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## **Supreme Court sidesteps Guantánamo Bay detainee issue**

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WASHINGTON — The Supreme Court prolonged the legal limbo of hundreds of terror suspects in a U.S. military prison in Cuba, refusing yesterday to consider whether the government's plan for military trials denies them basic legal rights.

So far only a handful of the 550 detainees from about 40 countries have been charged with war crimes. More charges are expected once courts sort out how the detainees may be tried.

The legal uncertainty surrounding the men, many of whom were captured during the U.S.-led war in Afghanistan in 2001, has prompted international criticism and spawned multiple court fights.

The Supreme Court had been asked to use an appeal by Osama bin Laden's former driver to decide whether the Bush administration is trying to shortcut defendants' rights by holding a type of military trial last used during World War II. Salim Ahmed Hamdan, a Yemeni, is charged with conspiracy to commit war crimes, murder and terrorism. He says he is innocent.

A federal judge ruled last fall that Hamdan and others put on trial at the Guantánamo Bay Naval Base should be allowed to confront witnesses and see evidence against them, which is standard under military-justice rules but is not guaranteed to detainees.

The Supreme Court rejected the case Tuesday, which was not surprising because an appeals court also is considering the issue and has scheduled arguments March 8. It was a minor victory for the government, which was ordered by the Supreme Court last year to give detainees in the United States and Cuba more legal rights.

Since those landmark decisions, lawsuits have been filed in Washington, D.C., on behalf of dozens of detainees claiming they are being wrongly held. Some of those cases eventually will make it to the Supreme Court. The government has also been sued for millions of dollars in damages by inmates claiming mistreatment.

Three years have passed since some of the Guantánamo Bay detainees were arrested, and legal wrangling is expected to continue for another year or more.

"It's pretty messy," said Carl Tobias, a law professor at the University of Richmond. He said international leaders have been watching the Hamdan case closely and are eager for a speedy resolution.

Human-rights groups and hundreds of members of the British and European parliaments had encouraged the Supreme Court to make a special exception to hear the appeal.

"The entire commission process, and all pending challenges to it, have ground to a halt," justices were told by Neal Katyal, one of Hamdan's attorneys.

Bush administration lawyer Paul Clement had urged justices to avoid jumping into a case "where the military proceedings involve enforcement of the law of war in the midst of an ongoing armed conflict against an enemy force that is targeting civilians for mass death."

In military-commission trials, prosecutors can seek the death penalty and rules of evidence are more favorable to the government. People who are convicted have only limited rights of appeal. Hamdan's lawyer argued in his appeal that Congress did not authorize the trials.

"It is heading toward a significant Supreme Court ruling, just not this term," said Eric Freedman, a law professor at Hofstra University who doubts that the government will succeed in holding military trials.

Hamdan was to have been the first person put on trial, but U.S. District Judge James Robertson stepped in last November to block it. Robertson's ruling is now being reviewed by a three-judge appeals-court panel.