

Hunger Strikes at Guantánamo

Obama's Crisis Moment

JINEE LOKANEETA

The Obama administration cannot disclaim responsibility regarding the force-feeding of the Guantánamo Bay detainees who are fasting as a form of protest. The detainees who have spent more than a decade of their lives in custody, often without any charges and many cleared for release, had turned to their only available tool of protest which is being denied to them in painful ways.

It seems like a long time ago, when President Barack Obama, on his first day in office in January 2009, made an extremely significant symbolic gesture by signing three executive orders for the closure of Guantánamo within the year, banning of controversial Central Intelligence Agency (CIA) interrogation techniques, and shutting down the secret CIA prisons around the world. With the signing of those orders, he thought he had put an end to the much reviled policies of the Bush era. At the time, he said:

The orders that I signed today should send an unmistakable signal that our actions in defence of liberty will be as just as our cause, and we, the people, will uphold our fundamental values as vigilantly as we protect our security.¹

President Obama is often seen as managing the crisis created by former President George Bush, thereby not requiring a closer scrutiny of his own policies. However, the ongoing hunger strike and the crisis it has generated have to be considered the result of Obama's inability or unwillingness to intervene at Guantánamo.

More than a hundred detainees at Guantánamo have been on a hunger strike since February 2013. There has been a lot of speculation about why this particular strike occurred. The attorneys for the detainees explain that the February hunger strike was a result of the withdrawal of "comfort items" from the detainees alongside the instances of copies of the Quran being mishandled – all these actions without any known provocation.² Prior to these incidents, in Camp 6, the detainees had started living a more communal existence under more relaxed conditions. President Obama had ensured a praiseworthy effort to conform to the requirements of the Common Article 3 of the Geneva Convention that prohibits the use of torture and cruel, degrading and humiliating treatment. The detainees got many comfort items – wrist watches, legal documents, newspapers, family photos, play stations, DVD players and were able to eat and pray together.³ They even had a new soccer field at their disposal. These comfort items and some freedom of activity within the camp was taken away by the new commander – colonel Bogden – so as to tighten the control over the detainees and in February there was a particularly aggressive shakedown that prompted the strike.

Since the detainees do not have too much in their control, they decided to challenge these changes using the few ways they had to gain attention. They

Jinee Lokaneeta (*jlokane@drew.edu*) is with the Department of Political Science, Drew University, the US.

decided to cover up the cameras that looked into their cells so that the guards could actually no longer peep into the cells (particularly for the few hours of lockdown each night). Civil disobedience and hunger strike had become the weapons with whatever tools were available. Cereal boxes were used to cover up the cameras and starving themselves became the way for the detainees to resist. Once it was discovered that the detainees were on hunger strike, the guards took them away from their communal living conditions (groups of six to eight) and put them in solitary confinement and started force-feeding them. Despite the government's attempt to suppress the news of the strike, thanks to the efforts of the courageous lawyers of these detainees, the world came to know that there were more than 100 detainees who were on hunger strike (the numbers may have been declining in the last few weeks).

While the initial impetus of the strike may have been the change in the commander and the withdrawal of comfort items, the strike actually signalled an articulation of an even greater injustice. The protest was a sign of distress, a way to draw attention to themselves not just to the change in their conditions but to highlight the impossible situation that they were in. Out of the 166 detainees still at the Guantánamo Bay prison, 11 years after the prison first opened, 86 have been cleared for release.⁴ However, there have been no transfers or release in the last few years due to Congress opposition, and a moratorium imposed by President Obama on some transfers.

Nabil Hadjarab, a client of Reprieve that represents detainees at Guantánamo Bay, is one of the detainees cleared for release. In a recent report, Hadjarab talks about the sheer hopelessness that pushed him to strike.

I have no hope of getting out and that's why I started. I want to go home. I have come to the conclusion that nothing can substitute for my freedom. I'm being detained here indefinitely with no charge. I've been waiting so long for my freedom. I'm tired of having my rights violated.⁵

The tiredness that Hadjarab and the 85 others feel may be because they had falsely hoped that the relaxation of conditions had been a sign that freedom was soon to come. Instead, there was a painful realisation that the comfort items were just a variation of their indefinite detention in a more liberal era.

Even though the recognition of some rights under the Obama administration was a distinct and praiseworthy departure from the previous administration, this period also saw shifts away from concrete efforts to close the prison. After all, Obama had even shut down the office meant to ensure the closure of the prison. More permanent facilities had emerged for the guards at Guantánamo as opposed to the temporary barracks. Over the years, there has also been a remarkable beach-side development at Guantánamo – now the base features a Starbucks, a Subway, a McDonald's, a KFC/Taco Bell, a supermarket, a golf course, a high school, a restaurant serving Jamaican jerk chicken and an Irish pub.⁶ A gift shop sells stuffed iguanas and t-shirts with Guantánamo Bay related themes such as "Greetings from paradise GTRMO resort and spa fun in the Cuban sun".⁷ So when the guards took away the few comfort items, and conducted aggressive shakedowns earlier this year, it was a reminder of the total hopelessness of the situation. It was a reminder that their lives and deaths were still dependent on the whim of the commander and, contrary to the early signals by the Obama administration, the prison and its residents threaten to become a permanent fixture.

Force-Feeding Narratives

The response of the prison officials has been to use multiple ways of breaking the strike. The most well-known tactic has been the use of force-feeding but they have also tried to impose solitary confinement (a form of torture according to the UN Rapporteur). In addition, the officials have used bright lights, extreme cold, and sleep deprivation to make the conditions unbearable, even conducting groin searches when the detainees wish to meet lawyers (now

banned by a judge), all methods used to break the strike at all costs.

Recently, the courts were approached to intervene in this crisis situation. Both the district courts have denied the injunction that would have prevented the government from continuing the force-feeding of the hunger-striking detainees.⁸ The courts stated that this was outside their jurisdiction due to an act of Congress that had specifically denied the courts to intervene in conditions of confinement of an alien enemy combatant – another example of a continuation of a Bush era designation. But while the two judges came to the same conclusion, their tone and analysis is extremely different. One of the judges – Judge Collyer – stated that even if they had jurisdiction, they could not have stopped the force-feeding because

As his custodian, the United States cannot 'allow' any person held in custody to starve himself to death. Whatever the medical ethics for a person at liberty, the us as custodian has additional obligations.⁹

Furthermore, the judge notes that "Enteral [nose] feeding also can assist in preserving order, security, and discipline in a detention facility"¹⁰ of course not recognising that an act of disciplining is completely at odds with an act of preserving the health and safety of the detainee.

The government has tried to portray the process of force-feeding as a highly reasonable and safe one. Judge Collyer explains,

A hunger striker, defined as someone who is found to be less than 85% of his ideal body weight and/or has missed nine consecutive meals, is first given counselling about the danger to his health and life if the strike continues. If that does not work, an enteral feed is started through the nose. The feeding is done by a registered nurse or a doctor. An anaesthetic can be given if asked for, a lubricant is always used, and small tubes are inserted slowly. During this process, the detainee is put in a restraint chair described as ergonomically comfortable. Since the holy month of Ramadan had started in July, the feeding schedule was changed accordingly to conform to the religious requirements.

Here the court accepts the framework of reasonable precautions being ensured by the custodians which is in complete

contrast to what one observes in the detainee accounts.

If one watched the video of force-feeding by the rapper and actor Yasiin Bey, also known as Mos Def, or if one reads the accounts of force-feeding of detainees themselves, the reasonable treatment narrative provided by the government and accepted by Judge Collyer is hard to believe.¹¹

Throughout the process, when the detainees are forcibly extracted from their cells, put in a restraint chair and then force-fed, they describe the pain and suffering they experience during all the different stages. In detainee Abu Wael's words,¹²

The reason I want to stop the FCE [forcible cell extraction] is because a while ago they broke a rib in my chest. After it healed, the FCE again broke the same rib. It happened over and over again and the injury gets worse. And just recently they broke my rib again. That is the reason I want to stop the FCE-ing to the feeding.

Once they are extracted from their cells, they are strapped into restraint chairs and shackled – described like being put in an execution chair (according to Hadjarab). Then the feeding tube is inserted through the nose into the esophagus – inserted and reinserted at times. In detainee Samir Moqbe's words,¹³

I will never forget the first time they passed the feeding tube up my nose. I can't describe how painful it is to be force-fed this way. As it was thrust in, it made me feel like throwing up. I wanted to vomit, but I couldn't. There was agony in my chest, throat and stomach, I had never experienced such pain before. I would not wish this cruel punishment upon anyone.

Painful and Humiliating

The use of unnecessary force during the tube insertion and feeding, the continued vomiting which could prompt another feeding, the impact of medication such as Reglan that has serious side effects, all emerge from these graphic accounts from the detainees. The detainees note how the nurses and physicians even refuse to respond to their questions about whether the process is being done correctly. The lack of response by the medical professionals perhaps reflects their shared perceptions that the detainees are the “worst of the worst” despite

many of them being cleared for release and/or never charged. The medical professionals appear to be ignoring the positions of the American Medical Association and the International Committee of the Red Cross that have agreed with the World Medical Association's Declaration of Tokyo:

Where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially.¹⁴

Medical, ethical and legal concerns have been continually raised regarding the use of force-feeding on hunger strikers and yet the unbearable situation continues.

One of the district court judges – Judge Kessler – acknowledges that there

appears to be a consensus that force-feeding of prisoners violates Article 7 of the International Covenant on Civil and Political Rights which prohibits torture or cruel, inhumane, and degrading treatment.¹⁵

The judge shows scepticism towards the claim by the government that they provide best healthcare to the detainees:

it is comparable to that afforded to our active duty service members. Detainees receive timely, compassionate, quality healthcare and have regular access to primary care and specialist physicians...

Instead, the judge writes:

it is perfectly clear from the statements of detainees, as well as the statements from the organisations just cited, that force-feeding is a painful, humiliating, and degrading process.¹⁶

Thus, it is not surprising that Judge Kessler has pointed to the one person who does have the ability to intervene at this time:

There is an individual who does have the authority to address the issue. In a speech on 23 May 2013 President Barack Obama stated 'Look at the current situation, where we are force-feeding detainees who are holding a hunger strike...Is that who we are? Is that something that our founders foresaw? Is that the America we want to leave to our children? Our sense of justice is stronger than that.'¹⁷

It is therefore clear that the Obama administration cannot disclaim responsibility at this moment and has to

intervene. The detainees who have spent more than a decade of their lives in custody often without any charges and many cleared for release had turned to their only available tool of protest which is being denied to them in painful ways. The impact of these state actions on the detainees is more than visible. While President Obama has appointed a special envoy to look into closing of the prison once again, the task for him at present is not merely to find an appropriate response to the strike, but also to clarify the methods of control that would ensure his actual distancing from the policies of the Bush administration.

[This article was written in July 2013.]

NOTES

- 1 President Obama's speech, http://www.democracynow.org/2009/11/23/obama_orders_closure_of_guantanamo_prison
- 2 Lisa Hajjar, “The Agony and the Irony of Guantánamo's Mass Hunger Strike”, *Jadaliyya.com*, 20 June 2013.
- 3 Carol Rosenberg, “Life under Lockdown at America's Hunger-Striking Prison Camps”, *The Miami Herald*, 29 April 2013; Letter to Secretary Chuck Hegel from Attorneys Representing Detainees at Guantánamo, March 2013.
- 4 About 46 of the others have been designated as those who would remain under indefinite detention. Only a few have been charged.
- 5 *Down the Tubes: The 2013 Hunger Strike at Guantanamo Bay*, Reprieve, July 2013, p 6.
- 6 Jason Leopold, “A Guantanamo Tour: ‘Much Ado About Nothing?’”, *Al Jazeera*, 19 June 2013.
- 7 Angela Levin. “Greetings from Guantanamo Bay ... and the Sickest Souvenir Shop in the World”, *Dailymail*, 4 May 2008.
- 8 *Dhiab vs Obama*, Civil Action No 05-1457, 8 July 2013 by Judge Gladys Kessler; *Aamer et al vs Obama*, Civil Action Nos 04-2215 by Judge Rosemary Collyer.
- 9 *Aamer vs Obama*, p 13.
- 10 *Aamer vs Obama*, p 14.
- 11 “When Yasiin Bey Was Force-fed Guantánamo Bay-style – Eyewitness Account”, <http://www.guardian.co.uk/world/shortcuts/2013/jul/09/yasiin-bey-force-fed-guantanamo-bay-mos-def>
- 12 *Down the Tubes*, p 11.
- 13 *Down the Tubes*, p 12.
- 14 <http://www.icrc.org/eng/resources/documents/faq/hunger-strike-icrc-position.htm>
- 15 *Dhiab vs Obama*, p 2.
- 16 *Ibid*: 3.
- 17 *Dhiab vs Obama*, p 3.

Notice to Subscribers – Subscriber Categories

Effective November 1, 2013, there will be only three categories of subscription – institutions, individuals and students.