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USA Death Penalty Rally, 1988 ©Keith Rutter

#### 40 FIGURES ABOUT THE DEATH PENALTY IN THE AMERICAS

- Only **1** country has carried out executions in the Americas regions since 2009: the USA.
  - Only **4** countries imposed death sentences in 2016: Barbados (**3**), Guyana (**1**), Trinidad and Tobago (**2**) and USA (**20**)
  - 16** countries are abolitionist for all crimes; **4** for ordinary crimes only; **1** is abolitionist in practice; **14** retentionist but **13** of those do not execute
  - 2,832** people were on death row in the USA at the end of 2016; **33** in Trinidad and Tobago; **23** in Guyana; **13** in Barbados; **1** in Saint Kitts and Nevis; and **1** in Saint Vincent and the Grenadines
  - the number of people under sentence of death in the Caribbean dropped from nearly **100** in 2012 to **72** in 2016
  - 6** of the **12** English-speaking Caribbean countries do not have anyone on death row
  - 1,458** people executed in the USA since 1977
  - Five** US states carried out **20** executions in 2016 – the lowest number recorded in the past 40 years: Alabama (**2**), Florida (**1**), Georgia (**9**), Missouri (**1**), Texas (**7**)
  - 32** death sentences in USA in 2016 – the lowest number recorded per year since 1973
  - 149** people have been exonerated on grounds of innocence in USA in past 40 years
  - 19** US states have abolished the death penalty; **31** retain it, but **11** of these have not carried out any in past ten years; **4** have an official moratorium
  - Highest US executioners since 1977 are Texas (**543**), Virginia (**113**), Oklahoma (**112**), Florida (**92**) Missouri (**88**)
- (Source: Amnesty International and Death Penalty Information Center)

## ABOLITIONIST REFLECTIONS

On 11 December 1977 Amnesty International and participants of the International Conference on the Abolition of the Death Penalty issued the [Stockholm Declaration](#) – the first international abolitionist manifesto – which called on all governments to bring about the immediate and total abolition of the death penalty.

At the time, only 16 countries had abolished the death penalty. Forty years on, that figure stands at 105. Let's not make it another 40 years before the death penalty is consigned to history.

### AMERICAS

Abolition of the death penalty could be said to have begun in the Americas. Venezuela was the first country to consign this punishment to history, doing so in 1863, and a little-known fact is that of the eight countries that were abolitionist for all crimes when the United Nations was created in 1945, six were in Central and South America. The momentum slowed. By 1977, only two more countries in the region had abolished it for all crimes – Dominican Republic and Honduras. But since then, the number of abolitionist countries in the region has doubled, and since 2009, with the exception of the USA, it has been execution-free.

Guyana is the last retentionist country in an otherwise abolitionist South America. In the Greater Caribbean (countries surrounding the Caribbean Sea), the tide has turned against the death penalty including as a result of the brake on executions put in place by opinions of national and regional courts and the Inter-American Court and Commission on Human Rights. While support for the death penalty remains high in the face of ever-spiralling murder rates, the number of people under sentence of death has dropped in the past decade.

The tide has also been turning in one of the world's leading executing countries, the USA. In the past 15 years, its Supreme Court has abolished the death penalty for offenders with intellectual disabilities and those who were under 18 at the time of the crime. The numbers of death sentences and executions recorded each year have been declining steadily for a decade. The public debate has also shifted markedly during this time. If 40 years ago, support for the death penalty was practically a pre-requisite for public office, the emergence of compelling abolitionist voices from within law enforcement and of relatives of crime victims, among others, coupled with greater public understanding of the flaws of the death penalty, has changed the equation. It is now possible for politicians to act against judicial killing without fearing career-ending repercussions from the electorate. Five states have abolished the death penalty in the past decade, and in four others, governors have established moratoriums on executions.

There can be little doubt that the death penalty is on its way out in the Americas, in line with the global trend. But while campaigning against it may necessarily highlight practical arguments in favour of abolition – costly and wasteful court processes, for example – we must not lose sight of the fact that we are talking about what is first and foremost a violation of human rights. We must never stop opposing this penalty – whether for those wrongly convicted, or those guilty of the most heinous crimes.



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**Ammar al Baluchi** faces the death penalty in connection with his trial before a military commission at the US naval base at Guantánamo Bay, Cuba. He was charged with wiring money to men later involved in the hijackings of the planes used in the 11 September 2001 attacks.

Ammar al Baluchi was held in secret CIA custody from 2003 to 2006 and was subjected to enforced disappearance and to torture and other ill-treatment. The locations where he was held during his three and a half years in CIA custody and the full range of his treatment during that time remains classified top secret. He was transferred to Guantánamo on 4 September 2006, where he remains to date. As of today, 41 men are held there in indefinite detention without charge.

Ammar al Baluchi and his co-defendants were first charged on 5 June 2008 under the Military Commissions Act of 2006. In 2012 the Convening Authority for military commissions, which heads the work of the military commissions, authorized the prosecution to seek the death penalty against all five defendants.

The trial has yet to begin. According to his lawyers, Ammar al Baluchi displays symptoms of post-traumatic stress disorder and traumatic brain injury as a result of torture and other ill-treatment to which he was subjected in CIA custody. Following multiple formal requests, in October the military judge and Convening Authority granted Ammar al-Baluchi a full medical assessment with a view to treatment. The assessment has yet to be carried out. His lawyers maintain that owing to his physical and psychological injuries and related apparent mental disability, his capacity to assist them in preparing his defence and to meaningfully participate in pre-trial hearings is substantially impaired.

## IN FOCUS

### US MILITARY COMMISSIONS AND THE DEATH PENALTY

*Major Raashid Williams is a member of Ammar al Baluchi's legal team. He has been representing him in preparation for his trial before the USA's military commissions, established to try detainees held at the US naval base at Guantánamo Bay, Cuba. Proceedings before these commissions do not meet international fair trial standards. We talk to him about how the administration of justice functions at Camp Justice in Guantánamo Bay.*

#### **1. Starting from the basics--What are the Guantánamo military commissions?**

Military Commissions are a military court of law. In times of war, this is the court used to try those charged with war and other related offenses. In the case of the current military commissions, all the defendants are accused of being part of Al Qaeda, and under what the US government has framed as a global war, are considered "alien enemy belligerents". On paper, the main difference between a federal court and the military commissions is the application of military rules of law, the location of the trials and how federal rules and standards are translated into a military court setting.

#### **2. And how about the defendant you are representing, Ammar al Baluchi? Where is his case at? What are the main issues?**

There are a number of issues in Mr al Baluchi's case, all complex and wide-ranging. Currently, the case is in pre-trial litigation. It has remained in this stage for almost five years and counting. One of the primary issues for discussion is torture. From 2003 to 2006, while held in CIA custody in secret sites, Mr al Baluchi was brutally tortured. He suffered a traumatic brain injury as a result and he has never received medical treatment or rehabilitation. Discovery is another issue. Members of Mr al Baluchi's defense team have not received a full accounting of the torture he suffered. Most notably, we have raised in our litigation that the character being tortured during the first 20 minutes of the major Hollywood movie *Zero Dark 30* is based upon Mr al Baluchi's actual experience; and that, despite the many levels of security clearances possessed by defense counsel, we have not been privy to the same material shared with the writers and directors of that film who do not possess such clearances.

#### **3. Victims of the 9/11 attacks have said that they want justice. It is impossible not to share their concern at the fact that it is taking this long to see the trials start. But what does "justice" feel like at Guantánamo? Why are things moving so slowly?**

Members of the public, including victim family members, have often asked why this case is taking so long to get to trial. Despite occasional assertions to the contrary, the delays in this case are almost all caused by decisions made by government actors. The sheer amount of materials is a factor. Between the 9/11 and Nashiri cases, the government has turned over 600,000 pages of unclassified documents as part of their duty to disclose information to the defense. They have also produced 183,000 gigabytes of electronic materials. However, 16 years after 9/11 – or more generously, five years after these men were charged – the prosecution has not fully disclosed its information, and the redactions and deletions in what the government has turned over alone could lead to years of additional litigation. Many of the delays can also be traced back to governmental intrusions into the defense attorneys' ability to do their jobs, including by placing listening devices in the rooms where they meet their clients and attempting to turn a defense team member into a government informant. Last but not least, the death penalty itself is a reason for the delay. Death penalty cases have a different standard for criminal defense attorneys to meet, to ensure their clients have effective assistance. All these factors could lead to more delays and challenges to the fundamental fairness of the proceedings.

#### **4. What role can international monitors and AI activists play in this situation?**

Unfortunately many US citizens are oblivious to the ongoing military commissions. What is lost more than anything is that these men, and our client, Mr Al Baluchi, were subjected to some of the worst possible treatment and detention conditions, which continue to this day, of any persons ever held and tried in any US court system. As an independent monitor, Amnesty International can play a role in informing the public about this and how the case is proceeding, the numerous limitations placed on the teams, the defendants and the case, and demanding accountability for the violations.

**TAKE ACTION:** <https://www.amnesty.ca/get-involved/take-action-now/usa-torture-survivor-faces-unfair-trial-guantanamo>