



Guantanamo: Honor Bound to Defend Freedom

Study Guide

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GUANTANAMO BAY, CUBA:

Over 9,500 troops are stationed at Camp America, the main section of the base at "Gitmo." Since the first president of Cuba, an American citizen, signed the lease in 1903, the U.S. has had "complete jurisdiction and control" over the territory, but Cuba retains sovereignty. In Rumsfeld's words, it seemed the "least worst place" to detain suspected terrorists.

In January 2002, the first 20 detainees were brought to Camp X-Ray, a set of makeshift cages originally constructed to house Haitian boat people and Cuban refugees. By the time the construction wing of Halliburton completed Camp Delta in April 2002, there were approximately 300 detainees. Former supervisor Major General Miller developed systems of incentives like a graduated housing system; in Delta's Camp Four, cooperative detainees could sleep in communal dorms, play soccer, and wear white robes. A two-story complex modeled on an Indiana maximum-security prison is scheduled to open in June of 2006.

In October 2003, after much internal debate, the Red Cross broke their silence to report "worrying deterioration" in the prisoners' mental health. One in five was on anti-depressants. In June 2004, after repeated denials of "ERFing" (punishment by the "Extreme Reaction Force," reported to include forced shaving, beating, flushing prisoners' heads down toilets, pepper spray), news broke of a former military policeman and guard who suffered a brain injury while playing the role of a detainee in an "ERF" training session.

The U.S. will not reveal even the names of detainees; all information has come from other governments, lawyers, and human rights groups. Depending upon who's asked, the prisoners were captured on the battlefield, "the worst of the worst"— or were sold for bounties, guys in the "wrong place at the wrong time."

Prisoners fight back in various ways: former translator Erik Saar describes bottles of urine thrown at guards. Prisoners have also held hunger strikes to protest their treatment. After a particularly severe hunger strike in June-July 2005, the U.S. agreed to bring the center into compliance with the Geneva Convention standards. However, once the cameras backed off, mistreatment returned, and a new hunger strike began in August. Lawyers report forcible insertion of feedings tubes by riot guards, and the same tubes used for multiple detainees without sterilization. The Red Cross is the only NGO civilian group to have access to the area where the hunger strikers are held. Their access is conditional upon promises of confidentiality. The numbers of hunger strike participants varies according to the source. On December 30, 2005 the military reported 84 hunger strikers, 46 having joined on Christmas Day. The military designates a hunger striker as someone who refuses nine straight meals. Human rights lawyers estimate that over 200 participated at the peak of the strike, on Sept. 11, 2005, while the military numbers the peak at 131. At the beginning of February, *The New York Times* published reports of forcible

feeding of restrained prisoners that contradicted earlier reports. Possibly because of the restraints and force feedings, the number of hunger strikers has dropped to four.

"What has happened to our moral sensibility? ... Do we think about the inhabitants of Guantanamo Bay? What does the media say about them? They pop up occasionally a small item on page six."—Harold Pinter, Nobel acceptance speech, December 2005

"Many people across the world now see America differently because of Guantanamo and the other US prisons around the world. I think this change is one of the most important new political facts in our world now."—Playwright Victoria Brittain

As of January 11, 2006 (the fourth anniversary of the arrival of the first detainees): Approximately 760 prisoners have been at Guantanamo. 180 have been released. 76 have been transferred to the custody of other countries. Nine have been charged, and none have been tried. Currently, over 500 prisoners from an estimated thirty nations remain at Guantanamo.

"I think that Guantanamo is an experiment in how you obtain information from people and it's an experiment in whether anyone is going to protest about that."—Lawyer Gareth Peirce

"The problem is, there's no clear alternative to Guantanamo right now. And as long as that's true, they say it's a waste of time to debate shutting it down."—Joe Johns, CNN Congressional Correspondent

INTELLIGENCE AND INTERROGATION:

Why keep detainees? The CIA says detainee interrogation provides "actionable intelligence."

"The Joint Task Force, Guantanamo Bay, Cuba (JTF-GTMO) remains the single best repository of al-Qaeda information in the Department of Defense."—March 2005 Fact Sheet from JTF-GTMO

Intelligence interrogation policy follows the Army Field Manual (FM) 34-52. Ten new classified pages have just been added to the Field Manual, last updated in September 1992. FM 34-52 allows 17 methods to approach prisoners, including "emotional," "fear-up" (exploiting real or imagined fears), "pride and ego" (flattery and ego attacks), and "futility" (demonstrating powerlessness and hopelessness of the prisoner's situation). Yet lack of understanding (and disagreement) amid changing interpretations, leads to confusion about leeway for "creativity."

The interrogators have reverse-engineered an Army resistance training called SERE (Survival, Evasion, Resistance, Escape). They encourage compliance with interrogators by offering rewards like prayer rugs, chess sets, and Big Macs, and stimulate anxiety by "creat[ing] an environment of radical uncertainty," reported Jane Mayer of *The New Yorker* on July 11, 2005.

Other countries, of course, have explored the ethics of intelligence gathering. In December of 1977, the European Commission on Human Rights found British "interrogation in depth" techniques against IRA suspects to be "cruel, inhuman, and degrading," and breaches of the European Convention on Human Rights.

Israel's 1987 Landau Commission issued a report allowing "moderate physical pressure" in interrogations. In 1999, the Israeli Supreme Court outlawed extremely coercive interrogation, although human rights groups suggest that some brutal techniques have resurged since the start of the second intifada.

The debate on what constitutes torture began long before the Abu Ghraib story broke, and continues still, with the debate over Senator McCain's Anti-Torture amendment.

The U.N. Convention Against Torture defines torture as "any act by which severe pain, whether physical or mental, is intentionally inflicted" for information or as punishment. It also requires signatories to prevent "cruel, inhuman or degrading treatment or punishment which do not amount to torture" (CIDs).

Defense Department investigations demonstrate recurrent use of "waterboarding" (using dripping water or a wet towel to suggest suffocation, or holding a prisoner's head under water to suggest drowning), "stress positions" (shackling prisoners in stretched or crouched positions for hours at a time), and "sleep management" (known to medieval witchcraft inquisitors as *tormentum insomniae*, and to the NKVD in Stalin's show trials as "the conveyer belt," and deplored by the U.S. when used by Chinese soldiers in the Korean War).

"The one thing I think we don't want is for the government to be hamstrung in the way it interrogates people who have knowledge of pending attacks on the United States because we have so much disagreement about what those phrases mean and that we can't do anything."—White House counsel John C. Yoo

"Military professionals accept the fact that there are limitations on gaining information that might in fact save soldiers' lives. But I don't know that civilians necessarily can be asked to bear the same risks, especially if the numbers get relatively high."—Sanford Levinson, professor and author of *Torture: A Collection*

RENDITION:

Army General Paul Kern testified before the Senate Armed Services Committee to as many as 100 "ghost detainees" in Iraq in September 2004. Bisher al-Rawi's descriptions of incarceration match several other prisoners' tales of a "dark prison" outside of Red Cross access, believed to be operated from 2002 to 2004 outside of Kabul.

Rendition, the policy of moving suspects from one country to another without any hearing, is believed to have begun in the Reagan era. After the 1993 attack on the World Trade Center, the Clinton administration reportedly authorized "extraordinary rendition," or the moving of a suspect to a third country. Researchers suspect as many as 150 people have been "rendered" since 2001, some to countries known to commit human rights violations.

Europe has shown great outrage at the story of "the invisible universe" of secret CIA prisons, broken by Dana Priest of the *Washington Post* in November 2005. Reports of CIA activity in Europe suggest a "systematic practice of enforced disappearance," says Manfred Nowak, U.N. special rapporteur on torture. They're called desaparecidos ("the disappeared," named after the vanishing kidnap victims of Latin America).

"Guantanamo is the tip of an iceberg."—Detainee Advocate Mark Jennings

TERRORISM AND THE LAW OF WAR:

Since declaring a "war on terror" in 2001, the Bush administration has fought several international, national, and internal battles over the rules of engagement. The rules that normally govern wartime behavior toward prisoners include U.S. civil law, the 1986 U.N. Convention Against Torture (adopted by the U.S. in 1994), and the Geneva Conventions. The 1929 Geneva Convention was modeled on Lincoln's 1863 code of conduct for the humane treatment of prisoners of war. The Geneva Conventions state that prisoners of war must be "treated humanely," and prohibit "outrages upon personal dignity" (Article 3). Rules also govern quality of living conditions and allow the sending and receiving of mail. POWs may not be held in "close confinement," such as cells or cages (Article 21). POWs when interrogated are only required to disclose name, rank, and serial number (Article 17).

Terrorism is not codified in international law on war crimes—and conspiracy, the charge leveled again Salim Hamdan and others, has not been defined a war crime by international consensus, or by the U.S. Congress. At Nuremberg, a Pentagon proposal to file conspiracy charges against German foot soldiers was criticized by the Roosevelt administration for deemphasizing the indictments of the Nazi leaders.

"One of their greatest achievements [of American Revolutionary War leaders] was to manage the war in a manner that was true to the expanding humanitarian ideals of the American Revolution.... John Adams argued that human treatment of prisoners and deep concern for civilian populations not only reflected the American Revolution's highest ideals, they were a moral and strategic requirement."—Robert F. Kennedy, Jr.

In June 2004, the Supreme Court ruled in *Rasul v. Bush* that detainees have the right to file writs of habeas corpus challenging their detentions in U.S. courts. In response, the Pentagon convened their own CSRTs (Combatant Status Review Tribunals). This spring, the Supreme Court will hear *Hamdan v. Rumsfeld*, which will determine the constitutionality of the CSRTs, in the case of Salim Hamdan, a Yemeni detainee who was allegedly once Osama bin Laden's driver.

The Pentagon plans to judge the detainees in military commissions. Some of the 186 currently pending habeas corpus hearings have been frozen, as judges determine whether the December 2005 Detainee Treatment Act applies to previously filed petitions.

"They're not being detained for criminal prosecution. They're being detained to be kept off the battlefield."—Major Jane Boomer, a spokeswoman for the Office of Military Commissions

THE MAKING OF THE PLAY:

Guantanamo is created "from spoken evidence," meaning assembled from interviews, letters, and public statements. Commissioned by London's Tricycle Theatre, journalist Victoria Brittain and novelist Gillian Slovo, interviewed former detainees (four of the British detainees had been released in early March of 2004, just before they began their interviews), detainees' families, and lawyers. Public

officials from the U.K. and the U.S. declined to be interviewed, so the playwrights included some of their public statements.

THE PEOPLE WHOSE WORDS MAKE UP THE PLAY:

RIASOTH AHMED: Born in Bangladesh, Mr. Ahmed raised his family of six, including former detainee Ruhel, in Tipton. His few public statements have been about the disruption of the family's world.

RUHEL AHMED: Ruhel is known as one of the "Tipton Three," a group of British college students from the West Midlands who traveled to Afghanistan in October 2001 en route to a friend's wedding in Pakistan. Taken prisoner by the Taliban, they wound up in a prison taken over by the U.S., were taken to Kandahar a month later, and were among the first arrivals at Guantanamo's Camp X-Ray in January 2002. They confessed to training at a base for Al-Qaeda operatives. However, British intelligence checked out the timeframe and found that all three men were working at the Curry's superstore in Birmingham at that time, invalidating their "confession." All three were released and returned to the UK with no charges in March 2004. The Supreme Court ruled in June 2004, agreeing that their incarceration was unjustified, and upholding the detainees' right to challenge their status before an independent tribunal. With Jamal al-Harith, the Tipton Three brought a lawsuit against Rumsfeld alleging mistreatment.

JAMAL AL-HARITH (also known as Jamal Udeen): A website designer and school administrator from Manchester, Jamal was born Ronald Fiddler, to devout Jamaican parents, and converted to Islam in his 20s. Shortly after a divorce, he had gone through Pakistan to Iran for a religious retreat, retracing a trip he'd taken years before. He was stopped near the Afghan border by Taliban soldiers, who saw his British passport and pegged him for a spy. After the fall of the Taliban, the Red Cross connected him with the British Foreign Office, but before his flight out, American Special Forces arrived, and took him to Kandahar, believing he was a Taliban agent. He was taken to Cuba in February 2002. His family learned of this removal from the media. When he was released from Guantanamo in March 2004, Jamal was immediately released with no charges. He joined the lawsuit with the Tipton Three.

BISHER AL-RAWI: Bisher is the only of the play's characters who is still at Guantanamo. When he was a child in Iraq, his father was arrested by Saddam Hussein's secret police. After the family emigrated to the U.K., they decided that Bisher should keep his Iraqi citizenship, so that they might reclaim their lands after Saddam's regime fell. He finished a university degree in materials engineering but never settled in a career. During a military hearing, Bisher said he had translated for Abu Qatada (a Palestinian refugee in London, whose sermons had been found in the flat of Mohammed Atta, one of the September 11 hijackers) for meetings with British Intelligence and the British police. He has repeatedly claimed that MI5 assured him his friendship with Abu Qatada would not endanger him. Yet he was arrested in Gambia in November 2002, where he and his brother Wahab and friends had gone to start a business venture. Wahab, a British citizen, was released, but Bisher was transferred to Bagram and then to Guantanamo in 2003. He was not allowed to see a lawyer until January 2005. In August of 2005, Bisher joined the protest hunger strike that still continues. Bisher's lawyers report that he has become active in helping other detainees understand the complications of the legal process.

WAHAB AL-RAWI: Bisher's older brother is an Iraqi-born engineer with British citizenship. Wahab developed a plan to set up mobile peanut oil processing plants in Gambia, and when he (and his partners) were arrested, his supplies and funds were confiscated, and a good portion of his family's money was lost. Wahab was the first of the Britons arrested by American officers to make his story public.

AZMAT BEGG: Moazzam's father, a Pakistani banker and estate agent who raised his family in Manchester, campaigned extensively for his son's release. Playwright Victoria Brittain describes him as a man who "loves the queen, British army etc., extremely correct and ethical," and "absolutely stunned such a thing could happen to HIS family."

MOAZZAM BEGG: Moazzam was born in Birmingham, U.K., to British-Pakistani parents. From a young age, he was a campaigner for human rights and civil rights, and in 2001 he left his store in Birmingham and took his family to Afghanistan to start schools. He took his family to safety Pakistan after September 11, but in January 2002 he was seized at his house in Islamabad at 3am. He managed to hide a cell phone, and called his father in London from the inside the trunk of a car. While held at Bagram, Moazzam witnessed the deaths of two prisoners, which were officially classified as homicide. Also at Bagram, he signed a false written confession after a torture interrogation, but neither he nor his lawyer were allowed to see it during his detention. His lawyer, Clive Stafford Smith, filed a statement on Moazzam's behalf detailing his physical and psychological abuse at Bagram, including forcible head-shaving and beating in retaliation for reciting the Qur'an during a "no-talking" period. Then he was moved to Guantanamo. Moazzam was in complete isolation for two years. The youngest of his four children was born during his isolation. He was released January 25, 2005, with three other Britons, with no charges, and has been touring the U.K. speaking on the issues of Guantanamo.

TOM CLARKE: Tom Clarke, a reporter for International News Network and science reporter for BBC's Channel 4, was interviewed at the suggestion of Nicholas Kent at Tricycle Theatre. His sister Suria died in the World Trade Center.

MARK JENNINGS: Mark Jennings became involved with the legal campaign of the al-Rawi family when he met them at their local parliament representative's office, where he was volunteering. He continued to write and speak for Bisher's fair treatment and release, until his unexpected death in October 2005.

MAJOR (MICHAEL) DAN MORI: Major Mori grew up in New England, and enlisted in the Marines when he was 18. Four years later, he remained in the Reserves while attending college, and when the Marines sent out a call for lawyers, he went to law school. Mori volunteered to represent the detainees at Guantanamo, and was one of the first lawyers appointed. The case of his Australian client David Hicks, now applying for U.K. citizenship through his British mother, has thrust Mori into public attention. Mori has criticized the review commissions, for not following his "understanding of what justice is that's been ingrained in me by the Marine Corps and by my legal training." He fears that misuse of the system sets a dangerous precedent: "I think that's one of the primary reasons for fighting for David Hicks to get a fair trial, to ensure US soldiers in the future get a fair trial."

GARETH PEIRCE: Peirce avoids the limelight, despite her status as one of the best-known lawyers in Britain, and responds to praise by reminding that lawyers caused the "mess" in the first place. She has argued a number of civil rights cases,

including the Birmingham Six and the Guildford Four, supposed IRA bombers whose framing and release is dramatized in *In the Name of the Father*. A graduate of Oxford and the London School of Economics, she also worked as a journalist covering the U.S. civil rights movement. Currently she represents several Muslim suspects held indefinitely at London's Belmarsh prison, as well as a number of Guantanamo current and former prisoners, including Moazzam Begg, Bisher al-Rawi, and Jamil el-Banna.

GREG POWELL: Powell took on Ruhel Ahmed's case when the Ahmed family contacted him. A local solicitor, playwright Gillian Slovo describes him as on good terms with the police because he works with them often, an "average" guy who got a kick out of the weird complications of the process.

DONALD RUMSFELD: The current U.S. Secretary of Defense was born in Evanston, and has degrees from New Trier High School and Princeton. He was the youngest person to have served as Defense Secretary under Gerald Ford, and is now the oldest. He has also served in the House of Representatives and on numerous panels and commissions.

CLIVE STAFFORD SMITH: Smith became a lawyer because he felt it was the best way to make himself useful in his fight against the death penalty. For over 25 years he worked in the U.S. on over 300 death penalty cases, founded the activist group Reprieve, and was featured in the award winning BBC documentary *Fourteen Days In May*. Now back in his home country of Britain, he represents over 40 Guantanamo detainees. It took him 14 months to get security clearance to visit Moazzam Begg in November 2004.

LORD JUSTICE BARON JOHAN VAN ZYL STEYN: In September 2005 Steyn retired from his position as third most senior Lord of Appeal in Ordinary, one of 12 on Britain's highest court. He now chairs a human rights organization called justice. Born in Cape Town, South Africa in 1932, he came to Oxford as a Rhodes Scholar and moved his legal practice there permanently in 1973 in opposition to apartheid. He supports modernization of the British legal system and has been instrumental in setting precedents favoring human rights. He argued against immunity for Pinochet, and his outspokenness in criticizing Guantanamo led to government pressure that he make himself unavailable for the ruling on indefinite detention of terror suspects.

JACK STRAW: As the U.K. Secretary of State for Foreign and Commonwealth Affairs, Straw has been much criticized for the weaknesses of Tony Blair's administration. He was born in Essex in 1936, and previously served as Home Secretary.

SOME TOPICS FOR DISCUSSION:

Since terrorists do not adhere to the rules of just war or negotiate through state powers, how can nations combat terrorism and still follow their own treaties and rules? What answers have other countries found? What success have they had?

Are the rules of war (such as the Geneva Conventions) outdated, as White House Counsel John Yoo claims? If so, what rules do apply?

How much information about these practices should the government be required to make public? When is national security comprised by this openness?

Does coercive interrogation *work*?
Where does it cross the line to torture?
Is it worth it to protect innocent lives? Is there a number of lives protected that balances a number of human rights compromised?
What's the psychological cost to the interrogators?
Should harsh interrogators be punished, or protected?

When do the ends justify the means?
At what points in history has this argument been made? Compare, for example, the bombing of Hiroshima and Nagasaki to end WWII. What arguments may be made on each side?

Using the argument that the ends justify the means, what's possible?

In what cases does this break down?

How far are these arguments looking into the future to find the "ends"? In other words, if the detention and torture of 500 people saves 10 lives, is that enough? 1000 lives? Is that the end? What if the families and supporters of the 500 prisoners start violent groups, that later cause the deaths of 5000?

What if the laws enacted to get intelligence corrupt the civil rights of innocent people? Should civilians be expected to compromise security to protect their liberty? What *is* the relationship between safety and freedom?

SOMES SOURCES FOR FURTHER INVESTIGATION:

Guantánamo: The War on Human Rights. David Rose, 2004.

Inside the Wire: A Military Intelligence Soldier's Eyewitness Account of Life in Guantanamo. Erik Saar and Viveca Novak, 2005.

Guantánamo: What the World Should Know. Michael Ratner and Ellen Ray, 2004.

Why Terrorism Works: Understanding the Threat, Responding to the Challenge. Alan M. Dershowitz, 2002

Terrorism (The History of Issues). Greenhaven Press Opposing Viewpoints Series, 2005.

Al-Qaeda: The Terror Network that Threatens the World. Jane Corbin, 2002.

Longitudes and Attitudes: Exploring the World After September 11, Thomas L. Friedman, 2002.

Islam Explained. Tahar Ben Jelloun, 2004.

The Essential Middle East: A Comprehensive Guide. Dilip Hiro, 2003.

News of the detainees and interviews:

<http://cageprisoners.com>

<http://guantanamo.org>

The Center for Constitutional Rights "Guantánamo Action Center" (legal information and excerpts from the play):

<http://www.ccr-ny.org/v2/gac/>

The London *Guardian Unlimited* "Guantánamo Bay Special Report":
<http://www.guardian.co.uk/guantanamo/0,13743,1000982,00.html>

Articles on U.S. policy:
<http://www.truthout.org/>

Commentary and blog debate on civil liberties:
www.talkingpointsmemo.com

Frontline's episode "The Torture Question" can be viewed online at:
www.frontline.org

(Also provides FAQ's on CIA policy and ethical debate on security issues)