

Organization of American States human rights panel opposes Bush policy on POWs

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In the last week, new protests have been lodged over Bush administration policy toward both Afghan War POWs in Cuba and detainees held in the US since September 11. On March 13, the Inter-American Commission on Human Rights of the Organization of American States (OAS) declared that the more than 300 prisoners being held at Guantanamo Bay should be brought before a formal tribunal to determine their status. The Bush administration has refused to take such action, even though it is called for in the Geneva Conventions on prisoners of war.

The five-member panel of the OAS voted unanimously in support of the resolution, reflecting widespread international opposition to American treatment of captured soldiers. It was an embarrassing diplomatic rebuke for Washington, all the more awkward for having come from an organization normally subservient to the United States.

The OAS panel said it is “well-known that doubt exists as to the legal status of the detainees” and that “a competent court or tribunal, as opposed to a political authority, must be charged with ensuring respect” for their “legal status and rights.” The panel’s American member did not take part in the decision.

The following day, March 14, Amnesty International (AI) issued a report exposing the conditions of Arab and Muslim immigrants imprisoned in the US in the Justice Department’s post-September 11 dragnet. The AI document cited widespread violations of the detainees’ human rights.

These condemnations of US policy are but the latest in a growing list of protests against the Bush administration’s flouting of international law and disregard for civil liberties. The International Committee of the Red Cross (ICRC), Human Rights Watch and Amnesty International have all criticized the

refusal of the US to abide by the Geneva Conventions in relation to the Afghan War prisoners.

The ICRC stated January 21 that those being held by American forces in Cuba must be classified as prisoners of war under the Geneva Conventions and are entitled to all the protections stipulated by the Conventions. In late February, lawyers with the US-based Center for Constitutional Rights, along with attorneys in Australia and the Britain, filed a legal challenge to the detention of three of the prisoners being held in Cuba—David Hicks from Australia and Shafiq Rasul and Asif Iqbal from Britain—claiming the men are being held illegally and in violation of US and international legal conventions.

The latest international protests over US policy toward POWs and internal detainees were barely reported by the American media. Brief articles on the March 13 OAS statement were buried on the inside pages of both the *New York Times* and *Washington Post*, and received no coverage on the evening network news programs.

Article 5 of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War states that if there is any doubt that captured fighters qualify as POWs, “such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.” But the Bush administration has consistently defied this provision, and given no indication that the policy will change in response to the OAS declaration.

The OAS commission’s March 13 ruling was in response to a petition filed by the New York-based Center for Constitutional Rights (CCR) asking the panel to intervene to protect the Afghan War prisoners’ rights. CCR Vice President Michael Ratner commented that the US “failure to abide by the commission’s

recommendation would be a lawless act.”

The prisoners being held in Guantanamo remain in legal limbo. The US government has not filed charges against any of them and has given no indication when their status will change. The men continue to be held in 8-foot by 8-foot open-air cages, released only for showers, and two 15-minute “exercise” periods per week, during which time they remain shackled. Because the US refuses to designate them as prisoners of war, they are subject to unlimited interrogation, without the protection of counsel.

US Defense Secretary Donald Rumsfeld told the press recently that the “range of options” under consideration for the prisoners include trial by military tribunal, indefinite detention, or return to their native countries, if these countries guarantee to prosecute them. President Bush commented March 20 that some of the prisoners could face the death penalty in either traditional military court martial proceedings or military tribunals.

The treatment of “terrorist suspects”—mostly Middle Eastern and Muslim men—rounded up in the US in the police dragnet in the wake of September 11 has also provoked growing criticism. Last October, Amnesty International and several other human rights organizations made a joint formal request to the US Department of Justice for the release of records on the US detainees under the Freedom of Information Act (FOIA). In January, the Department of Justice requested a dismissal of the groups’ complaint, on the grounds that it was too broad in scope and that the government had already released what it considered a significant amount of information on the detainees.

The 44-page report on the US detainees released last week by Amnesty International details the widespread violation of their basic democratic and legal rights. Of the more than 1,200 immigrants rounded up in the US police sweep, about 327 remain in the custody of the Immigration and Naturalization Service (INS). None of these individuals have been charged in connection with the terror attacks. Many have been charged with routine visa violations, and the report raises the concern “that the immigration system is being used to hold non-nationals on flimsy evidence pending broad criminal probes, without the safeguards which are present in the criminal justice system.” Scores have been held for more than 48 hours without being charged, and some as

long as 50 days, according to the report.

Violations of the detainees’ rights cited by Amnesty International include prolonged solitary confinement, heavy shackling of arms and legs and physical and verbal abuse. Many of these prisoners have been held “incommunicado”—unable to contact their families, legal counsel or their embassies.

Immigration and Naturalization Service regulations explicitly allow outside groups, including non-governmental organizations, access to facilities housing INS detainees. Amnesty International made a formal request to visit the federal Metropolitan Detention Center (MDC) in New York. AI reports that more than 40 detainees are still imprisoned in the facility, confined for 23 to 24 hours a day in sealed, high security cells. Amnesty International’s request to visit the MDC was denied by the INS.



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