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## **U.N. report alleges torture Envoys urge U.S. to close Guantanamo detention center**

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Los Angeles Times  
February 13, 2006

NEW YORK -- A draft U.N. report on the detainees at Guantanamo Bay concludes that U.S. treatment of them violates their right to physical and mental health, and, in some cases, constitutes torture.

It urges the United States to close the detention center in Cuba and bring the detainees to trial on U.S. territory, contending that Washington's justification for their continued detention is a distortion of international law.

The report, compiled by five special envoys to the United Nations who interviewed U.S. officials, former prisoners, and detainees' lawyers and families, is the product of a 1 1/2 -year investigation ordered by the U.N. Commission on Human Rights. The team did not have access to prisoners at the U.S. military detention center at Guantanamo.

Its findings - notably, a conclusion that the violent force-feeding of hunger strikers, incidents of excessive violence used in transporting prisoners and combinations of interrogation techniques "must be assessed as amounting to torture" - are likely to stoke criticism of the detention facility.

More than 500 people captured abroad since 2002 as "enemy combatants" are detained at Guantanamo.

"We very, very carefully considered all of the arguments posed by the U.S. government," said Manfred Nowak, the U.N. special rapporteur on torture, one of the envoys. "There are no conclusions that are easily drawn. But we concluded that the situation in several areas violates international law and conventions on human rights and torture."

The draft report, reviewed by the Los Angeles Times, has not been officially released; comments and clarifications from the U.S. government are being incorporated.

In November, the Bush administration offered the U.N. team the same tour of the detention facility given to journalists and members of Congress but refused to allow the envoys access to prisoners. Because of that, the U.N. group declined the visit.

The International Red Cross is the only party allowed by the U.S. government to have access to prisoners and monitor their physical and mental health, but it is forbidden to make its findings public.

Nowak said he did not expect major changes to the report's conclusions and recommendations as a result of the U.S. government's response.

Navy Lt. Cmdr. J.D. Gordon, a Pentagon spokesman, said the Defense Department would not comment on U.N. matters.

The report is not legally binding, but human-rights and legal advocates said they hoped it would add weight to similar findings by rights-monitoring groups and the European Parliament.

"I think the effect of this will be to revive concern about the government's mistreatment of detainees, and to get people to take another look at the legal basis," said Kenneth Roth, executive director of Human Rights Watch. "There are lots of lingering questions about how do you justify holding these people."

The report focuses on the U.S. government's legal basis for detention of prisoners as described in a formal response to the U.N. inquiry: "The law of war allows the United States - and any other country engaged in combat - to hold enemy combatants without charges or access to counsel for the duration of hostilities. Detention is not an act of punishment, but of security and military necessity. It serves the purpose of preventing combatants from continuing to take up arms against the United States," it said.

But the U.N. team concluded there had been insufficient due process to determine that all of the 502 people detained at Guantanamo Bay since January 2002 were "enemy combatants." The team determined that the primary purpose of their confinement was for interrogation, not to prevent them from taking up arms.

It also rejected the premise that "the war on terrorism" constituted an armed conflict for the purposes of international humanitarian law.

The report concludes that some of the treatment of detainees meets the definition of torture under the international Convention Against Torture: The acts are committed by government officials, with a clear purpose, inflicting severe pain or suffering against victims in a position of powerlessness.

The simultaneous use of several interrogation techniques - prolonged solitary confinement; exposure to extreme temperatures, noise and light; forced shaving and other techniques that exploit religious beliefs or cause intimidation and humiliation - constitutes inhumane treatment and, in some cases, reaches the threshold of torture, according to the report.

Nowak said the U.N. team was "particularly concerned" about the force-feeding of hunger strikers through nasal tubes that detainees claimed were brutally inserted and removed, causing intense pain, bleeding and vomiting. "It remains a current phenomenon," he said.

One detainee, a Kuwaiti named Fawzi al-Odah, told his lawyer this month that he had stopped his five-month hunger strike under threats of brutal physical abuse. Thomas B. Wilner, a lawyer at Shearman & Sterling in Washington who has represented 12 Kuwaitis interned at Guantanamo, said al-Odah told him that in December guards began taking clothes, shoes and blankets away from about 85 hunger strikers. Wilner said al-Odah described guards mixing laxatives into the liquid formula given to about 40 prisoners through nose tubes, causing them to defecate on themselves.

Wilner said al-Odah told him that, on Jan. 9, an officer read what he said was an order from Guantanamo commander Brig. Gen. Jay W. Hood stating that hunger strikers would be strapped into a restraint chair and force-fed with thick nasal tubes that would be inserted and removed twice a day. After hearing a neighboring prisoner scream in pain and tell him not to go through it, al-Odah reluctantly ceased his hunger strike, Wilner said.

Pentagon officials confirmed that the number of hunger strikers had dropped to four.

White House Spokesman Scott McClellan, speaking Thursday, dismissed al-Odah's claims.

"Well, yes, we know that al-Qaida is trained in trying to make wild accusations, and so forth," he said in response to a question about al-Odah. "But the president has made it very clear what the policy is, and we expect the policy to be followed. And he's made it very clear that we do not condone torture, and we do not engage in torture."

The five special U.N. envoys are independent experts appointed by the U.N. Commission on Human Rights to examine arbitrary detention, torture, the independence of judges and lawyers, freedom of religion, and the right to physical and mental health. The five had each, under separate mandates, been following the situation in Guantanamo Bay since it opened in January 2002. They made the decision in June 2004 to do a joint report and asked the U.S. government for access to all detention centers.

"This report is not aimed at criticizing. It is looking at what international human-rights law says about Guantanamo," Nowak said. "We are hoping that this report will actually strengthen the dialogue."