

Editorial

From [The New York Times](#) | Original Article

All five living presidents gathered in Texas Thursday for a feel-good moment [at the opening](#) of the George W. Bush Presidential Library and Museum, which is supposed to symbolize the legacy that Mr. Bush has been trying to polish. President Obama called it a “special day for our democracy.” Mr. Bush spoke about having made “the tough decisions” to protect America. They all had a nice chuckle when President Bill Clinton joked about former [presidents using their libraries to rewrite history](#).

But there is another building, far from Dallas on land leased from Cuba, that symbolizes Mr. Bush’s legacy in a darker, truer way: the military penal complex at Guantánamo Bay where Mr. Bush imprisoned hundreds of men after the Sept. 11, 2001, attacks, a vast majority guilty of no crime.

It became the embodiment of his dangerous expansion of executive power and the lawless detentions, secret prisons and torture that went along with them. It is now also a reminder of Mr. Obama’s failure to close the prison as he promised when he took office, and of the malicious interference by Congress in any effort to justly try and punish the Guantánamo inmates.

There are still 166 men there — virtually all of them held without charges, some for more than a decade. More than half have been cleared for release but are still imprisoned because of a law that requires individual Pentagon waivers. The administration eliminated the State Department post charged with working with other countries to transfer the prisoners so those waivers might be issued.

Of the rest, some are said to have committed serious crimes, including terrorism, but the military tribunals created by Mr. Bush are dysfunctional and not credible, despite Mr. Obama’s improvements. Congress long ago banned the transfer of prisoners to the federal criminal

justice system where they belong and are far more likely to receive fair trials and long sentences if convicted.

Only six are facing active charges. Nearly 50 more are deemed too dangerous for release but not suitable for trial because they are not linked to any specific attack or because the evidence against them is tainted by torture.

The result of this purgatory of isolation was inevitable. [Charlie Savage wrote in The Times on Thursday](#) about a protest that ended in a raid on Camp Six, where the most cooperative prisoners are held. A hunger strike in its third month includes an estimated 93 prisoners, twice as many as were participating before the raid. American soldiers have been reduced to force-feeding prisoners who are strapped to chairs with a tube down their throats.

That prison should never have been opened. It was nothing more than Mr. Bush's attempt to evade accountability by placing prisoners in another country. The courts rejected that ploy, but Mr. Bush never bothered to fix the problem. Now, shockingly, the Pentagon is actually considering spending \$200 million for improvements and expansions clearly aimed at a permanent operation.

Polls show that Americans are increasingly indifferent to the prison. We received a fair amount of criticism recently [for publishing on our Op-Ed page a first-person account](#) from one of the Guantánamo hunger strikers.

But whatever Mr. Bush says about how comfortable he is with his "tough" choices, the country must recognize the steep price being paid for what is essentially a political prison. Just as hunger strikes at the infamous Maze Prison in Northern Ireland indelibly stained Britain's human rights record, so Guantánamo stains America's.