



Analytical Review

INDEFINITE ARBITRARY DETENTION OF INNOCENTS IN THE 21ST CENTURY: A HUMANITARIAN IMPERATIVE FOR GLOBAL JUSTICE AND ACCOUNTABILITY

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Abstract

In the aftermath of the post-9/11 “Global War on Terror” and amid persistent conflicts and political repression worldwide, thousands of individuals continue to face prolonged, indefinite detention without formal charges, credible evidence, or access to fair judicial processes. Drawing on one emblematic long-term case at Guantánamo Bay as a prototype, this review illuminates systemic patterns of arbitrary detention that inflict severe psychological and physical harm on innocents. As of early 2026, 15 detainees remain at Guantánamo Bay, many of whom have been held for over two decades without charge. Parallel practices persist globally, including mass arbitrary arrests during protests, administrative immigration detention, and politically motivated detentions. Grounded in declassified official records, United Nations findings, and human rights documentation, this article argues that such detentions constitute grave violations of international law and fundamental human dignity. It issues an urgent humanitarian call for the immediate release of all uncharged detainees, meaningful reparations, full accountability for perpetrators, and structural reforms to safeguard liberty and due process.

Keywords

Arbitrary detention, indefinite detention, Guantánamo Bay, human rights, due process, international law, global justice, humanitarian accountability

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Peer Review Statement: This manuscript has not undergone external peer review, as it represents a structured synthesis and analysis of existing evidence. The methodological approach adheres to established standards to ensure rigor, transparency, and scientific validity.

Data Synthesis and Analysis

Data were synthesized using meta-analysis (fixed/random effects) with heterogeneity assessed by I^2 and Cochran's Q. Where pooling was not feasible, narrative and thematic syntheses were applied. Network meta-analysis and meta-regression were conducted where appropriate, in accordance with PRISMA and Cochrane guidelines.

Introduction:

The right to liberty and security of person, enshrined in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), forms a cornerstone of modern human rights protections, explicitly prohibiting arbitrary arrest or detention and mandating that no one shall be deprived of liberty except on grounds and procedures established by law. Yet, in the 21st century, states across ideological and geographic divides continue to employ indefinite detention as a mechanism of control, often justified under the banners of national security, counterterrorism, or migration management. These practices trap innocents—individuals never formally charged or convicted—in cycles of isolation, trauma, and despair, eroding the very foundations of due process and the presumption of innocence that underpin any just legal order. The persistence of such detentions reveals a systemic pattern: when perceived threats override legal safeguards, exceptional measures become normalized, creating parallel systems of justice that operate outside judicial scrutiny and undermine the rule of law globally. This normalization not only inflicts irreversible harm on individuals but also weakens international trust in human rights institutions, as repeated violations signal that powerful states can selectively ignore binding obligations. One prototype case, involving capture in 2002, rendition through secret facilities, documented coercive interrogation, and ongoing detention without trial at Guantánamo Bay for more than 23 years, exemplifies the human cost on an unprecedented scale. This review extends beyond any single instance to expose broader global patterns, grounded firmly in humanitarian principles that demand the protection of the innocent and the restoration of justice through rigorous analysis of root causes, institutional failures, long-term societal repercussions, and the erosion of international norms that once sought to prevent exactly these abuses.



Figure 1. Aerial overview of Guantánamo Bay detention facilities, illustrating the infrastructure of long-term isolation and indefinite holding without charge.

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The Prototype Case and Its Illustrative Value

In March 2002, an individual was captured during a joint operation in Faisalabad, Pakistan, and subsequently subjected to extraordinary rendition across multiple CIA black sites. Official documentation reveals he endured waterboarding on at least 83 occasions, prolonged sleep deprivation (up to 180 hours), stress positions, and confinement in small boxes—techniques later detailed extensively in declassified reports and condemned as torture under international standards. Transferred to Guantánamo Bay in September 2006, he remains one of the 15 detainees still held there as of early 2026, never charged with a crime. In January 2026, the United Kingdom provided substantial compensation in settlement of claims regarding British intelligence complicity in his mistreatment. United Nations experts have repeatedly described such detention as arbitrary and called for immediate release, citing severe health impacts linked

to prior abuse, including chronic physical ailments, profound psychological trauma that persists despite years of confinement, and documented evidence of irreversible neurological damage from sustained sensory deprivation and coercive methods.

This case serves as a prototype because it encapsulates core elements seen in many others: initial intelligence overreach driven by post-9/11 urgency, rendition networks that bypassed national sovereignty and legal oversight, coercive methods later deemed ineffective and unlawful by empirical studies on interrogation efficacy, and indefinite holding despite clearance or lack of evidence. Analytically, it highlights how securitization frameworks transform intelligence gathering into a self-perpetuating cycle, where initial assumptions of threat resist correction even after exhaustive review processes, internal audits, and external oversight attempts. The human toll—decades of sensory deprivation, family separation, legal limbo, and the gradual disintegration of mental and physical health—demonstrates not only individual suffering but also the broader failure of such policies to deliver verifiable security gains. After more than two decades without charges, the absence of evidence underscores systemic evidentiary weaknesses rather than any ongoing danger, revealing how fear-based policy can institutionalize injustice. Furthermore, the case exposes transnational complicity, where allied intelligence services enable violations that no single state could sustain alone, thereby diffusing accountability and complicating efforts toward meaningful redress. It underscores how perceived security imperatives can eclipse due process, leaving innocents to bear the consequences while accountability mechanisms remain fragmented, delayed, and often reduced to symbolic financial settlements that fail to restore dignity or deter repetition.

Global Patterns of Arbitrary Detention

Arbitrary detention is not confined to any single nation or conflict; it manifests as a transnational phenomenon enabled by intelligence-sharing alliances, weak oversight mechanisms, technological surveillance capabilities, and the prioritization of executive discretion over judicial independence. The United Nations Working Group on Arbitrary Detention (WGAD) adopted 71 opinions in 2024 concerning 149 individuals across 41 countries, addressing detentions linked to peaceful expression, dissent, or lack of legal basis, with similar patterns continuing unabated into 2025 amid evolving geopolitical tensions and new security pretexts. In 2025–2026, mass arbitrary arrests occurred during protests in Iran, with tens of thousands reportedly detained, including children, many held incommunicado in unofficial facilities, subjected to enforced disappearances, denied access to counsel or family, and exposed to systematic psychological coercion designed to extract confessions or suppress information flow. In Venezuela, hundreds remained in politically motivated detention despite limited releases in early 2026, illustrating how political transitions can yield partial reforms without dismantling underlying repressive structures or addressing the root causes of institutional capture by security forces. Immigration and administrative detention systems in various countries have also drawn sharp criticism for indefinite holding, overcrowding, inadequate medical care, and the routine denial of basic due process, often justified as temporary administrative measures but extending indefinitely due to bureaucratic inertia, policy gridlock, or deliberate political exploitation.

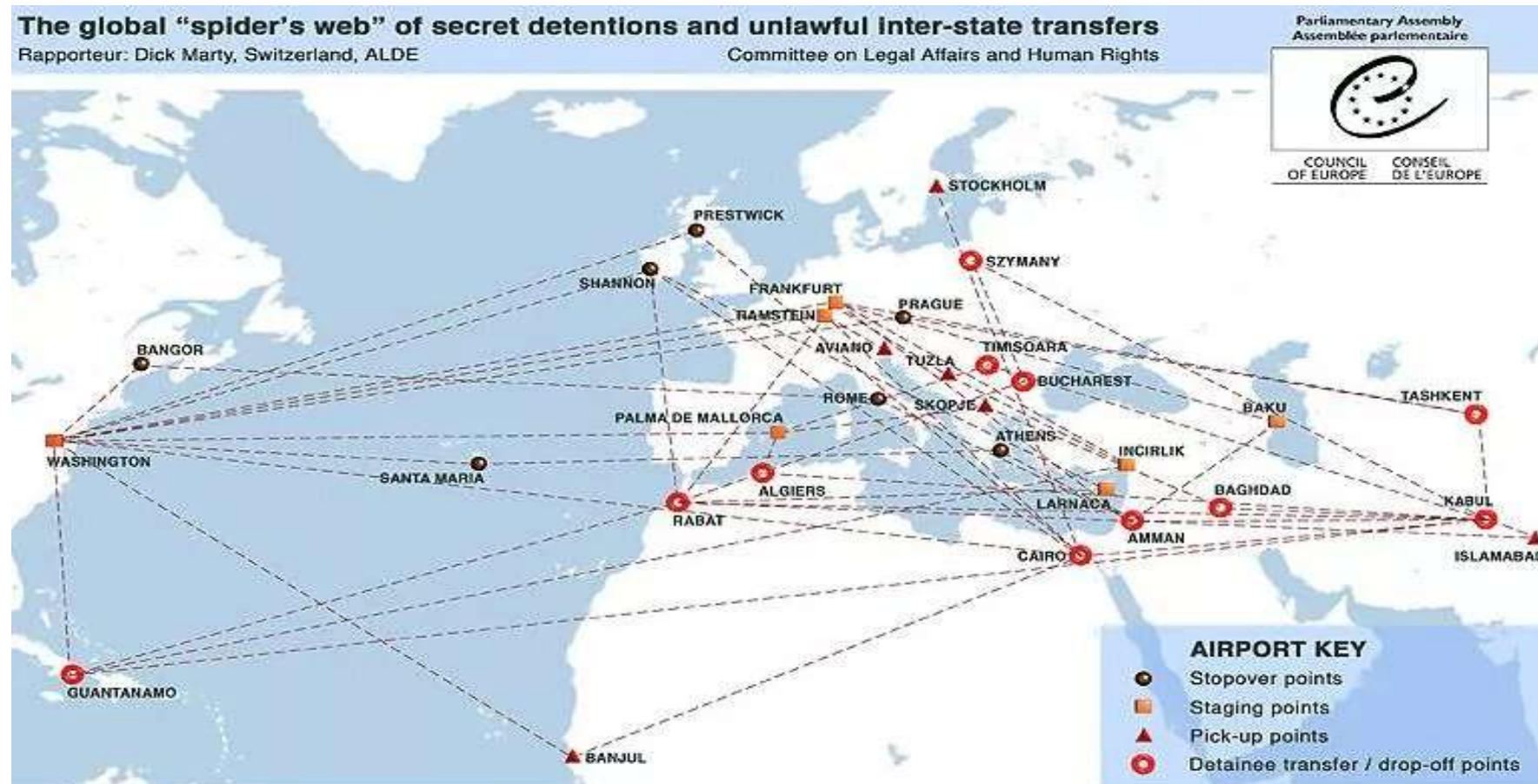


Figure 2. The global “spider’s web” of rendition, secret detention, and unlawful inter-state transfers, depicting how individuals have been moved across borders outside legal frameworks.

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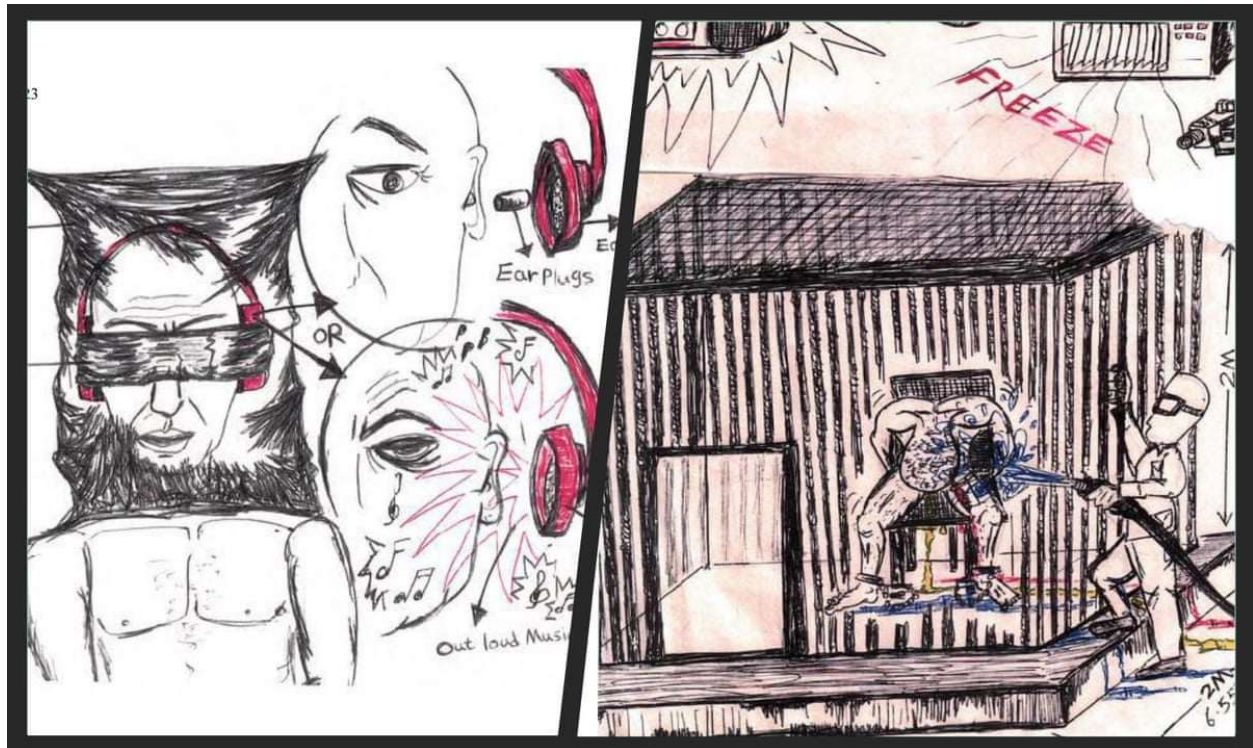


Figure 3. Timeline illustrating the persistence of arbitrary detention practices from 2001 to 2026, highlighting the gap between international condemnation and ongoing implementation.

i.guim.co.uk

These cases share common features: denial of prompt judicial review, prolonged isolation from families and counsel, and long-term psychological trauma that compounds into intergenerational harm, community destabilization, and eroded public trust in governance. Analytically, the patterns reveal structural drivers—authoritarian consolidation in some contexts, exceptionalism in democratic ones—where national security doctrines create legal loopholes that render human rights frameworks ineffective in practice. Rendition and proxy detention further diffuse responsibility across borders, complicating attribution, enforcement, and the pursuit of justice. The scale, spanning ideological divides and persisting despite decades of international condemnation, indicates not isolated abuses but a profound global erosion of the prohibition on arbitrary deprivation of liberty. This erosion is fueled by technology-enabled surveillance that lowers thresholds for detention while international responses remain reactive, under-resourced, and politically constrained, allowing violations to proliferate unchecked.

Table 1. Selected Contemporary Examples of Prolonged Arbitrary Detention (as of early 2026)

Context	Approximate Scale	Primary Humanitarian Concerns	Key Sources
Guantánamo Bay	15 remaining detainees	Decades-long isolation; documented prior torture; profound psychological and physical deterioration from prolonged uncertainty and sensory deprivation	Center for Constitutional Rights (2026); UN experts
Iran (2025–2026 protests)	Tens of thousands	Mass arrests including minors; incommunicado detention; enforced disappearances; risk of torture and unfair trials	Human Rights Watch (2026)
Venezuela (political cases)	Hundreds	Politically motivated holding; limited releases amid persistent institutional repression and lack of judicial independence	Amnesty International (2026); Foro Penal
Global WGAD cases (2024–2025)	149 individuals in 41 countries	Detention for expression or without legal basis; failure of fair trial guarantees; systemic patterns of impunity	OHCHR (2025)

Legal and Ethical Framework

Prolonged detention without charge violates core norms under the ICCPR, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and customary international law, which prohibit arbitrary deprivation of liberty and mandate prompt judicial review as non-derogable even in declared emergencies. The WGAD classifies many such cases as arbitrary under Categories I (no legal basis), II (discriminatory or opinion-based), and III (failure to observe fair trial guarantees), with cumulative effects often amounting to cruel, inhuman, or degrading treatment through sensory deprivation, social isolation, indefinite uncertainty that induce severe mental health crises, and documented long-term health deterioration. From a humanitarian standpoint, every day an innocent person remains detained represents a profound moral failure by the international community, undermining the universal dignity of the person and the credibility of global institutions tasked with enforcement. Accountability requires not only immediate release but also comprehensive reparations, full rehabilitation programs, and criminal prosecution where torture or complicity occurred, as partial settlements or diplomatic gestures fail to address systemic complicity or deter future violations. Ethically, these practices expose the tension between state sovereignty claims and the erga omnes obligations of the international community to protect fundamental rights, revealing critical gaps in enforcement mechanisms that allow powerful actors to evade scrutiny while weaker voices suffer prolonged injustice. The framework further demands proactive prevention, including mandatory independent oversight of intelligence operations, binding timelines for

judicial review, and stronger multilateral sanctions against persistent violators to close the persistent gap between legal standards and state practice.

Conclusion

The innocents held in indefinite arbitrary detention worldwide are not collateral damage or abstract statistics; they are human beings whose liberty and dignity have been unjustly stripped away through policies that prioritize control over evidence, expediency over justice, and perceived security over universal human rights. The prototype case examined here reveals patterns that persist across borders and regimes, demanding urgent action through strengthened oversight, transparent reviews, binding enforcement of release orders, and comprehensive reparations mechanisms. Immediate release of all uncharged detainees, full transparency and accountability for past abuses—including reparations, institutional reforms, and prosecution of perpetrators—and strengthened international mechanisms to prevent recurrence are not optional—they are humanitarian imperatives rooted in the imperative to safeguard the vulnerable against state overreach. Only by standing resolutely with the innocent, confronting the systemic failures that enable these violations, and upholding universal standards of justice can the global community reclaim its moral foundation and prevent the normalization of indefinite holding as an acceptable tool of governance in the 21st century.

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Ethical Statement

This is a research-based manuscript prepared and structured in a scientific narrative review format. Modern AI-assisted tools were used to access current and authentic information from digital archives, bibliographic databanks, online libraries, research articles, academic repositories, and encyclopedias.

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Literature Search and Information Management

Literature retrieval was conducted using a structured and reproducible search strategy in accordance with PRISMA-S reporting standards. Search strategies were independently evaluated using the PRESS framework to ensure methodological quality, accuracy, and completeness. Grey literature was systematically identified using the CADTH *Grey Matters* framework to enhance coverage of unpublished, non-indexed, and policy-relevant sources, thereby minimizing publication bias and improving comprehensiveness.

Risk of Bias and Evidence Quality

Risk of bias was assessed using validated, design-specific tools (RoB 2, ROBINS-I, QUADAS-2/3, AMSTAR 2, Newcastle–Ottawa Scale, and CASP). The certainty of evidence and strength of recommendations were evaluated using the GRADE framework, ensuring a standardized and reproducible assessment across study designs.

Review Typology and Reporting

Review designs were classified into standard categories (scoping, umbrella, rapid, qualitative, and mixed-methods), with reporting aligned to established guidelines (PRISMA-ScR, PRIOR, PRISMA-RR, ENTREQ, and PRISMA/MMAT) to ensure methodological rigor and transparency.

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