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<https://www.hrw.org/news/2006/05/08/us-bush-should-close-guantanamo-now>

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President George W. Bush should shut the Guantanamo Bay detention facility now and not wait for a Supreme Court ruling.

In an interview with the German public television station ARD that was broadcast Sunday night, President Bush said for the first time that he would like to close the facility at Guantanamo. But Bush undercut his remarks by referring to a pending case in the U.S. Supreme Court, stating that the Supreme Court first had to decide whether the detainees there should be brought before civilian courts or military commissions.

There is no reason for the Bush administration to wait for a court decision before closing Guantanamo, said Joanne Mariner, Terrorism and Counterterrorism Program director at Human Rights Watch. Any detainees implicated in criminal acts can and should be charged now. The rest should be released.

In *Hamdan v. Rumsfeld*, a case currently before the Supreme Court, the justices will be ruling upon the legality of the military commissions established by the Bush administration to try so-called enemy combatants held at Guantanamo. A ruling in the case is expected in June. But Human Rights Watch said the administration can and should remedy Guantánamos problems before the courts decision in *Hamdan*.

President Bush's statements on German television were important in several respects. First, they were an implicit acknowledgment that Guantanamo has been a failure. Second, and equally important, they were the first time that Bush has recognized that the detainees should face trial, rather than be held in indefinite detention.

In acknowledging that Guantanamo should be closed, Bush belatedly joins a host of other world leaders, including some of his closest allies. Others who have called for Guantánamos closure include British Prime Minister Tony Blair, German Chancellor Angela Merkel, and U.N. Secretary-General Kofi Annan.

Among the problems that led to Guantánamos notorious international reputation was the physical abuse of detainees. At least 60 detainees have made credible allegations of serious abuse at Guantanamo, as documented in a [recent joint report](#) by several human rights groups, including Human Rights Watch.

One detainee, Mohammed al-Qahtani, was reportedly subjected to weeks of sleep deprivation, isolation and sexual humiliation in late 2002 and early 2003. Human Rights Watch has obtained an unredacted copy of al-Qahtani's interrogation log, and believes that the techniques used during al-Qahtani's interrogation were so abusive that they amounted to torture. Another detainee, Mohamedou Slahi, has made similar allegations about interrogation abuse.

The coercive interrogation techniques practiced at Guantanamo severely complicate the possibility of future trials. When a confession is coerced from a criminal suspect, it can be difficult to prove, as due process requires, that his later prosecution is not based on the fruits of that coercion.

The coercive methods used at Guantanamo have not only been abusive but also counterproductive in terms of putting the detainees on trial, Mariner said.

Although Bush's remarks suggest that the Guantanamo detainees should end up in court, the administration has indicated to date that only a fraction of the detainees will be prosecuted. Only 10 of the 480 detainees now held at Guantanamo have been charged before military commissions. The chief prosecutor, Air Force Col. Morris Davis, said two weeks ago that charges were expected soon against about two dozen others. Administration officials have said in the past that they expect up to 70 to 80 detainees to be charged.

Hundreds more detainees are apparently not slated for prosecution. Instead, they are being held because they allegedly engaged in

hostilities or were allegedly connected to groups like the Taliban or al-Qaeda.

Human Rights Watch is also concerned that some detainees face return to countries where they may face torture or other abuse. At present, there is no meaningful mechanism to allow detainees to challenge their possible return to a country where they would be subject to mistreatment.

Guantanamo currently holds almost 500 detainees, including large numbers from Saudi Arabia, Yemen and Afghanistan. The United States is also believed to be holding three dozen or more detainees in long-term incommunicado detention at undisclosed detention facilities outside the United States, in violation of international legal prohibitions against enforced disappearances.

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