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Opinion

America's Conscience Detained in Camp Delta.

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A short distance from the Camp Delta complex on Guantanamo a newly-built courthouse. This is Guantanamo's commission building - a military court for the trial of suspected war criminals. "That's where we're gonna try some of the detainees for war crimes," said the US public affairs officer who looked after me during my recent visit to Guantanamo Bay.

The commission had its war crimes deliberations suspended last November when a US Federal Court ruled that its activities were not consistent with the US military code of justice or international law.

Despite this setback however, the commission's operations were ruled lawful in July of this year by a three-member panel of the Washington DC Appeals Court - which included John Roberts, who has since been nominated by President Bush as chief justice of the US Supreme Court. The appeals court ruling will eventually come before the Supreme Court.

In the meantime however, Camp Delta's military commission recommence adjudication in the coming weeks. Privately, US personnel on Guantanamo state that it is that any of the four detainees due for trial next month will face the death penalty. However, future defendants may.

When I asked one officer about the prospect of the death being imposed at Guantanamo, he remarked: "Look, this isn't Nuremberg, we're not gonna hang 'em." I was temporarily reassured.

However, the discussion among the officer's subordinates following this remark focused exclusively on the American public's sensitivities about hanging as a method of execution.

The discussion centred on the idea that civilians felt that hanging was a cruel and outdated form of execution and that, for Washington, there would be negative public relations implications if detainees were to be hanged.

The consensus reached in this discussion was that if the US military did have to execute detainees, they would have to settle on a more acceptable method - possibly by shooting - but most likely by lethal injection.

As it stands, the commission has the power to impose the death penalty on detainees found guilty of capital war crimes. The commission is composed entirely of US military personnel - senior officers, the majority of whom possess no legal qualifications.

In a process similar to the Administrative Review Boards, the commission's deliberations also lack a fully adversarial examination of evidence - much of which is classified information exclusive of any discovery process, and not made known to the accused.

Critics of the commission see it as a non-transparent and inherently biased extra-judicial process which would allow the executive, in the form of US Department of Defence and Pentagon officials, to play the role of accuser, judge, jury and executioner on Guantanamo.

My time on Guantanamo was short. What I saw of Camp Delta suggested to me that the detainees are being housed in spartan but hygienic conditions with proper sanitation. The health

and physical welfare of the detainees is a priority for the military authorities; their nutritional and medical needs appear well catered for. Some of the prisoners compliant appear to enjoy relatively unrestricted freedom of association and a healthy exercise regime in Camp 4.

In terms of the psychological conditions on Guantanamo, the picture is less clear. According to US Navy Capt John Edmondson, psychiatric illness among Guantanamo's detainee is no higher than among the general US population. Guantanamo's authorities also appear to have a comprehensive system of educational support and intellectual stimulation in place for detainees.

However, detainees on Guantanamo remain in a legal and temporal limbo. Unlike prisoners in most penal systems, they have no release dates and no idea of how long their ordeal will last.

Some - such as the ethnic Muslim Uighurs from China - will never return home.

It is this uncertainty, along with a lack of access to a proper judicial process and their confinement so far from home - in a location which defies routine family or even consular visits - which, in my opinion, constitutes a cruel and unusual form of incarceration.

The soldiers and sailors I met on Guantanamo were, with few exceptions, some of the most articulate and idealistic young soldiers I have ever met.

They were unfailingly courteous and seemed well informed and abundantly opinionated about Guantanamo's role in America's so-called war on terrorism.

They expressed a healthy range of opinions as to the validity or otherwise of the detainee's incarceration within Camp Delta - probably representative of the cross-section of American opinion on this subject on the US mainland.

All of the soldiers I met, irrespective of the personal they held, were determined to follow their orders and to carry out their mission on Guantanamo in as professional a manner as possible.

The troops - of all ranks - were very curious about Irish opinion on the detention facilities at Guantanamo. They were open to discussion and argument on the matter and capable of agreeing to disagree on some points.

None of them felt that criticism of the camp or of US foreign policy constituted an anti-American stance.

Travelling to and from Guantanamo through the United States, in the editorials and opinion and analysis sections of several newspapers, from some of the most respected and well-known US broadsheets to the humblest of local news-sheets, I found plenty of evidence of a vigorous debate on America's war on terror in general, and Guantanamo in particular.

Throughout the US, criticism of the Bush administration's with respect to these matters is not unusual, and certainly not considered unpatriotic or anti-American.

America is a great democracy with a proud judicial system predicated on the classic tradition of the separation of powers.

As long as Camp Delta remains open for business on Guantanamo - outside of the rule of international or domestic US law - a significant part of America's collective conscience will remain detained there.