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L/P Order
10:15

4 Attorneys for Petitioners,
5 COMMITTEE OF CLERGY, LAWYERS,
6 AND PROFESSORS, HAIM DOV BELIAK,
7 ROBERT A BERGER, KATHRYN S.
8 BLOOMFIELD, ERWIN CHEMERINSKY,
9 RAMSEY CLARK, ALLEN FREEHLING,
10 STEVEN JACOBS, HAROLD S. LEWIS,
11 JR., HUGH R. MANES, ARTHUR L.
MARGOLIS, KENNETH B. NOBLE,
GEORGE REGAS, JOSEPH REICHMANN,
LAWRENCE W. SCHILLING, CAROL A.
WATSON, MARION R. YAGMAN, and
STEPHEN YAGMAN

JAN 26
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 **ORIGINAL** UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 COALITION OF CLERGY, LAWYERS,)
AND PROFESORS, HAIM DOV)
15 BELIAK, ROBERT A. BERGER,)
KATHRYN S. BLOOMFIELD, ERWIN)
16 CHEMERINSKY, RAMSEY CLARK,)
ALLEN FREEHLING, STEVEN)
17 JACOBS, HAROLD S. LEWIS, JR.,)
HUGH R. MANES, ARTHUR L.)
18 MARGOLIS, KENNETH B. NOBLE,)
GEORGE REGAS, JOSEPH)
19 REICHMANN, LAWRENCE W.)
SCHILLING, CAROL A. WATSON,)
20 MARION R. YAGMAN, and STEPHEN)
YAGMAN, on behalf of PERSONS)
21 HELD INVOLUNTARILY AT)
GUANTANAMO NAVAL AIR BASE,)
22 CUBA,)

No. Civ. *02-570 AHM*
(JTL)

23 Petitioners,)
24 vs.)
25 GEORGE WALKER BUSH, DONALD H.)
26 RUMSFELD, RICHARD B. MYERS,)
GORDON R. ENGLAND, JAMES L.)
27 JONES, ROBERT A. BUEHN,)
MICHAEL FAIR, ELLEN MUSTAIN,)
28 MICHAEL LEHNERT, and 1,000)

VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS

1 UNKNOWN NAMED UNITED STATES)
2 MILITARY PERSONNEL,

3 Respondents.

4 TO: A UNITED STATES DISTRICT COURT JUDGE:

5 On information and belief, petitioners allege that:

6 1. Beginning on or about January 11, 2002, and continuing to
7 date, respondents under force of arms and involuntary brought to
8 U.S. Naval Station, Guantanamo Bay, Cuba (hereinafter "GITMO"),
9 under the exclusive and complete jurisdiction of respondents in
10 the nation of Cuba, approximately 110 persons (herinafter "the
11 persons") whom respondents captured in the nation of Afghanistan.
12 It has been indicated that perhaps a total of 2,000 such persons
13 will be involuntarily transferred from Afghanistan to GITMO and
14 there held against their will.

15 2. The press clips attached hereto, and whose contents are
16 incorporated herein by this reference, contain some of the
17 materials and information on which petitioners base their
18 beliefs.

19 3. The approximately 110 persons are held under force of
20 arms and against their will and in violation of the United States
21 Constitution and the Geneva Convention.

22 4. Respondents have characterized the held persons as
23 "unlawful combatants," and have denied them status as prisoners
24 of war, have denied them rights under the United States
25 Constitution, and have denied them access to the United States
26 Courts. See Memorandum, *infra*.

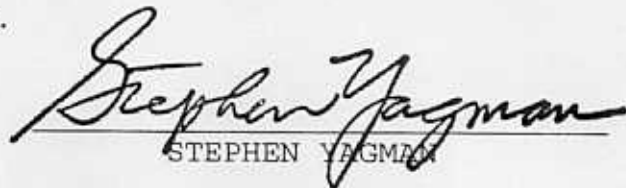
27 5. The persons are unlawfully detained, and neither have
28 been identified nor permitted access to legal counsel.

6. Petitioners are: The Committee of Clergy Lawyers and
2 Professors, whose members are: Rabbi Haim Dov Beliak of Los
3 Angeles, who is the rabbi of Congregation Adat Chaberim; Robert
4 A. Berger of Los Angeles, California, formerly editor of the Op-
5 Ed pages of the Los Angeles *Times*, and professor of journalism in
6 the Annenberg School of Journalism at the University of Southern
7 California in Los Angeles; Kathryn S. Bloomfield of Los Angeles,
8 California, a civil rights lawyer; Irwin Chemerinsky of Los
9 Angeles, California, a professor of law in the University of
0 Southern California Law School in Los Angeles, California; Ramsey
1 Clark of New York, New York, a civil rights lawyer who was
2 Attorney General of the United States of American from 1966-69;
3 Rabbi Allen Freehling of Brentwood, who is the rabbi of
4 University Synagogue; Rabbi Steven Jacobs of Los Angeles, who is
5 the rabbi of Temple Kol Tikvah in Wood Hills; Harold S. Lewis,
6 Jr. Macon, Georgia, who is a professor or law at Mercer Univesity
7 Law School in Macon, Georgia, and who is the immediate past chair
8 of the civil rights section of the Association of American Law
9 Schools; Hugh Manes of Los Angeles, California, who is a civil
20 rights lawyer; Kenneth B. Noble of Los Angeles, California, a
21 lawyer, a professor of journalism in the Annenberg School of
22 Journalism at the University of Southern California in Los
23 Angeles, and a former reporter for the *New York Times*, and chief
24 of its Los Angeles bureau; the Reverend George Regas of Los
25 Angeles, who is the Chairperson of the Los Angeles Area
26 Interfaith Communities United for Justice & Peace, and who is the
27 retired pastor of All Saints Episcopal Church, Pasadena; Joseph
28 Reichmann of Los Angeles, California, who is a civil rights

1 lawyer, and who is a retired United States magistrate judge;
2 Lawrence W. Schilling of New York, New York, who is a civil
3 rights lawyer, and who formerly was chief of the civil division
4 of the office of the United States Attorney for the Southern
5 District of New York; Carol Watson of Los Angeles, California,
6 who is a civil rights lawyer; Marion R. Yagman of Los Angeles,
7 California, who is a civil rights lawyer; and Stephen Yagman of
8 Venice Beach, California, who is a civil rights lawyer.

9 7. Respondents are the persons who have illegal custody of
10 the persons on whose behalf *habeas corpus* is sought, and are,
11 respectively: George Walker Bush, President of the United States
12 of America; Donald H. Rumsfeld, Secretary of Defense of the
13 United States of America; General Richard B. Myers, Chairman of
14 the Joint Chiefs of Staff; Gordon R. England, Secretary of Navy;
15 General James R. Jones, Commandant of the Marine Corps; Captain
16 Robert A. Buehn, Commander Naval Base and Commanding Officer of
17 Naval Station; Michael Fair, Chief of Staff Naval Base and
18 Executive Officer Naval Station; Ellen Mustain, Command Master
19 Chief CMD/MC; and Brigadier General Michael Lehnert, head of
20 security for GITMO prison.

21 I declare the foregoing to be true and correct based upon
22 the information I have, and pursuant to 28 U.S.C. 1746 declare
23 the same to be true under penalty of perjury on January 19, 2002
24 at Los Angeles, California.

25
26 
STEPHEN YAGMAN

27 ////

28 ////

1 MEMORANDUM OF LAW

2 Issuance of a writ of *habeas corpus* is sought on behalf of
3 persons taken prisoner by the respondents, acting on behalf of
4 the United States of America, in Afghanistan who were under force
5 of arms involuntarily transferred to Guantanamo, Cuba, and who
6 are at Guantanamo held by force of arms, against their will.

7 What is sought by this petition is identification of the
8 persons involuntarily detained, that each of them be brought
9 physically before the court for a determination of their
10 statuses, and for any appropriate further action.

11 The United States Constitution provides that:

12 [t] he privilege of the writ of habeas corpus shall
13 not be suspended, unless when in cases or
14 rebellion or invasion the public safety may require
15 it.

16 *Id.* at Article I, Section 9, paragraph 2.

17 To implement the right to *habeas corpus*, Congress enacted 28
18 U.S.C. §§ 2241-43.

19 Section 2241(a) provides that "[w]rits of habeas corpus may
20 be granted by the district courts and any circuit judge

21 "

22 Section 2241(c) provides that "[t]he writ of habeas corpus
23 shall not extend to a prison unless—(1 [h]e is in custody under
24 or by color of the authority of the United States (3) [h]e
25 is in custody in violation of the Constitution or laws or
26 treaties of the United States; or (4) [h]e, being a citizen of a
27 foreign state, and domiciled therein is in custody for an act
28 done or omitted under any alleged right, title, authority,

1 privilege, protection, or exemption claimed under the commission,
2 order or sanction of any foreign state, or under color thereof,
3 the validity of and effect of which depend upon the law of
4 nations . "

5 Section 2242 provides that "[a]pplication for a writ of
6 habeas corpus shall be in writing signed and verified by
7 Someone acting on [the] behalf" of "the person for whose relief
8 it is intended . " and that "[the] petition shall allege
9 facts concerning the applicant's commitment or detention, the
10 name of the person who has custody over him and by virtue of what
11 claim or authority, if known."

12 Section 2242 further provides that if a petition is
13 addressed to "a circuit judge it shall state the reasons for not
14 making application to the district court of the district in which
15 the applicant is held."

16 Section 2243 provides that the judge "shall forthwith award
17 the writ or issue an order directing the respondent to show cause
18 why the writ should not be granted," that "[t]he writ, or order
19 to show cause shall be directed to the person having custody of
20 the person detained[, " that "[t]he person to whom the writ or
21 order is directed shall make a return certifying the true cause
22 of the detention[, " that "[w]hen the writ or order is returned a
23 day shall be set for hearing[, " and that "[u]nless the
24 application for the writ and the return present only issues of
25 law the person to whom the writ is directed shall be required to
26 produce at the hearing the body of the person detained."

27 1. The persons for whom relief is sought are "in custody
28 under or by color of the authority of the United States .

1 28 U.S.C. § 2241(c) (1) .

2 2. The persons for whom relief is sought are "in custody in
3 violation of the Constitution or laws or treaties of the United
4 States." 28 U.S.C. § 2241(c) (3). Specifically, the persons are
5 held in violation of the Fifth and Sixth Amendments of the
6 Constitution in that they are, respectively, deprived both of due
7 process of law in that they are deprived of liberty without due
8 process of law, and in that they have not been informed of the
9 nature and cause of the accusations against them and have not
10 been afforded the assistance of counsel. Specifically, the
11 persons held are citizens of foreign states who were domiciled
12 therein and are in custody, apparently, for acts done under
13 alleged right, authority, privilege, and commission, or order or
14 sanction of a foreign state, or under color thereof, the validity
15 and effect of which depend upon the law of nations, to wit, the
16 Geneva Convention, and at minimum its prohibition of transferring
17 persons taken prisoner in war from the country of their capture.

18 Hence the persons for whom relief is sought appear to be
19 entitled to relief.

20 3. Because the persons for whom relief is sought appear to
21 be held incommunicado and have been denied access to legal
22 counsel, application properly is made by petitioners acting on
23 their behalf, 28 U.S.C. § 2242, and sufficient facts are alleged
24 concerning their detention and the names of the persons who
25 detain them, though the authority for their detention is unknown.
26 *Ibid.*

27 4. Because it is not known to which judge this petition will
28 be presented, whether it be a circuit judge or a district court

1 judge, as the petition has been completed on Saturday afternoon,
2 January 19, 2002, a day on which petitioners have no direct
3 access to the courts (and a day in the middle of the Martin
4 Luther King, Jr. three-day, holiday weekend) no reason presently
5 can be given for it not being presented to a district judge; but
6 it is not made to a district court judge "of the district in
7 which the applicant is held," *ibid.*, because there is no such
8 district, as applicants are held under American jurisdiction and
9 on American soil, but in a foreign country. Petitioners will
10 endeavor to deliver the petition to both a district court Judge,
11 Robert M. Takasugi, and a circuit Judge, Stephen Reinhardt, as
12 those are the only two judges whose home addresses petitioners
13 believe they know.¹

14 Wherefore, it is respectfully requested that:

- 15 1. A writ or order to show cause issue directed to each and
16 all respondents directing each of them to identify by
17 full name and country of domicile, and all other
18 identifying information in their possession, each person
19 held by them, within three days. 28 U.S.C. § 2243.
 - 20 2. A writ or order to show cause be directed to each and
21 all respondents directing them to show the true cause(s)
22 of the detention of each person.
 - 23 3. That a date for hearing be set.
- 24
25
26

27 ¹ One of petitioners' counsel knows the home address of one other district
28 court judge, but that judge regularly recuses himself or herself from
petitioners' counsel's cases and resides in a gated community to which there
probably would not be any physical access to accommodate delivery.

- 1 4. That, since it clearly is not the case that "only issues
- 2 of law" are presented, respondents be directed to
- 3 produce at the hearing the body of each person detained.
- 4 5. That, when a hearing be held, it be held "not more than
- 5 five days after the return." *Ibid.*
- 6 6. That respondents and any person in concert with them, or
- 7 under their direction, command, control, or orders, be
- 8 ordered not to remove from GITMO to any location other
- 9 than GITMO any person unlawfully held there at the time
- 10 of service. See para. 7, *infra.*

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7. That service of the writ or order to show cause be made by certified mail to the last known address of each respondent, to the Attorney General of the United States, and by personal service upon the United States Attorney for the Central District of California

Respectfully submitted,
YAGMAN & YAGMAN & REICHMANN

By 
STEPHEN YAGMAN

By 
JOSEPH REICHMANN

INTERNATIONAL

Suspects in Singapore Linked to al-Q

MANILA, Philippines — Terrorist suspects arrested last month in Singapore were linked with al-Qaida and planned bomb attacks against Western embassies, U.S. naval vessels, American companies and a shuttle bus carrying American troops, the Singapore government said Friday.

It said that the 13 suspects were members of a clandestine organization called the

"The plan was

activation," Singapore's Ministry of Home Affairs said in a statement. "Al-Qaida leaders showed interest in the plan, but for reasons not known, they did not sub-

bassy said.
About f

regional of

evidence re-
Friday was said to have been gathered in Afghanistan as al-Qaida operatives fled homes and offices.

Singapore television broadcast a blurry videotape that the government said had been found in Afghanistan and apparently showed possible targets in Singapore, accompanied by narration

from one men in cus-
today.

showed boxes se-
as a man
as Hashim bin Abas says that "these are the same boxes which we intend to use," apparently to hide explosives.

"It will not be suspicious to have a motorcycle or bicycle there," the narrator says, apparently referring to the route taken by a regular shuttle bus moving American troops from a naval base to a subway station. In addition, the government said, the tape showed residential areas and recreational centers used by American troops and an officers' mess owned by the United States government.

SETH MYDANS

WORLD BRIEFS

Stingers for Terrorists

WASHINGTON — Iran purchased American-built Stinger anti-aircraft missiles in Afghanistan in 1994 and turned them over to Islamic Jihad, a Lebanese-based terrorist organization, but the missiles proved to be defective, according to U.S. intelligence reports. (NYT)

Israelis Block Runway

RAFAH, Gaza Strip — The runway of Gaza International Airport was blocked with piles of broken concrete Friday after Israeli tanks and bulldozers rumbled into the area overnight, digging trenches in the tarmac and ensuring that the airport would be out of commission for some time. (NYT)

Reaping the Wind

An Irish company has received approval to build the world's largest offshore wind farm with 200 turbines on sand banks four miles out at sea along the east coast, south of Dublin. The company, Eirtricity, said the wind farm would generate 520 megawatts of electricity — 10 percent of Ireland's needs. (NYT)

Sentence for Arson

Bernard Bonnet, former governor of Corsica, has been sentenced to a year in jail for ordering arson attacks on illegally constructed beach-side restaurants near the capital Ajaccio. Bonnet said Prime Minister Lionel Jospin of France ordered undercover police to set the fires in 1999. (NYT)

Backing for Bavarian

BERLIN — The governor of Bavaria, Edmund Stoiber will lead the conservative opposition parties in their effort to defeat Chancellor Gerhard Schröder's Social Democrats in elections in September. (NYT)

'Unlawful Combatants' Arrive at U.S. Base

WASHINGTON — Twenty prisoners from the war in Afghanistan arrived in Cuba Friday, emerging from their Air Force cargo plane in orange prison jumpsuits and face masks, some of them shackled at the legs and all of them manacled. One had been sedated, Pentagon officials said.

According to reports from a pool of reporters at the United States Naval station at Guantanamo Bay, the prisoners were escorted under heavy military guard and met by a swarm of Marines in helmets with masks, some

carrying riot shields and all armed with rifles. Some of the prisoners resisted their captors and were pushed to their knees on the tarmac before rising and being taken to individual wire cages.

This first batch of prisoners was considered so bent on destruction that Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, said they "would gnaw hydraulic lines in the back of a C-17 to bring it down."

They arrived at Guantanamo at 1:50 p.m., having left Afghanistan 27 hours earlier. Defense Secretary Donald

Rumsfeld called the prisoners "unlawful combatants," distinguishing them from prisoners of war. "Unlawful combatants do not have any rights under the Geneva Convention," Rumsfeld said. "We have indicated that we do plan to, for the most part, treat them in a manner that is reasonably consistent with the Geneva Conventions, to the extent they are appropriate."

Myers said they would be receiving "culturally appropriate food," would be allowed to practice their religion. (NYT)

Argentine Banks Reopen and Value of Peso Tumbles

BUENOS AIRES, Argentina — Freed from its link to the U.S. dollar for the first time in nearly 11 years, the Argentine peso dropped sharply on foreign exchange markets here Friday as the government ended an emergency bank holiday that had halted normal economic activity since before Christmas.

An initial wave of nervousness quickly drove down the peso's value to as low as 1.70 to the dollar on the open

market, far from the fixed rate of one peso to one dollar that had prevailed before President Eduardo Duhalde was given sweeping economic powers on Sunday. The official exchange rate set then is 1.4 pesos to the dollar, but it applies almost exclusively to foreign trade transactions

lence early Friday outside the Casa Rosada, the presidential palace. Several thousand middle-class demonstrators banging pots and pans had marched on the palace to object to an expanded freeze on their assets that the government imposed on Thursday. After a small group of young men began setting fires, the police used water cannons and tear gas to disperse them. (NYT)

LARRY ROHTER

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Sent: [REDACTED]
Attach: [REDACTED]
Subject: washingtonpost.com: U.S. Pressed on Detainees' Treatment

<http://www.washingtonpost.com/ac2/wp-dyn/A58069-2002Jan16?language=printer>

U.S. Pressed on Detainees' Treatment

Concern Grows Abroad About Rights of Al Qaeda, Taliban Fighters Held in Cuba

By T.R. Reid
Washington Post Foreign Service
Thursday, January 17, 2002; Page A15

LONDON, Jan. 16 -- From left, right and center, criticism increased in several allied countries today over the U.S. treatment of prisoners airlifted from Afghanistan to the naval base at Guantanamo Bay, Cuba.

In Britain, Prime Minister Tony Blair was battered on the issue from all sides when he stood up in Parliament. He responded with a firm defense of the United States.

The U.N. High Commissioner for Human Rights, Mary Robinson, the former president of Ireland, warned that "we risk the values that we fought to preserve" if the captives are denied the legal rights of prisoners of war.

In Paris, the International Federation of Human Rights Leagues, which had generally supported action against terrorists following the Sept. 11 attacks on the United States, warned that the treatment of the prisoners could turn into "a mere parody of justice." A Saudi official, speaking on condition of anonymity, said his government is "concerned about American treatment" of the suspects in Cuba.

The United States is holding 80 Taliban and al Qaeda fighters at Camp X-Ray, an open-air prison on its naval base at Guantanamo Bay, with more scheduled to arrive in days. The individual cells have concrete floors and corrugated metal roofs, but the walls are only chain-link fencing. The prisoners were blindfolded and shackled for the airplane trip from Afghanistan. One was sedated, which the Pentagon said was for medical reasons.

At least three of the prisoners are reportedly British citizens, a factor that has significantly increased the political profile of the situation here. Some are Saudis and at least one is said to be Australian.

The Pentagon has described the detainees as "unlawful combatants." That means the United States does not consider them prisoners of war, a status that would give them legal rights under the Geneva Conventions.

U.S. officials have rejected the criticisms. Answering the complaints on the BBC today, Defense

[REDACTED]

[REDACTED]

Secretary Donald H. Rumsfeld said: "I do not feel even the slightest concern about their treatment. They are being treated vastly better than they treated anybody else."

But the critics say that is not the appropriate standard. "If we merely compare our actions to what the Taliban did . . . don't we put the West in danger of losing the high moral ground?" asked Kevin McNamara, a left-leaning member of Blair's Labor Party, in Parliament today.

"The difference between al Qaeda and democratic civilization," said the French daily Le Monde, "is the respect of fundamental values, as set forth in the U.S. Constitution. Without that, there will be doubt about the very legitimacy" of the treatment of the detainees.

In Britain, criticism of Camp X-Ray transcends the normal political borders, with centrists, liberals and staunch conservatives all attacking the detainees' treatment.

"This is more than just the predictable left-wing crowd," said Adam Boulton, a well-connected political analyst for Britain's Sky News network. "Blair has a big problem at home if those Brits [in detention] are mistreated. He is genuinely worried about what Rumsfeld has in mind."

Faced with tough questioning from across the political spectrum in Parliament today, Blair argued that the prisoners in Cuba "are being treated humanely."

"The Americans assure us," Blair said, "that the International Red Cross will go and see them. A British team will visit those who claim British citizenship." Blair said the prisoners are given regular meals, showers, medical attention and exercise, as well as copies of the Koran.

The Pentagon spokeswoman, Victoria Clarke, said Red Cross officials were expected to arrive Thursday at Guantanamo Bay. Urs Boegli, who heads the Washington office of the International Committee of the Red Cross, flew to Miami today to meet with officials of the Southern Command, which supervises the Navy base. Boegli and three other ICRC officials plan to proceed to the complex in Cuba within a day or so, officials with the private organization said.

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Sent: [REDACTED]
Attach: [REDACTED]
Subject: washingtonpost.com: Follow the Geneva Convention

<http://www.washingtonpost.com/ac2/wp-dyn/A58627-2002Jan16?language=printer>

Follow the Geneva Convention

Thursday, January 17, 2002; Page A22

THE SCANTY firsthand reports so far available suggest that the 400 or so al Qaeda and Taliban detainees being held by the United States have been treated properly, considering the continuing conflict in Afghanistan and the considerable security risk they pose. The first priority has been to gather intelligence; after this urgent screening, groups of the detainees are being transferred to the U.S. naval base at Guantanamo, Cuba. Human rights groups have questioned the shackling and blindfolding of prisoners in transit, as well as the relatively primitive 6-by-8-foot pens holding them in Guantanamo. But given the demonstrated inclination of al Qaeda detainees to launch suicide attacks against their captors, the hoods and shackles look more like reasonable security measures than punitive actions; and the cell accommodations are said to be a stopgap while more permanent housing is constructed.

The Pentagon's handling of the prisoners nevertheless raises serious questions. One is of forthrightness: Though announcements about the detainees have become a staple of Pentagon briefings, the military has yet to say whom it is holding and from which nations, or how the prisoners will be processed and handled. More troubling, Secretary of Defense Donald Rumsfeld has said that while the United States "for the most part" is treating the prisoners "in a manner that is reasonably consistent with the Geneva Convention," it need not do so, because the detainees are "unlawful combatants" who "do not have any rights under the Geneva Convention." That is not the case. The Geneva Convention and other international treaties ratified by the United States give the detainees specific rights, rights that the Bush administration should respect.

The first right most of the prisoners have is for a hearing by a tribunal to determine whether or not they are prisoners of war. Despite Mr. Rumsfeld's declaration, detainees cannot as a group be designated unlawful combatants by the secretary of defense; according to most interpretations of the Geneva Convention, in the case of a dispute about status, prisoners must have a hearing before a tribunal. Pentagon regulations for the conduct of such tribunals were issued in 1997; they call for a three-member panel of military officers, and give each prisoner the right to testify. Until their status is determined, the United States is bound by international law to treat the prisoners as POWs -- and not just "for the most part."

Such hearings no doubt would legitimately find that many of the detainees can be denied POW status

[REDACTED]

under the Geneva Convention, which among other things says combatants must wear uniforms and insignia and be part of an identifiable army or militia that obeys the laws of war. But the cases of some Afghan Taliban soldiers and officers may require close examination. Unlike al Qaeda, the Taliban maintained a conventional army, many of whose Afghan soldiers were captured while fighting rival Afghan and U.S. forces in conventional engagements. If some were unlawful combatants, the United States is obligated to show why on a case-by-case basis. Even those deemed unlawful have certain rights; for example, the Convention on Torture requires that prisoners not be deported to nations where they could be abused. Before returning detainees to such countries as China, Uzbekistan or Saudi Arabia, the United States is obligated to obtain guarantees about their treatment.

The Bush administration has nothing to lose, and much to gain, by providing detailed information about detainees and adhering strictly to the Geneva Convention and other international treaties as it disposes of them. International law clearly will allow the Pentagon to proceed with military tribunals against al Qaeda leaders and others guilty of war crimes. Following it scrupulously will demonstrate - in particular to the native countries of the prisoners -- that the United States is playing by the rules of the civilized world.

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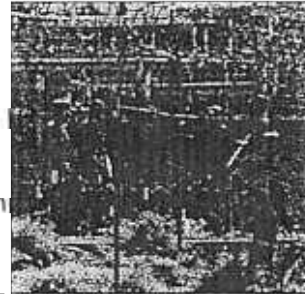
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Weather & News

U.S. Defends Conditions at Cuban Camp As Red Cross Workers Begin to Interview Prisoners



GUANTANAMO BAY NAVAL BASE, Cuba (AP) - A team from the international Red Cross began meeting with prisoners Friday to evaluate whether the U.S. military is violating the rights of more than 100 captives taken from Afghanistan to this arid Caribbean outpost.



It is up to the prisoners to decide whether they want to talk to Red Cross staffers, who are expected to remain at the U.S. base for a week and return for subsequent visits, International Committee of the Red Cross spokesman Darcy Christen said in Geneva.

"It's our first visit, and we plan to repeat it. We will have a series of visits for as long as the prisoners are held at the base," he said. "But it is a prisoner's choice whether he wants to meet with ICRC staff."

The Red Cross visit is the first time independent experts have been given a look at Camp X-ray. Human rights advocates say the prisoners are kept in inhumane conditions. The U.S. military maintains that strict security is necessary for the fighters, who it says are ready to kill their captors if given a chance - but it insists the prisoners' rights are respected.

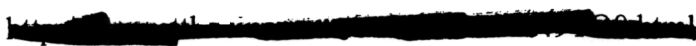
As the latest batch of al-Qaida and Taliban prisoners settled in their hastily built, individual chain-link cells, bringing the total number to 110, four ICRC members met with U.S. officials, then began the first of their interviews with detainees.

The Red Cross team, which included a doctor and linguist, arrived on a small plane from Florida. Urs Boegli, head of the team, said its findings would be shared with U.S. authorities, but that he wasn't sure whether they would be made public.

Prisoners with shaved heads and orange jumpsuits sat in open-air cells Thursday behind three fences and coils of razor wire. Occasionally, guards led them out, hands bound, for walks in the heavily fortified yard, using basic commands in Arabic for some of the prisoners.

"For the most part, they do what they're told," said Sgt. Lisa Juve, an Army guard who spoke to journalists who were allowed to see the detention camp from about 150 yards away.

Military officials say the camp will soon be able to hold 320 inmates, or more if



they are housed two to a cell. Workers also are building a permanent prison to hold up to 2,000.

The United States is holding more than 300 prisoners in Afghanistan, at the Marine base at Kandahar airport, and a few others elsewhere.

Six Algerians detained in Bosnia and suspected of terrorist links will be taken to Guantanamo within days, a senior U.S. official in Europe told The Associated Press on condition of anonymity.

When prisoners arrive at the U.S. base, they are given a half sheet of paper to write to relatives or friends.

Five interpreters using Arabic and other languages help the guards communicate with prisoners, officials said. They could not immediately say how many or which languages were being used.

The unarmed guards carry booklets with the pronunciation of some basic terms in Arabic, such as "Walk!", "No!" and "Use the latrine?"

A Marine security guard, Cpl. Joe Lupo, said he was struck by the prisoners' size. "They're pretty small guys," he said, describing some of them as appearing to be in their teens.

Military officials say most are in their 20s and 30s, though they are not revealing identities or nationalities.

Britain said Friday that a small team of its diplomats have arrived at the base to visit three detainees who claim to be British.

Amnesty International said housing detainees in "cages" would "fall below minimum standards for humane treatment," and that the temporary cells - 8-by-8 feet - are too small.

Human rights groups also are concerned about the prisoners' status. The United States reserves the right to try them on its own terms and is not calling them prisoners of war, a designation that would invoke the Geneva Conventions.

"All people captured on a battlefield are assumed automatically to be prisoners of war," Christen said. "They should be considered prisoners of war until a tribunal, defined by the Geneva Conventions, decides otherwise."

Christen said the Geneva Conventions don't give immunity from prosecution for crimes, but added that "you cannot punish someone simply for being a combatant. There are likely to be prisoners at the base who are there simply because they were captured in the conflict."

Prisoners have not been interrogated, nor have they been allowed lawyers - and it is unclear when or if they would be allowed legal advice at Camp X-ray.

U.S. troops seized Guantanamo Bay in 1898 and have remained ever since despite opposition from the Cuban government. Cuba, however, has not opposed holding the prisoners on its soil.

On the Net:

[http://www.washingtonpost.com/archive/local/2002/05/02/](#)

[http://www.washingtonpost.com/archive/local/2002/05/02/](#)

<http://www.nsgtmo.navy.mil>

Geneva Convention, <http://www.unhchr.ch/html/menu3/b/91.htm>

<http://www.amnesty.org>

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US accused of risking the rights it went to war for

Date: 18/01/2002

London: From left, right, and centre, criticism in allied countries is increasing over the treatment of prisoners from Afghanistan held at the US Navy base at Guantanamo Bay, Cuba.

In Geneva the UN High Commissioner for Human Rights, Mary Robinson, warned on Wednesday that "we risk the values that we fought to preserve" if the captives are denied the legal rights of prisoners of war.

Britain's Prime Minister, Tony Blair, was battered on the issue from all sides in Parliament, and, while defending the United States, did call for the prisoners to be treated in accordance with the Geneva Conventions.

In Paris, the International Federation of Human Rights Organisations, which had generally supported action against terrorists since September 11, warned that the treatment of the prisoners could turn into a parody of justice.

A Saudi official said Riyadh was concerned about US treatment of the suspects in Cuba.

The US is holding more than 80 alleged Taliban and al-Qaeda fighters in an outdoor prison at Guantanamo, with more expected in days. The individual cells have cement floors and wooden roofs, but the walls are only wire fencing. Some prisoners were blindfolded and shackled for the flight from Afghanistan.

The US calls the men unlawful combatants rather than prisoners of war, and thus not covered by the Geneva Convention.

US officials have brushed aside the criticism. "I do not feel even the slightest concern about their treatment," the Defence Secretary, Donald Rumsfeld, said on the BBC. "They are being treated vastly better than they treated anybody else."

[REDACTED]

[REDACTED]

Meanwhile, Western intelligence sources said at least 20 Britons suspected of fighting with Taliban or al-Qaeda forces were being held in Afghanistan and Pakistan, and some would probably join the three Britons already imprisoned in Cuba.

The Washington Post, The Guardian

Story Picture: Brigadier-General Mike Lehnert displays the food rations given to prisoners from Afghanistan held at the Guantanamo Bay naval base. Photo: AFP/ Roberto Schmidt

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Experts poring over legal issues in Hicks case

Date: 18/01/2002

The possible prosecution of a suspected terrorist is far from straightforward, writes Daryl Williams.

Criticisms that Australia is taking too long to investigate David Hicks's activities in Afghanistan or to determine what, if any, charges may be brought against him are unfounded. As Australia's first law officer, I am constrained in what I can say about Hicks's case because I will probably have to approve prosecution if Hicks is to be charged under Australian law. There are a number of complicating factors to our investigations, including legal and evidentiary issues which appear not to be well understood.

This is not a routine police investigation, where a crime has been committed and the purpose of the investigation is to find the person who committed the offence and gather evidence within Australia. The investigation is focused on determining whether Hicks has committed any offence, not in Australia, but in a war zone where there is no easy access to possible witnesses and next to no supporting infrastructure.

Hicks was interviewed by a joint team of Australian Federal Police and Australian Security Intelligence Organisation officers while being held in US military custody. US requirements for these initial interviews prevented the regular procedures under Australian law from being followed and any statements made by Hicks in those interviews cannot be used as evidence in an Australian court. For example, he was not given the warnings required under Australian law, nor access to legal representation. Under Australian law both steps will need to be taken if we are to prosecute him. We understand that the same requirements have been applied to interviews of other foreign nationals in US military custody.

Any decision about whether Hicks can be prosecuted for offences under Australian law will be made only at the conclusion of the investigations and after Hicks has been interviewed again. We have a range of experts examining our laws who are consulting the investigation team about what, if any, offences Hicks might have committed. In the circumstances, we expect this will take some time.

[REDACTED]

Neither the US nor Australia is in a position yet to begin a prosecution against Hicks. For both countries, there is substantial work to be done before relevant decisions can be made.

For example, the US has yet to determine the rules for its proposed military tribunal to deal with non-US citizens and has not made any decision about what charges might be laid against those people.

We are in continuous contact with the US about Hicks and both countries are co-operating to ensure the investigation and any potential prosecution are conducted effectively. But the US and Australia have been up-front in indicating that it is likely to take some time.

The Federal Government has indicated to the US that at this stage, while we are working through the legal issues and conducting further investigations, we regard it as appropriate for Hicks to remain in US military custody. Whether the detainees at the US base in Guantanamo Bay in Cuba are being held as prisoners of war is really a matter for the US.

The Government would be concerned, however, if Hicks and others were not being held under humane conditions while under strict security. The US has indicated that detainees are having three culturally appropriate meals a day, have daily opportunities to shower and exercise, and have access to medical attention. In addition, the US will grant the International Committee of the Red Cross access to the facility this week to assess independently the condition of the detainees.

Australia has also had access to Hicks through the investigation team - which was able to confirm that he is in good health - and we have been assured by the US that we will continue to have access to Hicks when we seek it. At present, we are satisfied with those arrangements.

This is a difficult situation. The detainees were captured on a battlefield, it is a military situation and the hostilities in Afghanistan continue. The Government is conscious that those people being detained by the US military are suspected to be among the world's most dangerous terrorists and that the war against terrorism is continuing. It is understandably a prime concern internationally that the al-Qaeda terrorist network is effectively dismantled by removing suspected terrorists from their environment and getting intelligence to protect the community from further terrorist attack.

Our investigations into Hicks's activities - and our commitment to the war against terrorism - are continuing. There are no simple answers to the difficult investigations and complex legal questions that the changed international security environment poses. If, however, Hicks has committed any offences against Australian laws, the Government will do what it can to bring him to justice.

Daryl Williams is the federal Attorney-General.

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On Defensive, General Says Prisoners Get Mats, Even Bagels

By KATHARINE Q. SEELYE

GUANTÁNAMO BAY NAVAL BASE, Cuba, Jan. 16 — Smarting a bit from criticism by international human rights groups, United States troops here who received 30 new prisoners from the war on terrorism in Afghanistan were determined today to show that their captives would be treated properly.

"Each detainee has an Isomat to lay on," said Brig. Gen. Mike Lehnert, holding up an inch-thick piece of olive-drab foam to show reporters. "It isn't particularly comfortable. It is also the same thing issued every day to our soldiers and marines in the field. I myself have spent a good portion of my Marine Corps career on one of these mats."

The third load of prisoners arrived this afternoon, raising the total to 80.

General Lehnert, who is head of security at the base's prison, said that the captives are not being interrogated here, so they do not have lawyers. Nor have they been charged with anything, he said, while Washington determines their status.

Amnesty International and other human rights groups maintain that the men being held should be classified as prisoners of war, which would afford them certain rights. But the issue is complicated by the fact that no war has been declared.

General Lehnert stopped short of saying the prisoners were being granted the full protection of the Geneva Conventions.

"We are being guided by the Geneva Convention," he pointedly told reporters here in a pink airport hangar as he conducted a show-and-tell session to indicate what the prisoners would receive and generally to describe their living conditions.

General Lehnert said that the prisoners have toothpaste and showers and roofs over their heads. They will get bagels and cream cheese, granola bars and Froot Loops.

Holding up a day-glow orange prison outfit, the general said: "They get a jump suit." But revealing a little frustration with all the international scrutiny, he added, "They don't get to pick the color."

A delegation from the International Committee of the Red Cross on Thursday is scheduled to inspect the prisoners and conditions at the expanding prison compound here.



Associated Press



Photographs by Agence France-Presse

Brig. Gen. Michael Lehnert, top, in charge of detainees from Afghanistan at Guantánamo Bay, said yesterday that the prisoners received a bucket for use as an emergency toilet. They also get toothbrushes, left, cut short to render them useless as weapons, and packets of food, right.

What the Red Cross will see are men in their 20's and 30's whose heads have been shaved to prevent the spread of lice. The prisoners, including at least one British and one Australian citizen, at times read the Koran, and at times yell to their captors that they intend to kill them.

"We have an international community of suspected terrorists from all over the world," General Lehnert said. "These are not nice people. Several have publicly stated here their intent to kill an American before they leave Guantánamo Bay. We will not give them that satisfaction."

Their toothbrushes are cut short so that the sharp end cannot be used as

a weapon. They are issued plastic spoons to eat their meals but must return them when they finish. Their cells are actually wire cages, six feet by eight feet, bathed all night in halogen flood lights so that their every move can be monitored.

The Red Cross will also see a burgeoning fortress, the most secure portion of which is known as Camp X-Ray. It has a capacity today for 200 prisoners but with the constant construction going on here, will soon have the capacity for more than 600.

Eventually, the entire base is to hold 2,000 prisoners, but General Lehnert suggested today that the arrival of detainees was outpacing the

construction of secure facilities. He said that the prisoners who arrived today would be held in X-Ray for three months "and be moved to a more permanent detention facility here in Gitmo once we have it built," using a nickname for the base.

The guards are conscious of allowing the Muslim prisoners to practice their religion, and have told them which direction they must face to pray toward Mecca. But military officials said that the captives do not yet have any idea where on the world map they have landed.

Reporters were allowed to view the prisoners from a grassy hillside about 400 feet away but were not allowed to photograph them, even though their individual identities were impossible to discern as they clanked off a gray cargo plane in their jumpsuits and leg shackles.

They wore mittens and their hands were manacled. They also wore orange knit caps, goggles with the lenses blacked out and blue surgical masks, while scores of helmeted Marines secured the area with grenade launchers, machine guns and rifles.

As part of the effort to meet the standards of the Geneva Conventions, General Lehnert held up a thin sheet and referred to the steamy tropical weather in Cuba. "It's about what most of our Marines sleep with," he said.

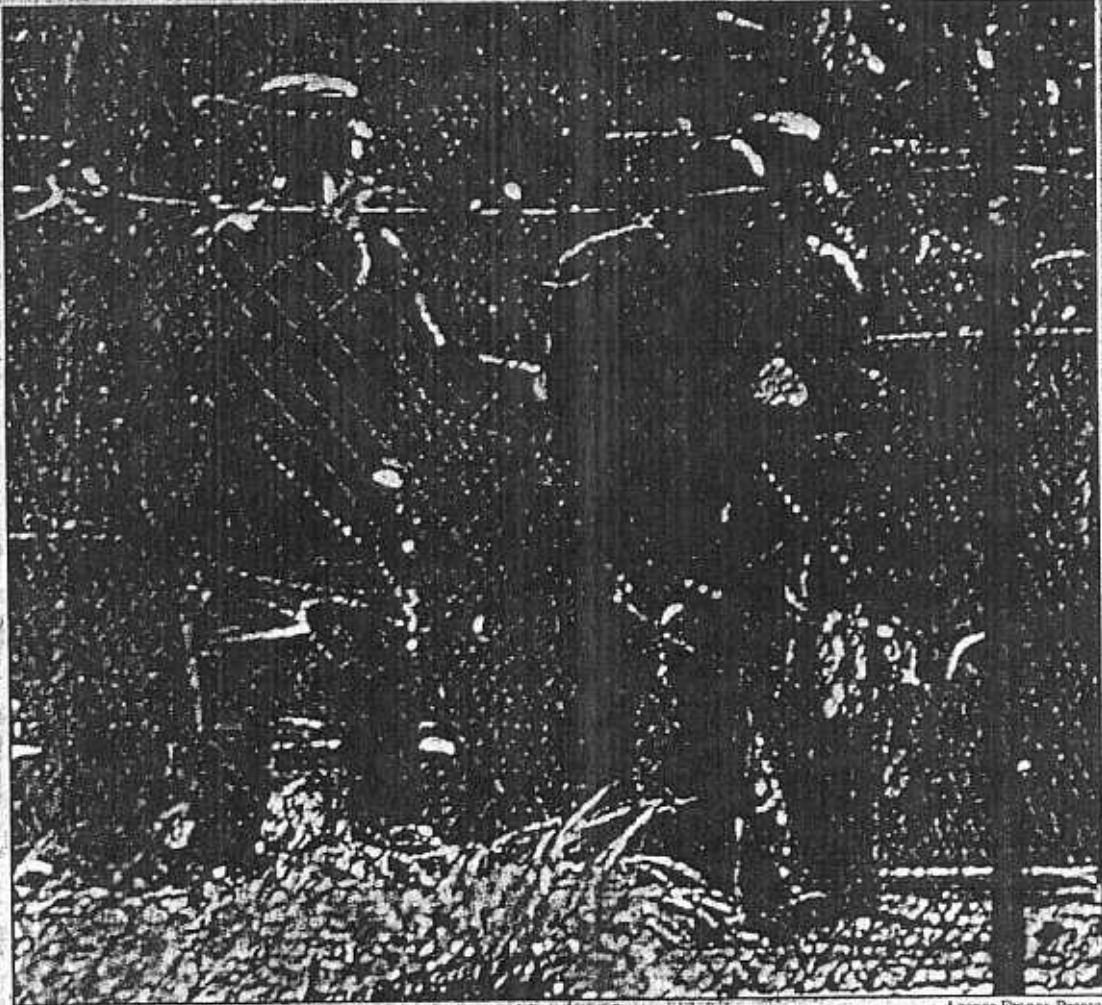
Referring to the prisoners, he said, "They get two towels. One towel is for washing and drying. The other towel is to be used as their prayer mat." The Geneva Conventions also say that prisoners' facilities "shall be entirely protected from the dampness and adequately heated and lighted, in particular between dusk and lights out." Amnesty International and Human Rights Watch have said that the Guantánamo cages appear to violate this requirement.

General Lehnert said: "After the last rain we had, I went out there and checked, and they were all doing well. Our security forces are living in the same kind of environment that they are."

The general then showed off samples of the food packets given the prisoners, including peanuts, raisins, sunflower seeds and beef stew that is prepared under the Islamic dietary laws.

Los Angeles Times

FRIDAY, JANUARY 18, 2002



Agence France-Press

A prisoner in an orange jumpsuit is surrounded by heavy security at U.S. base in Guantanamo Bay, Cuba, amid worldwide concerns over treatment of the Taliban and Al Qaeda captives. A22



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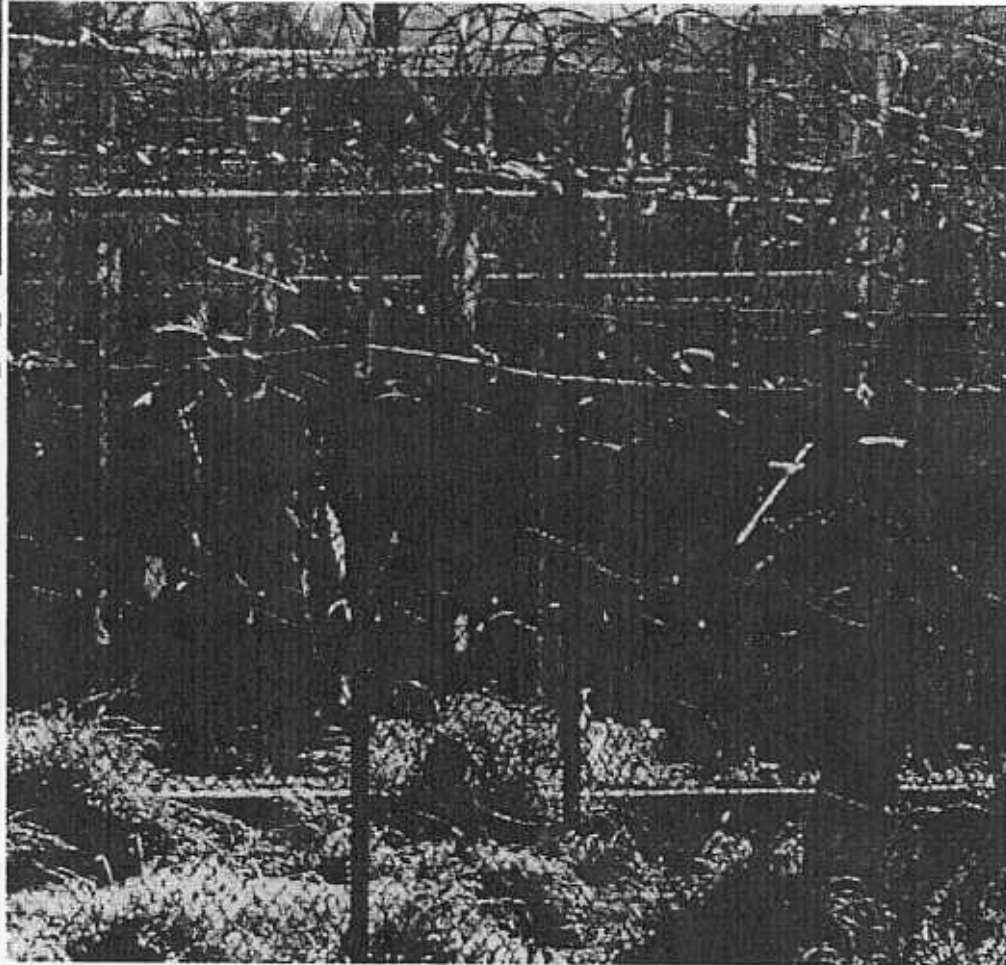
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GUANTANAMO BAY NAVAL BASE, Cuba (AP) - A team from the international Red Cross began meeting with prisoners Friday to evaluate whether the U.S. military is violating the rights of more than 100 captives taken from Afghanistan to this arid Caribbean outpost.

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RESPONSE TO TERROR

01-18-02

Fairness Urged for Detainees in Cuba

Response: Red Cross and U.N. leaders call for Taliban and Al Qaeda fighters held at Guantanamo Bay to be treated as POWs.

By MARJORIE MILLER
TIMES STAFF WRITER

LONDON—As the Red Cross prepared to interview suspected Al Qaeda and Taliban fighters held in Cuba, U.N. human rights chief Mary Robinson urged the United States on Thursday to treat the prisoners according to international law and not to “fudge or blur the edges.”

“It is extremely important that the legal status of those detained in Guantanamo Bay is clarified,” said Robinson, a former president of Ireland.

“They were combatants in an international conflict. It may be that some of them have also been involved in the Al Qaeda con-

spiracy, that’s quite likely, but they are entitled to POW status or, if that is defeated, there is provision in the Geneva Convention that it goes before a tribunal,” she said at a conference in Dublin, the Irish capital.

The U.S. government calls the prisoners “unlawful combatants” and says they are not guaranteed rights under the 1949 Geneva Convention covering prisoners of war.

International Committee of the Red Cross officials were expected to hold private interviews with the prisoners today. A spokesman for the Red Cross said the organization also believed the detainees ought to be treated as prisoners of war.

In Britain, America’s closest ally in Europe, concern has grown this week over treatment of the prisoners at Guantanamo.

Prime Minister Tony Blair has backed the U.S. position, but he is under pressure from members of his party and the opposition to ensure that the Guantanamo prisoners—including three British citizens—are treated humanely.

The Church of England issued a plea Thursday for the United States to treat the prisoners with “humanity and dignity” and to apply “proportionate and measured” justice.

“Every action must be tested against principles of justice,” bishops said after a three-day gathering of the House of Bishops in York, England.

“Ends do not justify means. Those who proclaim that their cause is just must act justly.”

Rumsfeld Confident on Prisoners’ Care

Defense Secretary Donald H. Rumsfeld told the British Broadcasting Corp. on Wednesday that he does not “feel the slightest concern about [the prisoners’] treatment. They are being treated vastly better than they treated anybody else.”

Guardian newspaper columnist Hugo Young responded that there was “a sense of generalized vengeance in what Rumsfeld had to say. Having failed to catch Osama

bin Laden, the U.S. is evidently adopting the alternative of netting any number of Taliban and Al Qaeda and sticking them with collective responsibility for the monstrous mass murder at the Pentagon and World Trade Center.”

On Wednesday, Blair faced a grilling from members of his own Labor Party and the opposition in Parliament over the prisoners’ treatment. Labor’s Kevin McNamara warned the prime minister that the West was in “danger of losing the high moral ground.”

Blair agreed that prisoners must be treated humanely. He defended U.S. actions, repeating official assertions that the prisoners were being fed properly and allowed exercise and showers, and adding that they were “highly dangerous people.”

Liberal Democratic leader Charles Kennedy said the West must seek a better standard of behavior than the Taliban and Al Qaeda. “We must demonstrate that our values remain above those who seek to destroy them,” Kennedy said.