



Guantanamo Detainees Op-Ed  
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On September 11, 2001, terrorists attacked the World Trade Center and the Pentagon, opening a new front in an unconventional war designed to destroy a way of life. Bin Laden and his al Qaida organization declared war against the United States as evidenced by a decade's worth of hostile statements. This network organized, trained, and carried out attacks dating back to the bombing of the World Trade Center in 1993, the bombing of U.S. embassies in Nairobi, Kenya and Dar es Salaam, Tanzania in 1998 and the bombing of the U.S.S. Cole in 2000. These terrorists continue to fight coalition forces in Afghanistan, conduct assaults in Bali and elsewhere, and continue to plan attacks to inflict civilian casualties on an unprecedented scale.

In this war we are confronted by the question of what should be done with enemy combatants captured during hostilities. The United States undertook a careful, extensive review of the complex body of law governing armed conflict to ascertain an answer.

First, we recognized that the aggressors we are fighting today initiated a war that under international law they have no legal right to wage. Under long established legal principles, the right to conduct armed conflict, lawful belligerency, is reserved only to states and recognized armed forces or groups under responsible command. The qualifications of a lawful belligerent were concretely spelled out in the Annex of the 1907 Hague Convention (IV) on the Laws and Customs of War on Land, Section 1, Chapter 1, Article 1. Private persons lacking the basic indicia of organization and the ability or willingness to conduct operations in accordance with the laws of armed conflict have no legal right to wage warfare against a state. In waging war such participants become, by definition, unlawful belligerents, a concept that has long been recognized and accepted in practice and legal commentaries.

Second, in reviewing the law of war, we saw that these combatants clearly fail to meet the legal criteria under Article 4 of the Geneva Convention on the Treatment of Prisoners of War to be granted the benefits associated with Prisoner of War status. The core provisions of the convention and the status of Prisoner of War are designed to preserve the honor and dignity of lawful soldiers. That is why Prisoners of War are allowed to wear uniform, hold rank, organize and appoint a prisoner representative, receive monthly wages, have access to a canteen, and live in quarters as favorable as the detaining power while in detention. While persons we have detained do not legally qualify to receive these privileges, it is the United States' policy to treat these detainees in a manner consistent with the Geneva Conventions.

Third, the laws and customs of war grant broad authority to detain enemy combatants, lawful or unlawful, who pose an ongoing security threat until the end of hostilities. This was the case in the Persian Gulf War, World War II, and other conflicts and is the same today. The law of war does not require that such detainees be charged with a crime or that they be given access to legal counsel. Detention of enemy combatants under the law of war serves the principle function in a time of armed conflict of preventing belligerents from rejoining hostilities. The United States

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and its coalition partners continue to fight against an enemy that is conducting attacks and planning assaults against the international community. Many detainees in Guantanamo have stated that they would rejoin the war and commit terrorist-related war crimes if released. The capture and continued detention of enemy combatants, in order to remove them from hostilities and save an untold number of innocent lives, is consistent with the law of armed conflict and critical to winning this war.

During the detention of detainees we have learned valuable information about the al Qaida network, how it operates, its leadership and organization, and where and how it plans to strike next. Information we have obtained from detainees in Guantanamo has helped thwart attacks in Europe and elsewhere and bring more terrorists to justice. Continuing to obtain such information from detainees is crucial to stopping future attacks and ultimately defeating terrorism.

While our efforts to learn more continue, we ensure that the fundamental rights of all persons, including their right to receive humane treatment, are protected. The detainees are provided three meals a day that meet cultural and religious requirements. They have regular showers and exercise periods. The detainees have full medical services, including examinations, rehabilitative surgery, care by internal medicine, pulmonary and other specialists, dental checkups and work, eye examinations and eyeglasses, and proper medications. They have the freedom to worship. They also have the opportunity to raise concerns about their conditions. The International Committee of the Red Cross (ICRC) is present at Guantanamo, has regular access to the detainees, and is able to monitor the treatment.

The United States is currently holding in Guantanamo over 600 detainees from more than 40 different countries. These detainees will not be held indefinitely, but ultimately will be prosecuted by the United States, returned to their own country for prosecution or detention, or may be released if they no longer pose a threat, as we have done in the past. The process of identifying which category each detainee belongs to takes careful scrutiny and time. Our foremost objective is to ensure that the enemy combatants who pose an ongoing threat are not released only to strike again.

In order to expedite the determination of how detainees will be handled, we have been seeking the full cooperation of each detainee regarding their activities and intentions. Some detainees have provided valuable information. Some, however, have not been cooperative and have been intentionally evasive. With these individuals we can only conclude that based on their past actions and reluctance to disclose concrete information they continue to pose a threat to the international community. Our goal is to work with the Government of Sweden, as we do with other governments, to uncover further information that can assist in determining how the case of its detainee will ultimately be handled.

Since September 11, the world has come together to combat terrorism. We are truly grateful to Sweden for standing by our side in this common fight. Through a collective international effort, we have seen over 3,000 terrorists detained and over \$121 million in assets seized. Together we are making a difference, but the conflict against the al Qaida network continues. Only through our persistent, joint efforts can we thwart this enemy's intention to inflict mass civilian casualties while maintaining our common values to ultimately see this enemy defeated.

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