
Human Rights After Guantanamo?

Essay From A Civil Rights Perspective On The Situation Of
Ex-Guantanamo Detainees In Europe

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ABSTRACT

The purpose of this master thesis is to find out whether the civil rights of ex-GTMO detainees in Europe are respected. To answer the research question, five specific recurrent common issues of ex-GTMO detainees in Europe are discussed: (1) torture and other forms of ill-treatment, (2) initial detention, bail and trial, (3) risk of refoulement, (4) surveillance and security and (5) identity cards and passports. Per issue, a description of the situation of ex-GTMO detainees in Europe is followed by an overview of the relevant legal and non-legal provisions. An assessment of the facts is made against those provisions.

The answer to the research question of this master thesis is that the civil rights of ex-GTMO detainees in Europe have been violated in many cases. The common characteristic of the restrictions is that European States appear to impose them upon ex-GTMO detainees because of their previous detention at GTMO. The conclusion of this research is that instead of restricting the civil rights of ex-GTMO detainees, European States should provide them with special protection of their civil rights because the stigma attached to ex-GTMO detainees makes them more vulnerable to violations of their civil rights.

ABBREVIATIONS & TERMINOLOGY

CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	International Covenant on Civil and Political Rights
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
EP GTMO Resolution	European Parliament Resolution on the Return and Resettlement of Guantanamo Detention Facility Inmates
Executive Order 13492	Executive Order on the Review and Disposition of Individual Detainees at the Guantanamo Bay Naval Base and Closure of Detention Facilities
GTMO	Guantanamo Bay Naval Base of the United States of America in Cuba
Ill-Treatment	Torture and cruel, inhuman or degrading treatment
Joint Statement	Joint Statement of the European Union and its Member States and the United States of America on the Closure of the Guantanamo Bay Detention Facility and Future Counterterrorism Cooperation, based on Shared Values, International Law and Respect for the Rule of Law and Human Rights
MS	Member States
Protocol 4 ECHR	Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain Rights and Freedoms other than those already included in the Convention and in the First Protocol thereto

RC	Convention Relating to the Status of Refugees
Receiving State	State to which a person is transferred and where there are reasonable grounds to believe that person is at risk of torture or cruel, inhuman or degrading treatment or punishment
Sending State	State transferring a person against his/her will to a State where there are reasonable grounds to believe that person is at risk of torture or cruel, inhuman or degrading treatment or punishment
SMRTP	Standard Minimum Rules for the Treatment of Prisoners
Task Force	Guantanamo Detainees Review Task Force
Task Force Report	Final Report of the Guantanamo Detainees Review Task Force
Third State National	Guantanamo detainee who is cleared for transfer but who cannot be transferred back to his State of origin and who therefore is or will be transferred to another State
Transfer	Moving detainees out of Guantanamo to another State for release, further detention or prosecution
UK	United Kingdom
UNSRT	United Nations Special Rapporteur on Torture
US	United States of America
Vienna Convention	Vienna Convention on the Law of Treaties

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