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## **Guantánamo: In his second term Obama must correct human rights failure**

President Barack Obama must revisit the promise he made in 2009 to close the Guantánamo detention facility and this time commit the USA to releasing the detainees or bringing them to fair trial, Amnesty International said ahead of the 11th anniversary of the first detainee transfers to the US naval base in Cuba and just days before his re-inauguration as president.

Today 166 detainees are still held at Guantánamo – out of the 779 men taken to the facility since 2002, the vast majority were held for years without charge or criminal trial.

Seven men have been convicted by military commission, including five as a result of pre-trial agreements under which they pled guilty in return for the possibility of release from the base.

Six detainees are currently facing the possibility of death sentences after military commission trials that do not meet international fair trial standards. All six were subjected to enforced disappearance prior to their transfer to Guantánamo and, among other abuses, two of them were subjected to the torture technique known as “water-boarding”, effectively mock execution by interrupted drowning.

“The USA’s claim that it is a champion of human rights cannot survive the Guantánamo detentions, the military commission trials, or the absence of accountability and remedy for past abuses by US personnel, including the crimes under international law of torture and enforced disappearance,” said Rob Freer, USA researcher at Amnesty International.

After first taking office in January 2009, President Obama pledged to resolve the Guantánamo detentions and close the facility within a year.

He also ordered an end to the Central Intelligence Agency’s use of “enhanced” interrogation techniques and long-term “black sites”.

But President Obama adopted the USA’s unilateral and flawed “global war” paradigm and accepted indefinite detentions under this framework.

Then, in 2010, his administration announced that it had decided that four dozen of the Guantánamo detainees could neither be prosecuted nor released, but should remain in indefinite military detention without charge or criminal trial. The administration also imposed a moratorium on repatriation of Yemeni detainees. and said that 30 such detainees would be held in “conditional” detention based on “current security conditions in Yemen”. This moratorium is still in place.

The Obama administration has blamed its failure to close the Guantánamo detention facility on Congress, which has repeatedly blocked the USA from meeting its human rights obligations in this context. On 2 January 2013, President Obama nevertheless signed the National Defense Authorization

Act, while criticizing provisions in the Act which once again placed obstacles in the way of resolving Guantánamo detainee cases.

“International law does not allow different branches of government to duck the requirements of international law with this kind of blame game ,” said Freer. “A country’s failure to meet its human rights obligations cannot be legitimized by pointing to domestic laws or policies.”

In any event, without real policy change, the Obama administration’s adoption of a notion of “global war” means that even if the Guantánamo detention facility were to be closed, unlawful detentions would simply be relocated rather than ended.

The broad acceptance of the “global war” paradigm across all three branches of the US federal government, the shielding of officials through immunity provisions and the continuing use of secrecy, has also facilitated the blocking of accountability and remedy for abuses committed at Guantánamo, in the secret CIA detention and rendition programmes, and elsewhere.

“What needs to happen now is recognition and application of international human rights principles by the US authorities,” said Freer. “Military commission trials should be abandoned in favour of fair trials in ordinary civilian courts, detainees whom the USA has no intention of prosecuting should be released, and there must be full accountability and access to redress for human rights violations.”

Five men charged with involvement in the 9/11 attacks are currently facing the death penalty after trial by military commission. The government is also seeking the death penalty against a sixth Guantánamo detainee in another trial.

Details of where such detainees were held in CIA custody and how they were treated continues to be classified at the highest levels of secrecy.

Last month the military judge overseeing the “9/11” trial signed a protective order to prevent disclosure of such details during proceedings, purportedly on national security grounds. Information concerning gross violations of human rights or serious violations of international humanitarian law should never be kept secret on national security grounds.

Further pre-trial proceedings in all six cases are scheduled to take place at Guantánamo later this month.