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Experts Debate Rights and Wrongs Of Guantanamo

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NEW LONDON -- In front of a capacity crowd at the U.S. Coast Guard Academy on Wednesday, four experts argued whether the U.S. detention of enemy combatants in Cuba is just or an unlawful mistake.

They debated the right and wrong of torture, the legal status of the hundreds of combatants held at the U.S. military base in Guantanamo and where such an act fits in the philosophy and history of America.

On the panel were David Caron, a professor of law at the University of California at Berkeley and a member of the U.S. Department of State's advisory committee on public international law; David Kennedy, a professor of international law at Harvard University; Todd Gaziano, director for the Center for Legal and Judicial Studies at The Heritage Foundation; and David Rivkin, an attorney who practices international law and worked in the Reagan and George H.W. Bush administrations.

Caron described the detentions at Guantanamo as outside the traditional roles of law enforcement and warfare. It is the result of a country's being run under emergency rule, giving the president wider discretionary powers, but it is potentially an emergency "without end," he said.

Arguing that "the United States is at war," Gaziano said holding the enemy there prevents their return to the battlefield, as has been seen from the cases of some of the detainees who have been released.

Kennedy suggested that "Guantanamo does more to harm than help the war effort." He wondered whether the country's leaders, now that the detention center has been built, have planned "how to unbuild Guantanamo."

Caron disputed whether severe interrogations at Guantanamo could produce useful information to save American lives. He said that standard is too broad and, in a more conventional war, could have allowed the brutalization of the lowliest soldiers.

Rivkin disagreed. "Torture, by and large, works. That's why it's been used for centuries. Am I making a case for torture? No," he said. But the interrogations at Guantanamo - including some of the more harsh techniques - are acceptable, he said, if they are producing information.

He added that the argument against the interrogations being useful is "rubbish."

Kennedy described the fight against terrorists - combatants without nations - as a struggle "of a new type" that wasn't contemplated in previous international law. He said it requires the merger of law enforcement and military, of offense and defense.

But Rivkin countered that such conflicts have been common throughout U.S. history. The country has fought pirates, Indians and outlaws. In the case of al- Qaida and Taliban members being held in Cuba, he said their situation is not as difficult as critics contend. "It ain't that bad."

In a question-and-answer period with cadets, one asked why the United States doesn't just come up with a detailed system of laws on how to handle detainees.

Gaziano said making the rules too specific could benefit al-Qaida: "Some flexibility is necessary in war."

In answer to another question, Caron said America missed a chance after Sept. 11 to bolster cooperation among countries. "It is at the moment of disaster that there is a window for change," he said. Suggesting that a future attack could offer the chance again, he said, "Be ready."

Gaziano called Wednesday's event "the highpoint of my year," especially considering the audience members could themselves be involved in the war. Cadets said they were glad to hear such a topic discussed so openly.

Cadet George MacDonnell of Rhode Island said, "We don't just toe the party line all the time. We're open to new ideas."