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Will the US adjust life at Guantánamo for detainees?

More access by Red Cross workers is likely, but legal analysts are split on whether the prison camp will be less punitive after an Obama-ordered review.

By Warren Richey | Staff writer of *The Christian Science Monitor*

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President Obama's recent order to bring Guantánamo into full compliance with international law requires US officials to make a fundamental judgment about the difference between mere detention and punishment. Since the terror prison camp opened in 2002, the Bush administration worked to blur that distinction. The question now is whether the new president will force the issue into sharp focus and bring change to Guantánamo prior to its closure.

Lawyers representing Guantánamo detainees say US officials must examine current conditions of confinement at the camp to ensure that those conditions do not cross the line into punishment for men who have never been charged or convicted of a crime.

"The general idea is that prisoners of war aren't supposed to be punished," says Shayana Kadidal, director of the Guantánamo Global Justice Project at the Center for Constitutional Rights.

Announcing his intention to close Guantánamo within a year, Mr. Obama directed the secretary of Defense to undertake an immediate review of the living conditions and treatment of detainees at Guantánamo. The president ordered "full compliance" with "all applicable laws governing the conditions of such confinement, including Common Article 3 of the Geneva Conventions."

How conditions might change for the 245 detainees at Guantánamo is unclear, legal analysts say. Potential issues critics cite include use of solitary confinement, forced feeding of hunger strikers, access to books and religious materials, and communications with family members.

"There are some very basic things that need to change about the way men like my clients are held at Guantánamo," says Ramzi Kassem, a Yale Law School lecturer who represents four Guantánamo detainees. "Individuals are kept in their cells for up to 23 hours a day," he says. "They have very little social contact. They can't take their meals communally. They can't pray communally."

Mr. Kassem adds, "The only opportunity for them to interact with someone who is not a guard or

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interrogator is when they are given their one hour of exercise. But even then, contact is severely restricted because they are held in separate exercise pens."

When Americans think of prisoners of war, many might recall the classic 1963 movie "The Great Escape," based on events at Stalag Luft III, a German prisoner of war camp. In accordance with the Geneva Conventions, the Germans housed captured Allied troops in military-style barracks. Allied POWs lived together, ate together, and were able to socialize. In the movie, one character repeatedly tries and fails to escape. Each time he is recaptured, he is sent as punishment to a solitary confinement cell.

The plot line illustrates a key aspect of the protections required under the Geneva Conventions: Wartime detention may not be a form of punishment unless there is specific cause justifying punishment.

In contrast to Stalag Luft III, the vast majority of detainees at Guantánamo are held routinely in solitary confinement cells. Some have been in solitary confinement for nearly seven years – longer than the duration of World War II.

Not all detainees at Guantánamo are entitled to the full protections of the Geneva accords, legal experts note. Suspected war criminals or those charged with crimes can be held under more restrictive conditions, including solitary confinement. A detainee deemed a threat to others can be segregated.

What is less clear is whether most detainees are entitled to more social contact with their fellow prisoners.

Seventeen members of the ethnic Muslim Uighur group in China are being held under barracks-like conditions, able to eat meals together and socialize. A federal judge has ordered their release, but the government has been unable to locate a country willing to resettle them.

Kassem says isolation isn't the only issue. One client, Ahmed Zuhair of Saudi Arabia, has been on a hunger strike since June 2005 to protest his treatment. Officials have ordered him and others to be force-fed while bound in a restraint chair for up to four hours, twice a day.

"The hunger strikers, like my client, are denied some basic items," Kassem says. "All they have is a prayer rug, a mattress, a thin blanket, their jumpsuits, [flip-flop sandals], and a Koran. No socks. No thermal underwear. No prayer beads. No prayer cap. No access to books or other such luxury items."

He adds, "They are basically punished for being on hunger strike."

On the issue of communication with family, the lawyer says one client received a letter from his 7-year-old daughter. Half of it was blacked out by US censors.

Kassem said six months ago some of his clients were allowed for the first time to call home. "It had been six years since those families had heard their voice."

Four human rights organizations are asking the president to grant them full access to Guantánamo to make their own assessment of the conditions of confinement.

"Opening Guantánamo to full review by human rights organizations would help to restore American legitimacy and standing in the world," directors of the four groups said in a Jan. 30 letter to Obama.

The groups are the American Civil Liberties Union, Amnesty International USA, Human Rights First, and Human Rights Watch.

"We don't actually know what is going on down there," says Geneve Mantri of Amnesty International. "We are trying to get down there to take a look."

One group that already has access to Guantánamo and will probably get more under the new administration is the International Committee of the Red Cross. ICRC representatives have been visiting Guantánamo since 2002.

The committee works behind the scenes to monitor compliance with international human rights norms. The ICRC has expressed concern privately to the US government about widespread use of

isolation cells, skimpy due-process protections in military commissions, and barriers to detainees communicating with family members, experts say.

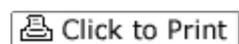
Some legal experts are hopeful about the future direction of policy at Guantánamo. "The military knows how to do this," says Robert Goldman, a professor and codirector of the Center for Human Rights and Humanitarian Law at Washington College of Law. "If you let the professional military and the military lawyers – and not the ideologues – deal with this, then I think things will be improved."

Others aren't so sure. Kassem says Obama's executive order assigns the Guantánamo review to Defense Secretary Robert Gates, who oversaw Guantánamo for two years during the Bush administration.

"It is hard to expect an unbiased self-critique from Secretary of Defense Gates," Kassem says. "He has a vested interest in either signing off on the way things are or making minimal changes."

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