

# Look to Israel to learn how to handle Guantanamo detainees

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The United States holds 340 men in Guantanamo. Six of our clients from Yemen have been held there for almost six years.

These men, who have never been charged with a crime and are not classified as prisoners of war, say they are wrongly held. They have asked a federal court in Washington to hear their evidence and determine whether they should be permitted to go back home to their families and friends. The picture shows the son and daughter of one of our clients; he has not seen them for six years.

Our government say it is impossible to give these men a hearing before an independent judge – national security interest,

you know, sorry for the inconvenience. The premise of the rule of law is that a person cannot be held without the blessing of an independent judge, but the Bush administration says that the threat of terrorism trumps that quaint notion of justice. But is that so? What is the experience of other countries that face threats from terrorism?

Israel, more than any other country in the world, knows something about terrorism. Since the day it was founded, surrounding countries have sought to obliterate it. In August, Iranian President Mahmoud Ahmadinejad said the solution the Middle East crisis was to destroy Israel.

Since 2001, 158 Palestinian suicide bombers have targeted Israelis, killing 545 Israel citizens. During the same time period, 1,067 Israelis died in terrorists attacks overall, while another 6,333 were wounded. To state the obvious, the government of Israel faces constant attacks from terrorists. For perspective, if the same rates were applied to the population of the United State, these casualties would translate into approximately 49,000 Americans dead and more than 250,000 wounded during the seven-year period.

Given the tragedies threatening Israel on a daily basis, does Israel sequester suspected Islamic terrorists at an equivalent of

Guantanamo, branding them "enemy combatants" and confining them without judicial intervention? Does Israel transport suspected terrorist to remote military bases for interrogation, torture and indeterminate confinement without judicial intervention? No.

Unlike the United States, Israel's system for handling alleged terrorists and enemy combatants provides each detainee with a hearing within 14 days of detention (whether captured in Israel, the West Bank or (elsewhere), access to counsel within 34 days of detention and, most important, the right to have the detention reviewed by an independent judge empowered to order the prisoner's release. The

judge's review is not perfunctory. Rather, the judge is required by Israeli Law to perform a thorough and sifting review of the evidence and to come to the independent conclusion that the alleged terrorist poses a threat to state security to continue his or her detention.

Simply state, while the threat posed by suicide bombers and other terrorists is Israel's crucial domestic problem, Israel's soul is more important. The people of Israel believe that the rule of law is central to their identity as a democratic society.

The United States provides no procedures similar to Israel's for the men held in Guantanamo. After more than five years, our leaders

say it is too hard and too threatening to provide a hearing before independent judges for a mere 340 men.

Our country says those efforts would handcuff our efforts in the war on terrorism and that we need to be able to interrogate these men at will. Never mind that our military leaders know more about where Osama bin Laden is than do these men, who have been held for five years with no access to computers, newspaper or media; we say that the perceived need to interrogate them trumps their right to a hearing before an independent judge.

The former deputy attorney general of United States goes so far as to pronounce

that these men can be held "in perpetuity."

The Israeli experience demonstrates the pure fallacy of our rationale for depriving these individuals of their rights. Israel, a country 1/46<sup>th</sup>, the size of the United States, proves the judicial hearings for suspected terrorists do not bog down the military or legal system.

In 2002, the Israel Defense Forces seized nearly 7,000 suspected enemy combatants in the West Bank. (For those scoring at home, adjusted for population, the comparable number would be 322,000 detainees in the United States.)

The military quickly processed and released more

combatants and provided the remaining 1,600 suspects with access to defense counsels and to independent courts within a matter of weeks. Israeli law also provides for independent judicial review every six months for anyone detained.

Perhaps it is time we learned something from our ally in the Middle East. There is no reason we cannot prove the 340 "enemy combatants" held at Guantanamo the basic legal rights guaranteed by King John at Runnymede in 1215. These men are entitled to judicial review before an independent judge.