The "Detainee Treatment Act", strips Federal Courts of jurisdiction over the fate of detainees at Guantánamo.
On 30 December 2005, the "Detainee Treatment Act" was signed by President Bush, following its adoption by the U.S. Chamber of Representatives and Senate. By means of an amendment proposed by Republican Senator Graham and approved by Congress, this new Act strips federal courts of jurisdiction over detainees at Guantánamo. This goes against the Supreme Court's decision of June 2004 in the case of Rasul v. Bush, in which it ruled that detainees have the right to challenge the legality of their detention before US courts (applications for habeas corpus).

This last minute amendment authorises the American government to detain prisoners in Guantánamo indefinitely. The "Detainee Treatment Act" was adopted without debate by parliamentary committee and with virtually no advance warning to the American people of its serious ramifications.

The Center for Constitutional Rights (CCR), FIDH member organization in the United States, has represented hundreds of Guantánamo detainees, since its victory in the Rasul v. Bush case before the Supreme Court in June 2004. All prisoners now risk losing the possibility of challenging the legality of their detention before a court.

In early January 2006, on the basis of this new Act, the Bush administration filed petitions in courts before which applications for habeas corpus were pending, arguing for the dismissal of all petitions lodged on behalf of detainees at Guantánamo.

According to CCR, the United States government, under the leadership of President George W. Bush, has made perfectly clear its intention to create a gulag at Guantánamo Bay, Cuba - a lawless zone, to which the American administration will be able to send any person it chooses, to disappear, without trial, and without remedy. If the government's position is not rejected by the American courts, victims of torture will no longer be able to seek justice and have their claims heard in court. All hope of justice will be denied. This is in flagrant violation of the Constitution of the United States and international human rights conventions.

The American administration and its supporters argue, without evidence, that the men held at Guantánamo are extremely dangerous, despite admissions by military authorities of the innocence of many of them. Most of them have no connection with Al Qaeda, many were turned over to U.S. forces in exchange for financial rewards, and others simply found themselves in the wrong place at the wrong time.

According to Michael Ratner, President of CCR, it is a "legal, political and moral disaster. The Act creates a permanent prison outside the United States where detainees have no legal rights, no public hearings, and can be tortured with impunity."

Sidiki Kaba, President of FIDH stated, "This Act makes arbitrariness the norm: it codifies lawlessness. The frenzied legislative activity of the Bush Administration reinforces our conviction: the unconditional closure of the Guantánamo camp is in the interest of all of humanity."