

Handout D: George W. Bush and the War on Terror

Directions: Read the information in the middle of the chart. If the information could be used to support the argument that terrorist acts are acts of war, place a check on the left side of the chart. If the information supports the argument that terrorist acts are criminal acts, place a check on the right side of the chart. If the information supports neither, leave the row blank.

Background: After the September 11, 2001 terrorist attacks on the United States, President George W. Bush demanded that the Taliban government in Afghanistan turn over Osama bin Laden to the U.S. as well as shut down Al-Qaeda training camps in the country. When the Taliban refused, Bush ordered strikes on the country. After hundreds of enemy combatants were captured on the battle field in Afghanistan, in the U.S. and around the world, the question of how detainees in the War on Terror should be treated became problematic. Were accused terrorists criminals, and thus protected by constitutional due process, or were they illegal combatants (aggressors guilty of breaking laws of war)? President Bush's answer to that question was that they were illegal combatants not entitled to due process protections of U.S. law, but subject to military tribunals.

Act of War <i>Military tribunals for enemy combatants with limited due process protections</i>	Criminal Act <i>All constitutional due process protections for accused persons</i>
1. "Enemy combatants who without uniform come secretly through the lines for the purpose of waging war by destruction of life or property, are...generally deemed... to be offenders against the law of war subject to trial and punishment by Military Tribunals." <i>Ex Parte Quirin</i> (1942)	
2. Some terrorists are supported by governments who openly call for the destruction of other countries.	
3. Congress never declared war against Afghanistan; it did, however, authorize the President to use military force against "those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons."	

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Act of War

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4. When the hijackers boarded their four flights on September 11, 2001, they were not wearing Al-Qaeda uniforms or any military uniform; they were dressed like ordinary civilians.

5. Evidence presented at criminal trials will be made public in the U.S. and international press.

6. The North Atlantic Treaty Organization (NATO) invoked its charter for the first time in its history in response to the attacks: The September eleventh attacks were an attack on all the NATO allies.

7. Some, but not all, detainees at Guantanamo Bay are accused of (or admit to) planning the September 11 attacks. Others as suspected of planning or aiding in other terrorist acts.

8. Constitutional protections against self-incrimination should apply even against people who might have information about future terrorist attacks.

1. President Bush decided that accused terrorists were not entitled to due process protections, but would be tried in military tribunals. To what extent was this decision consistent with constitutional principles and historical precedent?

For further study: Research the following cases to learn what the Supreme Court has decided with respect to due process for detainees at Guantanamo Bay: *Hamdi v. Rumsfeld* (2004), *Hamdan v. Rumsfeld* (2006), and *Boumediene v. Bush* (2008).