

# Human Rights Watch

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

**<https://www.hrw.org/news/2004/06/27/us-court-limits-presidents-power-over-terrorism-detainees>**

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Right to Judicial Review of Detentions Upheld

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Today's Supreme Court rulings will compel the Bush administration to follow the rule of law rather than executive whim in detaining terrorism suspects, Human Rights Watch said. In two separate rulings, the Supreme Court upheld the crucial role of the judiciary in protecting detainees basic rights and liberties.

The United States can no longer hold detainees in a rights free zone, said Jamie Fellner, director of the U.S. Program at Human Rights Watch. They can now have their day in court.

The underlying issue in the cases was judicial review of the detentions of hundreds of men held at the U.S. naval base at Guantanamo Bay, Cuba and in military brigs in the United States whom President Bush has claimed are enemy combatants.

In the Guantanamo case, the court in a 6-3 decision rejected the administrations claim that no U.S. court had jurisdiction over the detainees. It said that by virtue of the terms of the lease with Cuba, the land was under complete U.S. control and thus subject to federal court jurisdiction.

The Bush administration keeps saying trust us on its detention policies and practices, said Fellner. After the revelations of torture and abuse at Abu Ghraib and elsewhere, it seems the Supreme Court was in no mood to give the administration a free hand.

The court also ruled on the cases of Yaser Esam Hamdi and Jose Padilla, both U.S. citizens who have been held without charges as enemy combatants in military brigs in the United States.

In the case of Hamdi, who was allegedly captured in Afghanistan and associated with the Taliban, the court ruled that congress had given the president authority to make the detention when it authorized the use of all necessary force to respond to the September 11 attacks. But it ruled that Hamdi was entitled to challenge his detention in court and that he had the right of access to counsel.

If a citizens right to liberty means anything, it must mean the right to be heard in court when that liberty is taken away, Fellner said. The administrations position was as unprecedented as it was dangerous: that the president should have unfettered discretion to decide who could be detained without charges, for how long and under what conditions.

In the case of Padilla, the court ruled that the case had been filed in the wrong jurisdiction. It refused to rule on the principal question in that casewhether the president has the constitutional or congressionally-provided authority to detain as enemy combatants without charges U.S. citizens detained on U.S. soil and far from any field of combat.

A Roadmap to Justice for CIA Torture

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