

By Andy Worthington

From [Andy Worthington](#) | Original Article



This is the first article in “ [Bagram Week](#) ” here at Andy Worthington, with seven articles in total exploring what is happening at the main US prison in Afghanistan through reports, analyses of review boards, and the voices of the prisoners themselves, and ongoing updates to [the definitive annotated Bagram prisoner list](#)

My apologies. I have been so busy with other projects that I have let my attention wander from Bagram in recent months, which is unwise when this particular prison — America’s largest prison in Afghanistan — is not only a legal black hole that makes Guantánamo look like a facility that is transparent and fair (it’s not, by the way, although civilian lawyers are allowed to visit, and prisoners [nominally have habeas relief](#)), but also the place where the Bush administration’s disregard for the Geneva Conventions has been most consistently apparent, and has not been reversed by President Obama.

Bagram occasionally attracts media attention because of [the persistent stories about the “Tor](#)

[prison,”](#) a secret facility associated with the prison, where, according to those held there, “enhanced interrogation techniques” supposedly banned by President Obama — primarily involving isolation and sleep deprivation — are still used. This is bad, although it may be largely out of Obama’s control, in the hands of one of the shady organizations in America’s bloated security apparatus that effectively runs itself. This ought to be worrying in and of itself, but even if there are areas over which Obama has little control, he ought to be able to keep control of the main facility at Bagram — or, as it has been rebranded, Parwan, where up to 1,500 prisoners are held, and where the government recently made a point of [sho wing off its new facility](#), boasting about its transparency and the humane manner in which the prisoners are treated.

It certainly appears to be the case that, in general, America has belatedly worked out from Iraq that running prisons in a war zone humanely is more successful than treating everyone with brutality, especially given how random and chaotic the rounding up of prisoners has been throughout the “War on Terror.”

Despite this, Bagram — or Parwan — remains a showcase for what happened to the US military under Donald Rumsfeld in the “War on Terror,” when the Geneva Conventions were discarded, and prisoners were held for as long as the authorities saw fit, and, in addition, tortured when it was felt that they were not providing adequate “intelligence.”

Nominally, all this came to an end when Rumsfeld was replaced, under George W. Bush, with Robert Gates (who was then taken on by Obama, in the absence, presumably, of anyone in his team with a foot in the Pentagon’s door). In reality, however, although the Supreme Court insisted in June 2006, in [Hamdan v. Rumsfeld](#), that everyone in US custody must be treated humanely, and, most crucially, that everyone is protected by

[Common Article 3](#)

of the

[Geneva Conventions](#)

(which prevents “cruel treatment and torture” and “outrages upon personal dignity, in particular humiliating and degrading treatment.”), this successful overturning of one of the most despicable decisions undertaken by Bush (the executive order announcing that the Geneva Conventions did not apply in the “War on Terror,” which was

[issued on February 7, 2002](#)

) did not actually restore the Geneva Conventions to how the military operates.

At Bagram, for example, instead of holding prisoners unmolested until the end of hostilities (and

[holding Article 5 competent tribunals](#)

, close to the time and place of capture, to ascertain whether those not captured in uniform were combatants or civilians seized by mistake), the US authorities have been holding everyone for an unspecified amount of time before

[subjecting them to Detainee Review Boards](#)

, modeled on the

[Combatant Status Review Tribunals](#)

— used at Guantánamo to ascertain whether the prisoners had been correctly labeled as “enemy combatants” on capture, and found to be “inadequate” by the Supreme Court in

[Boumediene v. Bush](#)

, the 2008 case in which the prisoners were granted constitutionally guaranteed habeas corpus rights.

These habeas rights should have extended to foreign prisoners rendered to Bagram from other countries, [as was decided by District Court Judge John D. Bates in March 2009](#), when he ruled on a number of habeas cases brought by foreign nationals seized in other countries and rendered to Bagram from 2002 onwards. Judge Bates correctly ruled that their circumstances — though not the circumstances of any of the Afghan prisoners, even those who were

[also seized in other countries](#)

— were comparable to the Guantánamo prisoners, and that therefore they should have the same rights, but his ruling was overturned by the D.C. Circuit Court last May, as I explained in an article entitled,

[The Black Hole of Bagram](#)

.

This was a great shame — and it remains one of many black marks against the Obama administration, indicative of the general manner in which, when decisive action has been needed to overturn and thoroughly repudiate the novel excesses of the Bush administration, President Obama has shown himself to be sadly lacking in fulfilling the promise of change that he spoke about so eloquently as a Senator and on the campaign trail.

In a separate article, I’ll be pulling together three reports filed from Bagram in February, which, in particular, examine how the Detainee Review Boards — which are, admittedly, [an improvement on the scandalously poor review process](#) that existed at Bagram under Bush — have been progressing, but in the meantime I thought that readers might also be interested to know about what I did yesterday.

Alerted by a friend to the existence of FOIA documents about Bagram obtained by the ACLU,

which I had not yet examined, I spent yesterday [updating the first definitive Bagram prisoner list](#) that the ACLU obtained last January. When that list was issued it was the first time that the US government had released any information about who was held at Bagram, and I examined its significance in two articles entitled, [Dark Revelations in the Bagram Prisoner List](#) and [Bagram: Graveyard of the Geneva Conventions](#)

.

At the time, there was no information about who the 645 prisoners listed were, or what had happened to them since the list was compiled in September 2009, so as a result I researched the names of the 645, creating what I described as [Bagram: The Annotated Prisoner List \(A Cooperative Project\)](#), and yesterday I cross-referenced this list with the documents obtained by the ACLU, adding the results of around 100 Detainee Review Boards, and also adding around 100 new cases — with internment numbers, but not with names, sadly — of prisoners seized since the master list was compiled in September 2009.

These are fascinating, in that they help to shed light on what has happened to the prisoners, and how long it has taken for them to receive something resembling justice, although it remains a disturbing process, as the information confirms America's flight from the Geneva Conventions, and also explains how chaotic detention policies are when there is not only an American system that has evolved based on the presumed need for intelligence, rather than the requirements of the Geneva Conventions, but also when another detaining authority is involved — in this case, of course, the Afghan government, which has been installed since November 2004, but still shares power uneasily with its American occupier.

All of these complications are laid out clearly in the documents, as the US review boards ascertain whether to release prisoners, whether to continue holding them, or whether to transfer them to Afghan custody for criminal prosecution or to be included in a process of reconciliation and rehabilitation. In the documents, these are often referred to as being proposed for the consideration of the Aloko Commission, named after Afghan Attorney General Mohammad Ishaq Aloko, and [the Americans' perceived problems with the Commission](#) were revealed in one of the US diplomatic cables leaked to WikiLeaks, which was made available last December.

There's much more to be done in adding information to the master list from [the documents obtained by the ACLU](#)

, as I have only, to date, analyzed and transferred information from Set 1 of the 7 Sets listed under “10/11/2010 – Commander’s Final Decision Memos” and have not yet added information from other important documents at “10/29/2010 – More complete documents relating to an illustrative sample of 60 DRB hearings,” which I’m currently writing about in a series of three articles for Cageprisoners, and together with some cross-posted articles from elsewhere, shedding more light on the prison, the treatment of prisoners, the detention policies, and the review process, I have, I think, enough to declare that

this week is “Bagram Week” at Andy Worthington

.

If anyone wants to help with this project by undertaking an analysis of Sets 2 to 7 of the Final Decision Memos, then please let me know, and we can work out how to proceed.