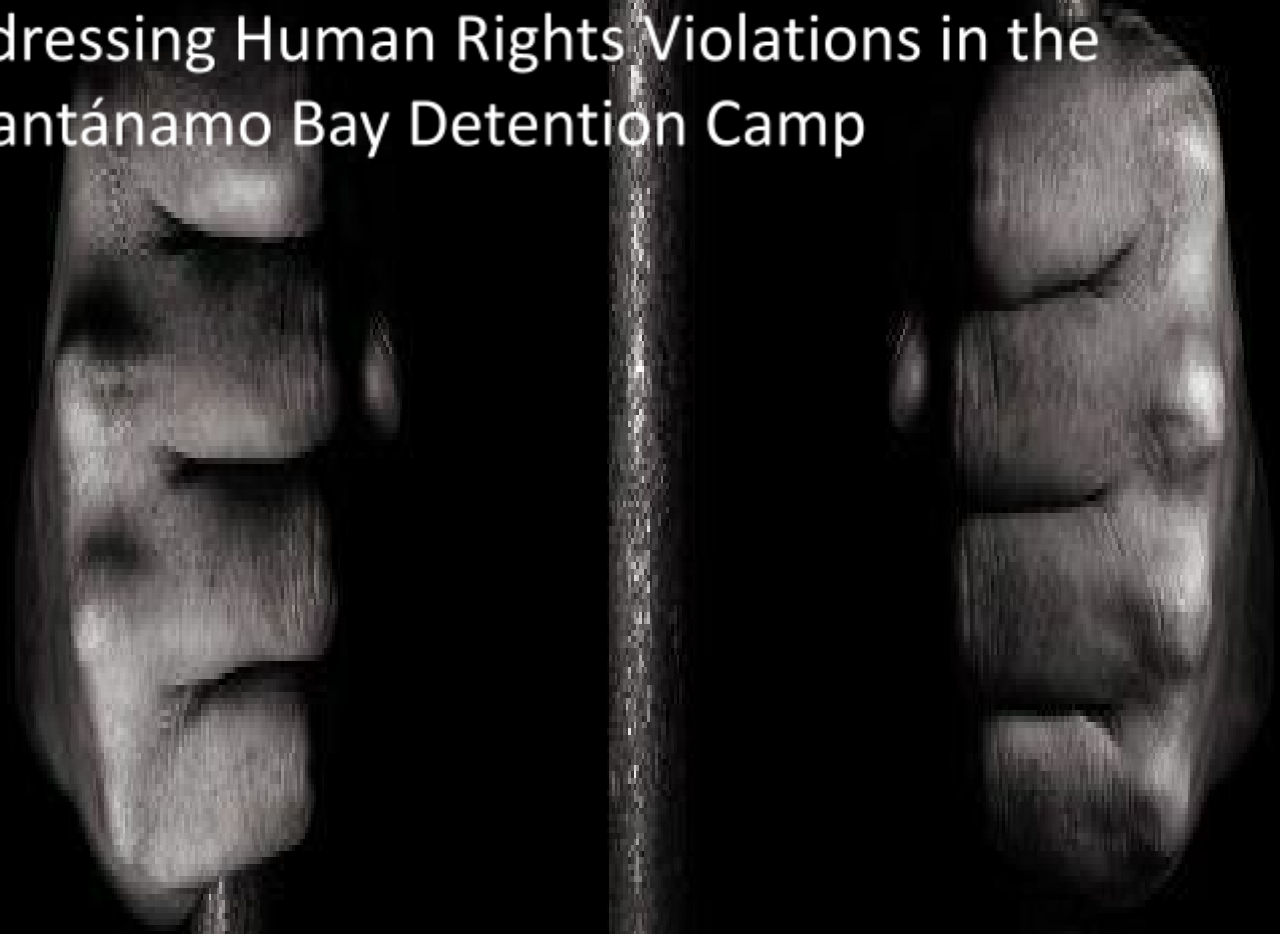


# Human Rights Council

## Addressing Human Rights Violations in the Guantánamo Bay Detention Camp



<b>Forum:</b>	Human Rights Council
<b>Issue:</b>	Addressing Human Rights Violations in the Guantánamo Bay Detention Camp
<b>Student Officer:</b>	James Ward
<b>Position:</b>	President

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## Introduction

Guantánamo Bay Detention Camp is an American controlled prison that was opened in 2002 on the site of the Guantánamo Bay Naval Base in Cuba. The Detention Camp, which has cost the U.S. nearly \$6 billion (USD) over its lifetime, has held more than 780 detainees from 48 countries. Past and present detainees at Guantánamo Bay have predominantly come from countries that have experienced U.S. led foreign intervention or wars, such countries include, but are not limited to; Afghanistan, Saudi Arabia, Yemen, Pakistan, China, Morocco, Kuwait, Sudan, Syria, Libya, Iraq, and the Palestinian Occupied Territories.

The camp's operation by the U.S. Department of Defense (DOD) in Cuba has caused it to have an ambiguous legal status, allowing the U.S. government to violate certain rights that would typically be granted to an inmate in the United States. Guantánamo consists of several categorical camps that serve various purposes with varying levels of security and transparency.

Guantánamo Bay has been the centre of controversy since its January 2002 opening, as it was opened to house suspected terrorists amid the war in Afghanistan but has been accused of holding detainees without a charge or past their date of clearance for transfer or release, as well as exposing prisoners to physical and psychological trauma. Such acts of exposure to physical and psychological trauma have been commonly considered to be instances of torture by the U.S. government.



## Definition of Key Terms

### Human Rights Violation

A human rights violation is constituted as a direct or indirect breach of the United Nations Universal Declaration on Human Rights.

Examples of human rights violations include; torture, inhumane treatment, jailing of political opponents for holding peaceful protests against their government, persecution of religious or ethnic minorities, or arbitrary killings or unjust executions.

### Detainee

A person who has been held in custody typically by a government for political reasons.

### CIA Blacksites

Blacksites are unacknowledged locations where governments conduct covert operations. Blacksites often operate outside of the law, with many blacksites containing detainees that have not been charged with a crime, similar to how Guantánamo Bay operates except that Guantánamo Bay is publicly acknowledged by the U.S. government.

CIA has historically operated blacksites that have been used to detain enemy combatants during the War on Terror.

### Enemy Combatants

An enemy combatant is someone who engages in hostile behaviour against one's side in an armed conflict. The term was created by the Bush Administration to redefine the legal status of detained enemies and detain them without charges indefinitely. This term has additionally allowed the U.S. to supercede the protections for prisoners of war granted by the Geneva Convention as well as ignore international laws.



## High-Value Detainees

High-value detainees are detainees that the U.S. government has deemed as having unique value. It is a term used by the CIA, Federal Bureau of Investigation (FBI), and Department of Defence. There has long been speculation that high-value detainees at CIA blacksites and Guantánamo Bay have been subject to torture.

## Solitary Confinement

Solitary confinement is a practice used in prisons internationally where prisoners are locked in a cell and are stripped of virtually any and all human contact, often for 22 to 24 hours a day. There are varying levels of this punishment, some forms last for shorter lengths of time (such as 1 or 2 days), while others last for weeks, months, years, or even decades, in extreme cases. Other variations of solitary confinement may include limiting the amount of natural light that prisoners see as well as limiting the amount of space that prisoners have in their cell. The United Nations condemns this practice and believes that it should be abolished almost entirely.

## Unlawful Retentions

Unlawful retention refers to the practice of holding prisoners (or detainees) in jail or custody without a charge or crime to their name.

## Foreign Nationals

Foreign nationals are those who are not citizens of a country while living in said country. In reference to Guantánamo Bay, most of the mentioned foreign nationals would be from outside of the U.S. while living there.

## War on Terror

The War on Terror (also known as the War on Terrorism) is a term used to refer to the counterterrorism campaign led by the U.S. and its allies that was started by President Bush in a swift response to the September 11 terror attacks. The war featured various major wars such as in Afghanistan and Iraq as well as covert operations carried out in numerous countries in the Middle East and South Asia (Yemen, Syria, Kashmir, etc.).



The War on Terror was a pivotal moment for U.S. foreign policy, particularly in the Middle East, and saw the arrests of hundreds of suspected terrorists worldwide for the prevention of potential terrorist attacks. Many of the suspected terrorists arrested and captured by the U.S. military were sent to CIA Blacksites or the Guantánamo Bay Detention Camp. The war also succeeded in toppling the Taliban Regime in Afghanistan and capture of many al-Qaeda's (the terrorist organisation that masterminded the 9/11 attacks) senior members.

### Habeas Corpus

Habeas Corpus is a Latin phrase that translates to, 'that you have the body'. It dates back to 1215 in England in the 39th clause of the Magna Carta which stated, "No man shall be arrested or imprisoned... except by the lawful judgement of his peers and by the law of the land."

In the U.S., Habeas Corpus was adopted by the founding fathers and has been a constant of the American justice system ever since being included in the Constitution. The primary function of Habeas Corpus is to protect citizens from detention without lawful judgement from a judge or a trial by jury.

### Prisoners of War

Prisoners of war (or POWs) are any people captured by a belligerent power during a war. It may include members of armed forces, civilians, or noncombatants that have military associations. Certain protections are granted to POWs under the Geneva Convention and international law.

### Executive Order

An executive order is a declaration issued by the President of the United States of America that has the power to mobilise the resources of the federal government as well as promoting their policy agendas.

### Conspiracy

A conspiracy is defined as an act of plotting between co-conspirators in secret to commit a wrongful or unlawful act.



## Statute of Limitations

Statute of Limitations is a law that constitutes the period of time that legal action must be taken after a crime has been committed. Some crimes such as conspiracy have a statute of limitations, while others, such as murder, have none.

## General Overview

### Division of the prison

Guantánamo is divided into 12 distinct camps that have been publicly acknowledged, the most well-known of which are Camp 7, Camp Iguana, Camp Echo, and Camp X-Ray. Most of the 12 camps are now empty.

Camp 7 was one of the most restrictive camps at Guantánamo until its 2021 closure. Camp 7's purpose was to hold former black site prisoners and was originally kept secret until 2007. Five former prisoners of Camp 7 were charged with war crimes regarding their involvement in the 9/11 terrorist attacks.

Camp Iguana held children regarded as enemy combatants by the U.S., Afghans allegedly as young as 13 were held in Camp Iguana. The camp is one of the most humane at Guantánamo, providing kids with an education. Former prisoners such as Naqibullah, an Afghan child who arrived at Guantánamo in early February of 2003 and departed just under a year later, have claimed that the treatment at Camp Iguana was humane, contrary to reports about neighbouring camps at the prison. It is believed that there are no remaining juveniles being held at Camp Iguana or Guantánamo Bay.

Camp Echo is one of the most secretive and brutal locations at Guantánamo Bay. A former CIA black site, the camp has been used to house high-value detainees (as classified by the DOD) using coercive interrogation techniques such as solitary confinement. The camp is incredibly secure, being watched around the clock by the U.S. Military Police, having air control provided by the Federal Air Marshalls, and having coastal protection provided by the U.S. Coast Guard. Visitors such as attorneys are required to go through various security checkpoints on their way into the facility. The increased security is largely due to the risk of prisoners. In May 2011, Inayatullah, also known as Haji Naseem (ISN 10028), was found dead in his recreational yard outside his cell. The cause of death was suicide



as Naseem had improvised a noose using his bedsheets. The camp was also home to British resident Martin Mubanga for nearly three years, who after his 2005 release, described his experiences with being forced to endure extremely hot and cold temperatures on a daily basis among other torture methods.

Camp X-Ray was the first to be built, with photos of the site causing the first instances of public outrage regarding the conditions at Guantánamo Bay. Camp X-Ray has had some of the most well-documented instances of torture, having not only a court-ordered FBI forensic team investigation in 2009, but an admission of abuse from former Camp X-Ray Guard Brandon Neely. In 2003, the Irish Examiner reported that Australian lawyer Richard Bourke (based in the U.S. at the time) claimed American officials were using interrogation methods that undoubtedly fell under the internationally recognised definition of torture. Bourke additionally likened the practices to “torture, as people would have understood it in the Dark Ages.” Bourke went on to describe the experience of one detainee, “[The detainee] had described being taken out and tied to a post and having rubber bullets fired at them.” Camp X-Ray was closed in April of 2002, just months after it was opened. Detainees were transferred to neighbouring camps.

### Human rights abuses

On the prison’s 20th anniversary since opening, experts from the United Nations claimed that Guantánamo’s continued operation is a “stain on the US Government’s commitment to the rule of law.” Despite the fact that various experts and human rights groups around the world have found claims of human rights abuses to be true, the U.S. has still not been punished for its systematic use of torture and abuse of detainees.

A 2006 report to the United Nations Economic and Social Council found that the following interrogation techniques have been used at the Guantánamo Bay Detention Camp; The use of stress positions for a maximum of four hours, detention in isolation up to 30 days, hoods being placed upon the heads of detainees during transportation and questioning, sensory deprivation (light and auditory), forced grooming (shaving of hair, etc), removal of clothing, interrogations lasting up to 20 hours, and using detainees’ phobias to induce stress. All of these techniques were approved by the Secretary of Defense in 2002 and constitute torture or ill-treatment under international law. Various other interrogation techniques have been approved in following years by the Department of Defense such as sleep adjustment and isolation.



Moreover, the 2006 UN report found that excessive force has been used against prisoners. One example of excessive force has been when guards would force-feed prisoners who were on hunger strike. The report concludes that some of the methods of force-feeding that former detainees had described could be constituted as torture.

Many firsthand accounts of detainees have described painful experiences with force-feeding, where guards would strap them down to a chair, hold them back, and force a plastic tube into one of the detainees' nostrils which would extend down to the detainees' stomach. The method is not only agonising for prisoners, but dangerous, as the tube may go down into the lungs. Force-feeding was used when prisoners went on hunger strike, some went on hunger strike because of guards' frequent belittling of the Quran, the central text in Islam, a religion which many detainees follow(ed).

Waterboarding, often referred to as "*simulated drowning*", is a method of torture which is closer to actual drowning, where water is forced into a detainee's mouth and nose to induce the sensation of drowning. Waterboarding is considered a method of torture and an unacceptable interrogation tactic. The practice has been denounced by the U.S. State Department, the UN High Commissioner for Human Rights, President Obama, as well as several officials of the Bush administration including the Director of National Intelligence and Homeland Security Department Secretary. Despite this, the Bush administration oversaw and approved of waterboarding at Guantánamo Bay. President Bush has publicly admitted to the use of the practice at the detention facility on at least two detainees.

Conditions at Guantánamo have improved significantly since its opening. The practice of solitary confinement is allegedly no longer in use and cell blocks have refrigerators and communal pantries. The fact still remains that human rights violations continue to occur and detainees are being kept without a fair trial and when they have been cleared for release.

### Attempts at closing the prison

Three of the four Presidents who have governed since the opening of Guantánamo Bay Detention Camp have called for its closure; George W. Bush, Barack Obama, and Joseph R. Biden. Obama has made the most progress on the efforts, calling for allied nations to accept inmates as refugees who have been cleared for release by a board including intelligence, Pentagon, and State Department representatives. Initially, the Obama administration attempted to release as many





detainees as possible, though proper attempts to close the prison fell through after a year of his administration due to political hurdles with members of the Republican party.

During the initial stages of Obama's presidency, when he was attempting to close the prison, he instituted Daniel Fried as his special envoy for Guantánamo closure. Fried is an American diplomat who took his position as special envoy in May of 2009. As special envoy, Fried assisted in reviewing inmates' reviews, as well as negotiating with European countries, Yemen, Palau, and Bermuda, to have inmates transferred to their countries. Considering that the U.S. Congress had placed a ban on resettling detainees on U.S. soil, Fried's job was incredibly important, as resettlement was the primary goal of the Obama administration's attempt to close Guantánamo.

Despite President Trump's claims that Guantánamo Bay would stay open and that he would send more detainees to the prison, no new prisoners were sent, while one was released. On the other hand, President Biden had promised to shut Guantánamo Bay during his campaign for President in 2020. Since taking office, Biden has helped mark various inmates for release, while officially releasing just one, who was cleared for release five years earlier during the Obama administration. Biden has taken much less action when compared to President Obama, the Biden administration has not appointed an envoy, but rather claims that the Bureau of Counterterrorism is 'handling the issue'. It is important to note that only 39 detainees are still at Guantánamo and as such, the timeline of the issue is closer to its closure than it was during the Obama administration. It is widely believed that Biden's strategy on Guantánamo is to keep efforts under the radar, so as not to make it a large political issue domestically, while still championing the release of cleared detainees.

Closure advocacy has become increasingly popular as human rights abuses and allegations of abuses pile up in Guantánamo. Notable Non-Governmental Organisation (NGOs) that have been advocates for the closure of the prison include Amnesty International and the American Civil Liberties Union (ACLU). For their part, Amnesty International has released various reports on human rights abuses in the detention facility, held protests in Washington D.C. in support of the release of detainees, and urged their audience to support them in taking action against the government. The ACLU has long championed human rights and inclusivity, Guantánamo Bay is no exception. The ACLU has additionally provided their audiences with a vast amount of resources to take action, similarly to Amnesty, as well as providing a plausible framework for the closure of the prison. *For more on this framework see Possible Solutions.*



## Major Parties Involved

### The United States of America

On January 11th, 2002, the United States, under the administration of George W. Bush, officially opened Guantánamo Bay Detention Camp. The American Department of Defence has run the camp located on the Guantánamo Bay Naval Base in Cuba since its opening and has been the primary target of controversies surrounding the prison.

During his administration as President, Bush approved interrogation methods such as waterboarding and approved unlawful retention. Bush and his administration knew and approved of the torture methods carried out against detainees by Guantánamo officers throughout his presidency.

The Obama and Biden administrations have pushed for the closure of Guantánamo, yet have not been successful. Between the two, President Donald J. Trump was an advocate for keeping the prison open, stating that he wanted more detainees at Guantánamo.

The United States has not publicly acknowledged any human rights abuses at Guantánamo Bay Detention Camp and has not been charged in any international or domestic tribunals for their involvement in the human rights abuses in the detention facility.

### Cuba

Guantánamo Bay is a part of Cuba's sovereign territory (as agreed upon by Cuba and the U.S.), placing the prison camp in a geographic space may cause it to have some level of responsibility for the treatment of prisoners in Guantánamo despite Cuba's suspended involvement in the area.

### Amnesty International

The Non-Governmental Organisation (NGO) has been long involved in criticising the human rights record of Guantánamo Bay. In 2005, Amnesty's Secretary-General likened the camp to Soviet Gulags. Amnesty International has published various reports alleging abuses of human rights in



Guantánamo including a 2021 report that details the entire history of human rights abuses at the camp.

### The European Union

The European Union has stated (in a 2007 report adopted by the European Parliament) that it could not deny evidence or suggestions of CIA blacksites in Poland and Romania. Poland confirmed the existence of CIA blacksites in 2014. The former Polish intelligence chief was additionally investigated by Poland’s Prosecutor General in 2012 for facilitating a CIA detention centre where suspects may have been tortured.

The European Union has consistently urged its member states to accept Guantánamo Bay refugees. The union has also criticised the camp, releasing a joint statement with the Obama Administration in 2009 aiming for EU member states to assist the U.S. in the closure of the camp. Despite this landmark declaration, the camp is still open with 39 inmates and the European Union has not helped further major developments in the closure of the prison or seeking justice for human rights abuses.

### The Organisation of American States

The Organisation of American States is an international organisation in North and South America. The organisation condemns Guantánamo Bay in its 2015 Inter-American Commission on Human Rights report, calling for its closure, while assessing the right to personal liberty, security, humane treatment, a fair trial, and judicial protection, as well as the conditions of detention, access to justice, and the attempts at closing the prison.

### Timeline of Key Events

Date	Description of event
January 20 <sup>th</sup> , 2001	George W. Bush, a Republican, assumes the presidency of the United States of America
September 11 <sup>th</sup> , 2001	2,977 are left dead after four U.S. planes crashed into the two towers of the World Trade Centre, the Pentagon, and a field in Pennsylvania in a group of targeted hijacking attacks. This tragedy is also known as the September 11 Attacks or 9/11



September 12 <sup>th</sup> , 2001	Bush addresses The House of Representatives (Congress) and declares the start of the War on Terror
November 13 <sup>th</sup> , 2001	Bush issues a military order on the “Detention, Treatment and Trial of Certain Non-Citizens, in the War Against Terrorism”, authorising the holding of foreign nationals indefinitely, while preventing any legal action to challenge detentions
December 28 <sup>th</sup> , 2001	The Department of Justice communicates to the Pentagon that Guantánamo detainees are not eligible for habeus corpus rights due to them not being held on U.S. soil
January 11 <sup>th</sup> , 2002	Guantánamo Bay Detention Camp officially opens with the arrival of 20 Afghan war detainees
January 18 <sup>th</sup> , 2002	The Bush Administration rules that the Geneva Convention does not apply to Guantánamo Prisoners as they are not considered to be prisoners of war
April 5 <sup>th</sup> , 2002	The first American born detainee, Yaser Esam Hamdi, is transferred from Guantánamo Bay to the mainland after the discovery of his birth in the U.S. was made
September 11 <sup>th</sup> , 2002	Abdul Razaq becomes the first Guantánamo inmate released to Afghanistan
December 2 <sup>nd</sup> , 2002	Defense Secretary Donald Rumsfeld approves various interrogation techniques
July 3 <sup>rd</sup> , 2003	The first military tribunals since World War II are approved for six suspected Al-Qaeda members
December 3 <sup>rd</sup> , 2003	Australian born David Hicks becomes the first detainee to be given a lawyer
August 13 <sup>th</sup> , 2004	Review tribunals begin
March 29 <sup>th</sup> , 2005	38 of the 558 detainees are deemed “no longer enemy combatants” and approved for release
February 15 <sup>th</sup> , 2006	The UN releases a report calling for the closure of the prison



February 16 <sup>th</sup> , 2006	The Associated Press (AP) wins their Freedom of Information Act lawsuit and the Pentagon is ordered to release the identities of the Guantánamo prisoners
April 20 <sup>th</sup> , 2006	The Department of Defense release the names and identities of the Guantánamo prisoners that it was ordered to in the AP lawsuit
May, 2006	Two detainees commit suicide and a riot breaks out in reaction
May 20 <sup>th</sup> , 2008	Former detainee Murat Kurnaz testifies before the U.S. Congress from Germany virtually, becoming the first detainee to testify before the House of Representatives
January 14 <sup>th</sup> , 2009	A former Bush senior official responsible for reviewing Guantánamo's practices admits that torture was used on a Saudi detainee in a public statement
January 23 <sup>rd</sup> , 2009	UN Secretary-General Ban Ki-Moon makes a statement calling for the beginning of the process to close the Guantánamo Bay Detention Centre
January 29 <sup>th</sup> , 2009	U.S. President Barack Obama signs Executive Order 13492, ordering Guantánamo Bay Detention Camp's closure within a year of the review of all remaining prisoners
May 15 <sup>th</sup> , 2009	Obama appoints Danial Fried as his special envoy on Guantánamo closure
November, 2009	Obama admits that a planned 2010 deadline for the closure of the prison will not be made
March 22 <sup>nd</sup> , 2009	Obama signs an executive order resuming military trials at the detention facility, establishing a formal system for allowing detainees' indefinite detention
April 24 <sup>th</sup> , 2011	WikiLeaks, a website that allows whistleblowers to release classified information, releases classified U.S. military files revealing that 150 innocent men were held at Guantánamo for numerous years
May 5 <sup>th</sup> , 2012	Five of the co-conspirators of the September 11 Terrorist Attacks including, Khalid Sheikh Mohammed, the alleged mastermind of the attacks, are charged at military tribunals for their crimes
March 12 <sup>th</sup> , 2013	Seven of the 166 prisoners at Guantánamo go on hunger strike against the conditions at the prison



December 14 <sup>th</sup> , 2014	Congress passes the <i>National Defense Authorization Act</i> , banning the transfer of Guantánamo inmates to U.S. soil
January 30 <sup>th</sup> , 2018	U.S. President Donald Trump signs Executive Order 13823, overturning former President Obama's order of closure and allowing the federal government to transfer additional detainees to the Detention Camp
July 19 <sup>th</sup> , 2021	U.S. President Joseph R. Biden authorises the first transfer of a Guantánamo inmate from the prison under his administration

## UN involvement, Relevant Resolutions, Treaties and Events

The former Secretary-General of the United Nations, Ban Ki-Moon made a statement in January 2009 calling for the beginning of the process to close the Guantánamo Bay Detention Centre. Various United Nations offices, including the Office of the High Commissioner for Human Rights, have published statements and reports condemning the human rights violations in Guantánamo Bay.

- *Question of Arbitrary Detentions in the Area of the United States Naval Base in Guantánamo*, 2004 (E/CN.4/2004/L.88/Rev.2)
- *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, 8 June 2009 (A/HRC/11/NGO/50)

## Previous Attempts to solve the Issue

The U.S. nor UN has not held anyone accountable for the crimes committed at Guantánamo Bay. Human Rights Watch, an NGO, has subjected the aforementioned human rights abuses in the detention facility to war crimes and serious violations of U.S. federal law. They found that the activity at Guantánamo Bay Detention Camp could be considered torture, sexual abuse, assault, kidnapping, and conspiracy among other crimes. The activist group believes that enough evidence is present to open an investigation into the senior Bush administration's criminal involvement. Despite the fact that the statute of limitations on the crime of conspiracy is 5 years, an exception is made for acts of



conspiracy that continue until the last co-conspirator commits the last overt act of the conspiracy. This would have pushed the statute of limitations to July 2012 for Bush, meaning that the senior Bush administration may not be criminally responsible for any acts of conspiracy.

## Possible Solutions

Experts believe that the closure of Guantánamo bay under Biden would have to come in the form of plea deals. Such plea deals would require the death penalty for these detainees to be removed from the picture. Reduced sentences could be a negotiating point in order to get information on prisoners' involvement in the 9/11 terrorist attacks. Cases for prisoners' releases would have to be transferred back to the U.S. and abuse of prisoners would have to be a significant factor in challenging the status of detainees. It is also believed that an end to indefinite detention is necessary for the closure of Guantánamo.

Delegates could also consider previous attempts under the Obama administration to free detainees that have been cleared for release by encouraging the appointment of a new special envoy, as well as encouraging other member states to accept detainees.

Furthermore, delegates should consider investigations into conditions at the Guantánamo Bay Detention Camp in order to determine accurately whether human rights abuses are ongoing. Risk evaluations are also recommended from external sources as well as fair trials for detainees in international courts. Implementation of these three measures would help to uncover further human rights abuses as well as providing a course of action for parties involved in this issue.

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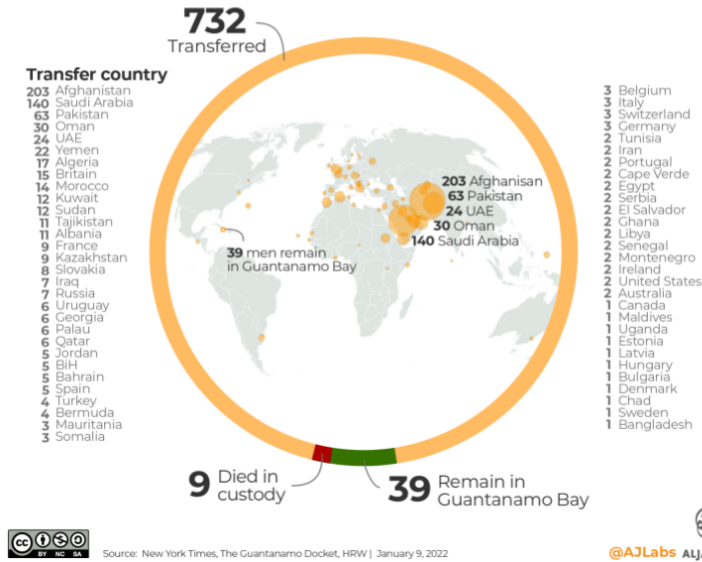
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## GUANTANAMO BAY

### What happened to the 780 detainees?

Since 2002, **732 Guantanamo detainees** have been sent home or to other countries through prisoner transfer agreements. **There are 39 still held. Nine died in custody.**



## II. 2022: Aljazeera Infographic, "Closing the prison":

<https://www.aljazeera.com/news/2022/1/12/us-approves-release-five-more-guantanamo-detainees>

## GUANTANAMO BAY

### Closing the prison

Spanning four presidencies and nearly 20 years, the world's most infamous detention centre has become a symbol of human rights abuses.

George W Bush (2001-2009)	Barack Obama (2009-2017)	Donald Trump (2017-2021)	Joe Biden (2021-present)
Opened under his administration. Said he would like to see it closed but that it would not be easy.	Signed an executive order in 2009 to shut it down within a year. It stayed open.	Vowed to keep the prison open. Signed an executive order reversing Obama's order.	Renewed the Obama administration's effort to close the prison. Transferred the first detainee in July 2021.
<b>Detainees released or transferred</b>			
about <b>540</b>	about <b>197</b>	<b>1</b>	<b>1*</b>

\*Several approved for transfer, only one transferred so far.  
Source: News agencies | January 9, 2022





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