

## THE PROPHET AND THE 'GULAG' By Nazim Baksh



I hadn't come to the American military base at Guantanamo Bay, Cuba, to reflect on the teachings of Prophet Muhammad, upon him be peace and blessings, with respect to prisoners. I had come here to report on the unique case of the Canadian child soldier, Omar Khadr, accused by the U.S. of throwing a hand grenade that killed an American soldier in Afghanistan in 2002. He was 15-years-old at the time. He is now 21.

But as I stood on a cliff high above a beach on the idyllic island staring off into the dark salty Atlantic Ocean, I found myself thinking that had the Prophet been alive today to witness the treatment of these prisoners he would have demanded that all nations, particularly Muslims, adhere strictly to the principles of the Geneva Convention.

### *Recommended Books:*

*Philippe Sands, "Torture Team: Deception, Cruelty and the Compromise of Law."*  
*Mahvish Rukhsana Khan, "My Guantanamo Diary."*

The U.S. administration can't even bring itself to concede that the Muslim men – there are still 270 caged on the island – are 'prisoners' with rights under the Geneva Convention. Through the lens of Washington's top legal advisors, they are merely 'detainees' and thus consigned to a nebulous grey area between law and anarchy.

The law in western countries allows the state to detain people for a limited time before having to charge them with a crime. No country allows for indefinite detention of anyone. Even the mentally insane are given psychological treatment with the hope that someday it would be safe to release them.

The United Kingdom stirred up a political hornet's nest when it recently passed an unprecedented law that allows the state to detain terror suspects for up to 42 days without having to charge them with a crime.

If the U.S. were to admit that the men at Guantanamo were prisoners it would have to charge them of committing a crime and then try them in a court of law. However, the vast majority has never been charged with anything.

Over 500 have been released: shattered, bruised and permanently damaged. Most were subjected to 'interrogation' – a euphemism for bestial torture that

continues to shock with every disclosure. Techniques used are aimed at both dehumanizing and demonizing the inmates.



To date there is little evidence that this shameful behavior has led to any tangible results: there is no evidence that the torturing of the prisoners has yielded any valuable intelligence to fight America's global 'war on terror'. If anything the whole episode has greatly contributed towards even more hatred of America

*Author with Abdus-Salam Zaeef, former Taliban ambassador to Pakistan and its chief spokesman after September 11, 2001. He was arrested in late 2001 or early 2002 and declared to be an 'enemy combatant.' He was sent to Guantanamo. Five years later he was released. He lives in Kabul where he is in the process of writing a book in English documenting his treatment at the hands of his American captors. (Jan. 08)*

and seriously damaged the sole superpower's moral authority throughout the world. And as recent polls indicate Americans feel no safer today than they were in September 2001.

Amnesty International calls Guantanamo's prison 'a Gulag' primarily because it is a legal black hole. In an attempt to alter this image the Pentagon fashioned an

*The only Muslim scholar who has dared to condemn the treatment of prisoners at Gitmo, Bagram and Abu Ghuraib is Shaykh Hamza Yusuf. In his main speech at ISNA convention in 2006 before an audience of thousands he called for the closure of Guantanamo.*

entirely new legal system for Guantanamo's inmates known as the Military Commission Process. A unique feature of this legal contraption is that it was not designed to achieve justice, but to produce convictions. Even so, it has failed to bring about a single conviction of a Guantanamo prisoner.

The quasi-judicial process has been dubbed a 'kangaroo court' by countless legal experts, bar associations and even several Western governments. The next president of the United States, whether it is Barak Obama or John McCain, has promised to close down the prison and end the military trials.

Yet, not a single Muslim leader, much less the Organization of Islamic Conference (OIC) or a body of 'Ulema (religious scholars), have registered their disgust at the United States practice of incarceration without trial at Guantanamo.

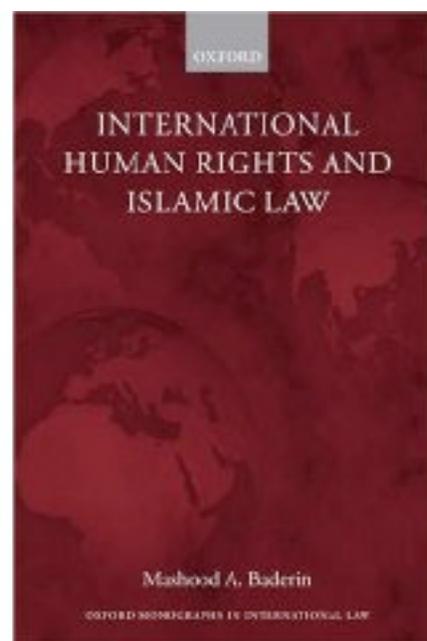
Even if Muslim leaders and scholars could plead ignorance of the Geneva Convention of 1863 it is incredible that none has stood up and shared the Islamic position on the rights of prisoners. And like the OIC's appeals for an investigation into allegations that the Quran was desecrated at Guantanamo by U.S. military guards, Muslim scholars should have spared no effort to demand that Washington uphold the rights of its prisoners – as demanded by any civilized society.

After the battle of Badr the Arabian Prophet, recognizing the potential for abuse, commanded his victorious army to *"treat the prisoners kindly."* An example of the kindness incumbent upon Muslims towards prisoners is reflected in the report of the captive Ozayr ibn Omayr who was consigned to the protection of a Muslim family of Medina who fed him bread, a rare commodity on the peninsula, while the family satiated themselves with dates – food that was plentiful in the oasis.

Once a prisoner cried out to the Prophet as he passed by: "O Muhammad! O Muhammad!" The Messenger stopped and inquired what he wanted. "I am hungry, feed me, I am thirsty, give me water," he said. It is recorded that the Prophet commanded that the prisoners' needs be met.

In the chapter of the Quran titled "Mankind" the Prophet is commanded to *"give food to the needy, the orphans and the prisoners for the love of God,"* and to say, *"we feed you for the sake of God only. We wish from you no reward nor any show of gratitude."* (Sura Insan. V-8-9)

In the treasury of administrations following the death of Muhammad, there was always a budget to feed, clothe and shelter prisoners. The fourth Caliph Ali ibn Abi Talib used to inspect prisons and meet personally with prisoners to inquire about their living conditions.



*Mahmood A. Baderin's book is a unique study.*

According to Islamic law prisoners are to be protected from heat, cold, to be clothed and not humiliated and if they wish, allowed to draw up a will which the administration must hand over to their family. The law stipulates that prisoners should not be forced to do manual labor, pay for the food they receive even if they could afford it, and most important, they should not be pressured to convert to Islam.

Lofty ideals that provide a stark contrast against the findings of successive reports, not least the U.S. Department of Justice investigation into the treatment of prisoners in U.S. custody post 9/11.

From 2002 to 2004 interrogators were allowed by the Pentagon to do more than just yell, insult, berate and threaten prisoners. They were given the green light to hood and use dogs to frighten them during interrogations. Prisoners were made to stand for hours sometimes naked in front of female guards. The purpose was to break their will and get them to confess.

*More reference material*

*Moazzam Begg, "Enemy*

*Combatant: A British Muslim's*

*Journey to Guantanamo and Back."*

*Don't feel like reading? Watch*

*"Road to Guantanamo."*

In a sworn affidavit released by Omar Khadr's lawyer, he said his hands and feet were often shackled together behind his back and he would be left like that for hours. Once he asked for a toilet break and when it was

refused, he urinated on himself. The guards came in and poured a pine solvent on him and on the urine and used him as a human mop to clean the mess. They returned him to his cell and left him there for several days in the same clothes.

In the week that I spent at Guantanamo the military lawyer assigned to defend an Afghani prisoner named Mohammad Jawad staged a 14-hour marathon session in court to argue a motion for dismissal of charges against his client. Jawad was 16 when he was arrested and charged with throwing a hand grenade in Afghanistan that injured two American servicemen and their Afghani translator.

Jawad's father died during the Russian invasion and at 13 his mother kicked him out. He found refuge in a network of madrassas, illiterate and without a skill; he ended up in the arms of the Taliban.

Jawad recounted how for 14 days his hands and feet were shackled every three hours and he was moved by guards from one cell to another. At Guantanamo the guards call this their 'frequent flyer program.' The procedure was so disruptive to Jawad's sleep and body temperature, he told the judge he tried to kill himself on three separate occasions.

As I sat there listening to this young man's very angry testimony I thought about the case of Hurmuzan, a man of high lineage and great influence who fought for the Persians against the Muslims during the Caliphal reign of 'Umar ibn Al-Khattab. Hurmuzan was a determined warrior and was responsible for the death of three of the great companions of Muhammad.

When it was evident that he had lost the battle he fortified himself in a citadel with 100 arrows and threatened to inflict harm on anyone who tried to approach. From there he negotiated his surrender with the condition that the Caliph alone should decide his fate.

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The Muslim commander accepted and Hurmuzan was brought to Madina to face the justice of 'Umar. Dressed in his most brilliant Persian attire to greet the Caliph, Hurmuzan was shocked to find 'Umar sitting on the unpaved ground in the courtyard of the Prophet's mosque.

'Umar was not about to be lenient. Even so, he was sensitive to Hurmuzan's request for water. When the water was given to Hurmuzan he hesitated to drink. At this, 'Umar assured him that he would not be slain until he had drunk. Hearing this, Hurmuzan spilled the water and claimed that by 'Umar's word he could not be slain. It is reported that 'Umar was baffled by the ruse and had no option but to spare him.

Shortly thereafter Hurmuzan declared his conversion to Islam and explained to 'Umar that he had resorted to the ruse so that people would not say he had accepted Islam only to be spared execution. He was given a Caliphal pardon and permitted to reside in Madina where he was employed as a senior military advisor to 'Umar.

It was also the Caliph 'Umar who made it illegal to separate related prisoners of war from each other after a captive had complained to him of being separated from his daughter.

These principles have been honored throughout Muslim history and especially during the Crusades as exemplified by sultans such as Saladin and al-Kamil. For example, after al-Kamil defeated the Franks, Oliverus Scholasticus praised Islamic laws of war, commenting on how al-Kamil supplied the defeated Frankish army with food. Sultan Salahdin – who was knighted by King Richard the Lion-

Heart – became a legendary figure in the West for his acts of chivalry on and off the battlefields.

Perhaps the most intelligent initiative to deal with prisoners of war when beheading was the customary practice given by Prophet Muhammad himself. *“Teach 10 Muslims to be literate,”* he offered his captives, *“and you will earn your freedom.”*

His prisoners were given a chance to rehabilitate themselves by being allowed to benefit others. Literacy was not only their path to liberation, but of immense benefit to the unlettered community of Madina. With one genius stroke the blessed Prophet turned an awkward reality into a productive humanitarian opportunity.

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