

Detainees at Guantanamo Bay

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Website/research project text by
Dena Gudaitis
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I. INTRODUCTORY SUMMARY OF THE GUANTANAMO BAY PRISON

The events of Sept. 11, 2001 dramatically changed the course of U.S. Foreign Policy as the U.S. government begins efforts to combat a new type of war. After the attack on the World Trade Center and the Pentagon, the U.S. government has established the goal to uproot clandestine terrorist organizations operating throughout the globe. Al Qaeda was the first organization that the Bush Administration launched an offensive war aimed at disrupting financing and communication channels.

When the U.S. invaded Afghanistan in 2002, U.S. and local forces collaborated to capture individuals identified as Al Qaeda operatives. Many individuals were captured after the U.S. government posted a bounty for members who were affiliated with these clandestine groups. Many of the Guantanamo Bay detainees were captured through this method.

The official numbers of the Guantanamo Bay detainees are unknown to outside sources. The U.S. government has issued reports indicating that there are over 650+ individuals currently held on the base in connection with terrorism. According to many experts, Law and Human Rights organizations, the U.S. government is violating Human Rights and International law standards at Guantanamo Bay. While the prisoners are given adequate survival amenities, the U.S. government holds these captured individuals in isolated 8 ft. x 6 ft. 8 in. x 8 ft. cells.

Issues of Debate:

- Detainees have no access to judicial proceedings (although the Bush Administration says it will develop military tribunals to try the detainees)
- Many of the detainees are held in indefinite detention and do not know if or when they could be released
- Some of the detainees are experiencing negative psychological effects of detainment that have initiated suicide attempts
- The Bush Administration has selected certain (not all) international laws under the United Nations Geneva Conventions prisoners of war protocols to be applied to detainees at Guantanamo Bay
- The Bush Administration employs independent interrogation protocols to the detainees against the ordinances of the Geneva Conventions. Detainees have no access to lawyers or outside legal counsel.
- Misidentified person(s) may be unjustly detained at Guantanamo Bay

II. HISTORY OF GUANTANAMO BAY

The United States began using the 45 sq. miles at Guantanamo Bay, Cuba in December 1934. The original treaty permits:

- U.S. trading countries to access Guantanamo Bay

- Cuba would receive \$2,000 (in 1934 gold exchange rates) from the U.S. per year to lease the land
- Lease termination could only happen if both parties (U.S. and Cuba) could agree to void lease

In the past 50 years, the base served refugees who fled Cuba and Haiti. In 1961 and 1994, refugees swarmed the military base hoping for asylum to the U.S. after political unrest plagued their homelands. The U.S. government established a refugee assistance program that fostered structural development on the military base. During the migration of these refugee groups, temporary camps were erected in an area located near the naval bases radio antennas know as the “Radio Range Site.” In order to identify the temporary camps, naval officials named each camp in correspondence to the phonetic alphabet used for military radio communication. (38)

Throughout the second part of the century, the military base received little outside attention until U.S. President George W. Bush ordered a military offensive in Afghanistan. Guantanamo Bay is has received worldwide publicity because it is the location where hundreds of captured fighters in the U.S. lead worldwide war against terrorism are detained at the base. (38)

In early 2002, the U.S. government detained the captured individuals in a temporary came called “Camp X-Ray.” Before the end of the year, Camp X-Ray was at full capacity holding 320 detainees. The government of the United States transferred the detainees from Camp X-Ray to a larger permanent facility constructed another camp to detain captured combatants. Camp Delta was built to house over 600 prisoners. Each cell was built to house individual captives in the size of 8 ft. x 6 ft. 8 in. x 8 ft. and constructed from metal mesh and a steel frame. (38)

Camp iguana is a smaller camp housing detainees 13 to 15 years old. The detainees who are over 16 years of age are held with other detainees at Camp Delta. The exact numbers of children held at Guantanamo Bay are undisclosed by the government. (9, 10)

A new camp called “Camp Five” is schedule to be completed in 2004. Camp five will take will be built by Kellogg, Brown & Root Construction Co., a subsidiary of Dick Cheney’s former company, Halliburton. It was a no bid contract. The new camp will provide more space for prisoner interrogations that are currently conducted in limited facilities at Camp Delta. (38, 44)

According to the U.S. government if or when the detainees trials take place outside visitors will be permitted to view trial proceedings in a media building across from Guantanamo Bay. The U.S. government says that the new media center has Internet connections, plasma television screens could be connected to the commission chamber so that 174 visiting reporters, officials and diplomats could witness the proceedings. (38)

III. TREATMENT OF DETAINEES

According to several government released documents, the prisoners at Guantanamo Bay are provided with the proper dietary, religious and medical care.

In 2002, The U.S. government employed a special dietician who was knowledgeable of the religious and cultural lifestyles practiced by many of the detainees. The carefully selected dietician is knowledgeable the dietary restrictions in ordinance with the rules of Islam. (44)

When a Group of Senators and media members visited the base in February 2002, Senator Inouye released a statement supporting the dietians decisions. "These detainees were fed not only well, but in the appropriate fashion," he said. (13)

Detainee Diet

Breakfast: water, bread with cream cheese, orange, pastry and a roll

Lunch: two cereal bars, box of cereal, peanuts, chips, raisins, water

Dinner: white rice & beans, banana, bread, water (37, 44)

Media reports indicated that several prisoners have become sick from the food. (6)

Each detainee is weighed once a week to ensure that they are eating adequately. (44)

Upon arrival to the base, the detainees were given the following provisions:

- Copy of the Koran,
- Two orange boiler suits
- One pair of flip-flops
- Two bath towels
- One blanket
- A wash cloth
- soap
- toothpaste (44)

Medical Treatment

Once each detainee arrived at Guantanamo Bay, each received a physical examination to determine what type of health care was needed. A specific facility was built at Guantanamo Bay to provide prisoners with proper medical care, including surgical procedures if required. (26)

Information regarding the daily status of the medical facility is not disclosed information. However, when Camp Delta opened for full operation, the U.S. government released a briefing detailing the type of medical procedures it had conducted on some of the detainees.

Here is a list of some of the ailments the detainees were treated for:

- Tuberculosis
- Bullet wounds
- Bone fractures
- Rashes
- Digestive ailments (26)

Psychological treatment

Media Reports have stated that Guantanamo Bay several detainees have attempted suicide. The exact numbers of attempts vary between 25- 40 depending on the date of the media source. No official U.S. government reports have been released documenting the psychological health of these detainees. (39)

Religious Practices

The U.S. government has provided each detainee a copy of the Koran. In addition to private religious practices, there are 12 Muslim Chaplains that are available to any detainee 24 hours a day. (44)

IV. DETAINEES IDENTITIES

Who are the detainees?

The U.S. government has stopped giving exact numbers of the captives held at Guantanamo Bay, but the numbers issued are above 650. The U.S. government will not reveal the identities of those prisoners, but through other investigative means, I have tabulated a small cross-section of some of the detainees. Currently, there are over 40 countries that have prisoners at Guantanamo Bay.

To date, No source list has been compiled listing the identities of the detainees at Guantanamo Bay:

Sources for this list have been attributed to family who received letters from detained relatives, domestic and international media organization publications, and foreign government issued statements.

Kuwait

Fawzi Kahled Abdullah Fahad Al Odah, 25, a Kuwaiti teacher who spent 2001 summer in Pakistan to teach poor students. He claims to have had no weapons training and was turned over to U.S. troops from local Afghanis who wanted to collect a reward if he was said to be tied to Al Qaeda. He is one of the 12 Kuwaiti prisoners who will try their case in the U.S. Supreme court in March. (38)

Omar Rajab Mohammad Rajab Amin, 38 (38)

Fouad Mahmoud Al Rabian, 44 (38)

Nasser Nijer Nasar al Mutairi, 25 (38)

Khalid Abdullah Mishal al Mutairi, 28 (38)

Abdullah Kamal Abdullah Kamal Al Kandari, 30 (38)

Abdulaziz Sayer Owain al Shammari, 30 (38)

Mohammed Fenaitel Mohamad Al Daihani, 38 (38)

Fayiz Mohammed Ahmed Al Kandari, 27 (38)

Adil Zamil Abdull Mohssin Al Zamil, 39 (38)

Saad Madai Saad Al-Azmi, 24 (38)

Abdullah Saleh Ali Al Ajmi, 25 (38)

Great Britain

Moazzam Begg, 35, a British educator, moved to Afganistan in the summer of 2001 to open a school. Before he moved to Afganistan, he was a Birmingham bookstore owner that sold Muslim paraphernalia. The British Intelligence raided his bookstore in 200. On Jan. 31, 2002, Pakistani police arrested him in possession of 3 cell phones, a laptop and \$12,000 in cash. He is one of the British detainees who filed their petition to the U.S. Supreme Court. (5)

Feroz Abassi, 23 (4)

Ruhal Ahmed, 20 (4)

Richard Belmar, 23 (4)

Tarek Dergoul, 24 (4)

Asif Iqbal, 20 (4)

Sharif Rasul, 24 (4)

Jamal Udeen, 35 (4)

Afghanistan

Mohammed Hagi Fiz, (age undetermined ~ 70s) – released 27 Oct. 2002 (23)

Mohammed Sadiq, (age undermined ~90s) – released Oct. 2002 (23)

Jan Mohammed, 35 – released October 2002 (23)

Algeria

Ahcene Zemiri, (age undetermined) (7)

Mustapha Ait Idir, 33 (7)

Boudella El Hadj, (age undetermined) (7)

Nechla Mohamed, (age undermined) (7)

Lahmar Saber, (age undetermined) (7)

Bensayah Belkacem, (age undetermined) (7)

Lakhdar Boumediene, (age undetermined) (7)

Australia

David Hicks, 27, Australian Muslim convert was captured in December 2001 while fighting against the Northern Alliance in Afghanistan. He has had other military experience. He has fought against the Serbs in the Kosovo Liberation army and worked in the military to patrol the boarder of Kashmir. (14)

Mamdouh Habib, (age undetermined) (4)

France

Mustafa Abd al Rhmadan Huwari, 22 (21)

Jean-Baptiste Mihoud, 22 (21)

Khalid Ridouane, 34 (21)

Nizar Sassi, 22 (21)

Jean Christian Olivier, 45 (21)

Khaled ben Mustafa, 30 (21)

Russia

Ruslan Odizheva, 29, a Russian militant was tracked after he visited a renowned “Islamic institute in 1999.” He traveled to Tajikistan and Afganistan where the Taliban as a suspected KGB agent arrested him. After U.S. forces invaded Afganistan, the Taliban turned over Odizheva where he was transferred to Guantanamo Bay. His mother Nina Odizheva, has plead with the United States government to keep him to avoid inhuman conditions she believes are prevalent in the Russian prison system. (18)

Andrei Bakhitov (age undetermined) (18, 19)

Airat Vakhitov, 27 (18)

Shamil Khadzhiev, (age undetermined) (18, 19)

Ravil Gumarov, 40 (1)

Rasul Kudaev, (age undetermined) (18)

Rustam Akmerov, (age undetermined) (18)

Tyumen Oblast, (age undetermined) (18)

Saudi Arabia

Yasser Esam Hamdi, 22, was born in Louisiana to Saudi parents. They moved back to Saudi Arabia when he was a toddler. Shortly before Sept. 11, he moved to Afganistan to enlist in the Taliban and participated in the revolt in Mazar-eSharif in November 2001. He participated in the uprising that the alleged Taliban member John Walker Lindh was taken into custody. (28)

Sweden

Mehdi Muhammad, 24 (22)

Pakistan

Abdul Raziq, (age undetermined) – released Fall 2003 (20)

Abdul Mulla, (age undetermined) – released Fall 2003 (20)

Shah Mohammed, 23 –released 19 May 2003 (2)

Mohammed Sagheer, (age undetermined) –25 Nov 2003 (20)

Hafiz Liaquat Manzoor, (age undetermined) –released Fall 2003 (20)

Mohammed Ishaq, (age undetermined) –released Fall 2003 (20)

Talha Mohammed, (age undermined) –released Fall 2003 (20)

Majid Mahmood, (age undetermined) –released Fall 2003 (20)

Ijaz Ahmad, (age undermined) –released Fall 2003 (20)

Jehan Wali Sahibzada, (age undetermined) – released 8 May 2003 (2)

Children

According to the U.S. government, there is more than one child between the ages of 13 to 15 who are being detained at Camp Iguana. The U.S. government considers these children to be “unlawful combatants.” The children held at Guantanamo Bay are said to have participated in armed conflict in Afghanistan as child soldiers with the Taliban or Al Qaeda. (10)

Prisoners by Category at Guantanamo Bay

Taliban Soldiers: In the war between Afghanistan and the U.S., the international law permitted the U.S. to detain prisoners without charges as members of the Taliban government’s armed forces. (30)

Civilians: Individuals who may or may not be linked to U.S. opposition organizations and governments. The U.S. government has released some civilians whom the U.S. government has determined not to be connected to U.S. threat groups. (30)

“Terrorists” captured away from the war zones: Some of the detainees were captured around other parts of the world away from U.S. involved armed conflict. (30)

V. VIEWS & PERSPECTIVES

U.S. Government

The U.S. government hasn’t wavered in its official policy in handling the prisoners who are held at Guantanamo Bay. Although no explicit briefing has been released in public documentation, the government’s policy is evident in the press briefings, and newspaper articles that describe the past and present situation.

Government Press briefings have stated that U.S. guards/personnel have and will continue to hold the detainees at Guantanamo Bay to “accordance with international laws and standards.” (30)

Individuals are labeled as “unlawful combatants” because the U.S. government does not acknowledge “Prisoner of War” status under the current conditions that the detainees

were captured. According to Rumsfeld, many of the prisoners who were captured did not wear the insignia of an official army, therefore it is a violation of the Geneva conventions. (27)

“Everyone here, as they came in, was a great threat. We’ve gone through a very thorough screening process before any enemy combatants came to Guantanamo [to ensure] that they both have intelligence value to help us win the global war on terrorism, and that they pose a threat to the U.S. or our allies,” Gen. Geoffrey Miller, leader of Guantanamo Bay efforts. (6)

The U.S. government has also refused to permit outside organizations into the tightest U.S. prison due to security purposes. The government has invited international groups and media organizations to Guantanamo Bay on several planned occasions.

In the most publicized press visit, Vice President, Donald Rumsfeld escorted a group through a section of the facilities in Guantanamo Bay. The U.S. government maintains that their interrogation practices and prisoner treatment continue to help save lives and thwart international terrorism. (30)

According to Vice President, Donald Rumsfeld, he has said that the terrorists detained at Guantanamo Bay are “very tough, hardcore, well-trained terrorists.” (27)

Roy Gutman, Newsweek Journalist, who was a press member during invitation to Guantanamo Bay in February 2002, “no press was allowed anywhere near Camp Delta or Camp Iguana prison facilities. Every image and presentation was coordinated.” (44)

Future tour access may be affected since 3 employees were discovered engaging in Espionage activities. Three employees were discovered inappropriately possessing sensitive information. Ahmed F. Mehalba, Muslim Army Chaplain, James Yee, and translator Ahmad I. Halabi that they were believed to be carrying to Syria and Qatar. (11)

On Nov. 6, the U.S. government formally charged Ahmad I. Halabi, with 20 counts including espionage, aiding the enemy and lying to military investigators. On Oct. 10, James Yee, was charged with mishandling classified information. (11)

Human Rights Watch

The Washington DC based organization is comprised of academics, journalists, and international experts who monitor what are Human rights situations throughout the world. One of the purposes of the international organization is to meet with policy officials and urge them to change government practice and policy. Their mission is to “prevent discrimination, uphold political freedom, to protect people from inhumane conduct during wartime, and to bring offenders to justice.” (39)

According to Wendy Patten, the DC director of Human Rights Watch, U.S. government officials have ignored their requests to investigate the situation with the prisoners at Guantanamo Bay. (47)

The organization disagrees with the U.S. government's position to choose the international rules and conventions and apply them to what Human Rights labels the prisoners at Guantanamo Bay, "prisoners of war (POWs)." As advocates of the Geneva Convention, Human Rights watch recognizes the problems the U.S. government faces if it continues to dismiss certain international ordinances. (47)

Human Rights Watch agrees that the United States has a right to demand captured U.S. military personnel apply all articles of the Geneva conventions. However, Human Rights argues that the U.S. government does not enforce all the international codes of law at Guantanamo Bay, Cuba. (47, 39)

"Not only does it jeopardize the treatment of detainees in U.S. custody, it sets an example for other countries to dismiss international law as well." Patten says.

"The U.S. Government picks and chooses which articles of the Geneva conventions to apply to the prisoners at Guantanamo Bay," Patten says. "and if the U.S. is fighting a war than all of the conventions should be applied." (47)

According to Human Rights interpretation of the Geneva Conventions, combatants captured in an international armed conflict must be treated as "prisoners of War" until a competent tribunal determines that the prisoner is not entitled to that status. HRW argues that the prisoners captured while fighting for the Taliban armed forces should be granted POW status. Although some prisoners were later released because they posed no international threat, HRW asserts that hundreds have remained in detention for over a year without any legal due process of law. Those who remain at Guantanamo Bay, HRW views, may be held indefinitely by the U.S. government to be interrogated. (47, 39)

Human Rights supports the release of prisoners and advocates legal proceedings which they encourage the U.S. government to establish to ensure that action will be taken according to those who are currently detained without any future plans. (47)

The Future HRW Goals to remedy the current situation:

- Human Rights Watch would like the U.S. government to grant their requests to visit with the detainees to assess the primary information directly from prisoners at Guantanamo Bay to ensure that international standards towards the captives are upheld and appropriately enforced. (47)
- Human Rights Watch would also like the U.S. government to establish a tribunal to try individual detainees in a court environment. (47)
- Human Rights watch also advocates the restoration of the detainees' international rights as captives. (47)

Detainee's Families

Detainee's families have varying reactions to detained relatives at Guantanamo Bay. Several say they were surprised to hear from their relative in a letter telling them that they (the detainee) were held by the U.S. government in Cuba. Many family accounts that have been reported in the media have said that their family member held at Guantanamo Bay is "innocent."

Many families have contacted media outlets (both international and national) as well as law practices to proceed with possible legal action. One group of detainees filed a petition with the U.S. Supreme court requesting permission to meet with their family members and all them to have access to a military or civilian tribunal to review the basis for their detention that they believe violates the U.S. constitution, U.S. federal law, and U.S. international treaties.

"A Kuwaiti law firm contacted me [of the Shearman & Sterling Law firm] and since then, I have traveled to Kuwait to gather information for the case." Thomas Wilner, lawyer representing 12 Kuwaiti detainees at Guantanamo Bay. "They have been very forthcoming with information regarding their relatives in Cuba." (48)

Of the families who have attempted to have their relatives released, many have asked their home governments to also request that the detainees be returned to their homeland to be tried in their homeland's judicial systems. Several countries including Great Britain, France, Saudi Arabia, Australia, and Pakistan are some of the countries to have made these requests.

On November 9, 2003, the U.S. Supreme Court announced that it would review the legal status of the 660 prisoners held as suspected terrorists.

VI. LAW

U.S. Supreme Court Interpretation of the Law

Two appeals were filed at the U.S. Supreme Court by some of the families of detainees that are currently held at Guantanamo Bay. The two groups filed the petition in October urging the U.S. Supreme court to intervene with the presumed indefinite detainment of a total of 16 detainees held at Camp Delta.

The Supreme Court has agreed to hear these two cases in 2004. This is a historical event for several reasons:

- U.S. Supreme court has granted the international captives access to the U.S. judicial system by agreeing to hear their case.
- Decision marks the first time during President Bush's "War on Terrorism" that the judicial system has intervened.
- Debates previous 50 year-old Supreme Court precedence (Johnson v. Eisentrager case) (15)

The first case, *Rasul vs. Bush*, was filed by the parents of two British citizens and includes the future of two Australian detainees. British detainees, Shafiq Rasul and Asif Iqbal, and Australian detainees, Mamdouh Habib and David Hicks have been detained for the past two years without access to a lawyer. (32)

The second case, *Odah v. U.S.*, is a lawsuit involving 12 Kuwaiti nationals. (33)

Before the U.S. Supreme court agreed to hear their cases, the two cases were filed in the District of Columbia district courts but were dismissed. The court dismissed these cases on the 1950 Supreme Court decision that denied the writ of habeas corpus to several German spies captured immediately following Germany's surrender in World War II (*Johnson v. Eisentrager*) (34)

The two cases that the U.S. government have agreed to hear are historical because of the many possible implications as the U.S. attempts to fight its war on terrorism in a new type of warfare where the proper rules of warfare are not explicitly defined.

Before the two petitions were filed at the U.S. Supreme Court, only one other case concerned this detention of "enemies." The 1950, *Johnson v. Eisentrager* (339 U.S. 793) case. In this case, the U.S. Supreme court ruled that German nationals did not have the right to a writ of habeas corpus while confined in U.S. custody.

These cases raise the following questions:

- The detainees are held outside U.S. territory. They are held at a naval base on what President Bush considers to be international territory.
- These aliens are able to access the U.S. court system and pursue the claims brought under the U.S. constitution. Since the Supreme court agreed to review their case, the answer is yes.

Bush Administration Interpretation of the Law

President Bush disagrees with the Supreme Court's decision to hear these cases. The Administration says that the U.S. Courts have no jurisdiction over the prisoners because they are detained on Cuban territory. The Administration also says also says that the prisoners can be detained and should be permitted to be interrogated in the war on terrorism. (15)

Since the "War on Terrorism" began the Bush administration has viewed the detainment of foreign nationals to be valuable in providing unknown information that may lead to dismantling future terrorist attacks on U.S. interests and civilians.

The U.S. government has not released an official protocol involving interrogation practices. The U.S. government has released those who do not pose a threat to U.S. security, and continue to detain those whom are considered to pose a threat.

Last year, Secretary of Defense Donald Rumsfeld said that the detainees are being treated under the fullest extent where the Geneva conventions can be applied. (30)

According to an official transcript of a Question and Answer session when Donald Rumsfeld visited Guantanamo Bay, he described why the captured detainees cannot be put under “prisoner of war” status. (30)

“The definition of what a lawful combatant is and there are 4 or 5 criteria that people look to historically. There’s a precedent to this, and there’s a reasoning to what an unlawful combatant is. The characteristics of individuals that have been captured are that they are unlawful combatants, not lawful combatants. That is why they are categorized as detainees and not prisoners of war. The Al- Qaeda are so obviously part of a terrorist group as opposed to being a part of an army--- they are categorized as detainees and not prisoners of war. They didn’t go around with uniforms with their weapons in public display with insignia and behave in a manner that an army behaves in, they went around like terrorists and that’s a very different thing.” (30)

In April 2003, a report issued by the Congressional Research Service also included why the U.S. government is not labeling the detainees with prisoner of war status. (35)

“The Administration has argued that granting POW status would interfere with efforts to interrogate [the detainees], which would, in turn hamper the effort to thwart further [terrorist] attacks... The Defense Department defends its treatment of the detainees as fully complying with the principles of the Geneva Convention.” (35)

On June 2, 2003, the Department of Justice released a statement on the laws determining the detainment of individuals held at Guantanamo Bay. It said, “our actions are fully within the law and [are] necessary to protect the American people. Our policy is to [use] all legal tools available to protect innocent Americans from terrorist attacks... [Guantanamo Bay detainees] are illegal aliens, that are all charged with criminal violation or civil violations of the federal immigration law.” (25)

INTERNATIONAL LAW

United Nations Geneva Convention

The Geneva Conventions were adopted on Aug. 12, 1949 as a group of treaties intended to govern members of the military, civilians, and prisoners during times of war. One hundred eighty-nine countries, including the United States ratified the Geneva Conventions.

The conventions cover:

- the wounded and sick members of the armed forces in the field
- wounded and sick members of the armed forces at sea
- Prisoners of War (POWs)
- Civilians in times of War

Articles that can specifically apply to the detainees at Guantanamo Bay are:

Article 4A: Members of the armed forces of “the party of conflict as well as members of militias or volunteer corps forming part of such armed forces or Members of regular armed forces who profess allegiance to a government or authority not recognized by the detaining power...”

Article 5: If any doubt should arise from the interpretations of Article 4, the detainees shall enjoy the protection of the “present Convention until such time as a competent tribunal has determined their status.”

Article 13: “Prisoners of War shall be humanely treated and protected against acts of violence, intimidation, insults, or public curiosity.”

Article 25: “Prisoners of war shall be quartered under the conditions favorable to those for the forces of the detaining power that are billeted in the same area. The said conditions shall make allowance of the habits and customs of the prisoners and shall in no case be prejudicial to their health.”

Article 82: “A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the detaining power. The detaining power shall be justified in taking judicial and disciplinary measures in respect of any offense committed by a prisoner of war against such laws, regulations or orders.”

Article 84: “In no circumstances whatever shall a prisoner of war is tried by a court of any kind which does not offer the essential guaranties of independence and impartiality as generally recognized.”

Article 105: “The prisoner of war shall be entitled to the assistance by one of his prisoner comrades, to defense by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter...”

Human Rights Watch and members of the International Community question the Bush Administration’s application of the Geneva conventions.

Since the detainees are not officially placed under the “Prisoner of War” status, the Administration has the opportunity to selectively choose which articles will be applied to each individual detainee.

- Since Jan. 2002, the detainees were denied representation during interrogation proceedings (which could be interpreted as a violation of Article 105) of the Conventions.
- The detainees have been denied a personal interpreter during interrogation proceedings. A translator(s) is/are employed by the U.S. government for information gathering purposes.

- The detainees have also not been tried in an impartial or military court (which could be interpreted as a violation of Article 84). However, the Administration has announced in November 2003 that several detainees are eligible tried in the pending establishment of military tribunals.
- In media reports, the U.S. government has attempted to protect the prisoners and apply Article 13 and Article 25. The prisoner's identities are not released and the government has prohibited any outside source from coming into contact with the detainees.
- The detainees have received appropriate medical treatment, life-supporting food, and personal sleeping/living quarters while being detained at Guantanamo Bay in compliance with the Geneva Conventions.

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