

Obama's orders leave torture, indefinite detention intact

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Global Research, January 23, 2009
23 January 2009

Region: [USA](#)

Theme: [Law and Justice](#)

On Thursday, President Barack Obama issued executive orders mandating the closure of the Guantánamo Bay prison camp in a year's time, requiring that Central Intelligence Agency (CIA) and military personnel follow the Army Field Manual's prohibitions on torture, and closing secret CIA prisons overseas.

While the media is portraying these orders as a repudiation of the detention and interrogation policies of the Bush administration, they actually change little. They essentially represent a public relations effort to refurbish the image of the United States abroad after years of torture and extralegal detentions and shield high-ranking American officials from potential criminal prosecution.

In cowardly fashion, Obama staged his signing of the orders in a manner aimed at placating the political right and defenders of Guantanamo and torture and underscoring his intention to continue the Bush administration's "war on terror." He was flanked by 16 retired generals and admirals who have pushed for the closure of the prison camp in Cuba on the grounds that it impedes the prosecution of the global "war" and reiterated in his own remarks his determination to continue the basic political framework of the Bush administration's foreign policy.

The continuation of the ideological pretext for wars of aggression and attacks on democratic rights ensures that the police state infrastructure erected under the Bush administration will remain intact. This is further reinforced by Obama's assurances that his administration will not investigate or prosecute those officials—including Bush, Cheney, Rumsfeld, Alberto Gonzales and others—who were responsible for the policies of torture and illegal detention.

The orders signed by Obama do not undo the Bush administration's attacks on constitutional and international law. They do not challenge the supposed right of the president to unilaterally imprison any individual, without trial and without charges, by declaring him to be an "enemy combatant." Nor do they end the procedure known as "extraordinary rendition," by which the United States during the Bush years kidnapped alleged terrorists and shipped them to foreign countries or secret CIA prisons outside the US, where they were subjected to torture.

They do not affect the hundreds of prisoners—600 at the Bagram prison camp in Afghanistan alone—incarcerated beyond the barbed wire of Guantanamo. If and when Guantanamo is closed, the US government will simply ship alleged terrorists caught up its international dragnet to other American-run prison camps.

On the question of so-called “harsh interrogation techniques,” i.e., torture, Obama’s orders leave room for their continuation. White House Counsel Gregory Craig told reporters the administration was prepared to take into account demands from the CIA that such methods be allowed. Obama announced the creation of a task force that will consider new interrogation methods beyond those sanctioned by the Army Field Manual, which now accepts 19 forms of interrogation, as well as the practice of extraordinary rendition.

Retired Admiral Dennis Blair, Obama’s nominee for director of national intelligence, told a Senate confirmation hearing that the Army Field Manual would itself be changed, potentially allowing new forms of harsh interrogation, but that such changes would be kept secret.

Obama also announced a second task force that is to consider the fate of the 245 detainees remaining at Guantanamo. Earlier this week he suspended the military commission procedures at the prison camp, but has not abolished the military commissions themselves.

The new administration has ruled out the only constitutional remedy for those who have been held under barbaric conditions, without due process, for years—either releasing them or giving them a speedy trial in a civilian court, with all of the accompanying legal protections and guarantees. There has been a great deal of speculation that the administration may support the establishment of a special National Security Court within the civilian court system to try Guantanamo prisoners and other alleged terrorists. This would represent yet another attack on civil liberties, setting up a drumhead court system to railroad those charged with terrorism—something that could in future be used to repress political opposition.

According to NBC Nightly News on Thursday, the administration is considering keeping some 20 Guantanamo detainees, including the five alleged 9/11 conspirators currently facing military commission trials, imprisoned indefinitely without charges in a military brig within the US.

Commentators have noted that the Obama administration wants to prevent noncitizens detained as terrorists from being able to exercise habeus corpus rights.

Two separate measures taken Tuesday and Thursday by Obama point to a further major consideration behind his moves to close Guantanamo and finesse the issue of torture. On Thursday the administration requested a stay in the habeas corpus appeal to the Supreme Court by the only alleged enemy combatant now held on US soil—Ali al-Marri, of Qatar, whom Obama has called “dangerous.” Al-Marri’s lawyers are challenging the right of the president to arrest and jail individuals by declaring them enemy combatants, and it was expected that the Supreme Court’s hearing of the appeal would force Obama to reveal his position on the issue.

This followed Tuesday’s request for a stay from the Federal District Court in Washington in similar appeals that could affect the cases of more than 200 Guantánamo prisoners.

Thus, the immediate effect of the new administration’s moves is to halt civilian trials that could prove immensely damaging to the government by revealing systematic torture of the detainees and could potentially entangle high government officials.

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