

Pillay says Guantanamo detention regime is in “clear breach of international law” and should be closed

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The UN High Commissioner for Human Rights Navi Pillay on Friday urged all branches of the United States Government to work together to close the Guantanamo detention centre, saying “the continuing indefinite incarceration of many of the detainees amounts to arbitrary detention and is in clear breach of international law.”

“I am deeply disappointed that the US Government has not been able to close Guantanamo Bay, despite repeatedly committing itself to do so,” Pillay said. “Allegedly, around half of the 166 detainees still being held in detention have been cleared for transfer to either home countries or third countries for resettlement. Yet they remain in detention at Guantanamo Bay. Others reportedly have been designated for further indefinite detention. Some of them have been festering in this detention centre for more than a decade. This raises serious concerns under international law. It severely undermines the United States’ stance that it is an upholder of human rights, and weakens its position when addressing human rights violations elsewhere.”

Commenting on the current hunger strike by Guantanamo detainees, Pillay said that “a hunger strike is a desperate act, and one which brings a clear risk of people doing serious lasting harm to themselves. I always urge people to think of alternative, less dangerous, ways to protest about their situation. But given the uncertainty and anxieties surrounding their prolonged and apparently indefinite detention in Guantanamo, it is scarcely surprising that people’s frustrations boil over and they resort to such desperate measures.”

Pillay noted that four years ago she warmly welcomed President Obama’s announcement immediately after his inauguration that he was placing a high priority on closing Guantanamo and setting in motion a system to safeguard the fundamental rights of the

detainees. She welcomed a White House spokesman's reiteration of this commitment last week (27 March), citing Congressional legislation as the prime obstacle.

"Nevertheless, this systemic abuse of individuals' human rights continues year after year," she said. "We must be clear about this: the United States is in clear breach not just of its own commitments but also of international laws and standards that it is obliged to uphold. When other countries breach these standards, the US – quite rightly – strongly criticizes them for it."

"As a first step," Pillay said, "those who have been cleared for release must be released. This is the most flagrant breach of individual rights, contravening the International Covenant on Civil and Political Rights.* Last September's death of Adnan Latif -- the ninth person to die in detention at Guantanamo -- was a sobering reminder of the problems with the Guantanamo detention regime under which individuals are detained indefinitely, in most cases without charge or trial. It is time to bring an end to this situation."

Pillay said she was deeply concerned over the continued obstacles the National Defense Authorization Act of 2013 has created for the closure of the detention facility, as well as for the trial of detainees in civilian courts, where warranted, or for their release. The Act was signed into law by President Obama on 3 January despite previous threats to veto its renewal. The High Commissioner has repeatedly maintained that those Guantanamo detainees who are accused of crimes should be tried in civilian courts, particularly as the military commissions – even after improvements made in 2009 – do not meet international fair trial standards.

"Anyone who is deprived of his or her liberty by arrest or detention is entitled, under international human rights law, to regular review of the lawfulness of their detention and to be released if the detention is not lawful," she said. "Any ensuing judicial proceedings must scrupulously respect due process and fair trial standards."

So long as Guantanamo remains open, she added, the authorities must make every effort to ensure that detainees' rights are observed. "No one is suggesting that the US should be 'soft' on people who have planned or carried out crimes or atrocities. Indeed,

international law requires that there must not be impunity for such crimes. Nevertheless, human rights are universal and apply to all persons, including those suspected of having committed the most serious crimes such as acts of terrorism,” she said. “Under human rights law, people deprived of their liberty must be treated with humanity and with respect for their inherent dignity.”

The High Commissioner also called on the United States Government to extend an invitation which would allow full and unfettered access to the United Nations Human Rights Council experts, including the opportunity to meet privately with detainees.