

Letter to Supreme Court Chief Justice

United States Supreme Court
1 First Street, N.E.
Washington D.C. 20543

Dear Chief Justice John Roberts,

On Wednesday, December 5th, the Supreme Court heard arguments asserting the legal rights of Guantanamo Bay detainees. In *Boumediene v. Bush* (06-1195) and *Al Odah v. United States* (06-1196) lawyers for the detainees argued their clients have a Constitutional right and a Common Law right to challenge their detention through habeas corpus claims in U.S. federal courts. I am writing on behalf of Witness Against Torture. We are a group of citizens of the United States, and many of us are pacifists. All of us are greatly opposed to our government's ongoing wars in Afghanistan and Iraq.

We urge you to rule in favor of arguments asserting the legal rights of Guantanamo Bay detainees. The U.S. prison at Guantanamo opened on January 11, 2002. Those held there over the years have been denied all legal rights, most importantly that of habeas corpus, a right specifically enshrined in the Constitution.

The human right of the writ of habeas corpus began in 1215 when King John was forced by his lords to sign the Magna Carta at Runnymede. Alexander Hamilton, a conservative, wrote in the *Federalist* 84: "The establishment of the writ of habeas corpus...are perhaps greater securities to liberty and republicanism than any it [the Constitution] contains. ...[T]he practice of arbitrary imprisonments have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone, in reference to the latter, are well worthy of recital:

"'To bereave a man of life,' says he, 'or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.'"

The detainees have also been denied the Geneva Convention protections for prisoners of war, protections the U.S. has pledged to uphold. Common Article 3 of the Geneva Convention states "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal

dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

More than one thousand men and boys have been imprisoned at Guantánamo. Accounts of cruel, inhuman, and degrading treatment have been condemned by the United Nations, Human Rights Watch and other reputable bodies. The prisoners have resorted to hunger strikes as a way of protesting their treatment. Many have attempted suicide; three men killed themselves on June 10, 2006. Desperation, fear and frustration mark their confinement.

War is an awful foreign policy, and it inevitably leads to the use of torture. Unfortunately, our government denies the use of torture. George Bush, for example, claimed, "We Don't Torture" to Katie Couric, CBS News Anchor, on Sept. 6, 2006. Such a denial only causes good people in other countries to shudder in disbelief.

We have to assume that you despise torture as much as we do. So we are writing to you, a member of the United States Supreme Court, to do everything in your power to bring to an end the practice of torture by representatives of the U.S. government and its allies.

Torture is debilitating to both victim and perpetrator. Supporting torture through quiet acquiescence or active participation means the civilized world will turn away from the United States. When the Commander and Chief ignores the fact that his subordinates participate in acts of torture against prisoners of the United States, this country loses credibility at home and abroad.

At times in the history of this country, administrations have placed restrictions on civil liberties. This would later be regretted. In the late 1980s, for example, Congress and President Reagan apologized for the forced internment of 120,000 Japanese Americans during World War II—calling it the result of "race prejudice, war hysteria, and a failure of political leadership"—and paid more than \$1.5 billion in reparations to assuage the national guilt.

We would welcome a chance to meet with you to discuss these matters. Please let us know if this is possible in the near future. Many in this country and around the world see the Supreme Court as the best— and perhaps only—hope for a return to the rule of law.

In peace,