

1: Human Rights and Civil Liberties | Costs of War

Chapter 24 - Civil Detention Of Terrorist Suspects How are the legal rights of non-citizens different from citizens? How do the legal rights of non-citizens change when their visa expires or they otherwise violate the terms of their stay in the US?

Human rights groups accused the president of deserting his principles and disregarding the long-established principle that the military is not used in domestic policing. The legislation has also been strongly criticised by libertarians on the right angered at the stripping of individual rights for the duration of "a war that appears to have no end". The law, contained in the defence authorisation bill that funds the US military, effectively extends the battlefield in the "war on terror" to the US and applies the established principle that combatants in any war are subject to military detention. At a time when the United States is urging Egypt, for example, to scrap its emergency law and military courts, this is not consistent. The law applies to anyone "who was a part of or substantially supported al-Qaida, the Taliban or associated forces". Senator Lindsey Graham said the extraordinary measures were necessary because terrorism suspects were wholly different to regular criminals. But another conservative senator, Rand Paul, a strong libertarian, has said "detaining citizens without a court trial is not American" and that if the law passes "the terrorists have won". It puts every single citizen American at risk," he said. This is simply not borne out by the facts. He noted that the definition of a terrorism suspect under existing legislation was so broad that millions of Americans could fall within it. Someone who has guns, someone who has ammunition that is weatherproofed, someone who has more than seven days of food in their house can be considered a potential terrorist," Paul said. They will have the right to appear once a year before a committee that will decide if the detention will continue. The Senate is expected to give final approval to the bill before the end of the week. It will then go to the president, who previously said he would block the legislation not on moral grounds but because it would "cause confusion" in the intelligence community and encroached on his own powers. But on Wednesday the White House said Obama had lifted the threat of a veto after changes to the law giving the president greater discretion to prevent individuals from being handed to the military. Human Rights Watch said that by signing the bill Obama would go down in history as the president who enshrined indefinite detention without trial in US law. It breaks with over years of tradition in America against using the military in domestic affairs. The Pentagon also said it was against the bill. Civil liberties groups say the FBI and federal courts have dealt with more than alleged terrorism cases, including the successful prosecutions of Richard Reid, the "shoe bomber", Umar Farouk, the "underwear bomber", and Faisal Shahzad, the "Times Square bomber". Elements of the law are so legally confusing, as well as being constitutionally questionable, that any detentions are almost certain to be challenged all the way to the supreme court. Malinowski said "vague language" was deliberately included in the bill in order to get it passed. If people are confused about what it means, if people disagree about what it means, that in and of itself makes it bad law," he said.

2: National Defense Authorization Act for Fiscal Year - Wikipedia

Chapter 24 - Civil Detention Of Terrorist Suspects Citizens v. Non-Citizens How are the legal rights of non-citizens different from citizens? How do the legal rights of non-citizens change when their visa expires or they otherwise violate the terms of their stay in the US?

The clip begins at 1: Refer to the first part of the article to point out other crimes for which he is a suspect and note that he is currently in prison at the U. Then show Clip 1. Explain that Salim Hamdan moved his family to Pakistan because he feared for their safety. Hamdan was detained at the U. Then, play Clip 2. Tell the class that the George W. Because of this, such detainees were to be tried by military commissions and would not qualify for legal protections typically given to defendants in U. Ask the class to consider the cases of Hamdan and Khalid Sheikh Mohammed. Do students believe the United States should have the right to hold such prisoners indefinitely without bringing charges against them or holding public trials? Why or why not? Is Hamdan more deserving of basic legal protections than Mohammed? Tell students that Hamdan was eventually found "not guilty" of the charge of conspiracy to commit terrorism. Explain that Hamdan was reunited with his family on January 8, , after being detained by the United States for more than seven years. Tell the class that human rights organizations continue to criticize the U. Assign half of each group to prepare a three-minute presentation based on an affirmative response to the debate question using resources from the American Civil Liberties Union. Students should feel free to use additional research materials if desired. Each half of each group should also prepare a challenge question to ask the opposing side during the debate. After groups have prepared their arguments and questions, have the various sides take turns giving their presentations and providing rebuttals to the challenge questions from the opposing sides. Then, ask group members to evaluate the contributions of their teammates as they prepared for and conducted the debate. The clarity of their debate presentations. Their contributions before and during the debate, as determined by their peers. Constitution for those accused of crimes. Distribute the POV handout U. Ask student pairs to refer to the U. Constitution to complete the handout together. Consider arguments for and against "enhanced interrogation" techniques. Then, ask them to listen to or read the transcript of the Morning Edition episode " Cheney Defends Enhanced Interrogation Techniques " and watch a segment from The Oath beginning at 1: Research and compare the policies of the George W. Bush and Obama administrations on detaining prisoners without charges or trials, extraordinary rendition, the use of military tribunals to try suspected terrorists and whether the U. Have students organize their research findings on each administration side by side on a table and then discuss policy similarities and differences in small groups. Then, ask students to write editorials that explain their own positions on how the U. Watch The Oath in its entirety. In addition to telling the story of Hamdan, The Oath provides a fascinating and engaging portrait of Nasser al-Bahri a. Dig deeper into the themes of the film with these questions and activities: Before watching The Oath, have students write descriptions of what they think a member of Al Qaeda would be like. Which sources of information have shaped their ideas? After seeing the film, discuss whether student opinions have changed at all. Take notes on how Abu Jandal describes the ideology of Al Qaeda. Then have students infer how knowing how Al Qaeda thinks, acts and understands the world might benefit the United States. Based on what is shown in the film, list some of the strategies used by bin Laden to secure loyalty and obedience from Al Qaeda members. How effective do students think these tactics have been? Can students think of other individuals or groups in the past or present who have used or still use similar strategies? If so, compare and contrast their approaches with that of bin Laden and Al Qaeda. Explain to students that some people believe there is a connection between poverty and jihadist activities. Then have them conduct research on this topic and write persuasive essays that support or debunk the idea of such a link. Students should also provide specific examples from the film to support the points in their essays. Evaluate initiatives that seek to re-educate jihadis, such as the Dialogue Committee, which is featured in the film. Have the class read the article " Can Jihadis Be Rehabilitated?

3: Dangers of a preventive detention law | Human Rights Watch

The Tbilisi City Court sentenced to pretrial detention a terrorism suspect detained in the counter-terrorism operation in Tbilisi on November. The court hearing was closed upon the prosecution's request, which was upheld by the defense side as well, and the identity of the detained has not been revealed.

Either appellant fits, but neither suits. In addition, law enforcement agencies do not want to elevate terrorists to the status of soldiers, choosing instead to characterize them as criminals. On the other hand, some terrorist groups have the organization, sophistication, and capacity for violence of a military force. Moreover, when committed by terrorists, violence and mass murder are more than simply heinous criminal acts; they are the means by which terrorists try to harm the United States as a nation, and therefore they have national security implications. Whether terrorism is regarded as a criminal or military act has enormous implications for how suspected terrorists should be treated by the U. The rules for dealing with spies, saboteurs, and other threats to national security, in contrast, are much less rigid, essentially curtailing the civil liberties of the accused because of the great security threat that he or she may pose. President Bush and other U. In the first two years of the war on terrorism, there have been more questions than answers on these issues. Detention Without Trial An aura of secrecy pervades the detention of suspected terrorists. Journalist Mark Bowden reports that "there is no clear count of suspected terrorists now in U. Most of them were captured during the U. The government has not made public the numbers or names of those being held for intelligence reasons: His organization scatters, altering its plans, disguises, cover stories, codes, tactics, and communication methods. As law professor Stephen Schulhofer puts it, "To say that the Executive Branch on its own determination can pick somebody up and hold them indefinitely without any procedure or access to a court or to counsel or the press is an absolutely staggering thought. Moreover, in the absence of more information about those being held by the government and how they are being treated, even the most mistrustful government watchdog groups have little choice but to hope that the U. The most commonly cited benefit of public trials is that they help ensure that the accused get a fair trial. In the June 10, , issue of the Nation, attorney Edward J. Klaris discusses how the public also benefits from public trials. However, it is now beyond dispute that a separate right of access to attend trials also arises from the First Amendment. That right to attend criminal proceedingsâ€”which belongs to the press and public, not to the defendantsâ€”mandates that trials be open, absent compelling and clearly articulated reasons for closing them. This independent constitutional right of access was first recognized by the Supreme Court in *Richmond Newspapers v. In that case, the Court held that an order closing the courtroom for the trial was unconstitutional, noting the public policy reasons behind the rule: Yaser Esam Hamdi, born in Louisiana to Saudi Arabian parents, was captured while fighting for the Taliban in Afghanistan, and Jose Padilla also known as Abdullah al-Mujahir , a New Yorker of Puerto Rican ancestry, was arrested in June at a Chicago airport after allegedly plotting a bombing with al-Qaeda operatives. Like the hundreds of foreign terror suspects, neither man was charged with a crime, but both have been held in military brigades since their arrests. Unlawful Combatants In legal terms, the Bush administration has justified its detention without charge of terror suspects, including Hamdi and Padilla, by declaring that they are "unlawful combatants. The Geneva Convention distinguishes between captured lawful combatants, or prisoners of war POWs , and unlawful combatants. Unlawful combatants are those who do not carry their arms openly, do not wear a uniform or insignia to identify themselves as soldiers, and otherwise conceal their identities before launching an attack. Unlawful combatants do not enjoy the same privileges as POWs, who, according to the Geneva Convention, have the right to refuse to disclose military information and cannot be held indefinitely but must instead be tried or freed once hostilities are over. Secretary of Defense Donald Rumsfeld and other U. Former Supreme Court justice nominee Robert Bork defends this reasoning: Once the government is satisfied that it has all the relevant information it can obtain, the captive can be held until the end of hostilities, or be released, or be brought up on charges before a criminal court. They point out that in the war on terrorism, it is unclear when, if ever, "hostilities" will end. In addition, they maintain that the designation of terror suspects as unlawful combatants is unconstitutional because the United States has made no formal*

declaration of war, which requires an act of Congress. The Constitution, argues the American Civil Liberties Union ACLU , gives Congress, not the president, "the power to declare war, make rules concerning captures, and regulate the armed forces. Military Tribunals President Bush first raised the issue of military tribunals on November 13, , when he issued an executive order stating that noncitizens accused of terrorism could be tried under a military tribunal. With the designation of terror suspects Hamdi and Padillo as unlawful combatants, there is speculation that military tribunals could be used to try both citizens and noncitizens. The Need for Clearer Guidelines on Military Tribunals Although President Bush issued his executive order authorizing military tribunals for terror suspects in November , in the first two years of the war on terrorism no military tribunals have been convened, and the administration has issued only general guidelines on how such tribunals would be conducted.

4: Indefinite detention without trial - Wikipedia

Proponents of a system of indefinite detention, including President Obama, have argued that the criminal justice system may be incapable of adjudicating some terrorism cases because the necessary evidence is too "tainted" by coercion to be admissible in U.S. courts.

This is much like the argument used for decades from Cairo to Damascus. By Alia Malek From Tunis to Athens to Moscow to Wall Street , has been about dispatching with old ways and rulers, or at the very least, putting them on notice that business as usual is no longer acceptable. Yet as the year hurtles toward its end, the passage of the National Defense Authorization Act NDAA has President Obama and Congress standing in stark contrast to that global momentum by ossifying the mistaken ways of what should be a former era. Notably, it includes provisions that require the military "not law enforcement" to indefinitely jail accused terrorists. Obama did threaten to veto the bill, but not because of any objection to the substance of the law. Actually, the White House balked at congressional attempts to limit such provisions to non-Americans only. Indeed, the president, who is a former constitutional law professor, wanted the chief executive to retain the discretion to apply such provisions "that is, indefinite military detention" to American citizens, who otherwise are entitled under the Constitution to a speedy and public trial and several due process protections. How to draft a constitution And so, unfortunately, the NDAA stays the course of the War on Terror as it relates to restricted civil liberties. It maintains the underlying premise that because of exigent circumstances, the power of the executive must be enlarged and civil rights and civil liberties must be curbed. These are much like arguments that have been made for decades and continue to be made from Cairo to Damascus to justify emergency laws and military overrides of civilian rule. These weak arguments also continue to be rejected by the citizens of those countries and those who stand in solidarity with them as part of a growing worldwide movement. And their lecturing of autocrats to get out of the way of that same tide suggests they are also deaf to the irony of their plea. But why this dissonance? In the processing of the last 10 years, Americans have failed to reach a complete understanding of what the underside of the War on Terror has meant. They have barely acknowledged the domestic front of this borderless and increasingly perpetual campaign. This in part is due to the desire "at least among liberals" to believe these violations ceased when Obama was elected president. They have in fact expanded. We have thus perhaps falsely presumed that counter-terror efforts here at home have been costless and errorless. Or when these costs and errors are mentioned "renditions, disappearances, dubious law enforcement practices, and questionable legal process" they are not entered into the collective American consciousness in full emotional detail, layer, and context. It is almost as if acknowledging these costs would diminish and slight the suffering and loss of life that occurred on that September morning. These people belong to communities that are persistently perceived as not really American. For a president who once swathed himself in the sentiments of hope and change and prided himself on being in step with the aspirations of those across the planet who would seek a life of dignity, his actions appear fraudulent. And that was just

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