



Advocacy for Human Rights in the Americas

WOLA Guantanamo Fact Sheet

December 8, 2014

On December 7, 2014, six detainees were transferred from the U.S. prison at Guantanamo to Uruguay. The detainees had been cleared for transfer by the special Guantanamo Periodic Review Board, which determined that their release would not represent a security threat.

Guantanamo is a violation of human rights and international law. The existence of Guantanamo itself undermines security and the rule of law.

Congress has blocked the Obama Administration from moving forward to close Guantanamo, or even transferring detainees to the United States. But, in recent weeks, the Obama Administration has begun to move on its own to address the scourge of Guantanamo.

It is critical for other countries to take leadership for human rights and work with the U.S. Administration to find a place for detainees who have been officially cleared for release and who have suffered more than a decade of unjust imprisonment.

Background

1. Guantanamo is a violation of human rights.

- a) The prolonged indefinite detention of individuals without trial or due process protections violates international law.
- b) While governments have a right, under the laws of war, to detain prisoners captured on the battlefield, no government has the right to declare the entire world a war zone and seize and detain suspects. The vast majority of Guantanamo detainees were not captured by U.S. troops on a battlefield. 86 percent ended up in Guantanamo because of U.S. payment of large bounties to militias, tribesmen, or officials; only 5 percent were actually captured by U.S. troops.
- c) Guantanamo detainees have been subjected to torture and brutal interrogation techniques – including beatings, force-feeding, sleep deprivation, and prolonged isolation.

- d) International law requires that the remaining Guantanamo detainees should be either: prosecuted in accordance with international fair trial standards; safely repatriated to their home country; or resettled in a third country.

See [ACLU Statement on Ten Years of Guantanamo](http://bit.ly/1rZO50Q)— <http://bit.ly/1rZO50Q>

See [Human Rights Watch's statement, "US: Prolonged Indefinite Detention Violates International Law"](http://bit.ly/1CIYQi9)— <http://bit.ly/1CIYQi9>

2. In the United States, a Periodic Review Board for Guantanamo determines whether detainees present a "significant continuing threat."

- a) The Periodic Review Board is made up of representatives of the U.S. Departments of Defense, Homeland Security, and State; the Joint Staff, and the Director of Intelligence.
- b) While this review does not provide adequate due process for the detainees, it is an extensive examination to determine whether the detainees release would be a security threat.

3. Guantanamo itself undermines U.S. national security.

- a) Top U.S. generals have recommended the closure of Guantanamo and the transfer of detainees.
- b) For instance, Lieutenant General Ed Soyster (Ret.), the former Director of the Defense Intelligence Agency, has said that keeping Guantanamo open is a threat; "Restricting the transfer of detainees isn't in our national security interest, and it undermines our country's global commitment to the rule of law. As long as Guantanamo remains open, it will be a stain on our national values and will continue to be a recruitment tool for our enemies."

See [Human Rights First](http://bit.ly/1vQPLim) for more military officials who oppose Guantanamo—

<http://bit.ly/1vQPLim>

4. Of the 136 remaining detainees at Guantanamo, there are 67 detainees at Guantanamo who have been officially "cleared for transfer."

- a) "Cleared for transfer" means that the special inter-agency review board coordinated by the U.S. Secretary of Defense has found

unanimously that these detainees do not present “a significant continuing threat to the security of the United States.”

- b) Of the 799 people sent to Guantanamo, 634 have been transferred, either back to their homes or to other countries.

5. Congress has blocked the Obama Administration’s efforts to close Guantanamo or implement due process.

- a) Congress has made it very difficult to transfer detainees to other countries.
- b) Congress has prohibited the Administration from transferring detainees to the United States for any purpose.
- c) The Administration has a window of opportunity over the next six months, to transfer detainees to countries that agree to receive them.

6. If other countries do not offer to take detainees, they will remain in Guantanamo.

- a) Of the 67 remaining detainees who are cleared for transfer, 50-60 cannot return to their own countries for fear of repression or because of serious instability there.
- b) Over 50 are from Yemen, making it difficult for the Secretary of Defense to certify that it is safe for them to return.
- c) This is a situation that requires the international community to provide humanitarian protections.

See the [Center for Constitutional Rights](http://bit.ly/1rZPcOa) for more information on humanitarian protection for detainees—<http://bit.ly/1rZPcOa>

7. Over 52 countries—from all over the world—have accepted detainees.

- a) The majority of the detainees were originally from Afghanistan, and upon release were returned home to that country.
- b) Other countries that have taken detainees include: France, Spain, Germany, Italy, Ireland, Sweden, Bangladesh, Chad, Cape Verde, and Egypt.
- c) Uruguay is the second country in Latin America that has received detainees. El Salvador accepted two in 2012.

See the New York Times [Guantanamo Docket](http://nyti.ms/15QJ8Dd) for details on detainees—<http://nyti.ms/15QJ8Dd>

8. Signs are that the Obama Administration expects to transfer more detainees in the next few weeks and months.

- a) In addition to the six detainees sent to Uruguay on December 7th, another six detainees were transferred at the end of November—3 to Georgia; 2 to Slovakia; 1 to Saudi Arabia.
- b) Congress, which by law must be given notice 30 days prior to transfers, has been notified of other intended transfers. There will likely be more transfers before the end of 2014.

9. Uruguay has taken important leadership for human rights in receiving detainees

- a) President Mujica explained his decision by recalling that he too was a political prisoner for many years and held in horrible conditions.
- b) Leading human rights organizations have applauded Uruguay's action. To see their statements, please refer to the list below:
 - i. [Reprive](#), who provided legal representation to one of the detainees.
 - ii. [Human Rights First](#)
 - iii. [Organization of American States \(OAS\)](#)
 - iv. [Human Rights Watch](#)
 - v. [Amnesty International](#)
 - vi. [Center for Constitutional Rights](#)
 - vii. [Washington Office on Latin America \(WOLA\)](#)

10. Latin America is a region that understands the concept of exile, and some countries are in a position to help.

- a) During the 1970s and 1980s many from the Southern Cone and Central America had to seek refuge. Refuge was offered to them by other countries in the region, the US and Europe.
- b) By offering refuge and reintegration into humanity, Latin American nations are in a position to both help individuals who have been unjustly imprisoned and resolve one of the hemisphere's most egregious human rights problems.

11. OAS Secretary General issued a statement on September 29, 2014 underscoring the “international commitment to human rights” and urging countries in the region to receive detainees from Guantanamo.

- a) In his statement, the Secretary General said: “More than half of the prisoners that remain in Guantanamo are in conditions to be freed, but have not been for the lack of a country that will receive them. These are people who have not been judged, nor will they be, for any crime, and the exhaustive evaluations that they have been submitted to by

the authorities of the United States have determined that they do not present serious risks to the security of the country, nor to any that receives them."

For full text of the statement, [click here](#) or visit: <http://bit.ly/1rGvryq>

- b) The Secretary General applauded Uruguay's leadership: "The initiative and the political will of both President José Mujica and President-elect Tabare Vazquez for having carried out this generous gesture that contributes to the solution of a human rights problem in our Hemisphere."

[Click here](#) for full text of the statement, or visit <http://bit.ly/1wU6XFy>.

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