them the code of treatment prescribed by the Geneva Conventions. This clearly does not square with either Bush administration's decision to categorize the September 11 terrorist attacks as an act of war, or with the subsequent assault on Afghanistan. There is absolutely no way in which the bombardment of Afghanistan, which is continuing despite the fall of the Taliban and the apparent rout of Al Qaeda, could be characterized as anything other than a war. But obvious facts are apparently an insufficient means of deterring the US from pursuing a path

and it is possible that special allowance will also be made for captured British and Australian citizens. Some "terrorists", it seems, are more equal than others.

Most commentators seem, however, to have missed one significant point. If those taken captive are not prisoners of war, then what business does the US have to put former Taliban operatives on trial? It is even unlikely that many of the captured Al Qaeda members had anything to do with the September 11 airliner attacks; some of them may have been involved in atrocities in other countries, while others are probably guilty only of training in Osama bin Laden's camps. Yet, given the context that precipitated the US war against Afghanistan, perhaps under international law a case could be made for them to be brought to trial before American judges.

However, the victims of the Taliban were exclusively Afghan citizens; the regime did not suddenly turn repressive last September — and it is unlikely that its policies would have faced a serious challenge had it decided at the first

instance to hand over Osama bin Laden to the Americans. It is conceivable that Mulla Omar and some of his immediate subordinates could have had a peripheral role in international conspiracies. But ordinary members of the militia could be held responsible only for brutalizing the Afghans.

That's a serious enough charge, but it is extremely hard to see why it should be prosecuted in US military tribunals — which are authorized to hand out death sentences, but whose proceedings could remain secret for decades. It could reasonably be argued that circumstances are not propitious for fair trials; indeed, there have been persis-

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... as a recent statement by Havana puts it, "For almost half a century propitious conditions have never existed for a calm, legal and diplomatic analysis aimed at the only logical and fair solution to this prolonged, chronic and abnormal situation, that is, the return to our country of that portion of our national territory occupied against the will of our people."

In conclusion, the statement even pledges cooperation "with the medical services required as well as with sanitation programmes in the surrounding areas under our control ... Likewise, we are willing to cooperate in any other useful, constructive and humane way that may arise." Cuba was, needless to say, not consulted about the use of its soil for incarcerating prisoners from Afghanistan. But it was informed, and has "taken note with satisfaction of the public statements made by the US authorities in the sense that the prisoners will be accorded adequate and humane treatment that may be monitored by the International Red Cross".

A Red Cross deputation was indeed allowed access to the detainees at Guantanamo last Friday. But there has been little evidence of "adequate and humane treatment" thus far. Reports suggest the prisoners were hooded and shackled during their transportation to Cuba, and have been kept in cages at Guantanamo. Read between the lines and the US response to awkward questions appears to be that it would be an unnecessary indulgence to regard the captives as human beings.

Yet Washington is well aware that its arbitrary approach to "justice" does not bear scrutiny. The very decision to incarcerate the prisoners on an unfairly occupied slice of Cuba — described by Defence Secretary Donald Rumsfeld as "the least worst" option — is indicative of a determination to deny them access not just to

that militates against virtually every purported purpose on the basis of which it is pursuing its so-called war against terrorism.

Mary Robinson, the UN Commissioner for Human Rights, has pointed out that the Geneva Convention also covers circumstances in which there is a dispute about the status of captives: it mandates that an international tribunal be set up to determine whether or not they are to be treated as prisoners of war.

This stance has won support in expected quarters. For example, Christopher Hitchens, a US-based journalist who surprised many of his colleagues by instinctively and vociferously supporting the crusade against Al Qaeda, has made a case for the rules of war being applied to Taliban as well as Al Qaeda suspects. He has also had the decency to admit that: "In Afghanistan, the continued bombing of remote caves and hillsides is beginning to look like a piece of grand-opera petulance, a sort of pique at the failure of Osama bin Laden or [Mulla] Omar to do us the favour of a dead-or-alive appearance."

Nothing in the US attitude thus far suggests that the prisoners are considered "suspects". Mr Rumsfeld does "not feel the slightest concern at their treatment".

"They are being treated", he says, "vastly better than they treated anybody else." The implicit presumption of guilt confirms fears that the in-camera trials of these men before US military tribunals at Guantanamo are extremely unlikely to be fair by any standard.

But there is scope for discrimination even in this context: Johnny Walker, a US citizen caught fighting on the wrong side in Afghanistan, is to be tried in a civilian court in his homeland, where he will obviously have the right to appeal.

... tent reports of torture and summary executions.

But one suspects that only the US would raise any serious objections to an international tribunal.

It is all but impossible to sympathize with the rank and file, let alone the leadership, of Al Qaeda and the Taliban. Yet that is no reason why they should be denied access to the most basic human rights — unlike suspected Rwandan, ex-Yugoslav and even Nazi war criminals. Nor can there be any justification for the continued loss of life in Afghanistan from US bombing runs in remote areas. The Pentagon does not have the moral courage to own up when civilians are directly targeted. But even the usual excuse for "collateral damage" — that it is "inevitable" — does not really stand up to scrutiny. It's a poor euphemism for the Pentagon's determination, no matter how many Afghan lives it takes, to avoid American casualties.

For obvious reasons, Osama bin Laden would not be taken seriously were he to claim that it was Al Qaeda's intention merely to topple the Twin Towers and that the 3,000 or so deaths were only collateral damage. The fact is that those responsible for that atrocity violated the human rights of a large number of people. The US, in its retributive zeal, continues to compound that violation. Behaving like the proverbial wounded beast, it is determined to ignore that fact that one cannot prove killing people is wrong by killing more people.

It would do the Osamas and Rumsfelds of this world some good to heed another of Marti's stanzas from Guantanamo: "I cultivate a white rose/In June and in January/For the sincere friend/Who gives me his hand./And for the cruel one who would tear out/This heart with which I live,/I cultivate neither thistles nor nettles./I cultivate a white rose."