

2002

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Recommended Citation

Anne Leinfelder, *U.S. Engages in Questionable Treatment of Detainees at Guantanamo Bay*, 7 Pub. Interest L. Rptr. 25 (2002).
Available at: <http://lawcommons.luc.edu/pilr/vol7/iss1/9>

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U.S. ENGAGES IN QUESTIONABLE TREATMENT OF DETAINEES AT GUANTANAMO BAY

By Anne Leinfelder

As the war on terrorism continues, the United States has captured many Taliban fighters and al-Qaeda members and transported them to Guantanamo Bay, Cuba for detention. The detainees live in small cages covered by metal roofs and surrounded by chain-link sides. Many countries and human rights organizations have criticized the United States for its treatment of the detainees, and expressed concern that the U.S. is not abiding by the rules of the Geneva Convention, which requires humane treatment and conditions for the detainees.

The United States countered that it has always treated the detainees humanely, but asserts that neither the al-Qaeda detainees nor the Taliban fighters are prisoners of war (POWs), and therefore are not entitled to protected treatment under international law. Prisoner of war status requires that the detainees be released upon the end of the conflict, that they be allowed to limit their answers during interrogation to name, rank, serial number and date of birth, and that they must be housed in conditions that meet the same standards as those of their captors. *Geneva Convention Relative to the Treatment of Prisoners of War*, August 12, 1949, art. 17, 25, 6 U.S.T. 3316, 1956 WL 54809, T.I.A.S. No. 3364. The U.S. government argues that the detainees do not meet POW status because the Taliban is not recognized as a legitimate government—they do not wear uniforms with an

insignia on them and do not abide by the rules of war. Critics of the treatment of the detainees have suggested that by failing to abide by the Geneva Convention for all detainees, the U.S. is putting its own troops in peril.

The White House has announced that the Taliban fighters will be protected under the Geneva Convention, but not members of the al-Qaeda network of terrorists. According to White House officials, captured Taliban fighters are protected, but members of al-Qaeda are not entitled to the same treatment because of their disregard for international law and because the al-Qaeda network cannot be considered a state party to the Geneva Convention. Moreover, according to White House spokesperson Ari Fleischer, all the detainees will be treated well “because that’s what the United States does.” Human Rights Watch, an organization defending human rights worldwide, holds the position that, although al-Qaeda fighters might not be eligible for POW status, they must still be treated in accordance with international law standards which require humane treatment of all combatants captured during an international armed conflict.

According to human rights advocacy groups like Amnesty International and Human Rights Watch, the United States must abide by international law and the Geneva Conventions. If it does not, they say, it could be placing its own soldiers in danger now and in the fu-

ture if it decides that it can rewrite the rules of international law.

“... I am unsure what authority the U.S. has to detain these individuals if it is not considering them to be prisoners of war and they are not being charged with any criminal act.”

*-- Mony Ruiz-Velasco,
attorney with the Midwest
Immigrant and Human
Rights Center,
Chicago, IL*

On the other hand, Marines and soldiers present at the detention camp report that the prisoners are being treated well. They receive three square meals a day, time to pray, and medical treatment from the Red Cross. “We have to understand that they are dangerous, that they have the potential to hurt you, but at the same time they require humane treatment,” said Marine Brig. Gen. Michael Lehnert, commander of Joint Task Force 160, which oversees the prisoners and their camp.

Mony Ruiz-Velasco, an attorney with the Midwest Immigrant and Human Rights Center in Chicago, has grave concerns about the detention. “I think it is very problematic to hold them in Cuba where there is no oversight from any organization to monitor their treatment,” Ruiz-Velasco said.