

U.S. May Not Release Guantanamo Prisoners: Even If Found Innocent of Charges Against Them

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Even if a Guantanamo prisoner is acquitted on all counts at his trial, the Pentagon may still not release him on grounds he might return to the battlefield, according to an article in the April 14th issue of The New Yorker.

The magazine's Jeffrey Toobin quotes Brig. General Thomas Hartmann, legal adviser to the Pentagon's Office of Military Commissions, as saying, "What's unusual about what we're doing is that we're having the commissions before the end of the war. The Nuremberg trials (of accused Nazi war criminals) were after World War Two, so there was no possibility of the defendants going back to the battlefield."

But, Hartmann continued, "We still have that problem. We are trying these alleged war criminals during the war. So, in order to protect our troops in the field, in general we are not going to release anyone who poses a danger until the war is over."

By this reasoning, Toobin writes, "even those Guantanamo detainees who are acquitted of the charges against them are analogous to Nazi war criminals."

Curiously, hundreds of Guantanamo prisoners — once depicted by former Defense Secretary Donald Rumsfeld as "the worst of a very bad lot" — have already been released. This raises the suspicion they were innocent victims of dragnet arrests or sold to the U.S. by Afghan bounty hunters to enlarge the picture of thousands of Islamist terrorists seething to attack America. As historian James Carroll put it in "House of War" (Houghton Mifflin), the jails of Abu Ghraib and Guantanamo are "emblems of a new system of legally dubious incarceration that involved more than eleven thousand detainees held in mostly secret (black site) locations around the world..."

As Clive Stafford Smith, a detainees' lawyer, told The New Yorker: "Now that it's clear that Guantanamo is such an embarrassment, they are just shipping as many of them (captives) out the door as they can, and just keeping enough of them to save face. It's a political process that has little to do with terrorism."

Only one prisoner since Gitmo first opened on January 11, 2002 — ex-kangaroo skinner David Hicks—has been actually brought to trial. He plea-bargained a nine-month term which he served out in his native Australia and is now free.

About 275 prisoners remain in Gitmo, down from an estimated peak of 680 from 43 countries. According to Toobin, about 60 have been approved for transfer, if countries can be found to take them, and Hartmann anticipates there is sufficient evidence to bring

commission trials against only 80. "In sum," Toobin writes, "there are more than 130 detainees for whom Administration officials acknowledge they have no plan, except indefinite detention without trial." Toobin's article is titled "Camp Justice."

After years of delay, a trial was actually scheduled to open May 5th against Omar Ahmed Khadr, a Canadian who was 15 years of age when detained on charges of hurling a hand grenade that killed an American GI. According to The New York Times of April 12, military judge Col. Peter Brownback III, pushed back his trial date and instead set May 8th to hear more lawyers' arguments on pre-trial issues. Khadr's lead lawyer, Navy Lt. Comdr. William Kuebler, is quoted as saying, "I don't believe anyone can get an acquittal at Guantanamo Bay." He said some witnesses to the firefight say the U.S. soldier may have been killed by friendly fire — a charge Khadr's prosecutor claims will be disproved.

Yet what does it matter? Even if proved innocent before his all-military panel, Khadr could be held as long as the occupant of the White House says the War on Terror continues! For many in the Middle East and elsewhere, the legalized duplicity shaping up at Gitmo won't just give America one black eye but two, plus a broken nose, a fat lip, and a mouthful of loose teeth — as George Bush whacks away at the Statue of Liberty with his war club.

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