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In the final debate before Tuesday's primary in New Hampshire, Republican presidential contenders battled it out Saturday night at Saint Anselm College in Manchester, New Hampshire. While much of the post-debate coverage focused on Marco Rubio for repeatedly reciting the same talking points about President Obama, less attention was paid to how the candidates embraced the use of torture and expanding Guantánamo. We air highlights and speak to Pardiss Kebriaei, senior staff attorney with the Center for Constitutional Rights. She represents current and former Guantánamo detainees.

AMY GOODMAN: In the final debate before Tuesday's primary in New Hampshire, Republican presidential contenders battled it out Saturday night at Saint Anselm College in Manchester, New Hampshire. Taking part in the debate were New Jersey Governor Chris Christie, Dr. Ben Carson, Senator Ted Cruz of Texas, Donald Trump, Florida Senator Marco Rubio, former Florida Governor Jeb Bush and Ohio Governor John Kasich.

ABC News

excluded former Hewlett-Packard
CEO

Carly Fiorina from the debate despite protests from many Republicans.

Much of the post-debate coverage has focused on Marco Rubio for repeatedly reciting the same talking points about President Obama, even after he was called out by Governor Christie.

SEN. MARCO RUBIO: And let's dispel once and for all with this fiction that Barack Obama doesn't know what he's doing. He knows exactly what he's doing. ... But I would add this: Let's dispel with this fiction that Barack Obama doesn't know what he's doing. He knows exactly what he's doing. ... Here's the bottom line: This notion that Barack Obama doesn't know what he's doing is just not true.

GOV. CHRIS CHRISTIE: There it is.

SEN. MARCO RUBIO: He knows exactly what he's doing.

GOV. CHRIS CHRISTIE: There it is, the memorized 25-second speech.

SEN. MARCO RUBIO: He's—well, that's the—

GOV. CHRIS CHRISTIE: There it is, everybody.

SEN. MARCO RUBIO: That's the reason why this campaign is so important, because I think this notion—I think this is an important point. We have to understand what we're going through here. We are not facing a president that doesn't know what he's doing. He knows what he is doing. ... I think anyone who believes that Barack Obama isn't doing what he's doing on purpose doesn't understand what we're dealing with here. OK? This is a president—this is a president who's trying to change this country.

AMY GOODMAN: While headlines about "Robot Rubio" and "MarcoBot" dominated much of the discussion after the debate, a number of other issues did come up during Saturday's debate, including torture, North Korea, police brutality and eminent domain. We're going to look at all four of these issues and how the candidates responded on today's show. We'll begin with the issue of torture, raised by debate moderator David Muir of ABC News.

DAVID MUIR: We're going to stay on ISIS here and the war on terror, because, as you know, there's been a debate in this country about how to deal with the enemy and about enhanced interrogation techniques ever since 9/11. So, Senator Cruz, you have said, quote, "Torture is wrong, unambiguously, period. Civilized nations do not engage in torture." Some of the other candidates say they don't think waterboarding is torture. Mr. Trump has said, "I would bring it back." Senator Cruz, is waterboarding torture?

SEN. TED CRUZ: Well, under the definition of torture, no, it's not. Under the law, torture is excruciating pain that is equivalent to losing—losing organs and systems. So, under the definition of torture, it is not. It is enhanced interrogation, it is vigorous interrogation, but it does not meet the generally recognized definition of torture.

DAVID MUIR: If elected president, would you bring it back?

SEN. TED CRUZ: I would not bring it back in any sort of widespread use. And indeed, I'd join with Senator McCain in legislation that would prohibit line officers from employing it, because I think bad things happen when enhanced interrogation is employed at lower levels. But when it comes to keeping this country safe, the commander-in-chief has inherent constitutional authority to keep this country safe. And so, if it were necessary to, say, prevent a city from facing an imminent terrorist attack, you can rest assured that, as commander-in-chief, I would use whatever enhanced interrogation methods we could to keep this country safe.

DAVID MUIR: Senator Cruz, thank you. Mr. Trump, you said not only does it work, but that you'd bring it back.

DONALD TRUMP: Well, I'll tell you what. In the Middle East, we have people chopping the heads off Christians. We have people chopping the heads off many other people. We have things that we have never seen before—as a group, we have never seen before what's happening right now. The medieval times—I mean, we studied medieval times. Not since medieval times have people seen what's going on. I would bring back waterboarding, and I'd bring back a hell of a lot worse than waterboarding.

DAVID MUIR: Mr. Trump, thank you. Governor Bush, you have said that you won't rule waterboarding out. Congress has passed laws banning the use of waterboarding by the military and the CIA, as you know. Would you want Congress to change that, if you're elected president?

JEB BUSH: No. No, I wouldn't. No, I wouldn't. And it was used sparingly. Congress has changed the laws, and I think where we stand is the appropriate place. But what we need to do is to make sure that we expand our intelligence capabilities. The idea that we're going to solve this fight with Predator drones, killing people, somehow is a—is more acceptable than capturing them, securing the information—this is why closing Guantánamo is a complete disaster. What we need to do is make sure that we are kept safe by having intelligence capabilities, both human and technological intelligence capabilities, far superior than what we have today. That's how you get a more safe place, is by making sure that we're fully engaged. And right now this administration doesn't do that.

DAVID MUIR: Governor Bush, thank you. Senator Rubio, I do want to ask you, you have said that you do not want to telegraph to the enemy what you would do as commander-in-chief, but for the American people watching tonight who want to know where the next president will stand, do you believe waterboarding is torture?

SEN. MARCO RUBIO: Well, when people talk about interrogating terrorists, they're acting like this is some sort of law enforcement function. Law enforcement is about gathering evidence to take someone to trial and convict them. Antiterrorism is about finding out information to prevent a future attack. So the same tactics do not apply. And it is true: We should not be discussing wide—in a widespread way, the exact tactics that we're going to use, because that allows terrorists and others to practice how to evade us. But here's the bigger part—problem with all this: We're not interrogating anybody right now. Guantánamo is being emptied by this president. We should be putting people into Guantánamo, not emptying it out. And we shouldn't be releasing these killers, who are rejoining the battlefield against the United States.

AMY GOODMAN: Senator Marco Rubio at Saturday's Republican debate in New Hampshire, the eighth debate, the final one before the New Hampshire primary on Tuesday.

Joining us now is Pardiss Kebriaei, senior staff attorney with Center for Constitutional Rights representing current and former Guantánamo prisoners.

Welcome to *Democracy Now!*

PARDISS KEBRIAEI: Thanks, Amy.

AMY GOODMAN: So, quite a discussion here—

PARDISS KEBRIAEI: Yeah.

AMY GOODMAN: —both around the issue of waterboarding and of expanding Guantánamo.

PARDISS KEBRIAEI: Right. You know, there's a lot to say, hard to know where to begin. To this—to just the basic point about the fact that we are still debating whether things like waterboarding constitute torture and you have candidates able to say, "No, waterboarding is not torture," and to sort of redefine those terms, I mean, that is not—redefine the term of "torture," that's something that's not unique to the issue of torture, it's not unique to a political party. You know, we've heard many times administrations and officials say, "We don't torture, we don't engage in indefinite detention, we don't do targeted assassinations"—all of this by sort of unilaterally redefining and gutting terms of their plain meaning under international law. So, it's not new or unique.

As to whether things like waterboarding constitute torture, clearly, under widely accepted understandings and standards and definitions under international law, it is torture. The U.N. CAT committee, Committee Against Torture, has said it. The—

AMY GOODMAN: Senator Cruz said it wasn't.

PARDISS KEBRIAEI: Senator Cruz said it wasn't. The International Committee of the Red Cross, which is an authority on the laws of war and international humanitarian law, has said specifically waterboarding is torture. U.S. courts have said it. U.S.—the United States has

prosecuted U.S. and foreign soldiers for engaging in waterboarding. There have been prosecutions domestically for waterboarding domestically. So the idea that this is arguable is just not supported. It is clearly illegal.

I think the troubling thing is the fact that it has been made arguable or is able to be debated, still has in part to do with the fact that there has been zero accountability for torture under the Bush administration. And that's been something that has been—you know that falls on the Obama administration, I think.

AMY GOODMAN: What could be Obama administration do?

PARDISS KEBRIAEI: Well, there have been no—there have been calls for a special prosecutor to investigate clear allegations of crimes committed at least by the CIA

, as evidenced by the Senate report on the CIA

torture program. I mean, there's volumes of documented information about at least one piece of torture under the Bush administration. There should at least be an investigation domestically. Politically, you know, that seems very difficult, if not impossible. Those investigations have not been pursued.

We at CCR have—as a result, because of the lack of complete accountability domestically, we've turned to foreign courts and have supported or been involved or brought a request for prosecution or accountability in the courts of Spain. We've brought—we're supporting an action in France. There have been actions in Canada or before the CAT committee. So, I mean, we're trying, at least internationally through universal jurisdiction in foreign courts, to bring to bear some kind of accounting for what's happened.

But I think the fact that there hasn't been anything domestically, and the message is sort of "we need to look forward and not backward" by the Obama administration, is part of what has allowed this sort of gray zone and for things like torture and waterboarding, which is sort of the—one the most overt forms of it, to remain arguable and debatable, and cheered on national television—by Republican donors, but, you know, nonetheless.

AMY GOODMAN: The issue of expanding Guantánamo and the mutual outrage of the candidates that it was not being—not just closed, but expanded?

PARDISS KEBRIAEI: Yeah.

AMY GOODMAN: Talk about the prisoners that you represent inside Guantánamo.

PARDISS KEBRIAEI: Well, just one—I mean, there's a lot to unpack there. You know, when Rubio says that we need to be putting more people back into Guantánamo and the basic problem is we're not—we're not interrogating anyone anymore, it is false to suggest that Guantánamo was the only place where the United States or is the only place where the United States is interrogating terrorist suspects. In recent years, for example, there have been operations reported in the media, that we know about, where the United States has snatched suspects off the streets in suburban areas in their own homes. One example is of Abu Anas al-Libi in 2013, snatched in front of his home in a suburb of Tripoli by U.S. military forces, held and interrogated aboard a U.S. Navy ship without counsel, effectively incommunicado, and then appears in federal court in the United States to face charges and trial. And that entire period of extrajudicial holding, treatment, interrogation is effectively erased once that happens, because of the challenges of—because of the difficulty of challenging that treatment in federal court. But that is one sort of hybrid way the U.S. is relying on wartime authorities—problematic ones—to sort of pick people up far from recognized war zones, hold and interrogate them without charge, without counsel, you know, effectively secretly, and then—and then bring prosecution. So we know that those things are happening. And so the suggestion that we're not interrogating anymore is just false.

As to, you know, expanding Guantánamo and, you know, what is happening with the prison now, there is a certain momentum in terms of transfers of people. We need to be very clear about who is being transferred. Those are people who U.S. intelligence and defense officials themselves have said do not need to be at Guantánamo.

AMY GOODMAN: We're talking not only Obama administration officials—

PARDISS KEBRIAEI: Bush administration.

AMY GOODMAN: —but Bush administration officials.

PARDISS KEBRIAEI: We have said this 'til we're red in the face. I mean, it's just—it's just a complete distortion to suggest.

AMY GOODMAN: Many of these prisoners held for well over 10 years, cleared for years to be released.

PARDISS KEBRIAEI: The first group of people under the Obama administration were approved for transfer in 2009 and '10. Many of them are sitting in Guantánamo today, including some of our clients—Tariq Ba Odah, nine-year hunger striker, still at Guantánamo; Mohammed al-Hamiri, cleared for release in 2009, sitting in Guantánamo, perhaps even watching this broadcast now. There's another group of men who have been cleared under more recent administrative reviews, under what's known as the Periodic Review Board. Those are reviews that were set up and meant to start in 2011, didn't—nothing happened until 2013. That's entirely on the Obama administration. That's something entirely within executive control. There was an executive order that said these reviews need to start in 2011, they need to be done by 2012. Nothing happened until—

AMY GOODMAN: So it's four years later.

PARDISS KEBRIAEI: Four years later. Nothing happened after—until after a mass hunger strike at the prison in 2013. I mean, Guantánamo had really sort of fallen off the administration's agenda as a priority until after the hunger strike. Slowly, since then, the reviews have started. But there are still dozens of people who are waiting for their first review. One of my clients—two of my clients, Zahir Hamdoun, just went through his review, was approved for transfer; another, Ghaleb al-Bihani—both Yemenis—approved for transfer last year, still waiting for transfer. So, those men, cleared men by the administration itself, remain sitting in Guantánamo.

There is another problem in terms of the way people are being transferred from Guantánamo. That's an issue that's gotten far less attention. But in terms of what they face, particularly for

those people not going home, which means a lot of the Yemenis, and they're not going home not because they don't want to go home or they can't go home, but because it is U.S. policy not to send them back to Yemen because of conflicts that have nothing to do with some of their individual circumstances or their families or their facts, so, as a result, is needing to find third countries for them. You know, it's just the experience of people who have been held for 14 years without charge, arbitrarily, tortured, getting on another—getting on a plane and then landing in an entirely alien environment, without family, without community, with very little support. And—

AMY GOODMAN: Are the Democrats different in their approach to Guantánamo? I mean, Hillary Clinton was secretary of state during a number of these years.

PARDISS KEBRIAEI: No, I mean, these transfers—dozens of them, over 70, 80, 90 of them—have happened under the Obama administration. And certainly, transfers need to keep happening. Bottom line, the men in Guantánamo need to be out. But how they are being transferred, the support they have, what their experience on re-entry is like, that's important to pay attention to, as well. But separate from these issues, I think—

AMY GOODMAN: We have 30 seconds.

PARDISS KEBRIAEI: —we need to be clear about: The Obama administration's own plan for closing Guantánamo envisions maintaining the policy of indefinite detention. So part of the danger of that is that it allows for things. It allows for the policy and legal justifications to remain open, and would allow for a place, whether in Cuba or in a U.S. prison, for future administrations to send additional detainees to. So that's part of the danger of the administration's own close—so-called close Guantánamo plan.

AMY GOODMAN: Well, I want to thank you, Pardiss Kebriaei, senior staff attorney with the Center for Constitutional Rights representing current and former Guantánamo prisoners.