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Court rules in favor of Geneva Conventions

OUR OPINION: TREATMENT OF GUANTANAMO DETAINEES IS FLAWED

Editorial
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A federal judge shut down the Military Commissions trying accused terrorists at the Guantánamo Navy base, finding them unlawful. The ruling calls into question President Bush's authority to categorically designate a group of captives as "enemy combatants" and to invent new rules for military trials.

In essence, U.S. District Judge James Robertson in Washington, D.C., confirmed what many critics, including The Herald, have said: that the Military Commissions are irreparably flawed.

U.S. soldiers at risk

By deviating from 50 years of legal precedent and the internationally accepted Geneva Conventions in its treatment of so-called enemy combatants, the administration could put at risk American soldiers captured in armed conflicts overseas. If the United States doesn't abide by the Geneva Conventions that protect prisoners of war, why should our enemies?

The decision came in the case of Salim Hamdan, a Yemeni who earned \$200 a month as Osama bin Laden's driver. Mr. Hamdan denies that he is a terrorist or a member of al Qaeda. He has been detained in Guantánamo more than two years, nearly half of that time in isolation awaiting trial.

Judge Robertson's ruling follows a Supreme Court decision in June that allowed Guantánamo detainees to challenge their indefinite detention in federal court. Mr. Hamdan was one of nearly 70 detainees who filed such habeas corpus petitions. The ruling in his case this week stopped his Military Commission trial and three others.

Judge Robertson's primary objection to the commission: Its rules don't allow the accused to see and confront all the evidence against him. The judge also rejected the adequacy of a separate procedure hastily put into place after the Supreme Court ruling: the Combatant Status Review Tribunals, which are supposed to individually verify that each detainee is an enemy combatant and rightly detained.

POW protections

Our concern isn't for Mr. Hamdan but for the integrity of the U.S. judicial process. Judge Robertson found that captives must be considered prisoners of war under the Geneva Conventions unless and until designated otherwise by a "competent tribunal" -- which neither the review process nor the president's designation satisfies. Thus, Mr. Hamdan and other Guantánamo detainees are entitled to full POW protections, including trials that -- unlike the commission proceedings -- conform to the established Uniform Code of Military Justice.

This ruling, however, isn't going to stand unchallenged. The Justice Department said that it would seek a stay and appeal immediately. Expect months, if not years, of legal wrangling. Ultimately, the civilian courts are doing as they must: serve as a check and balance to the powers of a U.S. president.

