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Areas of Focus

Current Initiatives

By Rita Siemion

My trip to Gitmo last week to observe the military commission proceedings against 36-year-old Maryland resident [Majid Khan](#) was like an episode of *The Real World* meets *Survivor* that was filmed on the set of *A Few Good Men*, but with government hosts keeping track of where you go, what you see, and what you photograph a la Seth Rogen's trip to North Korea in *The Interview*.

Seven of us from different walks of life spent the week living in shared tents on an abandoned airfield in the middle of the infamous naval base. After getting us settled in, our kind and accommodating military escorts took us to see all the best sights: the lighthouse, the beaches, the radio station, the McDonalds, the Jerk Chicken House, and the gift shop but not to see any of the 61 remaining detainees or where they are held.

Clearly patriotic and concerned that observers are there to judge them, they explained how humanely the detainees are being treated now, how the outdoor cages they were housed in when they first arrived at [Camp X-Ray](#) (which we did see but could not photograph) were just temporary, and how the restraint chairs kept outside the courtroom for detainees who act up were the same as those used in U.S. prisons.

After years of torture at the hands of the CIA, Khan pled guilty in 2012 to charges related to his role as a financial courier in the 2003 Jakarta Marriott bombing and in a plot to assassinate the former President of Pakistan, Pervez Musharraf. While in CIA custody, Khans captors subjected him to a laundry list of torture and inhumane treatment, as documented by the Senate in its [investigation](#) into the CIA's torture program.

According to the Senate report and notes from interviews between Khan and his attorneys, the CIA hung Khan naked from a wooden beam for days at a time, submerged him in a tub of ice water while hooded and shackled, and ordered him to write a confession while being videotaped naked. The Senate report also describes how the CIA forced the pureed contents of Khans lunch, including hummus, pasta, nuts, and raisins, into his rectum. The CIA called this practice [rectal rehydration](#), but medical professionals say it has no legitimate medical purpose. Khans lawyers say it was a form of rape.

Other human rights abuses are built into Gitmo's very existence, like the fact that most of the remaining detainees have never been charged or tried for any crimes. Instead they continue to be held under the disputed theory that they are combatants who can be held until the elusive end of the armed conflict with al Qaeda and the Taliban that began over 15 years ago.

Twenty of the 61 remaining detainees have been cleared for transfer yet remain in detention because it is difficult to find other countries willing to take detainees when the United States will not do so itself. And so they remain, year after year, while the State Department works to find countries willing to take them. A [bill](#) passed by the House last week would [block any Guantanamo transfers](#) including of cleared detainees to countries willing to take them.

And those who are tried or plead guilty, like Khan, face a dysfunctional military commission system. Case in point: Khans plea agreement needed to be modified because one of the charges that he pled guilty to was thrown out by an appeals court (and a second charge is still in question). Unlike [federal courts](#), where prosecutors in terrorism cases have hundreds of charges to choose from, the military commissions may only try a very narrow set of violations of the laws of war. But thanks to a ban on any transfers to the United States passed by Congress, prosecutors are not able to utilize these charges to prosecute Guantanamo detainees.

In case after case, military commission convictions are overturned, charges are thrown out, and discovery is delayed. While I was in Guantanamo, the Chief Defense Counsel, General Baker, delivered a [speech](#) to Georgetown University outlining these and other problems with the commissions that have led him and other members of the defense to conclude that the commissions are a hopelessly flawed farce.

Observers who fly down to watch the commissions in action walk from their ice cold air-conditioned military tents to the double-wide trailer that serves as a courtroom. Despite posted signs only prohibiting observers from drawing certain sensitive items in the courtroom, observers are told not to sketch or doodle at all no drawing circles or sunsets or cartoons lest you somehow endanger national security. Through a pane of glass and with a 40-second audio delay, observers watch the military judge, the prosecution team, Khan, and his lawyers enter the trailer. All but the defendant must be flown in on a specially chartered plane costing tens of thousands of tax-payer

dollars per flight.

Khan, who ultimately faces up to 25 years, has chosen to cooperate with the prosecution, which may reduce his sentence to 19 years if his cooperation proves useful between now and his sentencing in 2019. At the end of his half-day hearing, Khan asked to speak in order to apologize to his victims. He explained that he is cooperating with the prosecution to show through actions and not just words that he is sorry for what he has done. When he is released, he wants to counsel [jihadi wannabees](#) he tells the court.

And with that, the rest of the Real World: Guantanamo cast and I were released to hit the beach, the Irish Pub, or the gym and forget all about the realities of military trials, indefinite detention, and our nation's history of torture.

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