

Physicians for Human Rights

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://phr.org/our-work/resources/the-un-says-the-united-states-is-still-torturing-detainees-at-guantnamo-more-reason-than-ever-to-close-it/>

Public Facing Advocacy Writing

By [Nadine Mansour](#)

The U.N. special rapporteur on torture [stated earlier this week](#) that torture of a detainee at the Guantanamo Bay detention center is ongoing, despite a domestic ban on so-called enhanced interrogation torture techniques. The expert noted that the detainee, who endured years of CIA torture before being transferred to Guantanamo, continues to be subjected to abusive detention practices, including indefinite detention, solitary confinement, sleep deprivation, and denial of medical care.

Yet earlier this fall, U.S. President Donald Trump, in a knee-jerk reaction to the second deadliest attack on New York City, said he would consider sending the terror suspect, Sayfullo Saipov, to the military prison at Guantanamo where he would be tried by the ad hoc military commissions set up after 9/11. Trump later reversed his position, saying the military system would take too long.

Statistically that process takes much longer than going through the federal system, Trump stated. Swiftly after, the Justice Department charged Saipov with terrorism in a federal court.

As we approach the 16th anniversary of the opening of the prison at Guantanamo, the president's decision not to send the Manhattan attacker there is the correct one not only because federal courts are better equipped to prosecute terror suspects than the flawed military commissions, but also because the prison itself is illegitimate and inhumane, undermining U.S. national security interests. Put simply, it should be shut down. Neither Saipov nor Akayed Ullah, who earlier this week set off a pipe bomb in New York's subway system, should be sent there.

As a practical matter, federal courts can prosecute high-profile terror suspects more efficiently and at lower cost than the military tribunals at Guantanamo. There is no need to be running a \$450 million-per-year facility to house suspects. But focusing on financials misses the real point. Guantanamo has not led to justice, and the vast majority of men there remain uncharged.

The legal system for trying detainees at Guantanamo the military commissions is disastrous. The families of 9/11 victims are still in pretrial proceedings, with at least five more years until a trial would begin. The endless wait is due in large part to the fact that the military commissions were designed to be irregular proceedings in order to circumvent the due process requirements of federal courts, and to cover up evidence of torture. This manifests, among other ways, in profound secrecy and rules permitting the use of evidence obtained through torture.

These issues remain at play today, tainting the proceedings and casting doubt on the legitimacy of any convictions. In October, attorneys quit the defense team of Abd Al-Rahim al-Nashiri, the alleged mastermind of the 2000 USS Cole bombing. While the details are classified, the concerns relate to alleged spying by the government on privileged attorney-client conversations, raising a stark ethical conflict for representation in a capital case. Does anyone still believe in the efficacy of Guantanamo to bring about justice?

A day prior to the bike path attack, Physicians for Human Rights (PHR) hosted a talk with interrogation and counterintelligence expert Mark Fallon, author of the recently published book *Unjustifiable Means: The Inside Story of How the CIA, Pentagon, and US Government Conspired to Torture*. Fallon was deployed to Guantanamo as a naval criminal investigator in the wake of 9/11 and became horrified by the eventual emergence of a prison that created a legal and ethical morass.

Detainees held would exist in a sort of legal twilight, he writes in his memoir, neither prisoner of war captured on a traditional battlefield nor inmate held on American territory.

The men at Guantanamo are still held indefinitely and 31 of the 41 men have never even been charged with a crime. The details of the torture many have experienced both in CIA and military custody are harrowing; we at PHR have long documented the severe mental and physical harm detainees subjected to similar forms of abuse endure.

It is time to reverse the policies that sent those men there. Policies built on fear rather than facts can only bring us further from justice than we already are.

It is not too late to erase the harmful legacy of Guantanamo. By pushing to close, rather than expand, Guantanamo, we are protecting our national security and putting to rest a symbol that has stood for torture and inhumanity for almost 16 years.

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