

# Guantanamo prisoners have no rights

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By Dr Iffat Idris

'YOU don't have the right to have rights' — one inmate's definition of Camp Delta at Guantanamo Bay, Cuba. Its predecessor Camp X-Ray was set up in January 2002. Two years on, it would be hard to come up with a more fitting definition.

Imagine if you are a prisoner at Guantanamo: You are one of over 600 detainees, encompassing some 40 nationalities and speaking 17 different languages. You range in age from elderly men to children: the youngest inmate is thirteen years old. Many of you were captured in Afghanistan after Taliban's defeat. Some have been picked up from or handed over by other countries (notably Pakistan) over the past two years. What you have in common is that the US suspects you of involvement with the Taliban, Al Qaeda and/or terrorism.

The conditions in Camp Delta are grim. You are held in a meshed cage, one of a 48 cells in your block. The proportions of your cell are the size of a tall grown man. It contains a metal bunk, a toilet and a tap. It has no external walls so you are exposed to the elements and you have no privacy. Lights are kept on day and night. Between three and five days a week, you are allowed out for half an hour of exercise in a larger cell. Other than that and interrogation, you stay in your cell 24 hours a day.

The conditions have been worse. If you were among the early arrivals at Guantanamo you were

to bear is the total lack of definition about your status and your future.

Because most (if not all) of you were not wearing military uniform when you were captured, the US does not classify you as a 'prisoner of war' (PoW). This despite the clear stipulation in Article 5 of the Geneva Convention that any captured belligerent whose status is unclear should be considered a PoW until their status is settled by a 'competent tribunal'. The US carried out hundreds of such tribunals in the 1991 Gulf war, but ruled them out for Afghanistan.

Because you're not a PoW, you lose the rights provided by the Geneva Convention. Under this, you wouldn't have to give any more information than your name, rank and serial number. But because the Geneva Convention does not apply to you, the US can interrogate you

pendent body.

The only legal help you can get is from US military defence lawyers (that too, after you are charged: so far none of you have been). The ultimate appointing authority for them is Paul Wolfowitz, deputy secretary of defence. He also appoints the judges on the military commission that will try you, and the military prosecutors. He can change the judges at any time. If you are convicted you can appeal to a three-member panel appointed by Wolfowitz. It passes its recommendations on for the final decision — by Paul Wolfowitz. As one lawyer described the system: 'It's a multi-headed Hydra with Paul Wolfowitz's face on every head.'

The military tribunal stage is still far off, though. To date none of you has been charged. Independent investigations by journalists, human rights activists as well as protests by your families, have revealed that many of you could not even remotely be described as 'terrorists'. A lot of you were simply in the wrong place at the wrong time — and got caught in the indiscriminate US anti-terror net.

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The one glimmer of hope for Guantanamo prisoners is that the US Supreme Court will endorse a decision of the San Francisco Appeals Court and rule that the US law does apply to them: hence they should have access to lawyers. Before they get too optimistic, though, consider the case of Yasser Hamdi, a Saudi with American citizenship. Once his US nationality was discovered he was shifted from Guantanamo to a US

The most disturbing aspect of your incarceration is the indefinite uncertainty. You have absolutely no idea what will happen to you — how long the US will keep you without charge or trial. As seen above, so long as the war on terror goes on, the US can hold you indefinitely without initiating any kind of legal proceeding against you. This is the biggest difference between you and other prisoners (e.g. in the US) being held in equally grim conditions. They, at least,

kept in cages which were even more basic — with just a bucket and bottles of water. For the first month and a half you were not allowed to speak — not even to whisper — to any of the other prisoners. That restriction was only lifted after you and your fellow inmates went on hunger strike. Nor were you allowed to practise your religion — even though virtually all of you are practising Muslims. Your beard and moustache were shaved off before you were dispatched to Cuba: You were not allowed to pray, or make the call for prayer (Azaan). Again, hunger strikes won you the right to worship.

Hunger strikes and public pressure: Pictures of you and your colleagues in orange jumpsuits, blindfolded and hobbled by chains around your feet, hands and waist, shocked the world (at least outside America — within the US prisoners are regularly shackled). That reaction led the authorities at Guantanamo to 'improve facilities' and make arrangements for prayers and other religious duties. The US government insists that you are now being treated in a manner consistent with international law on human rights.

It is impossible to corroborate this claim because the outside world has no access to you. Letters to and from your family are passed on by the international committee of the Red Cross, but only after being censored by the Camp Delta authorities. No member of your family (or anyone else) can visit you at Guantanamo. Journalists have been let in to see the camp, but they are never allowed to talk to you.

The most accurate picture of life at Guantanamo comes from your colleagues who have been released. One described the punishment cells in India Block: 'There were no windows. There were four walls and a roof made of tin, a light bulb and an air conditioner. They put the air conditioning on and it was extremely cold. They would take away the blanket in the morning and bring it back in the evening.'

Conditions are indeed grim, but what is even harder for you

naval prison. But his classification as 'enemy combatant' remains.

to get more information. You and your colleagues at Guantanamo have been interrogated on average 10-20 times each.

The US first leased Guantanamo Bay from Cuba in 1903. In 1934 it renewed the lease for an indefinite period from a Cuban government that preceded Fidel Castro. Castro would like to revoke the lease but the US will not cooperate — the terms of the lease require agreement by both parties.

Lacking the power to throw Americans off the island, the Cuban government can only register its protest by refusing the rent payments [\$4,085/year]. Washington does not consider Guantanamo Bay part of the United States. This has implications for you.

Because you're not on American soil, you are not entitled to the rights provided by the US Constitution. Thus you lose the right to be charged, to have a defence lawyer, to habeas corpus, to be tried in a civilian court by a jury, to appeal to a higher civilian court, etc — rights that you would have got in the American legal system.

Question: if you're not a PoW and you're not a criminal under US law, what are you? Answer: 'unlawful enemy combatant' — a term dredged up by the Bush administration and not recognized in international law. Note that you are not an 'enemy combatant' in the Afghan war, but in the wider and more abstract 'war on terror'. So long as that war lasts — basically indefinitely — the US can classify you in this way.

As an 'enemy combatant', you will be tried by military tribunals. The odds in such trials are stacked heavily against you. Neither you nor your defence team will have full access to the evidence against you. The US has the right to listen in to conversations between you and your lawyer. And if convicted, you can be sentenced to death. You have no chance of appeal to an inde-

— the comfort and hope — however slim — of knowing that they are part of a legal process: they know what they have been charged with, how they will be tried, what is happening to them. You know nothing.

Little wonder that many of your colleagues are suffering from depression and other mental health disorders. The strain on you all is enormous. Several of you have attempted to commit suicide. Even those who have been released because the authorities finally conceded they weren't terrorists (albeit without any apology or compensation), continue to suffer the mental and physical effects of their incarceration at Guantanamo.

You have little hope of being re-classified as a PoW, or of being dealt with under US law. Despite the growing clamour from the rest of the world (European governments, the Vatican and others) about the 'legal black hole' in which you are being held at Guantanamo, and the fact that none of you has been charged with terrorist-related offences, the US government shows no sign of reversing its policy.

Defence Secretary Donald Rumsfeld dismissed criticism of Guantanamo as: 'based on the shrill hyperventilation of a few people who didn't know what they were talking about'.

The one glimmer of hope for you is that the US Supreme Court will endorse a decision of the San Francisco Appeals Court and rule that the US law does apply to you: hence you should have access to lawyers. Before you get too optimistic, though, consider the case of Yasser Hamdi, a Saudi with American citizenship.

Once his US nationality was discovered he was shifted from Guantanamo to a US naval prison. But his classification as 'enemy combatant' remains. This means that, like you, he is being held incommunicado. And the US government can detain him as indefinitely — without charge or trial — as it is detaining you.

Guantanamo Bay is indeed the place where 'you don't have the right to have rights.'