

Bush doubletalk on Afghan POWs: US continues to flout Geneva Conventions

Kate Randall
21 February 2002

In the face of mounting international condemnation over US treatment of fighters captured in Afghanistan, George W. Bush announced February 7 what was purported to be an amended policy concerning the prisoners being held in Guantanamo Bay, Cuba.

Bush declared that the US would apply the Geneva Conventions to those prisoners it deemed to be Taliban, but would not do so for those it claimed were members of Al Qaeda. At the same time, Bush said that none of the captured Taliban would be considered prisoners of war.

Denial of POW status makes a mockery of US claims to be adhering to the Geneva Conventions. If, as the US now admits, Taliban combatants are covered by the Conventions, then, according to both the spirit and letter of the Conventions, these prisoners must be treated as POWs and accorded all of the protections and guarantees to which POWs are entitled. Otherwise, the Conventions are rendered meaningless.

Nor is the US position on those prisoners alleged to be Al Qaeda in conformity with the Geneva Conventions and international laws of war. The Conventions stipulate that all combatants captured in the course of a war must be accorded POW status unless and until it is proven, by means of a competent tribunal, that they are guilty of criminal actions. The detaining power does not have the right to unilaterally classify an entire class of captured fighters as “unlawful combatants” or “terrorists,” and on this basis deny them their rights under the Conventions.

It is well known that many, if not most of the non-Afghan troops who fought alongside the Taliban were raw recruits, many of whom went to Afghanistan to fight after the US began bombing the country last October.

International human rights organizations such as Amnesty International and Human Rights Watch have denounced the Bush administration’s treatment of captured fighters and demanded that all combatants taken prisoner in the war be treated as POWs. Political figures and journalists in Europe and elsewhere have criticized the US policy.

Kenneth Roth, executive director of Human Rights Watch,

commented, “The US government cannot choose to wage war in Afghanistan with guns, bombs and soldiers and then assert the laws of war do not apply.”

The open flouting of international law regarding prisoners of war has also provoked criticism from factions within the Bush administration and the US military, who fear the consequences for American forces captured in future US military actions. They are particularly concerned because the US is placing major emphasis on the use of special forces, who in many cases do not wear military uniforms or otherwise conform to the criteria of regular soldiers in the field.

Bush’s February 7 statement was an attempt to defuse international opposition and allay internal concerns by making a purely verbal bow to international law, while in substance continuing the same illegal policy he has been pursuing toward captured combatants.

Even as Bush was cynically claiming to abide by the Geneva Conventions, the US was preparing to fly more prisoners to Cuba. Another 96 prisoners were flown from Kandahar, Afghanistan to Guantanamo Bay last week, bringing the total at Camp X-ray to 288. Flights had been suspended late last month while authorities built more chain-link cells to house the captives. As with previous prisoners transferred to Cuba, new arrivals are shackled at the hands and feet and wear blacked-out goggles. Those who do not respond to orders or talk out of turn are forced to the ground with their knees to their chests.

Camp X-Ray presently has about 320 temporary detention cages. But the US military has asked Congress for approval to build a semi-permanent prison on the site with up to 2,500 cells. Those being held in Guantanamo are prevented from speaking to legal counsel or family members, and in general denied the most basic legal and human rights.

While there has been considerable discussion in the press over whether Taliban and Al Qaeda fighters qualify as prisoners of war under the Conventions, this debate generally leaves out one critical fact: it is not the prerogative of the head of state of the detaining power to decide by fiat

whether or not captured combatants qualify as prisoners of war.

Article 5 of the Geneva Convention Relative to the Treatment of Prisoners of War states: “Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4 [which define POW criteria], such persons shall enjoy the protection of the present Convention *until such time as their status has been determined by a competent tribunal*” (emphasis added).

Bush spokesmen repeatedly describe the prisoners as belonging to only two groups of “unlawful combatants”—Taliban and Al Qaeda. In fact, the prisoners in Guantanamo include Christians and others who cannot be classified as either Taliban or Al Qaeda.

The US claims the Taliban are not POWS because they “have not effectively distinguished themselves from the civilian population” and that the Al Qaeda are not covered by the Conventions because they are part of a terrorist group.

In reality, the vast majority of the prisoners were captured in the course of open combat and qualify for POW status as defined in Article 4, section 1 of the Geneva Convention, which lists as POWS “members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.” Most of those in Guantanamo were captured by the Northern Alliance and then handed over to the US, including many Al Qaeda from the “Arab Brigade,” which fought as a regular combat unit.

In any event, there is no reason to accept uncritically the designation given by the US military or government to any of the captured fighters. These men have been held incommunicado for weeks, under deplorable conditions. They have been subject to intense interrogation without the benefit of legal representation. Many have witnessed the torture and killing of their comrades, such as the attack by the US, British and Northern Alliance troops last November on prisoners at the Qala-i-Janghi prison fortress outside Mazar-i-Sharif, in which 400 to 800 non-Afghan Taliban were slaughtered.

Thousands of those captured in the fighting remain in custody in Afghanistan, in squalid, overcrowded prisons under the control of the Northern Alliance, who turn “terrorist suspects” over to the US authorities for interrogation on demand, with the threat of death hanging over them.

The *World Socialist Web Site* has exposed in detail how US treatment of the prisoners being held in Guantanamo violates international law and the civil liberties of the detainees [Defending the indefensible: more US lies on Afghan prisoners and Geneva Convention]. The

Conventions state: “Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area” (Article 25). This means that the prisoners should be afforded the same living conditions as US military personnel on the base—not kept in 6-foot by 8-foot, open-air cages.

Prisoners of war are also supposed to be provided opportunity for physical exercise and recreation, the right to interact among other prisoners, and a stipend to purchase incidental articles at a canteen. But the detainees are being kept in isolation from other prisoners and are being subjected to unrestricted questioning. The Conventions accord POWs the right to communicate by mail with their families, but relatives of a number of prisoners have complained that their efforts to contact them have been ignored by US officials.

A major reason why the US is intent on denying POW status to any of the detainees is that such a designation would hinder their interrogations. Prisoners of war are only required to provide their name, rank, serial number and date of birth—nothing more.

According to Article 17 of the Geneva Conventions: “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.”

Defense Secretary Donald Rumsfeld has arrogantly dismissed criticism of US policy on the prisoners as “international hyper-ventilation.” He has stated that “from the beginning, United States armed forces have treated all detainees—both Taliban and Al Qaeda—humanely.” An example of this so-called “humane” treatment was recorded on videotape last November as CIA agents interrogated John Walker Lindh at the prison fortress near Mazar-i-Sharif. The agents threatened the 20-year-old American with death if he did not cooperate and provide information on the Taliban and Al Qaeda.

The Geneva Convention also states: “Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities” (Article 118). The US has no intention of abiding by this provision. In line with its open-ended “war on terrorism,” the US wants to maintain the right to imprison the detainees indefinitely.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact