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Comparison of Human Rights Laws Concerning Torture, Access to Medical Care, and Freedom of Movement to Guantanamo Memoirs

Emma DeOliveira



Introduction

The U.S. government made use of a secret CIA black site at Guantanamo Bay detention facility in Cuba to torture suspected terrorists into providing intelligence following the terrorist attacks of September 11, 2001. Despite the end of the use of this black site, thirty-five detainees still remain there today. Guantanamo detainees have often been captured from their homeland, then forcibly disappeared, and brought to the detention facility for indefinite detention and interrogation prior to having even been charged with a crime. In spite of their knowledge against its use, the U.S. government authorized the use of these “enhanced interrogation techniques” despite their being in clear violation of the Torture Statute and the Detainee Treatment Act as well as a number of other international legal frameworks. Detainees rights were also infringed upon by lack of adequate medical care during detention, which is protected under the Constitution of the World Health Organization, the Supreme Court’s decision in *Estelle v. Gamble*, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social, and Cultural Rights, and inhibition of movement following release, which is protected under the Universal Declaration of Human Rights. Through my research, I have compared the violation of these rights to first-hand accounts from a number of Guantanamo memoirs.

Proof that Enhanced Interrogation Was Ineffective

- “Cruel interrogation techniques not only serve to reinforce what a terrorist has been **prepared to expect if captured**; they **give him a greater sense of control and predictability** about his experience, and **strengthen his resistance**. By contrast, the interrogation that Stephen and I employed **engaging and outwitting the terrorist-confuses him and leads him to cooperate**” (Soufan and Freedman 423).
- “Despite claims of success, **not only did those employing the harsh techniques not get any valuable information, they hadn’t even managed to get the basic stuff**....Contrary to Bush administration claims about Qahtani’s importance, **nothing gained from Qahtani while he was subjected to the coercive techniques could have saved a single life**. The 9/11 Commission concluded that he was a ‘muscle hijacker,’ **as we had predicted from the start**. To date, **Qahtani has not been charged** for his role in 9/11” (Soufan and Freedman 468-469).
- “This denial, which was patently false, was **‘proof’ for defenders of EITs** that the Kuwaiti was important to al-Qaeda, and their ‘proof’ EITs work. **We already knew in 2002- through the use of traditional interrogation methods with detainees-that the Kuwaiti was important. And the fact that KSM and Abu Faraj lied about knowing him showed yet again that the EITs didn’t work. A successful interrogation is one in which detainees cooperate and confess, not lie**” (Soufan and Freedman 535).
- “The more you beat up on people, the harder they work to figure out **what you want to hear**. In essence, interrogators are instructing them on the **truth they must admit to stop the pain-the false confessions** that Albert Biderman studied so intently. Our approach went in the exact opposite direction: **detainees end up telling their interrogators the truth because they have earned the right to know**” (Fallon 17-18).
- “Just as with al-Qahtani, JTF-GTMO’s Battle Lab approach to Slahi was a **failure**. It produced **no new information** except what Slahi **fabricated to ease his pain**” (Fallon 126).
- “And the tactics, created by psychologists who theorized that learned helplessness would break a detainee’s will to resist, actually did the opposite: they **simply broke the detainee’s will to live**. Some **elected suicide** over subjugation. **Others died or were killed** (a semantic distinction in some cases) while in custody. Either way, they were **useless as intel sources**. Dead men don’t talk” (Fallon 150).

Significance

It is made evident through both the national and international legal frameworks that the abuses committed at Guantanamo Bay constituted torture and thereby violated human rights law. However, no member of the U.S. government has yet to take accountability for those who have been tortured at the detention facility, and despite the closure of the CIA black site located there thirty-five detainees still remain there today. Former President Barack Obama failed to close the detention facility as promised, and it is now up to current President Joe Biden to see this through and right the wrong.

Guantanamo Memoirs

1. Poems from Guantanamo: The Detainees Speak (Former Guantanamo Detainees)
2. The Mauritanian - Mohamedou Ould Slahi (Former Guantanamo Detainee)
3. Lost and Found at Guantanamo: Don’t Forget Us Here - Mansoor Adayfi (Former Guantanamo Detainee)
4. Murder at Camp Delta: A Staff Sergeant’s Pursuit of the Truth About Guantanamo Bay - Joseph Hickman (Former Staff Sergeant at Guantanamo)
5. Enhanced Interrogation: Inside the Minds and Motives of the Islamic Terrorists Trying to Destroy America - James E. Mitchell (Psychologist and Creator of the Enhanced Interrogation Program)
6. Guantanamo Kid: The True Story of Mohammed El-Gharani (Former Guantanamo Detainee)
7. The Black Banners Declassified: How Torture Derailed the War on Terror after 9/11 - Ali Soufan (Former FBI Agent)
8. Unjustifiable Means: The Inside Story of How the CIA, Pentagon, and U.S. Government Conspired to Torture - Mark Fallon (Former NCIS Special Agent)

Human Rights Law

Torture:

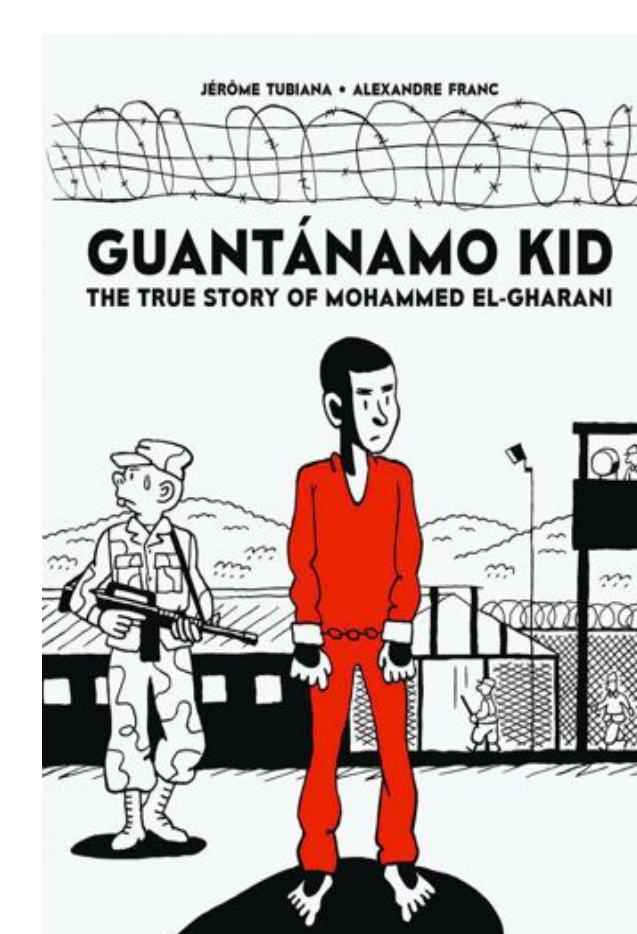
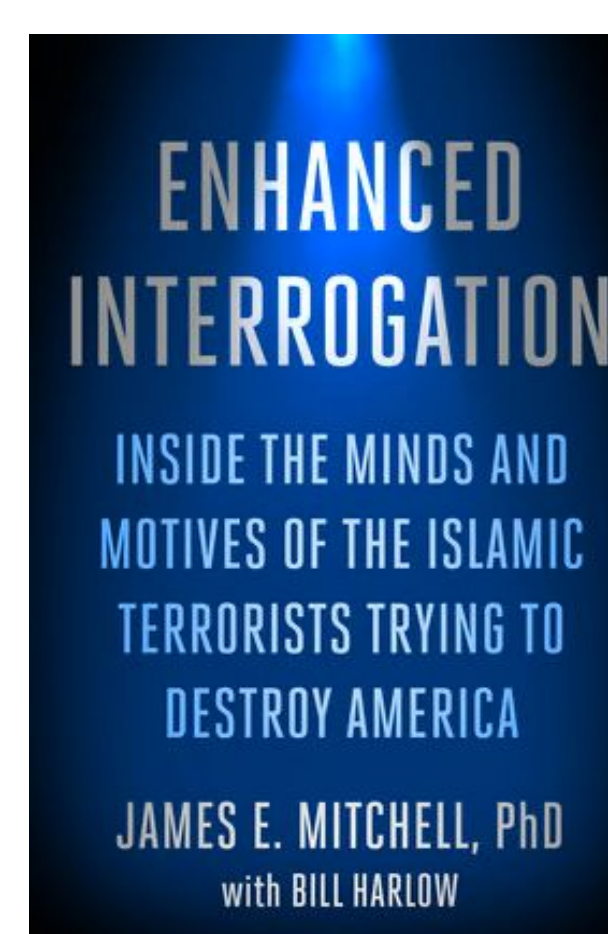
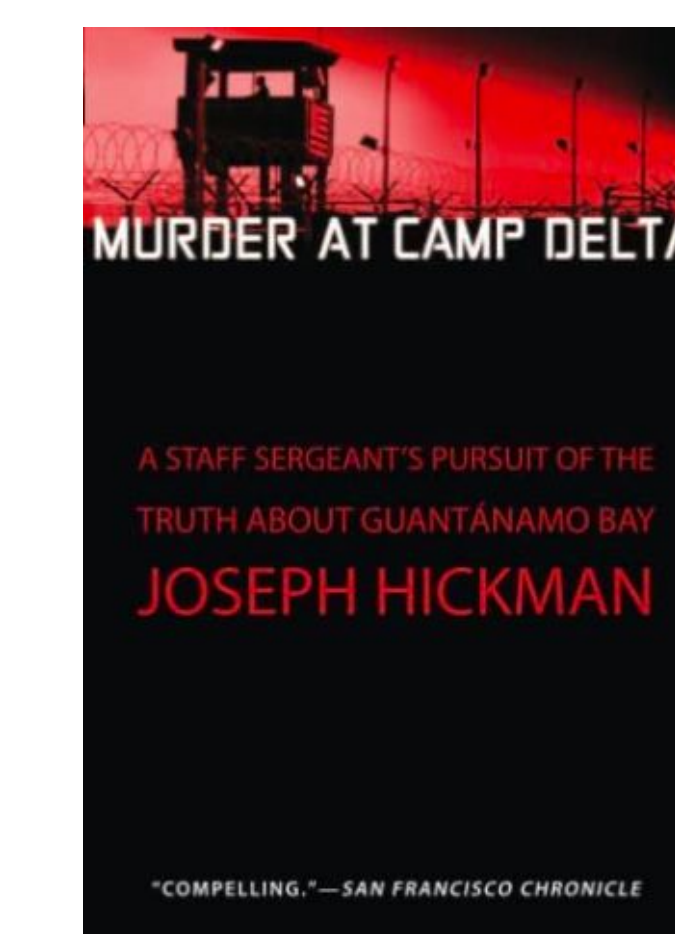
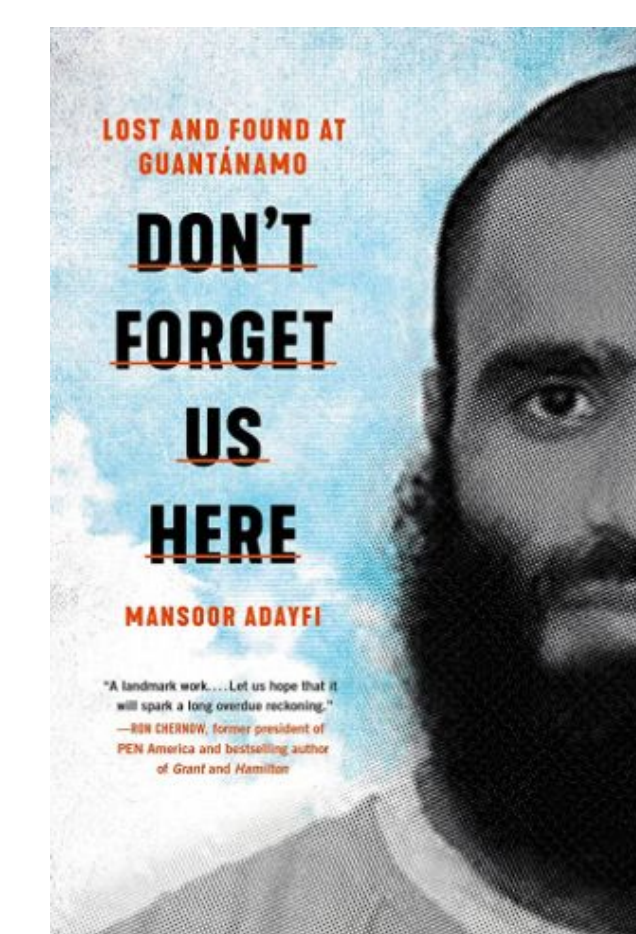
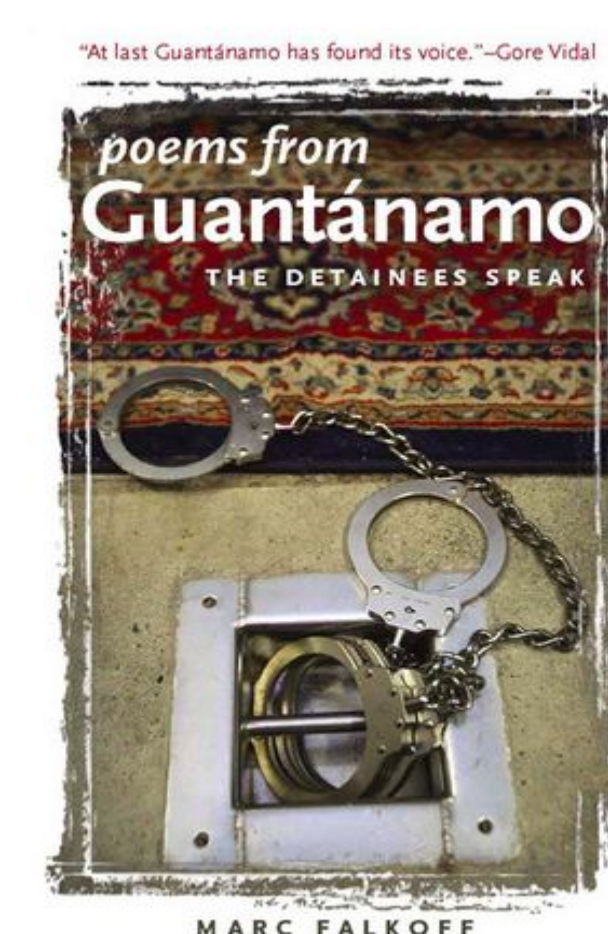
- Torture Statute: “Section 2340A of Title 18, United States Code, **prohibits torture** committed by **public officials** under color of law against persons within the **public officials custody or control**...[and] applies only to acts of torture committed **outside the United States**.”
- Detainee Treatment Act: “No person in the custody or **under the effective control of the Department of Defense** or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation **not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation**.”
- Universal Declaration of Human Rights: “No one should be subjected to **cruel, inhuman or degrading punishment**.”
- International Covenant on Civil and Political Rights: “No one shall be subjected to **torture or to cruel, inhuman or degrading treatment or punishment**.”
- Geneva Conventions: “...the following acts are and shall remain **prohibited at any time and in any place** whatsoever...violence to life and person, in particular murder of all kinds, **mutilation, cruel treatment and torture**;... outrages upon personal dignity, in particular, **humiliating and degrading treatment**...”
- Convention Against Torture: “...the term ‘torture’ means any act by which **severe pain or suffering, whether physical or mental**, is intentionally inflicted on a person for such purposes as obtaining from him or a third person **information or a confession**, punishing him for an act he or a third person has committed or is suspected of having committed...**No exceptional circumstances** whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, **may be invoked as a justification of torture. An order from a superior officer or a public authority may not be invoked as a justification of torture**.”

Access to Medical Care:

- Constitution of the World Health Organization: “The enjoyment of the highest attainable standard of health is one of the **fundamental rights of every human being** without distinction of race, religion, political belief, economic or social condition.”
- *Estelle v. Gamble*: “Justice Marshall acknowledged that the **Eighth and Fourteenth Amendments** required the Texas government to **provide medical care for prisoners**...”
- Universal Declaration of Human Rights: “Everyone has the right to a **standard of living adequate for the health and well-being of himself** and of his family, including **food, clothing, housing and medical care** and necessary social services...”
- International Covenant on Economic, Social, and Cultural Rights: “The States Parties to the present covenant recognize the right of everyone to the enjoyment of the **highest attainable standard of physical and mental health**. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for...the improvement of all aspects of **environmental and industrial hygiene**...The creation of conditions which would **assure to all medical service and medical attention** in the event of sickness.”

Freedom of Movement:

- Universal Declaration of Human Rights: “Everyone has the right to freedom of movement and residence within the **borders of each State**. Everyone has the **right to leave any country, including his own, and to return to his country**.”



Guantanamo Memoir Quotes

Torture:

- “Mr. X and Big Boss each took a side and started to **punch me and smash me against the metal of the truck**... I **almost suffocated** without their knowledge. I was having a hard time breathing due to the **head cover** anyway, plus they hit me so many times on my ribs that I **stopped breathing** for a moment” (Slahi, 249).
- “They started with Yousif and made him **strip naked** in the middle of the block, **in front of all of us**, then searched his genitals. When some soldiers searched us, they **punched us in the genitals or pulled them hard and fast** so others couldn’t see” (Adayfi 35).
- “The officer **knelt on my neck, pulled my head up by my hair, opened my eyes, and showered each eye with pepper spray**. The world went black in a blanket of pain. I thought I was blinded forever. Now they **beat me, kicking, punching, throwing me around like a plastic toy**” (Adayfi 149).
- “They **pounded my head against whatever surface they could connect with** and then **put my head in the toilet** and flushed...When they left me, I couldn’t stand. **They had broken my ankle**” (Adayfi 150).
- “...I watched the chief interrogator use a variety of physically coercive measures on al-Nashiri that I believed were **not on the list of approved techniques**. They included the two stress positions discussed earlier: **dousing al-Nashiri with cold water while using a stiff-bristled brush to scrub his ass and balls and then his mouth and blowing cigar smoke in his face until he became nauseous**” (Mitchell and Harlow 115).
- “The **navy guards**, in teams, clustered around the shackled prisoners and took turns **punching and beating** them...But this was no puppy play on a gridiron; this was **closer to a series of Rodney King-style beatings** by the Los Angeles Police Department” (Hickman 69).
- “The SMO listed the **cause of death as asphyxiation caused by a blockage of the airway**, a result of the **cloth inserted through al-Zahrani’s oral cavity** into the windpipe. The SMO confirmed what I had been told by my medic friend Lisa and by Colonel Bumgarner. **Al-Zahrani, at least, had died as a result of choking on material stuffed down his throat**” (Hickman 187).
- “Burney was also present for parts of al-Qahtani’s interrogation, including when he was **stripped**, when he was **forcibly groomed**, when a female interrogator invaded his personal space, when he was threatened with a **military working dog**, and when he was **treated like an animal-forced to wear a leash or act like a dog**” (Fallon 104).

Access to Medical Care:

- “While in U.S. custody, [Abdullah Thani Faris Al Anazi’s] second leg was amputated...At times, he has been **forced to walk on prosthetic limbs held together with duct tape**” (Miller et al. 24).
- “I was kept up the rest of the night and **forced to see pictures of dead body parts which were taken at the site of the Pentagon after the attack**. It was a nasty sight. I almost broke down...” (Slahi 202-203).
- “...I was **deprived of my soap. I was deprived of my toothpaste and of the roll of toilet paper I had**. The cell-better, the box-was cooled down to the point that I was **shaking most of the time. I was forbidden from seeing the light of the day**...” (Slahi 216).
- “We were ‘classified’ and that meant **every part of our bodies and health, even our teeth, was top secret. We weren’t allowed to know what medicine they gave us or what vitamins or shots**. If we had a health problem-any pain or sickness-**we had to pay our interrogators for treatment**. If you didn’t have information, you were in big trouble” (Adayfi 106).
- “I went to the website of the **US Food and Drug Administration** and looked up information on mefloquine... **Medics at Gitmo had given Ahmed five times the recommended dose**” (Hickman 199-200).
- “I noticed in his medical history that Ahmed was **given mefloquine before he had even been tested for malaria**...Other medical research suggested that **if he had been infected with malaria, mefloquine was the wrong antimalarial treatment for people in the Afghanistan-Pakistan region** where Ahmed had been captured” (Hickman 201).
- “...Administering a dose that high would **induce terror** in most subjects **that would persist for a month or longer. It’s the equivalent of psychological waterboarding**” (Hickman 202).

Freedom of Movement:

- “...‘If we do host you and you **try to leave our country, we will arrest you and put you in prison**.’ I really didn’t like her tone. I was told by everyone at Guantanamo, even the Red Cross, that I had **no choice but to leave to Serbia**. They told me that **if I refused, they would force me to go**. There was **nothing I could do to stop the relocation**. If I didn’t accept their offer, I was told I wouldn’t get another one and that **I could spend the rest of my life in Guantanamo**” (Adayfi 359).
- “Saudi Arabia doesn’t consider you a citizen and doesn’t want you back. You’ll have to go to Chad, if they agree to take you. Or somewhere else... Chad! **What will I do there? I don’t know anybody in Chad, I don’t know the country**” (Tubiana et al. 117).