



The following text may be printed, copy/pasted, or downloaded and emailed.

## Injustice in Guantánamo

**New York Times**

**August 22, 2003**

As the prisoners in Guantánamo approach their second anniversary in captivity, the Bush administration is finally talking about bringing them to trial. The delay in holding trials, and releasing the innocent, is unacceptable. So are the rules the administration has outlined for conducting their trials. The Defense Department should heed the calls of respected voices in the legal community, including that of the American Bar Association, and develop fairer procedures.

The detainees held in Guantánamo Bay, Cuba, on suspicion of involvement in terrorism have been in custody so long it may seem that they have been found guilty of something. But the detainees, most of them captured in the Afghanistan war, have not had trials, and it is not clear when they will. Relatives and human rights groups say many were simply in the wrong place at the wrong time, or were picked up based on bad intelligence.

The administration has indicated that it intends to start putting the detainees before military tribunals soon. The procedures that have been adopted for these proceedings are unfair. The trials themselves may be held in secret, and lawyers can be prevented from speaking publicly about the proceedings. Secret trials make it impossible for the outside world to determine whether justice is being done.

The military tribunal rules also contain restrictions on lawyers that will make it difficult, if not impossible, for them to mount effective defenses. The government reserves the right to deny detainees and their civilian lawyers access to the evidence being used at trial. The rules authorize the Defense Department to monitor communications between civilian lawyers and clients, and require lawyers to reveal information that they learn from their clients relating to future criminal acts. The American Bar Association, at its annual meeting this month, urged Congress and the executive branch to revise these rules substantially. Finally, the appeals process laid out in the military tribunal rules falls far short of what fairness requires.

The Bush administration has already denied each of the Guantánamo detainees one basic right guaranteed in the civilian justice system: a speedy trial. Now it appears determined to deny many more. Before these prosecutions go any further, the administration should overhaul its procedures until it has a system capable of exonerating the innocent, and of showing a skeptical world that those who are convicted are in fact guilty.