

By Andy Worthington

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Ever since the coronavirus began its alarming global spread, those who work with, and on behalf of prisoners have been aware of the threat that it poses to those who are incarcerated. This applies, as commentators have noted, whilst urging urgent action, to the many million of prisoners worldwide who are imprisoned after being tried and convicted of crimes, as well as, in some countries, political prisoners.

In the UK, lawyers urged the government, to no avail, to [release Julian Assange](#), who is held in Belmarsh maximum security prison in London, fighting efforts by the British government to extradite him to the US to face entirely inappropriate espionage charges relating to his work with WikiLeaks, and in the US, as well as highlighting the dangers faced by the country's 2.2 million domestic prisoners — the largest prison population per capita in the world — some activists have also been highlighting the dangers the virus poses to [the 40 men still held](#) in the prison at Guantánamo Bay, all held for between 12 and 18 years, and almost all held indefinitely without charge or trial.

The plight of the Guantánamo prisoners was particularly highlighted eight days ago, on March 24, when the US Navy announced in [a press release](#) that a sailor stationed at the base had “tested positive for COVID-19” and was “currently undergoing evaluation and treatment.” The Navy's press release added that the Department of Defense had “notified public health authorities of the positive test” and had “taken prudent precautions” to ensure that the service member was “receiving the appropriate care.” It was also noted that the sailor was “currently isolated at their home and restricted in movement in accordance with the Center for Disease Control and Prevention Guidelines,” and that efforts were underway to trace recent contacts made by the sailor.

The press release also noted that “Naval Station Guantánamo Bay has developed an aggressive mitigation strategy to minimize spread of COVID-19 and protect the health of our force,” but, as I explained in [a Facebook post](#) following the news, “No mention was made about protecting the health of the 40 prisoners in their care, which is unsurprising, but callous.”

I added, “What should happen right now is that prisoners who are not facing trials, and are unlikely ever to face trials should be released, but unfortunately that’s unlikely to appeal to a government headed by Donald Trump, who doesn’t care, and cannot be made to care.”

Unfortunately, I think it remains true that Trump will have no interest whatsoever in releasing any of the men still held, but I’m glad to note that, yesterday, Scott Roehm, the Washington Director of the Center for Victims of Torture, wrote an article for [Just Security](#) calling for some other practical responses that should be undertaken by the government; namely, disclosing to all prisoners and their lawyers “any protocols, plans, or guidance” for “preventing COVID-19 from reaching the detention facility,” and for dealing with it if it does, providing lawyers with medical records (subject to the prisoners’ consent), urging Congress to allow prisoners to be transferred to the US mainland [for emergency medical care,” avoiding isolation for prisoners where possible, and appointing a Chief Medical Officer as required in this year’s National Defense Authorization Act.”

It is very much to be hoped that the government pays attention, and that the media pick up on the importance of attempting to guarantee the safety of the Guantánamo prisoners during the coronavirus crisis, especially because, as Scott Roehm also explains, a number of prisoners have serious underlying health issues, making them particularly vulnerable to the virus — Saifullah Paracha, the prison’s oldest prisoner, whose case I have looked at closely in the 14 years since I dedicated my life to covering Guantánamo and getting the prison closed down, and who I wrote about most recently in my article last week, entitled, [Uzair Paracha, Victim of Tortured Terrorism Lies, is Freed from US Jail; Why Is His Father Still at Guantánamo?](#) ;

Nashwan al-Tamir (aka Abd al-Hadi al-Iraqi), a “high-value detainee,” put forward for a trial, who has severe spinal problems that have not been adequately addressed by four operations at Guantánamo in the last six months, and Sharqawi Al-Hajj, who I have also written about extensively, a long-term hunger striker who [made a suicide attempt last year](#), and whose health is still very much at risk.

Just yesterday, in fact, as Scott Roehm’s article was published, [a letter](#) from him and other experts was sent to defense secretary Mark Esper, noting that “Mr. Al Hajj’s health has again significantly deteriorated,” and urging Esper “to take appropriate steps to mitigate the situation before it becomes catastrophic.”

As Scott Roehm also explained in his article, another unfortunate effect of the coronavirus has been that “access to counsel” has been “severely restricted due to the virus,” with personal visits from lawyers “essentially impossible,” cutting off the only independent lifeline for the prisoners, and also cutting off the few visits allowed by independent medical experts. In addition, “the legal mail courier service to and from Guantánamo was recently suspended,” but as Roehm explains, the answer to all these problems, at this difficult time, is for the authorities to open up the use of video-conferencing.

I was shocked to realize that the men still held are currently completely cut off from the outside world because of the virus, which, to my mind, makes it absolutely essential that pressure is exerted on the Trump administration to respond to Scott Roehm's demands. I've cross-posted his article below, and if you agree that urgent action is required, please feel free to contact your [Senators](#) and [Representatives](#), if you live in the US, and to write to the mainstream media to urge them to cover this story.

Guantanamo's COVID-19 Precautions Must Safeguard Detainees' Rights

By Scott Roehm, *Just Security*, March 31, 2020

My colleague Daphne Eviatar wrote an excellent [piece](#) last week about the human rights implications of a “war” against COVID-19, in which she rightly observed that “[t]he half a billion dollars spent per year to run an offshore prison for 40 men denied fair charges or trials would surely be better put to use providing truly ‘essential services’ in a time of national crisis.” Of course, Daphne was referring to the detention facility at Guantánamo Bay.

But what happens when COVID-19 arrives at Guantánamo? Sadly, that's already happened: The first case of COVID-19 was [reported](#) on March 24. A member of the U.S. Navy stationed at the base tested positive. And while the sailor is apparently not involved in detention operations, the virus' local presence, coupled with certain measures that the Defense Department is undertaking to prevent a larger outbreak, endanger both the detainees and the already limited rights they have been afforded.

The 40 prisoners who remain at Guantánamo are [aging and their health is increasingly deteriorating](#), making them particularly vulnerable to the virus.

For example, Saifullah Paracha is 72 years old, has had two heart attacks, and [currently suffers](#) from “diabetes, coronary artery disease, diverticulosis, gout, psoriasis and arthritis.”

Nashwan al-Tamir has had four spinal surgeries in the last 18 months, has still not fully recovered, and continues to suffer.

[Sharqawi Al Hajj](#) — whom independent medical experts have previously described as at risk of “total bodily collapse” due to a combination of the effects of his hunger strikes and CIA torture — [attempted suicide](#) late last year and his health has again significantly deteriorated (to the point that my organization and Physicians for Human Rights [wrote today](#) to Defense Secretary Esper seeking emergency intervention). The list goes on.

There is also the physical and psychological debilitation associated with nearly two decades of indefinite detention that cuts across the detainee population, as well as the reality that many of the remaining detainees are torture survivors suffering resulting physical and/or psychological damage.

Were COVID-19 to strike this population the consequences could be catastrophic, especially given Guantánamo's [well documented](#) lack of medical capabilities — including insufficient equipment and expertise — to address atypical health needs.

But even if the virus does not reach the detainees, some of the precautions that Guantánamo is taking — absent efforts to mitigate aspects of their impact — could at once undermine detainees' rights and jeopardize their health.

A prime example is access to counsel, which is now severely restricted due to the virus. In-person visits are essentially impossible; even if counsel were able to find a way to fly to Guantánamo, they would be required to self-quarantine for two weeks upon arrival, then for another two weeks upon return to the mainland. Attorneys cannot represent their clients if the effective price of a single client visit is four weeks of lost or reduced ability to provide them with legal services, not to mention the risks to their own health.

Moreover, the legal mail courier service to and from Guantánamo was recently suspended, and while temporary measures have been put in place, there will be an impact on both the privilege and frequency of legal mail to detainees. Finally, remote access is extremely limited (especially for the “high value” detainees) — not because it's technically infeasible, but because the Defense Department has prohibited more widespread use.

Counsel access restrictions can also have negative consequences for detainees' health, exacerbating pre-existing conditions that Guantánamo has proven over time either unable or unwilling to adequately address, and all but eliminating access to independent medical experts.

Mr. Al Hajj, mentioned above, is a case in point. In August of last year, [he cut his wrists](#) with a piece of broken glass during a telephone call with counsel. He threatened additional self-harm shortly thereafter. At the time, two independent psychologists with whom Mr. Al Hajj's counsel consulted characterized him as “actively” suicidal.

According to Mr. Al Hajj and his counsel, while his care would eventually improve, Guantánamo staff's initial response was dangerously inadequate; Mr. Al Hajj alleges that he was moved to “isolating conditions” in a “freezing cold” cell, and refused a warm blanket and warm clothes, both against the recommendations of his doctors at Guantánamo.

Mr. Al Hajj is apparently again in crisis now, but this time with minimal ability to communicate with the outside world. As a [torture survivor](#), and especially given his mental health history, Mr. Al Hajj needs trusted human connections. He cannot form those connections with Guantánamo staff — [a phenomenon that is common among detainees](#)

— both because the United States is responsible for his torture, and because U.S. medical personnel were complicit in torture, including at Guantánamo. This increased level of isolation may well accelerate his decline.

Current restrictions will also put an end to periodic visits by independent medical experts, for the minority of detainees who continue to be seen periodically. As I explained [here](#) previously, detainees have not been able to retain independent medical experts except through litigation, and so those experts' access is dependent upon counsel's access.

None of this is to say that the Defense Department shouldn't take reasonable and appropriate steps, consistent with public health experts' recommendations, to protect everyone at Guantánamo from exposure to COVID-19. But they don't need to further infringe upon detainees' rights in the name of health and safety. For starters, the Defense Department should, immediately:

- Disclose to all detainees and their counsel (both habeas counsel and military commissions defense counsel) any protocols, plans, or guidance — including timely updates if/when those evolve — for preventing COVID-19 from reaching the detention facility, for identifying and testing potentially infected detainees, and for providing the range of care that could be necessary for any detainee who tests positive;
- Dramatically expand remote access to counsel and to independent medical experts — via videoconference in particular — for all detainees;
- Subject to detainees' consent, immediately provide their counsel and any other appropriate party they authorize (especially independent medical experts) with full, unredacted and unprotected copies of their medical records, including as near to real-time updates as is practicable;
- Seek authority from Congress to transfer detainees to the United States for emergency medical care;
- Avoid the use of isolation to the maximum extent possible consistent with the standard of medical care that President Donald Trump signed into law as part of the fiscal year 2020 National Defense Authorization Act (FY2020 NDAA),* and with public health experts' recommendations for addressing COVID-19; and
- Appoint a Chief Medical Officer as required by section 1046 of the FY2020 NDAA.

Some of these may seem like drastic measures to those who are well-versed in Guantánamo's history, but they aren't. They're reasonable and sensible steps toward safeguarding detainees' rights, their health, and the health of everyone at Guantánamo in the face of the COVID-19 pandemic.

*Per section 1046 of the FY2020 NDAA, all detainees must receive "evaluation and treatment that is accepted by medical experts and reflected in peer-reviewed medical literature as the

appropriate medical approach for a condition, symptoms, illness, or disease and that is widely used by healthcare professionals.”