

**The Guantánamo Prisoner
Hunger Strikes & Protests:
February 2002 – August 2005**

**A Special Report
By the Center for Constitutional Rights**

About Us

The Center for Constitutional Rights (CCR) is a non-profit legal and educational organization dedicated to protecting and advancing the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights demonstrators in the South, CCR is committed to the creative use of law as a positive force for social change.

Acknowledgements

This report was written by Gitanjali Gutierrez, Counsel, Guantánamo Global Justice Initiative of the Center for Constitutional Rights. Others whose work generously contributed to the report are Barbara Olshansky, Tina Monshipour Foster, William Goodman, Seema Ahmad, Clive Stafford Smith, Jonathan Hafetz, Thomas Wilner, Neil Koslowe, Kristine Huskey, Amanda Shaffer, Stephen Oleskey, Melissa Hoffer, Rob Kirsch, Lynne Soutter, Rick Wilson, Muneer Ahmad, James Hosking and Siham Nurhussein.

This report is available online at www.ccr-ny.org.

For more information about the report contact:
Riptide Communications, Inc. at 212-260-5000.

Printed in the United States.
© 2005 Center for Constitutional Rights. All Rights Reserved.

Center for Constitutional Rights
Guantánamo Global Justice Initiative
666 Broadway
New York, New York 10012
tel. 212-614-6464
fax 212-614-6499

www.ccr-ny.org

Introduction

Since January 2002, the United States has been imprisoning men virtually *incommunicado* at the United States Naval Station in Guantánamo Bay, Cuba without access to any fair and adequate legal process. To date, the U.S. government has not permitted a public accounting of the prisoners' protests of their indefinite detention without legal process and their inhumane treatment. Rather, the Department of Defense (DOD) has consistently denied and minimized the prisoners' repeated protests. For over two years, the DOD has maintained exclusive control over the information released from Guantánamo, prohibiting unhindered independent and public consideration of the prisoners' plight. Yet over the past year, internal government memoranda released in Freedom of Information Act litigation, client interviews by *pro bono* habeas counsel, and court records have revealed that since 2002, the prisoners at Guantánamo have been engaged in substantial, and at times life-threatening, hunger strikes and other acts of protest in response to their detention without trial and their inhumane treatment.

Since the 2002 hunger strikes, the Guantánamo prisoners have been seeking fair trials, freedom from religious abuses, an end to physical and psychological abuses, adequate shelter and food, and access to clean water. As years have passed, the U.S. government has not permitted a single fair hearing for any prisoner, even after the United States Supreme Court issued its decision in the Center for Constitutional Rights' case, *Rasul v. Bush* in June 2004, affirming the prisoners' right to challenge in federal court the lawfulness of their detention and conditions of confinement. In response to the U.S. military's ongoing defiance of the rule of law, the prisoners' protests have become more serious, with the current series of hunger strikes resulting in an unknown number of detainees slipping into comas.

This report chronicles the history of prisoner protests at the detention center at Guantánamo Bay Naval Station from February 2002 to August 2005 based upon the information known to date. An important aspect of this history is the U.S. military's efforts to conceal the scope and significance of the widespread prisoner protests. Our country cannot afford to detain prisoners beyond the rule of law and without judicial oversight. Prisoners are now prepared to die in an effort to receive a fair hearing and humane treatment.

The time is long overdue for the prisoners in Guantánamo to receive a fair hearing in federal court as mandated by the decision of the United States Supreme Court in *Rasul v. Bush*.

Barbara Olshansky and Gitanjali Gutierrez
September 8, 2005

**The Guantánamo Prisoner Hunger Strikes & Protests:
February 2002 – August 2005**

Hunger strikes are a form of protest used by prisoners throughout the world as a means of drawing attention to unjust imprisonment and inhumane conditions. Historically, prisoner hunger strikes have occurred in countries where human rights are systematically not respected. According to the International Committee of the Red Cross (ICRC), “[p]risoners in such situations may be deprived of the usual forms of protest and judicial safeguards, such as petitions, ‘open letters,’ or simply freedom of expression. Fasting in such cases may become the only means of protesting against, or demanding attention from, the authorities.”¹

In recent years, two hunger strikes by prisoners received extensive international attention, in part because a number of prisoners died during the protests: the 1981 hunger strike by Irish prisoners in Maze prison during which ten prisoners died, and the hunger strike by Turkish political prisoners in the summer of 1996 during which at least twelve prisoners died and numerous others suffered neurological and psychiatric problems.

When the ICRC visited Maze prison in Ulster, the ICRC team members became very concerned despite the fact that, unlike at Guantánamo, medical personnel were authorized to see the hunger strikers and permitted to maintain close communication with the prisoners’ families:

“‘[O]utside intervention’ was totally unacceptable in the (northern) Irish hunger strikes of 1980 and 1981. Although the ICRC sent a team with a medical doctor to see the fasting prisoners (as was widely reported in the press at the time), the hunger strikers in this case refused to accept any outside medical mediation. As soon became clear, the hunger strikes in Ulster were deadly serious, with a total of ten prisoners dying over several months. The prison doctors respected the expressed will of the hunger strikers, and force-feeding was not envisaged at any time. (This position based on respect for a patient’s integrity and his right to refuse treatment, was the exact opposite of the attitude held earlier in the century, when political hunger strikers were force-fed by court order in 1909).

In the Irish strike, the prisoners’ families were very much involved and communicated with the prison doctors. In a few cases, it was the families of prisoners who asked doctors to intervene at an advanced stage to save their sons’ lives, a request that was complied with. The bottom line in the doctors’ position was that a prisoner’s express will (not to be nourished) would be respected as long as he was fit to decide, but that families could obtain medical assistance for their fasting relatives if [the prisoners] were no longer in a position to express refusal. (This sometimes led to bitter arguments, with some hunger strikers telling their families they would never forgive them if they broke the strike by asking for medical

assistance on their behalf. Most families, in fact, supported their sons or husbands on the strike.)²

The ICRC's observation of the Irish prisoners' protest also emphasizes the ethical issues for medical providers raised by hunger strikes in prison facilities, particularly concerning the issue of force-feeding such prisoners. As is widely known, the World Medical Association (WMA) Declaration of Tokyo of 1975 prohibits a medical doctor's participation in torture, whether actively, passively, or through the use of medical knowledge. Article 5 of the Tokyo Declaration also stipulates that prisoners on hunger strikes shall not be force-fed. According to Dr. André Wynen, former and Honorary Secretary-General and founding member of the WMA, Article 5 of the Tokyo Declaration relates to the declaration's prohibition on medical providers' involvement in torture. "If a prisoner undergoing torture decided to protest against his plight by going on a hunger strike, a doctor should not be obliged to administer nourishment against the prisoner's will and thereby effectively revive him for more torture."³ The WMA supplemented Article 5 of the Tokyo Declaration with the 1991 Declaration of Malta. The Malta Declaration also prohibits force-feeding, but stipulates that doctors should ultimately act for the benefit of their patients when the prisoner's detention does not raise concerns about physician involvement in torture and the hunger striker is no longer capable of sound judgment because of the effects of long-term fasting.⁴

As described below, the U.S. military has admitted to force-feeding prisoners at Guantánamo who are participating in hunger strikes. Although the ICRC stated that the indefinite detention and current conditions at Guantánamo are "tantamount to torture,"⁵ it is difficult to assess the ethical obligations of military medical personnel at Guantánamo without further information about the treatment of detainees and the psychological impact of their indefinite detention. The prisoners' families, moreover, have little or no knowledge of whether their sons or husbands are participating in a strike. And if their relatives are participating in a protest, military medical personnel have not informed the families of their relatives' health status or their wishes concerning nourishment. This failure contradicts the policy of the WMA that a "doctor has a responsibility to inform the family of the patient that the patient has embarked on a hunger strike, unless this is specifically prohibited by the patient."⁶

More fundamentally, it is astounding that men in the custody of the United States government are willing to engage in a hunger strike until they are afforded a fair hearing or they die of starvation. This is particularly so given that the United States Supreme Court afforded the detainees in Guantánamo precisely the right they are now seeking: to challenge the lawfulness of their detention and the conditions of confinement in federal court. The prisoners' frustration with the U.S. government's defiance of the mandate in *Rasul* is apparent from the increasing severity of the hunger strikes. The initial protests of early 2002, at least according to statements by the military, involved rolling hunger strikes that did not raise concerns of widespread fatalities or injury. Now more than three years later, the prisoners' hunger strike appears as deadly as those of the Irish hunger strikers in 1981. Rather than allowing the hunger strikes to escalate, the United States

should abandon its policy of indefinite detention outside the rule of law and promptly move forward with fair hearings in federal court.

Early 2002 Hunger Strikes

The U.S. Department of Defense continues to maintain strict control over the information released about its treatment of prisoners at Guantánamo. As a result, no public information identifies the precise date of the first hunger strike at the prison. The most widespread of the early hunger strikes apparently occurred from February 27, 2002 through May 10, 2002 and is described in detail below. According to news reports and accounts from released detainees, however, it appears that several short hunger strikes occurred earlier in the first few months of 2002.

Statements by released detainees from the United Kingdom, Afghanistan, and Pakistan suggest that one or more additional short hunger strikes occurred in early 2002 in response to the mistreatment of the Qur'an by a military police officer (MP) in Camp X-Ray. The protest ended after an unidentified senior officer delivered an apology over the detention center's loudspeaker system and the Guantánamo command instituted a policy prohibiting military personnel from handling the Qur'an except in emergencies.⁷ A former interrogator at Guantánamo has confirmed the released detainees' account of such a hunger strike and the military's public apology over the handling of the Qur'an.⁸

British citizens Rhuhel Ahmed and Feroz Abbasi have described the incident leading up to this early hunger strike:

"The first hunger strike in Camp X-Ray, Guantánamo started specifically because an MP (Military Police, guard, soldier) was alleged to have stamped on the Qur'an in another section."

- Feroz Abbasi⁹

"I saw a guard walk into a detainee's cell, search through the Koran and drop it on the floor. The detainee told him to pick it up and put it into its holder. I remember the guard looked at the Koran on the floor and said 'this' and then kicked it. Everyone started shouting and banging the doors. The guard ran out of the cell and the entire camp was on lockdown for half a day. On that day there was a hunger strike [that lasted] for three days."

- Rhuhel Ahmed¹⁰

According to Mahammed Saghir, a released prisoner from Pakistan, an eight-day hunger strike protesting a guard's throwing of the Qur'an on the ground ended with an apology from a senior officer and a promise that the Qur'an would not be touched again.¹¹

February 27, 2002 to May 10, 2002 Hunger Strike

The first coordinated large-scale mass protest at Guantánamo began on February 27, 2002 when prisoners initiated a rolling hunger strike. This hunger strike appears to have started when an MP removed a homemade turban from a prisoner during his prayer.¹²

As the hunger strike expanded to a peak of 194 participants over a two-month period, it became a protest of the prisoners' indefinite detention without any legal process and their harsh living conditions. A spokesman for the Guantánamo Joint Task Force, Marine Captain Alan Crouch, acknowledged in a February 28, 2002 official statement that 159 prisoners refused lunch and 109 refused dinner on February 27, 2002. On February 28th, 107 refused breakfast and 194 did not eat dinner. At the beginning of the hunger strike, the military attempted to minimize the seriousness of the protest. In a prepared statement, a Joint Task Force public affairs officer, Marine Major Steve Cox, stated that "[b]y no means is this an organized, concerted effort by the camp's detainee population, but merely a demonstration of some of the detainees' displeasure over the uncertainty of their future."¹³ Several days into the hunger strike, Brig. Gen. John W. Rosa, Jr., Deputy Director for Operations, Joint Chiefs of Staff, stated that the detention center commander and the chaplain "have been out and around with and speaking to the detainees. The tensions have eased in their opinion."¹⁴

But by mid-March, three detainees who had refused food and water for approximately fourteen days were forcibly given intravenous fluids.¹⁵ By this time, military officials were acknowledging that the prisoners were protesting "the fact that they don't know what is happening to them"¹⁶ and that the hunger strike participants' primary concern was "their murky future."¹⁷

In early May, only two prisoners continued to participate in this hunger strike. Both men had been striking since March 1, 2002 to protest their indefinite detention. The military returned one man to Camp Delta on May 2, 2002 after force-feeding him, ending his 63-day hunger strike. The other final participant was forcibly fed through a tube inserted in his nose on May 10, 2002 after 71 days of fasting.¹⁸

October 2002 – December 2002 Hunger Strike & Mass Suicide Attempt

In addition to statements by detainees and military officials, internal government memoranda obtained in Freedom of Information Act Litigation (FOIA) brought by the Center for Constitutional Rights and other NGOs, indicate that FBI agents interviewed detainees to obtain information about an ongoing hunger strike. By the end of 2002, the detainees' protests had become more urgent. During at least three FBI interviews undertaken at that time, prisoners stated that there had been discussions about a mass suicide, in part "*for the purpose of protesting the treatment at Camp Delta and to protest keeping innocent men at Camp Delta.*"¹⁹

In the first year and a half after the prison opened, eighteen individuals engaged in 28 suicide attempts.²⁰

The mental condition of the detainees is to the point where the detainees are all participating in a hunger strike. The detainees are upset with the way they are being treated by the guards. They are upset because they are being held as prisoners without being charged with a crime or released. The detainees think America is intentionally keeping people in custody for no other reason than as an attack on Muslims. The detainees are going to strike by not changing their clothes, not eating food, not drinking water more than absolutely necessary. If one person starts a strike then all of the men will follow. In the last six days, [redacted] has not taken more than three ounces of water per day. He has not for eaten six days. He has not changed his clothes in a week. He wants to be charged with a crime or released.

- Summary of FBI Interview of
Detainee at Guantánamo Bay²¹

According to released British citizen, Tarek Dergoul, another hunger strike was prompted in December 2002 by mistreatment of the Qur'an.

“One started in December 2002 and went on for about six weeks. People were fainting left, right and centre. I felt very weak and ill and could only do a hunger strike for three days at a time.”

-Tarek Dergoul²²

August 2003 Mass Suicide Attempt

Nearly two dozen prisoners tried to hang themselves in their cells with clothing or other items during an eight-day period in August 2003. The mass suicide attempt began when several prisoners tried to hang themselves and word of attempts spread throughout the open cell blocks. None of the 23 attempts was successful.

The mass suicide attempts were among 350 “self-harm” incidents reported by the military in 2003, which included 120 “hanging gestures.” The coordinated August 2003 mass suicide attempt included ten simultaneous attempts on August 22. This protest followed Major General Geoffrey Miller’s taking of command at Guantánamo with a mandate to acquire more information from prisoners accused of associations with the Taliban or Al Qaeda. Military officials described the attempts as “a coordinated effort to disrupt camp operations and challenge a new group of security guards” who had recently assumed duties at the detention center.²³ The DOD also differentiated between a “suicide attempt in which a detainee could have died without intervention, and a ‘gesture’ aimed at getting attention.”²⁴ The Guantánamo medical staff characterized 2 of the 23 suicide attempts in August 2003 as genuine suicide attempts and classified the remaining 21 as “manipulative, self-injurious behavior.”²⁵

June/July 2005 Hunger Strike

From late June through most of July 2005, a hunger strike occurred in all five camps at the detention center. The June/July 2005 Hunger Strike was first publicly announced on July 20, 2005 by two Afghani citizens, Habir Russol and Moheb Ullah Borekzai, who had been released from Guantánamo two days earlier.²⁶ On July 21, 2005, the Center for Constitutional Rights confirmed that in June 2005, the prisoners had planned a hunger strike to protest their lack of due process and inhumane living conditions.²⁷

From this information, it is clear that while the DOD was conducting misleading “show tours” of the detention center at Guantánamo Bay Naval Station for U.S. Senators, up to 200 prisoners were actively engaged in a hunger strike to protest their inhumane treatment. During the tours, Senators were prohibited from speaking directly to any detainees. After observing only the detainees housed in Camp Four, the Senators were left with an extremely inaccurate view of the detainees’ living conditions and treatment. Senator Pat Roberts (R-Kansas), for example, stated on July 11, 2005, that “everything we saw is consistent with what we have learned from the Senate Intelligence Committee’s ongoing oversight of operations at GTMO.” And in describing the treatment of the prisoners, he declared that “it is really hard for me to imagine any better treatment that this country could provide for those kind of people. They are treated humanely and respectfully.”²⁸

While the DOD touts the living conditions at Camp 4—where a small number of prisoners clothed in white jumpsuits are cooperating with interrogators—as “humane,” the conditions at Guantánamo remain wholly unacceptable from both a legal and moral perspective. The vast majority of prisoners live in appalling conditions in the other camps—and every prisoner is suffering from the effects of indefinite detention without legal process. Camp 5, which still remains closed to outside visitors including political representatives, houses nearly 100 prisoners.

According to attorneys from Shearman & Sterling, the prisoners’ description of the planned June/July 2005 Hunger Strike reflected the prisoners’ peaceful demand to be treated as human beings.

The prisoners described the June/July 2005 Hunger Strike as follows:

- The protest was “a peaceful, nonviolent strike until demands are met;”
- The strike called “for starvation until death;”
- The prisoners planned to boycott showers;
- They planned to boycott their recreation time;
- Some prisoners planned on refusing to wear clothes in order to be equal to the living conditions of prisoners in other camps who are denied clothing;
- The protesters called for “no violence, by hand or even words, to anyone, including guards.”

When asked by Shearman & Sterling for the reasons behind the hunger strike, the prisoners described specific ongoing abuses and cited the denial of their legal rights. To remedy this treatment, the prisoners demanded the following from the Guantánamo command:

- 1) We need respect for our religion, including an end to the desecration of the Qur'an and religious discrimination;
- 2) We need fair trials with proper legal representation;
- 3) We need proper human food and clean water. We are not given adequate amounts of food and the food is often old and inedible. The water is frequently dirty and tastes contaminated;
- 4) We need to see sunlight, and not be forced to go months without seeing daylight;
- 5) We need to know why we are in Camp 5 for so long, in some cases for over a year. What have the Camp 5 detainees done to be treated so much worse than the other detainees?
- 6) We need basic human rights like everyone else in the world - including real, effective medical treatment;
- 7) We need to be able to contact our families, and write to them and receive letters. Some prisoners have not received any of the letters sent by their families, their families have not received any of the prisoners' recent letters, and this is a widespread problem across the camp;
- 8) We need the "level system" of the various Camps and privilege levels to be abandoned and everyone treated equally; and
- 9) We need a neutral body to observe the situation and report publicly about the conditions at Guantánamo.

The prisoners' demands reflect their continued problems with religious discrimination at the base. Prisoners have repeatedly reported interference with the call to prayer by prison guards and by the simultaneous broadcast of unrelated messages in English. Additionally, attorneys have voiced concern for detainees held in solitary confinement for months at a time, with no access to sunlight. Despite DOD press tours highlighting certain detainees' treatment, the prisoners have also consistently complained of a lack of sufficient amounts of food and contaminated drinking water at Camp 5.

Prisoners with legal counsel explained to their attorneys the seriousness of the hunger strikers' requests for a fair hearing and humane treatment. Jarallah Al-Marri, for example, was hospitalized as a result of his participation in the June/July 2005 Hunger Strike and a deteriorating heart condition, and placed on an IV. He told his attorney, Jonathan Hafetz of Gibbons, Del Deo, Dolan, Griffinger & Vecchione, that the government had a nurse make sexual advances towards him while he was lying in his hospital bed in a vain attempt to convince him to give up his hunger strike. Mr. Al-Marri had been in solitary confinement for over 16 months and often goes as long as 3 weeks without being allowed outside his cell for recreation. The lights in Mr. Al-Marri's cell remain on 24 hours a day, 7 days a week, and he has been denied adequate bedding and

clothing. Mr. Al-Marri is able to sleep only 2 hours a night, and his physical and mental health have deteriorated significantly.

Even though the well-organized and widespread hunger strike had been ongoing for nearly one month at the time of the announcement by Mr. Russol and Mr. Borekzai, the former detainees from Afghanistan, Pentagon spokesman Navy Lt. Cmdr. Flex Plexico stated on July 20, 2005 that he was unaware of any hunger strike taking place at Guantánamo. The DOD initially refused to disclose the facts concerning the June/July 2005 Hunger Strike. Over the course of the week following the released detainees' announcement, however, the DOD was forced to admit that the hunger strike was occurring. Eventually because of disclosures by released detainees and habeas counsel for prisoners participating in the hunger strike, more details about the protest became public.

Imprisoned British resident Omar Deghayes explained that, *"They began on June 21, 2005, by rejecting one meal each day for a week. On June 28, they began to reject two meals. On July 2, 2005, they began rejecting all food. . . . A majority of Camp V are taking part in the hunger strike."*

While the military has only acknowledged that 52 prisoners took part in the June/July 2005 Hunger Strike, consistent and reliable reports by habeas counsel show that approximately 200 prisoners participated in the strike. In fact, from early July through July 25, 2005, the hunger strike became so severe that the DOD was forced to place approximately 50 men on IV's. Medics could not manage the detention center's need and elected to stop making their regular medical calls. The prisoners spent 26 days without food.

Despite the DOD's denials of mistreatment, military officials have since acknowledged the validity of the prisoners' claims of a lack of basic human necessities by, for example, agreeing to provide prisoners with clean bottled water. Many of the detainees' other concerns have gone unaddressed, however, and the DOD has refused to provide timely and accurate public information about the conditions at Guantánamo.

The DOD's close monitoring of the hunger strike makes clear that in June and July 2005, the military command at Guantánamo was fully aware of the gravity and nature of the prisoners' allegations.

The breadth and severity of the June/July 2005 Hunger Strike forced the DOD to permit the creation of a prisoners' representative committee to negotiate with prison officials concerning the protesters' demands. Based upon U.S. promises to bring the detention center into compliance with the Geneva Conventions, the June/July 2005 Hunger Strike ended on July 28, 2005.

August 2005 Hunger Strike

A new hunger strike began at Guantánamo in mid-August 2005 after the DOD reneged on promises to bring the prison into compliance with the Geneva Conventions. Confirming fears expressed by the attorneys for the prisoners, as soon as the DOD believed that public scrutiny had stopped, prisoner mistreatment returned.

In early August 2005, for example, several prisoners were beaten by military personnel. British resident Binyam Mohammed explained to his attorney that a Kuwaiti prisoner was violently assaulted by the military's "Extreme Reaction Force" (ERF) and subjected to psychological abuse. These beatings came upon the heels of violence occurring during the June/July 2005 Hunger Strike. In one incident on July 9, 2005, O.K., an individual seized when he was a juvenile, was kicked by MP's approximately ten times while he was collapsed on the ground from weakness after being transported back from the hospital. The same MP then placed a finger on a pressure point on O.K.'s neck and applied strong pressure for approximately one minute, causing O.K. severe pain and restricting his ability to breathe.

The beatings and persistent denial of basic human necessities and fair trials sparked renewed protest among the prisoners. According to detainee Shaker Aamer, when the August 2005 Hunger Strike began, the DOD placed the representative members of the "Prisoners' Council" in isolation.

A statement made by British resident Binyam Mohammed to his habeas counsel on August 11, 2005, expresses the detainees' clear demand that the United States bring the detentions within the protections of the rule of law. Prisoners have refused to sign the DOD's "hunger strike waiver form" and additional waivers forced upon them for previously refusing IV treatments. Examples of these forms are included in the Appendix to this report. The prisoners intend to strike until they die or receive justice.

Mr. Mohammed stated clearly that, "*We ask only for justice: treat us, as promised, under the rules of the Geneva Conventions for Civilian Prisoners while we are held, and either try us fairly for a valid criminal charge or set us free.*"

Despite the deceptive silence from military officials, habeas counsel have confirmed that at least 210 prisoners are currently on a hunger strike in Guantánamo that has been ongoing for the past three weeks. The DOD has refused to publicly discuss the detainees' conditions and has flatly resisted habeas counsel's attempt to visit their clients. CCR cooperating attorney Clive Stafford Smith reported that during his visit to the base on August 4-14, 2005, the DOD prohibited him from meeting with his client, Hisham Sliti, the prisoner whose recent beating in part provoked this hunger strike.

Similarly, the DOD resisted the efforts of counsel from the law firm of Shearman & Sterling to meet promptly with their clients participating in the hunger strike, one of whom was recently physically assaulted by military personnel and subjected to psychological abuse. In emergency hearings held in the federal district court in

Washington, D.C., on August 30 and 31, 2005, the court ordered the DOD to allow Shearman & Sterling access to at least four of its clients, three of whom the DOD had confirmed were participating in the hunger strike. In response to Shearman & Sterling's request to meet with the remainder of the firm's clients in mid-September, the court admonished the DOD that if it sought to block those counsel visits, the military would be required to present the court with concrete reasons, rather than pretextual or insubstantial concerns.

On September 2, 2005, the DOD issued its first response to reports about the new hunger strike. A U.S. military spokesman, Army Col. Brad Blackner, confirmed that some detainees had been on a hunger strike since August 8, 2005 and that nine men had been hospitalized.²⁹ The military claimed, however, that only 76 detainees are refusing food, and denied reports that detainees had been assaulted or abused by MPs or interrogators.³⁰ Despite the military's previous silence concerning the prisoners engaged in the new hunger strike, Army Col. Blackner stated that "We continue to monitor them 24 hours a day," making clear that while the Guantánamo command may be aware of such life-threatening protests, it is choosing not to inform prisoners' counsel or their families of the hunger strike or the status of the prisoners' health.³¹

Recommendations

Hunger strikes that began in early 2002 as a means to protest the uncertainty of the prisoners' legal status have escalated three years later into the detainees' willingness to strike until death unless they are afforded a fair hearing and humane treatment. Despite the increasing severity of the Guantánamo detainees' protest, the United States appears no closer to ending its unlawful practices. Detainees continue to be denied adequate access to legal counsel to advocate on their behalf and to be subjected to inhumane treatment. The Department of Defense continues to refuse independent investigators access to the detention facility and prisoners in order to prevent any public assessment of the detention and treatment of individuals in U.S. military custody. The U.S. government continues to resist judicial oversight of its conduct at Guantánamo by delaying habeas corpus hearings in federal court. Over three years since their seizure by the United States military and over a year after the United States Supreme Court recognized their right to challenge their detention in federal court, the prisoners languish at Guantánamo.

While the public knows much more about the detention and treatment of prisoners at Guantánamo now than it did a year ago, the United States must adopt several measures immediately to remedy its unconscionable policies at the detention facility leading to the hunger strikes. The U.S. government must:

- Afford the detainees a prompt hearing in federal court to determine their proper legal status under existing law and to challenge the legality of any detention based on their status;
- Afford every detainee adequate access to legal counsel for assistance in filing a federal habeas corpus petition pursuant to the United States Supreme Court decision in *Rasul v. Bush*;
- Comply with the mandate of the Geneva Conventions and military regulations regarding shelter, food, water, medical treatment, and religious practice for all detainees being held at Guantánamo;
- Provide to families and legal counsel timely reports on the health status of detainees who are participating in the current and any future hunger strikes;
- Disclose the Department of Defense policy applicable to military medical personnel in Guantánamo concerning the force-feeding of prisoners engaged in a hunger strike;
- Provide domestic and international independent investigators with access to all areas of the detention facility and permit private, unmonitored interviews with the prisoners.

As the prisoner hunger strikes reveal, the time has long passed for the United States to end the secrecy surrounding its conduct at Guantánamo. The notion that by shielding our government's detention operations from public accountability we further our country's

national security is misguided. The government's effort to detain hundreds of Muslim men outside the rule of law has greatly undermined our nation's moral standing in the international community and threatens the values of justice and fairness for which our country stands.

Endnotes

¹ Hernan Reyes, *Medical and Ethical Aspects of Hunger Strikes in Custody and the Issue of Torture*, in *Maltreatment and Torture* (M. Oehmchen, ed.) (1998), available at www.icrc.org/Web/Eng/siteeng0.nsf/html/57JPZP.

² *Id.*

³ *Id.*

⁴ *Id.*; see also World Medical Association Declaration on Hunger Strikers (1992), available at <http://www.wma.net/e/policy/h31.htm>.

⁵ Neil A. Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, NY Times, Nov. 30, 2004, at A1.

⁶ World Medical Association Declaration on Hunger Strikers, para. 6 (1992), available at <http://www.wma.net/e/policy/h31.htm>.

⁷ Neil A. Lewis & Eric Schmitt, *Inquiry Finds Abuses at Guantanamo Bay*, NY Times, Jan. 5, 2005, at sec. 1, at 35.

⁸ *Id.*

⁹ Cageprisoners, *Report into the Systematic and Institutionalised US Desecration of the Qur'an and Other Islamic Rituals*, May 26, 2005, available at www.cageprisoners.com.

¹⁰ Shafiq Rasul, Asif Iqbal, & Rhuheh Ahmed, *Composite Statement: Detention in Afghanistan and Guantanamo Bay*, para. 13 (July 26, 2004), available at www.ccr-ny.org/v2/legal/september_11th/docs/Guantanamo_composite_statement_FINAL.pdf

¹¹ *Welcome to Guantanamo: A Special Investigation Into the Prison that Shames American Justice*, The Guardian, Dec. 3, 2003. Mr. Saghir's description of the Qur'an incident, hunger strike, and apology was echoed by a released Afghan. Rana Jawad, *Guantanamo Prisoner Alleges Koran Desecration*, Agence France Presse, May 17, 2005.

¹² *Hunger Strikers Force-fed at Camp X-Ray*, Assoc. Press, Apr. 1, 2002; *Watching Over the World's Most Infamous Prisoners*, Newhouse News Service, Mar. 22, 2002 ("The protests began Feb. 27, a day after an Army guard removed a turban from the head of a detainee who said he was praying At the peak 194 detainees refused meals, but the number has been getting smaller."); see also Jim Garamone, *Tensions Ease at Guantanamo Holding Facility*, Am. Forces Press Serv., Mar. 1, 2002, available at www.defenselink.mil/news/Mar2002/n03012002_200203012.html.

¹³ Sgt. 1st Class Kathleen T. Rhem, *Some Al Qaeda, Taliban Detainees Refuse Food*, Am. Forces Press Serv., Feb 28, 2002, available at www.defenselink.mil/news/Feb2002/n02282002_200202284.html.

¹⁴ DOD News Briefing – ASD PA Clarke and Brig. Gen. Rosa, Mar. 1, 2002, available at www.defenselink.mil/transcripts/2002/t03012002_t0301asd.html.

¹⁵ *U.S. Stops Tracking Food Refusals at Guantanamo*, CNN, Mar. 14, 2002.

¹⁶ *Id.*

¹⁷ *Two "Hard Core" Detainees Accept First Meal In Two Weeks, Breaking Longstanding Hunger Strike*, Assoc. Press, Mar. 13, 2002.

¹⁸ *Lone Detainee in Guantanamo Continues Hunger Strike*, Assoc. Press, May 10, 2002.

¹⁹ *Summary of FBI Interview of Detainee at Guantanamo*, (Detainees #3913), Oct. 12, 2002 (date of record), available at www.aclu.org/torturefoia/released/052505; *Summary of FBI Interview of Detainee at Guantanamo*, (Detainees #3939), Nov. 28, 2002 (date of record), available at www.aclu.org/torturefoia/released/052505; *Summary of FBI Interview of Detainee at Guantanamo*, (Detainees #3943), Dec. 2, 2002 (date of record), available at www.aclu.org/torturefoia/released/052505.

²⁰ Carlotta Gall & Neil A. Lewis, *Threats and Responses: Captives – Tales of Despair from Guantanamo*, NY Times, Jun. 17, 2003, at A1.

²¹ *Summary of FBI Interview of Detainee at Guantanamo Bay*, (Detainees #3913-14), Oct. 12, 2002 (date of record), available at www.aclu.org/torturefoia/released/052505.

²² *My Torture Hell in Camp Delta Cage*, Evening Standard (London), Aug. 3, 2004.

²³ *Terror Suspects at Guantanamo Attempted Mass Hanging and Strangling Protest in 2003*, U.S. Military Reports, Assoc. Press, Jan. 25, 2003; see also *Detainees Sought Suicide En Masse; Guantanamo Jail Attempts Revealed*, Chi. Trib., Jan. 25, 2005, at 1.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Daniel Conney, *Two Men Claim Hunger Strike at Guantanamo*, Assoc. Press, Jul. 21, 2005.

²⁷ Center for Constitutional Rights, *CCR Confirms That Guantánamo Prisoners Planned Hunger Strike*, Press Release, Jul. 21, 2005, available at <http://www.ccr-ny.org/v2/newsroom/releases/pReleases.asp?ObjID=3R0i6u0Odn&Content=607>.

²⁸ Audiolink available at http://roberts.senate.gov/press_releases.html (July 11, 2005).

²⁹ Stevenson Jacobs, *U.S. Denies Guantanamo Bay Prison Abuse*, Assoc. Press, Sept. 2, 2005.

³⁰ *Id.*

³¹ *Id.*

Appendix

The law firm of Wilmer Cutler Pickering Hale and Dorr LLP obtained the following documents through FOIA requests filed earlier this year on behalf of their clients, six Bosnian men detained in Guantánamo.

A. DOD Form “Refusal to Accept Food or Water/Fluids As Medical Treatment”

Refusal to Accept Food or Water/Fluids As Medical Treatment

Detainee Number

Age 34 Date 10/13/02

I refuse to accept food or water/fluids as medically directed by the medical officer of the day at Camp X-ray.

As explained to me by Dr. [REDACTED], I fully understand the grave risks involved with not following the medical advice directing me to eat life-sustaining food and to drink water/fluids. As a direct result of my refusal to eat and/or drink, I understand that I may experience: hunger, nausea, fatigue, malaise, headaches, edema, muscle loss, abdominal pain, chest pain, cardiac dysrhythmias, altered level of consciousness, and coma. I understand that my refusal to eat life-sustaining food or drink water/fluids and to follow the medical advice may cause irreparable harm to myself or lead to my death.

I understand that this is not a complete list of the risks involved with the refusal to follow medical advice and that I may experience other severe complications.

I fully understand the alternatives available to me.

I fully understand my prognosis if I do not accept food as directed above.

Patient Signature *X Refuse*

Translator/Witness [REDACTED]

Witness [REDACTED]

Medical Provider [REDACTED]

B. DOD Form “Starvation/Dehydration Information Handout”

Starvation/Dehydration Information Handout

The human body is composed of 70% water. Without water and/or other fluids, our cells shrink down (become dehydrated) and eventually the systems in our bodies stop functioning. In the hot climate you are now living in, the lack of fluids for more than 24 to 48 hours could seriously impact your health. Do not ignore your thirst—it is a sign that you are becoming dehydrated. Dark urine or decreased frequency of urination is another sign of dehydration. Death can occur in less than one week when no fluids are drunk to replace the constant losses occurring within the body.

Not eating enough food can also be harmful to your health. Food keeps us alive and well by acting as “fuel” off of which our bodies run. Besides water, there is no greater need in our bodies than food. Food gives our body necessary energy and allows our bodies to maintain its systems—brain function, muscle contraction, liver function, kidney function, cardiac activity, the immune system, and tissue maintenance. There are many harmful effects of not eating. The following list gives many of them but the final consequence of not eating is death.

Early Effects of Starvation

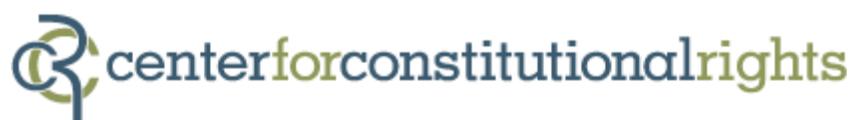
- **hunger pains**
- **sleepiness**
- **dizziness**
- **weakness**
- **weight loss (initially water weight)**

Later Effects of Starvation

- **fatigue**
- **decreased ability to fight infections**
- **decreased mental concentration**
- **difficulty urinating**
- **depressed mood**
- **loss of consciousness**
- **muscle loss**
- **tissue loss (such as the liver, heart, and lungs)**
- **death**

Many of the effects of starvation and dehydration may be reversed by starting to eat and/or drink in a timely manner. You may be at a higher risk if you have other medical problems. Some of the effects may become permanent, and irreparable harm may occur to your body if self-starvation or refusal of water/fluids is allowed to continue for a long time.

We would recommend that you resume a regular diet and resume consumption of water and other fluids. Please ask the physician if you have any further questions or concerns as to how self-starvation or dehydration may affect your health.



Center for Constitutional Rights
Guantánamo Global Justice Initiative
666 Broadway
New York, New York 10012
tel. 212-614-6464
fax 212-614-6499

www.ccr-ny.org