



Guantanamo: Will This Blot on U.S. History Finally Be Removed?

As his presidency winds down, President Barack Obama is [making a final push](#) to fulfill a campaign promise from eight years ago: to close the Guantanamo Bay “detention center” where hundreds of supposed terrorists have been immured without due process for up to 15 years. It is one of the supreme ironies of the “War on Terror” that America apparently does not feel secure enough in the rightness of her cause to bring prisoners of war to American soil, but instead has stuck them in a legal black hole on the soil of one of the last remaining Communist dictatorships. Objections to bringing the alleged terrorists at Guantanamo to American prisons tend to follow two lines of argument, both of them untenable.



The first is that, should such miscreants be brought to the United States, they would possibly be able to exploit legal loopholes to secure their release. This is tantamount to saying that the U.S. government is on shaky legal and constitutional ground keeping hundreds of people detained indefinitely in a prison camp on foreign soil without access to legal counsel, and subject to all manner of austerities and abuses. In point of fact, a number of Guantanamo detainees have spent years in the facility, only to turn out *not* to be terrorists. Of the more than 800 men detained at Guantanamo since 2002, a significant proportion were simply in the wrong place at the wrong time and swept up by U.S. troops who did not try to distinguish between enemy combatants and bystanders.

As former Bush administration official Lawrence Wilkerson, onetime chief of staff of Colin Powell, told the Associated Press, many of the detainees at Guantanamo “clearly had no connection to al-Qaeda and the Taliban and were in the wrong place at the wrong time. Pakistanis turned many over for \$5,000 a head.” Prominent members of the Bush administration such as Donald Rumsfeld and Dick Cheney tried to steer the conversation away from this inconvenient truth, Wilkerson averred, since “to have admitted this reality would have been a black mark on their leadership.”

False imprisonment (and, in many cases, torture) on such a significant scale would be a tort bonanza for American defense attorneys, which is why the U.S. government does not want the Guantanamo prisoners to end up anywhere where they might gain access to lawyers and investigative journalists.

To be sure, a number of hard-core terrorists such as admitted 9/11 plotter Khalid Sheikh Mohammed are detained at Guantanamo. The second argument against closing the facility and placing the “worst of the worst” in the American prison system is the danger they would then allegedly pose to the homeland by virtue of being on American soil. This claim is absurd on the face of it. We already have or recently



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have had a number of extremely dangerous, violent men imprisoned on U.S. soil, including many of the world's most lethal and depraved serial killers, ultra-violent, well-connected drug kingpins (including a number from foreign countries), a former head of state-turned drug trafficker (former Panamanian president Manuel Noriega, who was captured by the U.S. military after a brief war in 1989, tried and sentenced, released in 2007 after 20 years in a U.S. prison, and extradited to France) — and a number of prominent international terrorists.

Ramzi Yousef, the mastermind of the first World Trade Center attack in 1993 (and nephew of Khalid Sheikh Mohammed), was apprehended in Pakistan in 1995, extradited to the United States, and is currently serving two consecutive life sentences in a supermax federal prison in Florence, Colorado. He shares that facility with co-conspirators Mahmoud Abouhalima, Mohammed Salameh, Eyad Ismoil, and Ahmed Ajaj, along with 9/11 conspirator Zacarias Moussaoui. Elsewhere in the United States, the notorious “blind sheikh” Omar Abdel-Rahman, another participant in the planning of the first World Trade Center attack and alleged leader of an Egyptian terrorist organization Al-Gama'a al-Islamiyya, is serving a life sentence in a federal prison in Butner, North Carolina.

In a word, every single individual involved in the 1993 World Trade Center bombing that the U.S. government has been able to apprehend was given due process on American soil and subsequently imprisoned in an American prison (since execution of mass-murdering terrorists appears to be something the American justice system will no longer countenance). None of these men has escaped or otherwise managed to accomplish anything from behind bars (in contrast to many gang leaders, Mafiosi, and drug kingpins, who frequently continue to conduct their sanguinary business from behind bars).

That the terrorists of 1993 can be brought to justice and imprisoned on American soil, but the terrorists of 2001 cannot speaks volumes about the legitimacy of the entire War on Terror. Unlike the 1993 attacks, 9/11 has been converted into a rationale for radically altering the U.S. legal system in the name of an open-ended, never-declared “War on Terror.” American Insiders anxious to exploit any pretext to subvert the Constitution and the Bill of Rights are hoping that the precedent set by Guantanamo of imprisoning suspected malefactors indefinitely will act as precedent for future government lawlessness — perhaps the rounding up and detention on American soil of American citizens accused of ill-defined acts of resistance.

Giving credit where credit is due, President Obama promised — apparently sincerely — to close the Guantanamo facility if elected and ensure that everyone imprisoned there would be granted due process. But every attempt to close the facility has met with stubborn resistance from Republicans (and many Democrats) in Congress. Even Senator John McCain, a former prisoner of war in Vietnam who opposes Guantanamo, has accused Obama of not offering a specific enough plan for dealing with the detainees still held there. As of this writing, the political prospects for closing Guantanamo do not look good, although Obama has suggested it might be doable by executive order. After all, the detention facility was started without congressional authorization by the Bush administration, although in 2009 the Senate voted to keep the facility open indefinitely until a comprehensive plan was produced for its closure.

The Gitmo detention center — a concentration camp for prisoners taken in an undeclared (and therefore constitutionally illegitimate) war — with its years-long denial of due process in defiance of a Supreme Court ruling and its clear record of imprisoning the innocent along with the guilty, is a blot on the history of the United States just like the World War II internment camps where U.S. citizens of



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Japanese descent were imprisoned. The American criminal justice system, while imperfect, has always been deemed necessary and sufficient to deal with criminality of any degree, including terrorism. That it is no longer so deemed against the backdrop of the War on Terror is testimony to Cicero's pessimistic observation, *Silent enim leges inter arma*: "For the laws fall silent in times of war."



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