
REPRIEVE

Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises: G4S plc

27 August 2014

Contents

1. Summary of complaint
2. Introduction
3. Torture and Abuse at Guantánamo Bay
4. G4S Contract Perpetuates the Violation of Human Rights
5. Breaches of the OECD Guidelines
6. Objectives
7. Supporting documentation

1. Summary of complaint

1.1. Reprieve submits that G4S plc has breached the OECD Guidelines by:

- Contracting through its wholly-owned subsidiary G4S Government Solutions, Inc. to provide the US Department of the Navy's Naval Facilities Engineering Command with base support operating services at the Guantánamo Bay detention camp. For providing essential infrastructure to what has been called the "gulag of our times",¹ "a shocking affront to democracy",² and "a monstrous failure of justice",³ G4S will be paid £14.7 million annually for a total sum of £71.2 million over five years.

¹ Amnesty International, "Speech by Irene Khan at Foreign Press Association" (25 May 2005)
<https://web.archive.org/web/20060220210041/http://web.amnesty.org/library/Index/ENGPOL100142005>.

² See David Fickling, "Falconer condemns 'shocking' Guantánamo", *The Guardian* (13 September 2006)
<http://www.theguardian.com/world/2006/sep/13/Guantánamo.usa>.

³ See Clare Dyer, "Law lord castigates US justice", *The Guardian* (26 November 2003)
<http://www.theguardian.com/politics/2003/nov/26/uk.lords>.

2. Introduction

- 2.1. Reprieve is a legal action charity working to promote the rule of law around the world, including in counter-terrorism operations conducted by the US and other governments. Reprieve's work includes investigation and advocacy on behalf of Guantánamo Bay detainees.
- 2.2. G4S is a British multinational security services company headquartered in Crawley. As the largest security firm in the world by revenue, G4S has 618,000 employees worldwide and operations in around 125 countries.
- 2.3. G4S Government Solutions, Inc. (G4S GS) is the wholly-owned American subsidiary of G4S plc that produces annual revenues of around £400 million. G4S GS holds the Guantánamo Bay contract.
- 2.4. G4S is a British company that receives contracts worth millions of pounds in UK taxpayer funds. The UK government should consider its official position calling for the closure of Guantánamo and decide whether it is now comfortable associating Britain with the running of the detention center.
- 2.5. Reprieve is bringing this complaint on behalf of its clients currently held in Guantánamo Bay, including Shaker Aamer, the last British resident in Guantánamo Bay.

3. Torture and Abuse at Guantánamo Bay

General conditions

- 3.1. The US government deliberately created the “legal black hole” of Guantánamo Bay to hold detainees for as long as it desired.⁴ Since opening in late 2001, the facility has been the scene of a large variety of torture techniques: use of dogs during interrogations, forced removal of clothing, hooding, stress positions, isolation, sensory deprivation, threatening detainees with death or severe pain, threatening detainees with harm to their families, and religious & sexual humiliation.⁵ Even today, mistreatment and torture continues at Guantánamo Bay.
- 3.2. Since February 2013, a large number of detainees have gone on a mass hunger strike to protest their indefinite detention. By current estimates, approximately one-fifth of the detainees are hunger striking. To punish them for peacefully protesting, the US military subjects hunger-striking detainees to a variety of inhumane abuse.

⁴ See Johan Steyn, “Guantánamo Bay: The legal black hole”, Twenty-Seventh FA Mann Lecture, British Institute of International and Comparative Law, London, (25 November 2003).

⁵ Karen J. Greenberg, *The Torture Papers: The Road to Abu Ghraib*, Oxford University Press (Oxford: 2005), pp 38-39; see also Attorney General Alberto Gonzales' memo, pp. 227-228.

- 3.3. Detainees are regularly subjected to Forcible Cell Extractions (FCEs) whereby a team of guards in riot gear burst into a cell, violently pin down a detainee, assault him, shackle him, and haul him out of the cell. This barbaric procedure is used every time the Guantánamo command determines a detainee must be forcibly taken out of his cell, whether for force-feeding or medical appointments. Recently, reports indicate that one FCE team “twisted [a detainee’s] hands until they broke his left hand and the right one was swollen.”⁶
- 3.4. Hunger strikers are punished for engaging in peaceful protest. Weakened by prolonged hunger strike and years of physical abuse, a number of detainees require wheelchairs. In a recent punishment, the US military has deprived them of their wheelchairs and subjects them to FCEs when taking them for force-feeding, even when they request to go to force-feeding under their own power in wheelchairs.
- 3.5. Hunger strikers are then tightly strapped to a multi-point restraint chair by their arms, legs, and head. Tubes are painfully inserted into detainees’ noses by inexperienced medical staff. It sometimes takes multiple intubations for the tube successfully to be inserted, and hunger-strikers go through intubation and force-feeding twice a day. The feeding tubes often bore into detainees’ internal organs, including their lungs. A nutritional supplement is then rapidly pumped through the tube causing severe stomach pain and nausea. On occasion, detainees have vomited immediately after a force-feeding session. Instead of being given medical treatment, they have been strapped again to the chair and subjected to the entire process once more.
- 3.6. Hunger-striking detainees are held in solitary confinement for prolonged periods in a separate block called Camp V Echo. One detainee describes his cell in the following manner: “It is designed to torture the person who is held there. All the surfaces are made of steel. The bed is steel. The walls are steel. The floor is steel. The ceiling is steel. There is no toilet, but the hole in the ground is made of steel.”⁷ Detainees report that guards deliberately lower the temperature in Camp V Echo making the cells freezing cold.

Reprieve clients mistreated at Guantánamo Bay

Shaker Aamer

- 3.7. Since 2002, Shaker Aamer has been held in Guantánamo Bay without charge or trial. He is a legal permanent resident of the UK and is married to a British national, with four British children living in London. Mr. Aamer has been repeatedly abused and subjected to prolonged solitary confinement in Guantánamo Bay.

⁶ Letter from Guantánamo Bay detainee to Reprieve.

⁷ Reprieve, “Report on Torturous Methods Used to Force Feed Guantanamo Bay Prisoners”, (11 January 2014) http://www.reprieve.org.uk/media/downloads/2014_01_11_PUB_Gitmo_Hunger_Strike_Report_Final.pdf.

- 3.8. In June 2001, Mr. Aamer travelled to Afghanistan to volunteer for an Islamic charity. After September 11th, the United States and its allies invaded Afghanistan. Soldiers stripped him of his belongings and took him away at gunpoint. For the next two weeks Mr. Aamer was beaten mercilessly by various groups of soldiers.
- 3.9. Shaker was then transferred to the infamous US-run prison at Bagram Airfield. In February 2002 after weeks of brutal treatment, he was rendered to Guantánamo Bay where he remains to this day.⁸
- 3.10. As a result of the abuse Mr. Aamer has suffered in Afghanistan and at Guantánamo Bay, he has been diagnosed with post-traumatic stress disorder (PTSD), chronic depression, and Special Housing Unit (SHU) psychosis.⁹ Among other abuses, Mr. Aamer has been subjected to hundreds of FCEs.¹⁰
- 3.11. Mr. Aamer's SHU psychosis is a result of being subjected to solitary confinement since 2005. When the military mercilessly assaulted a detainee in the midst of prayer, Mr. Aamer initiated the first hunger strike at Guantánamo – a non-violent form of protest that harms no one but detainees. After negotiations led by Mr. Aamer between detainees and guards broke down, the hunger strike restarted and Mr. Aamer was punished by being placed in solitary confinement. On 17 August 2014, Mr. Aamer was once more violently assaulted by the FCE team.¹¹
- 3.12. Both the Bush and Obama administrations have cleared Mr. Aamer for release. It is British government policy that he should be returned to his family in the UK, and the UK government has made repeated efforts to secure his release. For example, the Prime Minister raised the issue of Mr. Aamer's detention with President Obama on 17 June 2013 at the G7 Summit. He later wrote to President Obama reaffirming "the UK's commitment to securing the release and return of Mr. Aamer to the UK." The Deputy Prime Minister followed up on Mr. Aamer's detention with Vice-President Biden, and the Foreign and Defence Secretaries and their senior staff have also repeatedly raised Mr. Aamer's case with their counterparts in the United States.¹²

Abu Wa'el Dhiab

- 3.13. Abu Wa'el Dhiab, a father of four, was cleared for release by the US government in 2009. Despite this clearance, he remains in Guantánamo Bay after more than a decade

⁸ Reprieve, "Shaker Aamer", <http://www.reprieve.org.uk/cases/shakeraamer/>

⁹ See Clive Stafford Smith, "When will we put a stop to Shaker Aamer's horrific Guantánamo ordeal?", *The Guardian* (9 April 2014) <http://www.theguardian.com/commentisfree/2014/apr/09/shaker-amer-Guantánamo-ptsd-release>.

¹⁰ Shaker Aamer, "My Guantánamo hunger strike hell", *Daily Mail* (4 May 2013) <http://www.dailymail.co.uk/news/article-2319550/Guantánamo-Bay-British-inmate-Shaker-Aamer-describes-torture-humiliation.html>.

¹¹ Reprieve, "British resident Shaker Aamer 'beaten' in latest Guantánamo crackdown" (27 August 2014) http://www.reprieve.org.uk/press/2014_08_27_PUB_Shaker_Aamer_beaten_Guantanamo.

¹² *Supra* note **Error! Bookmark not defined.**

without charge or trial.

- 3.14. Mr. Dhiab was born in Lebanon and later moved to Syria with his family at an early age. In 2000, Mr. Dhiab got married, started a family, and ran a successful business in Afghanistan. Following the US-led invasion in late 2001, he and his family were forced to flee across the border.
- 3.15. A few months later, Pakistani police seized Mr. Dhiab. He was not charged with any crime, but was nonetheless turned over to the United States. At the time, the United States was offering large bounties for any person of Arab ethnicity. He was transferred to Bagram Airfield in Afghanistan in June 2002. Two months later he was rendered to Guantánamo Bay.¹³
- 3.16. Prior to his detention Mr. Dhiab was in good health. As a result of the conditions at Guantánamo Bay and the horrific treatment he has received, Mr. Dhiab is now confined to a wheelchair.
- 3.17. Mr. Dhiab has been engaged in a peaceful hunger strike to protest his ongoing detention without charge or trial. To punish him for his hunger strike, Mr. Dhiab is currently denied access to his wheelchair. He is subject to daily FCEs, similar to Mr. Aamer's, and brutally dragged to be force-fed against his will. After mounting a legal challenge against his treatment, Mr. Dhiab's lawyers were able to view the video tapes of him being painfully force fed.¹⁴ In June 2014, sixteen news organisations, including *Reuters* and the *New York Times*, intervened in *Dhiab v Obama* to seek access to the videos on free speech grounds.¹⁵
- 3.18. Mr. Dhiab has been on hunger strike for years, and is still being force-fed against his will despite a federal judge urging the authorities at Guantánamo to find an alternative that would spare him "the agony of having feeding tubes inserted and removed for each feeding".¹⁶ On a recent phone call to his lawyers at Reprieve, Mr. Dhiab brought to light the case of a nurse at Guantánamo Bay who refused to force-feed detainees, saying, "I have come to the decision that I refuse to participate in this criminal act".¹⁷ The nurse's conscientious objection to force-feeding provides yet more evidence of the brutal treatment of detainees at Guantánamo Bay.

Emad Hassan

¹³ Reprieve, "Abu Wa'el Dhiab", <http://www.reprieve.org.uk/cases/abuwaelDhiab>.

¹⁴ Spencer Ackerman, "US forced to acknowledge secret tapes of Guantánamo force-feedings", *The Guardian* (21 May 2014) <http://www.theguardian.com/world/2014/may/21/us-forced-acknowledge-Guantanamo-force-feedings>.

¹⁵ Ryan J. Reilly, "Media Companies Push Court For Access to Guantánamo Force-Feeding Videos" *Huffington Post* (20 June 2014) http://www.huffingtonpost.com/2014/06/20/Guantanamo-force-feeding-videos_n_5516137.html.

¹⁶ Carol Rosenberg, "Judge halts force-feeding of Syrian Guantánamo captive", *Miami Herald* (16 May 2014) <http://www.miamiherald.com/2014/05/16/4122110/federal-judge-halts-forced-feeding.html>.

¹⁷ Associated Press, "Guantánamo nurse refuses to force-feed prisoners", *The Guardian* (16 July 2014) <http://www.theguardian.com/world/2014/jul/16/Guantanamo-nurse-refuses-force-feed-prisoners>

- 3.19. Emad Hassan is a Yemeni national who was seized while studying in Pakistan. During interrogation he was asked if he knew Al Qaeda, and replied yes. He was however referring to a small village named Al Qa'idah near his home in Yemen and not to the global terrorist network. This gross misunderstanding has formed the basis of Mr. Hassan's detention without charge or trial at Guantánamo Bay for nearly twelve years.¹⁸
- 3.20. Mr. Hassan travelled from Yemen to Pakistan to study poetry, but his studies ended when Pakistani forces detained him in a raid on his student housing. Mr. Hassan was sold to American forces for a \$5000 bounty and taken to Guantánamo Bay.¹⁹ In 2009, Mr. Hassan was cleared for release by an inter-agency task force comprised of six different bodies of the U.S. government, including the FBI and CIA.²⁰ Despite being cleared for release, Mr. Hassan remains in indefinite detention.
- 3.21. Mr. Hassan has undertaken the longest hunger strike in Guantánamo. For the last seven years he has refused to eat, and has had to endure brutal force-feeding twice a day. Mr. Hassan has been abusively force-fed more than five thousand times since 2007 as part of the military's efforts to break his spirit. He suffers from serious internal injuries as a result.²¹
- 3.22. Due to the force-feeding, Mr. Hassan contracted severe pancreatitis and one of his nasal passages has completely closed up.
- 3.23. Mr. Hassan has said, "Sometimes I sit in the chair and vomit. Nobody says anything. Even if they turned their backs I would understand. I'm looking for humans. All I ask for is basic human rights."²²

Widespread criticism of Guantánamo Bay

- 3.24. The Guantánamo Bay detention camp has been condemned by the UK and other governments,²³ human rights groups,²⁴ and journalists.²⁵ The abuses have been well-

¹⁸ Reprieve, "Emad Hassan", http://www.reprieve.org.uk/cases/emad_hassan.

¹⁹ Amnesty International, "Bounties paid for terror suspects" (16 January 2007) <http://www.amnesty.org.au/hrs/comments/2167>.

²⁰ Emad Hassan, "Detainees are human", *The Baltimore Sun* (15 July 2014) <http://www.baltimoresun.com/news/opinion/oped/bs-ed-Guantánamo-hassan-20140715,0,6174295.story#ixzz37cNZX0rY>.

²¹ Ludovica Iaccino, "Guantánamo Bay prisoner Emad Hassan Sues Obama over Force-Feeding", *International Business Times* (11 March 2014) <http://www.ibtimes.co.uk/Guantánamo-bay-prisoner-emad-hassan-files-historic-force-feeding-lawsuit-1439858>.

²² Emad Hassan, "The Guantanamo Experiment: letter from detainee on Gitmo's 12th year", *Middle East Monitor* (10 January 2014)

²³ "Spiegel Interview: Merkel: Guantánamo mustn't exist in long term", *Der Spiegel* (9 January 2006) <http://www.spiegel.de/international/spiegel-interview-merkel-Guantánamo-mustn-t-exist-in-long-term-a-394180.html>.

²⁴ *Supra* note 1; Human Rights Watch, "Guantánamo: Facts and Figures" <http://www.hrw.org/features/Guantánamo-facts-figures>.

documented in detainees' first-hand accounts, testimonies of guards and officials, numerous reports, and legal cases.²⁶

- 3.25. Former Prime Minister Tony Blair has called Guantánamo Bay an “anomaly”, while David Cameron stated that the facility “has actually helped to radicalise people and make our country and our world less safe.”²⁷ Each Human Rights and Democracy Report of the Foreign and Commonwealth Office has been increasingly clear in expressing the United Kingdom’s condemnation of Guantánamo.²⁸ The latest report dated 2013-2014 states that “[t]he UK government believes that indefinite detention in Guantánamo Bay is wrong, and that the detention facility should be closed.”²⁹
- 3.26. The US legal basis for opening Guantánamo Bay and holding individuals in the facility has been completely and comprehensively rejected by the International Committee of the Red Cross,³⁰ multiple UN treaty bodies and experts, as well the majority of the international legal community.³¹ It is an undisputed violation of international law.
- 3.27. In October 2013 the UN Special Rapporteur on Torture, Juan Mendez, considered “the practice of indefinite detention, [...] solitary confinement, as well as the use of force feeding as forms of ill-treatment that in some cases can amount to torture.”³²
- 3.28. The Parliamentary Assembly of the Council of Europe found that “many if not all detainees have been subjected to cruel, inhuman or degrading treatment occurring as a direct result of official policy.”³³

²⁵ See, e.g., Editorial: “Un-American by Any Name”, *The New York Times* (5 June 2005) <http://www.nytimes.com/2005/06/05/opinion/05sun1.html>.

²⁶ See, e.g., Federal Bureau of Investigation, “A Review of the FBI’s Involvement in and Observations of Prisoner Interrogations in Guantánamo Bay, Afghanistan, and Iraq” (2008) <http://www.usdoj.gov/oig/special/s0805/final.pdf>.

²⁷ “Blair: Guantánamo is an anomaly”, *The Guardian* (17 February 2006) <http://www.theguardian.com/uk/2006/feb/17/politics.guantanamo>; Nicholas Cecil, “David Cameron blasts George Bush: Guantanamo has made Britain less safe”, *London Evening Standard* (11 November 2010) <http://www.standard.co.uk/news/david-cameron-blasts-george-bush-guantanamo-has-made-britain-less-safe-6534888.html>.

²⁸ See Foreign & Commonwealth Office, “Human Rights and Democracy Reports”, <http://www.hrdreport.fco.gov.uk>.

²⁹ Foreign & Commonwealth Office, “Human Rights and Democracy Report 2013” (Updated 24 June 2014) <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2013/human-rights-and-democracy-report-2013>.

³⁰ ICRC, “Challenges faced by ICRC and International Humanitarian Law” (19 October 2006) <http://www.icrc.org/eng/resources/documents/statement/kellenberger-statement-191006.htm>.

³¹ See, e.g., Philippe Sands, *Lawless World*, “Guantánamo: the Legal Black Hole”, Penguin Group (New York: 2005), pp.145-8.

³² Statement of the United Nations Special Rapporteur on torture at the Expert Meeting on the situation of detainees held at the U.S. Naval Base at Guantánamo Bay, at the Inter-American Commission on Human Rights; <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13859&LangID=E>.

³³ Resolution 1433 (2005) ‘Lawfulness of detentions by the United States in Guantánamo Bay’, adopted on 26 April 2005, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/ERES1433.htm>.

3.29. Other international bodies that have criticised the treatment of detainees at Guantánamo include the Inter-American Court of Human Rights,³⁴ the UN Committee Against Torture,³⁵ and the United Nations Commission on Human Rights.³⁶

4. G4S Contract Perpetuates the Violation of Human Rights

4.1. Any company that fully considers the human rights abuses committed at the Guantánamo Bay detention center would find it impossible to justify accepting a contract that enables the continued detention and contributes to the suffering of the detainees. Thus, no company should be involved in supporting the daily operations at Guantánamo Bay.

4.2. The troubling reputation of G4S for alleged human rights abuses around the world further suggests the company has little respect for its human rights obligations.³⁷ G4S has been criticised by human rights groups for maintaining Israeli prisons in the West Bank,³⁸ using lethal force on detainees and asylum seekers,³⁹ and allegedly torturing South African prisoners with electroshock and forced injections.⁴⁰ The contract for services in Guantánamo Bay seems to be the latest indication that G4S has little regard for its due diligence obligations.

4.3. The G4S Human Rights Policy identifies the core areas of human rights that the company recognises are especially salient in its sector: “rights to life, liberty, security, due process, privacy, property, freedom of movement, freedom of expression, and asylum; as well as international standards around the use of force and international humanitarian law.”⁴¹ G4S emphasises that due to its work in security services, the company “need[s] to be especially focused on human rights that are related to security.”⁴² It is unclear how G4S can justify taking over the base support operations at

³⁴ Inter-American Court of Human Rights, Extension of PM 259/02 (2005): available at:

<http://www.oas.org/en/iachr/pdl/decisions/GuantanamoMC.asp>

³⁵ UN Committee Against Torture, CAT/C/USA/CO/2, 25 July 2006:

[http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e2d4f5b2dccc0a4cc12571ee00290ce0/\\$FILE/G0643225.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e2d4f5b2dccc0a4cc12571ee00290ce0/$FILE/G0643225.pdf) at para. 22 & 26.

³⁶ UN, ‘Joint Report on the situation of detainees at Guantánamo Bay’, E/CN.4/2006/120, 27 February 2006:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/112/76/PDF/G0611276.pdf?OpenElement> at para. 87.

³⁷ See, e.g., Holly Williams, “G4S admits it is fighting to repair reputation”, *The Independent* (28 August 2012) <http://www.independent.co.uk/news/business/news/g4s-admits-it-is-fighting-to-repair-reputation-8083662.html>.

³⁸ Rupert Neate, “Desmond Tutu tells G4S to stop supplying to Israel prisons”, *The Guardian* (4 June 2014) <http://www.theguardian.com/business/2014/jun/04/desmond-tutu-g4s-israeli-prisons-noam-chomsky>.

³⁹ Paul Lewis & Matthew Taylor, “G4S security firm was warned of lethal risk to refused asylum seekers”, *The Guardian* (8 February 2011) <http://www.theguardian.com/uk/2011/feb/08/g4s-deportees-lethal-risk-warning-mubenga>.

⁴⁰ Aislinn Laing, “G4S ‘tortured inmates’ at South African prison as they were ‘understaffed’”, *The Telegraph* (28 October 2013) <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/southafrica/10409477/G4S-tortured-inmates-at-South-African-prison-as-they-were-understaffed.html>.

⁴¹ G4S, “Human Rights Policy” (Updated 9 April 2013) p. 4, available at <http://www.g4s.com/~media/Files/Corporate%20Files/Group%20Policies/G4S%20Human%20Rights%20Policy.aspx>.

⁴² *Ibid.*

Guantánamo Bay without violating most of its core values.

Support Services Perpetuate and Prolong Abusive Treatment at Guantánamo

- 4.4. Support services have already been recognised under the OECD Guidelines as contributing to the abusive treatment of Guantánamo Bay detainees. In the 2005 complaint filed by the Forum for Environment and Development against Aker Kværner/KPSI (KPSI), a company providing support services at Guantánamo Bay, the Norwegian NCP indicated the following:

*It is the opinion of the Contact Point that the activities that the company has carried out can be said, at least partly, to have affected the inmates of the prison. The running of the prison is dependent on the type of infrastructure maintenance that KPSI has carried out.*⁴³

- 4.5. The works carried out by KPSI merely involved “maintenance tasks insuring that electricity and water supplies and sewage services function.”⁴⁴ Therefore, KPSI’s contract was more limited in scope than that of G4S GS.
- 4.6. Furthermore, the UK NCP has recently opened investigations into the supply and maintenance services provided by G4S in Israel and the occupied Palestinian territories.⁴⁵ G4S subsidiary companies in Israel were responsible for the provisioning and servicing of equipment used in prison facilities, checkpoints, and separation barriers.
- 4.7. Once again, the scope of work performed by the Israeli subsidiaries appears to be less comprehensive than in the Guantánamo Bay contract that is the subject of Reprieve’s complaint. The G4S GS contract will therefore have an even greater impact on human rights than in either the KPSI or G4S Israeli subsidiary complaints.
- 4.8. The G4S GS contract for Guantánamo includes a wide range of base operating support services, such as “family housing, facility management, facility investment, other (swimming pools), custodial, pest control, integrated solid waste management, grounds maintenance and landscaping, base support vehicles and equipment, electrical, wastewater, water, and limited facilities support functions.”⁴⁶ It is clear G4S GS’ services will impact every aspect of life at Guantánamo Bay for both staff and detainees.

⁴³ Norwegian NCP, “Final Statement – Complaint from the Forum for Environment and Development on the activities of Aker Kværner/KPSI in Guantánamo Bay” (29 November 2005)

http://oecdwatch.org/cases/Case_81/265/at_download/file.

⁴⁴ *Ibid.*

⁴⁵ UK NCP, “Initial Assessment: Complaint from Lawyers for Palestinian Human Rights (LPHR) Against G4S” (May 2014) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315104/bis-14-854-palestinian-lawyers-complaint-against-g4s-ncp-initial-assessment.pdf.

⁴⁶ U.S. Department of Defense, “Contracts – Press operations” (11 August 2014) <http://www.defense.gov/Contracts/Contract.aspx?ContractID=5348>.

- 4.9. It is crucial that G4S GS clarify the details and extent of its contractual obligations at Guantánamo Bay since “custodial”, “facility management”, and “base support vehicles and equipment” services could mean the company would be involved (either directly or indirectly) with FCE, force-feeding, and other unlawful and inhumane practices by the US military. As mentioned earlier, even temperature regulation at Guantánamo has been used as a way to torment detainees, therefore the potential extent of G4S GS’ effect on the detainees should be scrutinised carefully.

G4S Has Significant Influence Over G4S GS

- 4.10. G4S wholly owns G4S GS. As the parent corporation, G4S selected the G4S GS directors who opted to enter into the Guantánamo Bay contract. G4S may also have the ability as shareholder to intervene in the contracting and bidding process. Ultimately, G4S will benefit financially from the Guantánamo Bay contract.
- 4.11. In addition, G4S sets the standards for human rights across its entire corporate structure, which includes G4S GS. Therefore, G4S would have significant influence over G4S GS in its decision to bid for the Guantánamo contract, as well as in its operational approach to human rights. Through centrally planned management, G4S develops the corporate social responsibility and human rights guidelines for all of its managers and employees in the subsidiaries.
- 4.12. For instance, the G4S Corporate Social Responsibility Report from 2012 announced the results of a project to “evaluate the human rights landscape in relation to the G4S businesses and to develop a policy and guidance for managers which set out clearly the group’s expectations of managers and employees in upholding human rights standards.”⁴⁷ After this assessment phase, G4S then developed a “Human Rights Guidance for Managers” that aimed to “provide managers with detailed guidance for ensuring that the area of the business within their responsibility complies with the relevant standards.”⁴⁸
- 4.13. In this way, G4S GS managers follow a human rights approach set by the parent company. There is a distinct understanding that G4S as the parent corporation sets the core human rights policies and standards.
- 4.14. G4S has been trying to sell its 100% ownership of G4S GS.⁴⁹ As of 13 August 2014, G4S has been in talks with an unidentified buyer.⁵⁰ G4S has tried to distance itself from G4S GS, claiming that the US subsidiary operates as an independent company with a

⁴⁷ G4S, “Corporate Social Responsibility Report 2012”, p. 16,
http://www.g4s.com/~media/Files/CSR%20Reports/G4S_CSRR12.ashx

⁴⁸ *Ibid.*

⁴⁹ G4S, “Proposed Divestment of G4S Government Solutions, Inc.” (3 March 2013)
<http://www.g4s.com/en/Investors/News%20and%20Presentations/Announcements/2013/03/05/US%20Government%20Solutions>.

⁵⁰ “G4S in talks with one buyer for U.S. Government solutions business”, *Reuters* (13 Aug 2014)
<http://www.reuters.com/article/2014/08/13/g4s-brief-idUSL6N0QJ10020140813>.

separate board of directors and that the British board of directors does not have any say over the business it accepts.⁵¹

5. Breaches of the OECD Guidelines

- 5.1. The G4S contract to provide base operating services to the Guantánamo Bay detention facility enables the US government to continue inflicting human rights violations upon the detainees.
- 5.2. G4S is in violation of the following provisions of Chapter IV (Human Rights) of the OECD Guidelines:
 - Paragraph 1 (Respect human rights)
 - Paragraph 2 (Avoid causing or contributing to adverse human rights impacts)
 - Paragraph 3 (Prevent or mitigate adverse human rights impacts that are directly linked to company via business relationship)
 - Paragraph 5 (Carry out human rights due diligence)

Chapter IV, Paragraph 1

- 5.3. Paragraph 1 of Chapter IV states that enterprises should:

“[r]espect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”

- 5.4. The appalling human rights record of Guantánamo Bay has been extensively documented. Even if the United States has been unwilling to acknowledge or act upon the international criticism, Comment 38 of Chapter IV indicates that the failure of the US government to “*implement international human rights obligations or the fact that it may act contrary to such laws or international obligations does not diminish the expectation that enterprises respect human rights.*”

- 5.5. Thus, G4S cannot hide behind the fact that domestic law in the United States condones Guantánamo’s existence.

Chapter IV, Paragraph 2

- 5.6. Paragraph 2 of Chapter IV states that enterprises should:

“[w]ithin the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.”

⁵¹ Chris Green, “G4S under fire for taking £70m contract to service Guantánamo Bay”, *The Independent* (13 Aug 2014) <http://www.independent.co.uk/news/world/americas/g4s-under-fire-for-taking-70m-contract-to-service-guantanamo-bay-9667345.html>.

5.7. While the US government continues to subject the men to degrading treatment, G4S will take care of base support operations. Even the most innocuous support services may contribute to the ongoing human rights violations: transport of force-feeding supplements, restraint chairs, shackles, and other implements of abuse; housing and comfort of the soldiers and doctors responsible for torture, force-feeding, FCE, and human experimentation⁵²; etc.

Chapter IV, Paragraph 3

5.8. Paragraph 3 states that enterprises should:

“[s]eek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to these impacts.”

5.9. The comprehensive scope of the G4S contract at Guantánamo ensures that the company’s services will have a profound influence on every aspect of the daily lives of the prisoners. G4S services will facilitate the indefinite detention of these men, which is a breach of the internationally recognised right to a fair trial, the right to liberty and the protection against torture.

5.10. As Comment 43 points out, G4S is expected to “use its leverage to influence the entity causing the adverse human rights impact to prevent or mitigate that impact”. The factors to consider include the company’s “leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the impact, and whether terminating the relationship with the entity itself would have adverse human rights impacts.

5.11. As a multinational corporation with operations all over the world, G4S has significant leverage even in this business relationship with the US government, and the company should be leveraging this influence to prevent the horrific violations of the detainees’ human rights.

5.12. Finally, it is clear that G4S’ termination of the business relationship with the US government would not have an adverse human rights impact. On contrary, it would in fact send a strong message that torture and indefinite detention are unacceptable activities for a company to assist in.

Chapter IV, Paragraph 5

5.13. Pursuant to Paragraph 5, enterprises should:

“[c]arry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts”.

⁵² Physicians for Human Rights, “Experiments in Torture: Evidence of Human Subject Research and Experimentation in the ‘Enhanced’ Interrogation Program”, (June 2010)
http://s3.amazonaws.com/PHR_Reports/Experiments_in_Torture.pdf.

5.14. G4S needs to show that it has assessed the actual and potential human rights impacts of taking over the running of Guantánamo and that it has acted upon these findings to address or mitigate the violations.

5.15. The fact performance of the contract has yet to begin does not preclude the company's due diligence obligations from compelling it to take action to avoid exacerbating the ongoing human rights violations suffered by Guantánamo detainees.

6. Objectives

Actions G4S should take to resolve this problem

6.1. Reprieve submits G4S should:

- Cease to provide services under the contract;
- Clarify the nature and scope of the company's work at Guantánamo, detailing specific contractual obligations.
- Provide Reprieve with clear evidence documenting:
 - G4S's policy in relation to contracts for support of US counter-terror operations, particularly those related to torture and indefinite detention, including any risk assessment policy with respect to complicity in violations of international law;
 - The human rights due diligence carried out prior to entering into the contract, as required by the OECD Guidelines; and
 - Any efforts made to prevent or mitigate the adverse human rights impacts to which G4S will be contributing;

7. Supporting documentation

- Statement of the United Nations Special Rapporteur on torture at the Expert Meeting on the situation of detainees held at the U.S. Naval Base at Guantánamo Bay, at the Inter-American Commission on Human Rights;
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