

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/news/2003/03/06/us-should-release-some-guantanamo-prisoners>

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(New York) The United States has no legal basis for continuing to hold captured Taliban soldiers at Guantanamo Bay, Human Rights Watch said today in a letter to Secretary of Defense Donald Rumsfeld.

Human Rights Watch said there are three categories of prisoners at Guantanamo who should be released:

There are people being held at Guantanamo who shouldn't be there, said Kenneth Roth, executive director of Human Rights Watch. The United States cannot simply hold the detainees for as long as it wants.

The Taliban soldiers captured during the war between the United States and Afghanistan should have been repatriated by now because the war ended last year with the formation of the government of Hamid Karzai. Under the Geneva Conventions, the United States must release those soldiers unless they are being charged with war crimes or other criminal offenses.

The Geneva Conventions permit the extended detention of civilians captured in a war zone only after criminal prosecution or for imperative reasons of security. To invoke the security rationale, a decision must be made for each individual civilian in a regularized process that includes appeal and a review every six months. If people being held at Guantanamo had no connections to the Taliban or al-Qaeda, it is difficult to conceive how their detention could be considered imperative for national security.

The United States is also holding alleged al-Qaeda terrorists picked up in places other than Afghanistan. The Geneva Conventions do not apply when terrorist suspects are apprehended outside areas of armed conflict and have no direct connection to such conflict, such as those apprehended in Bosnia-Herzegovina. But the suspects are not left without any legal protection. International human rights law requires that they be formally charged, informed of their rights, and permitted access to legal counsel. International humanitarian law provides no basis for circumventing these human rights requirements by purporting to hold such persons as enemy combatants.

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