



February 20, 2004

Secretary Donald H. Rumsfeld  
Office of the Secretary of Defense  
Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

We write to urge you to ensure that independent, nongovernmental human rights organizations with relevant legal expertise and experience in trial observation are permitted to observe military commission proceedings at Guantanamo Bay, Cuba. The presence of such organizations will be critical to demonstrating that the commission process is open and to evaluating whether it meets international fair trial standards.

In the spring and summer of 2003, each of the undersigned organizations requested authorization from the Department of Defense to attend commission proceedings, and each has followed up in writing or by phone. Human Rights Watch and Amnesty International have recently received written replies, while Human Rights First (formerly the Lawyers Committee for Human Rights) still awaits a response. In identical letters dated January 7 and February 11, 2004, the Department stated that limited seating and logistical issues would preclude many interested observers from attending, and noted only that the press and the International Committee of the Red Cross would be granted access.

We believe there can be no legitimate governmental reason for denying our access to the proceedings. There is no national security reason to exclude human rights observers from open trials. The rules for courts martial prohibit the arbitrary exclusion of specific groups or persons, and no such exclusion of a class of groups should be permitted here. Your order of March 21, 2002 states that military commission proceedings will be open to the public. Each of our organizations has extensive experience and expertise in trial observation, including with respect to the incorporation of international human rights and humanitarian standards in legal proceedings. Given the national and international significance of the military commissions, we believe it is crucial that organizations such as ours – which can speak publicly about such matters – be able to observe the proceedings firsthand.

We recognize that there will be some space restrictions at the U.S. Naval Base at Guantanamo Bay, where at least some of the trials will be held. We stand ready to work with you to address these and any other logistical concerns. However, space constraints simply limit the absolute number of trial observers, and should not be used as a pretext to exclude a whole category of observers with internationally recognized expertise and a deep interest in the proceedings.

We hope you will ensure that the military commissions are truly open to the public by permitting human rights organizations that have criticized the commission process to observe the proceedings firsthand. Given the possibility of commission trials in the near future, we hope the necessary arrangements will be put in place as expeditiously as possible.

Thank you for your attention to this request. We look forward to receiving a response from you at your earliest convenience.

Sincerely,

s/  
Alexandra Arriaga  
Director of Government Relations  
Amnesty International USA

s/  
Elisa Massimino  
Washington Director  
Human Rights First

s/  
Wendy Patten  
U.S. Advocacy Director  
Human Rights Watch

Cc: Dr. Condoleezza Rice, National Security Advisor  
Hon. Colin Powell, Secretary of State