

RIGHT or WRONG? Geneva conventions

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Appeals have been made to the Geneva Conventions regarding prisoners of war. What is the basis for such assertions? And what reference material is available?

A number of prisoners at Guantanamo Bay have made appeals to the Geneva Conventions to be considered prisoners of war. Those making the appeals are being held by the United States, but they have not necessarily been afforded the rights given to prisoners of war in the Geneva Conventions. Some have claimed these individuals should not be considered POWs because the regime for which they fought did not uphold the “laws and customs of war,” which include cooperating with international authorities and refusing to harbor terrorists.

The Geneva Conventions outline specific care that should be given to prisoners, including food, shelter, medical care and sanitation, at the same level as the armed forces of the country in which a prisoner is being held. Specific rights are afforded to POWs in the Geneva Conventions, however. Some of the rights in question are related to being prosecuted for war crimes. A higher burden of proof is required for conviction that demonstrates personal involvement in the crime, not merely association

with others involved. In addition, POWs may not be interrogated, and they must be allowed to go home when the conflict has ended.

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Detainees who appeal to the Geneva Conventions for protection as prisoners of war might base their assertion on one particular clause from article 5. It states, "Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present convention until such time as their status has been determined by a competent tribunal." Prisoners making appeal may ask for a tribunal to determine their status. This is particularly true for those who have been characterized as combatants but who were fighting as a part of or alongside armed forces of a regime no longer in control.

The Geneva Conventions are long and difficult to interpret, but a number of resources are available to simplify and explain the basic principles of the conventions. The International Committee of the Red Cross website provides not only the full text of the Geneva Conventions, but also fact sheets, answers to frequently asked questions and essential rules of the conventions. To access these resources, visit www.icrc.org. A number of free publications also are available. One of particular interest to this subject is the pamphlet "International Humanitarian Law: Answers to Your Questions," which contains a new chapter on terrorism. Publications may be downloaded or ordered directly: International Committee of the Red Cross, Distribution Sector 19, Avenue de la Paix, CH 1202 Geneva, Switzerland.

Although your question is primarily educational in nature, as Christians, we must grapple with the question of what it means to love both our neighbor

and our enemy. We must struggle both to “turn the other cheek” and to “do unto others as we would have done to us.” When seeking answers about the treatment of prisoners and civilians alike, we must ask ourselves not only what the law requires, but also what the love of Christ compels.

Emily Row-Prevost, team leader/coordinator leader

Communications/Spiritual Formation Specialist

Baptist General Convention of Texas

Dallas

Right or Wrong? is sponsored by the T.B. Maston Chair of Christian Ethics at Hardin-Simmons University's Logsdon School of Theology. Send your questions about how to apply your faith to btillman@hsutx.edu.

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