BY MICKEY GOODMAN

gals at guantanamo

In defense of the Constitution – and against the odds – women attorneys go inside Gitmo's notorious walls.

ATTORNEY SARAH HAVENS

of Allen & Overy in New York shudders as she climbs aboard a rickety prop plane bound for Guantanamo Bay, Cuba. She's heard this particular airline is banned in other parts of the world because of a poor safety record. Havens wonders if bolts that fell from the ceiling onto her head during a prior flight have been replaced.

She's on her way to defend prisoners held as enemy combatants at the U.S. detention center at Guantanamo, but she's not alone. More than 500 attorneys, many from major firms, follow this same route about once a month, giving up a minimum of four days of billable time. "They are Democrat and Republican, new hires and senior partners," wrote Miami Herald correspondent Carol Rosenberg, "observant Jews and right-wing Christians, family practitioners, white-collar litigators, anti-death penalty activists and constitutional law professors, black, Caucasian and Hispanic."

And nearly half of them are women, according to the Center for Constitutional Rights (CCR), which may be the most remarkable fact of all. Why are these women willing to step from positions of power and money to work in a hostile environment and battle government red tape – all to represent clients who, on their home turf, might rather see their wives, sisters and daughters dead than working as equals among men?

"We go to defend the Constitution's guarantee of the writ of habeas corpus," says CCR attorney Gitanjali Gutierrez, citing the legal principle that allows a person to challenge his or her detention in court. Gutierrez was the first habeas



WOMEN ATTORNEYS SEEN HERE IN CUBA IN THE BLACK HEAD SCARVES, OR HIJABS, THEY WEAR DURING INMATE INTERVIEWS.

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attorney to visit Guantanamo and was part of the legal team in Rasul v. Bush, the landmark Supreme Court case that paved the way for the detainees' representation. "February marks the fifth anniversary for many of the detainees," Gutierrez says. "Yet despite two Supreme Court decisions on their behalf, approximately 450 remain [as of press time]

without access to a hearing."

Not everyone agrees with the attorneys' concerns – most notably the Bush administration, which labeled the Guantanamo detainees "unlawful combatants" rather than prisoners of war to circumvent protections under the Geneva Conventions. But the habeas lawyers plug on despite such objections.

Life on the Inside

Just getting in front of their clients is a major undertaking. Before attorneys or interpreters set foot inside the naval base at Guantanamo, they require security clearance from the State Department — a lengthy three- to four-month process. Each subsequent visit requires written permission. Because detainees can't ask for representation for themselves, attorneys often travel to the Middle East to confer with families and secure written approval. (Their firms fund not only their travel expenses, but also the cost of interpreters.) Then — finally — it's off to Cuba.

Following the three-and-a-half-hour flight from Ft. Lauderdale, Fla., the attorneys land on Guantanamo Bay's leeward side. Because inbound planes land after the mess hall closes, frozen pizza has become the standard meal on night one. The accommodations at the Combined Bachelor Quarters (CBQs) are a far cry from the posh hotels usually enjoyed by these women. But they're clean and adequate – except during May and June, when crabs crawl under the doors and cover the floor. A towel helps stem the tide, but the women still have to wear shoes at all times. And step carefully.

Accustomed to making their own schedules, they find themselves instead at the mercy of the military. "We leave on the 7:41 a.m. bus to catch the 8 a.m.

journey to yemen

A trip to Yemen to obtain family permission to defend detainees was an eye-opener for attorney Kristin Wilhelm, who initially feared for her safety and refused to go to the most conservative country in the Middle East. The government in Yemen requires women to be veiled from head to toe with only their eyes showing. Men still walk down the street wearing robes and daggers. It is rumored that there are two or three AK-47 assault rifles per person. Wilhelm did an about-face when her client asked her to meet his wife and son. "The boy was too young to remember his father," Wilhelm says. "How could I refuse?"

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Guantanamo Action Center at the Center for Constitutional Rights (ccr-ny.org/v2/gac/)

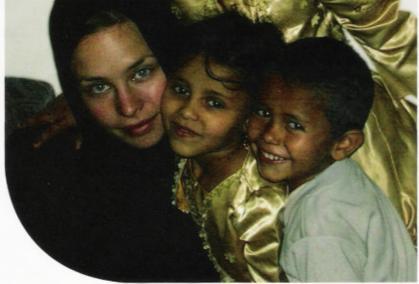
Amnesty International (amnesty.org)

ferry to the camps," says Kristin Wilhelm of Sutherland Asbill & Brennan LLP in Atlanta. "A military escort is assigned to us until we board the 5:30 p.m. ferry back to the CBQs."

But that's not the only way the attorneys are out of their element. Instead of greeting their clients around a polished conference table, the women find them perched on straight-backed metal chairs with one foot shackled to the floor. Because attorney-client conferences and prisoner interrogations are held in the same space, detainees are never certain what will take place until the attorneys show up. "Meetings are videoed but supposedly not recorded due to attorney-client privilege," Wilhelm says. "But we're never sure that's the case."

Some of the prisoners refuse representation, believing Allah will save them. Others refuse to work with women. Rebecca Dick of Dechert LLP in Washington, D.C., suspects that her firm's clients at the prison would prefer a man but are grateful for attention from anyone. "No one has refused to see [members of our firm] because we're women," she says.

Despite having spent time in the Middle East, Havens, who speaks Arabic, couldn't help but feel anxious before meeting with detainees for the first time. "They're not used to conversing with women who aren't related," she says. "One looks straight down while I sit in a corner with a male attorney. Partway through, he'll say, 'I've heard enough from you, Doug. Let's hear from her. She is more direct.' Other detainees will



ATTORNEY SARAH HAVENS VISITING THE NIECES AND NEPHEW OF HER CLIENT,
ALI YAHYA MAHDI, AT THE FAMILY'S HOME IN YEMEN. MAHDI WAS
ARRESTED FIVE YEARS AGO, BEFORE HIS NEPHEW WAS BORN.

look at me directly now." Out of respect, nearly all of the women attorneys wear loose, modest clothing and head scarves.

No one covers her face. Dick has a different take, however. "I thought it was more respectful to not cover my head because I'm not Muslim," she says. Because her clients are Afghans who were accustomed to women having freedom prior to the rise of the Taliban, it hasn't been a problem.

But the multiplicity of customs and languages – Arabic, Farsi, Urdu, Pashto and more, each requiring a different interpreter – is a common frustration, along with frequent rule changes.

Before leaving, attorneys must turn over all of their notes. "We just hope we're going to get them back," Wilhelm says. "We rush back to the CBQs and write down as much as we can remember while the conversations are still fresh in our minds."

Open-Ended Detention

The biggest concern for the detainees is their uncertain future. Only about 10 out of 450 have been formally charged. "As far as we can determine, most Afghans were falsely charged," Dick says. "Sixteen were released in October. One of our clients was released after being held three years. He was crippled and nearly deaf."

But Republican National Committee spokesperson Tracey Schmitt defends U.S. policy, saying the recent Military Commissions Act of 2006 "is an example of a smart, fair and critical law that will allow the CIA to continue its program for questioning key terrorist leaders and operatives."

Martha Rayner, associate clinical professor at Fordham University's School of Law, disagrees. "When terrorists attacked the World Trade Center on September 11, 2001, they had specific plans to bring [America] down and provoke us to being less than who we are. If Congress suspends habeas corpus and refuses to grant these men legal recourse, the terrorists will have succeeded." She says the clients she represents provide a window for students to watch the law unfold.

Gutierrez feels the detention without end is also having a tremendous impact on families in the Middle East. "It's leading to [even more] resentment and hostility against the United States," she says. "That makes our country less safe rather than safer."

Wilhelm saw that frustration firsthand when she visited a client's family in Yemen. "He has been detained since just after his son was born," she says. "What I'm doing to help his father may prevent that boy from hating America and making choices that could harm our country. It is the best, most important thing I will ever do as an attorney." ?

