

From Center for Constitutional Rights



Last week, arguments began in a historic hearing before the International Criminal Court (ICC) in The Hague, The Netherlands. Senior Staff Attorney [Katherine Gallagher](#) is at the court and is presenting argument on behalf of Guled Hassan Duran and Sharqawi Al Hajj, two CIA torture survivors and Guantánamo prisoners, and urged the Appeals Chamber that [the ICC should open an investigation into war crimes and crimes against humanity arising out of the armed conflict in Afghanistan, including U.S. torture.](#)

You can read coverage of the session by [Reuters](#) and the [Associated Press](#) , and watch video of the proceedings on the [ICC's Youtube Channel](#)

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The appeal follows an unprecedented decision by the Pre-Trial Chamber to deny the ICC Prosecutor's request to open a formal investigation into the alleged crimes committed by the Taliban, Afghan forces, and U.S. military and CIA officials, a decision that followed a

months-long hostile campaign against the ICC and the Prosecutor by the Trump administration.

“The opening of an investigation into the U.S. torture program would make clear that no one is above the law,” Gallagher told judges on the first day of the hearing.

The Center for Constitutional Rights is joined by other victims’ counsel as well as the ICC Prosecutor, and supported by a range of *amici curiae* including former chief prosecutors, U.N. special rapporteurs, U.S. war crimes ambassadors, international human rights and criminal law experts, and non-governmental organizations in calling for the opening of an investigation.

The Appeals Chamber has the chance to make clear that the Court is equally available to those taking on strong political powers and to ensure that the ICC’s commitment to end impunity is more than symbolic — that it is a forum in which victims of U.S. and Afghan crimes can seek meaningful redress. **The stakes are high.** The ICC is a court of last resort, available when no other State is willing or able to prosecute the most serious crimes that fall within its jurisdiction. The victims have come to the ICC following a 17-year struggle for accountability, which is marked by the absence of prosecutions in the U.S. or other national courts of the civilian and military leadership responsible for the U.S. torture program.

Videos of the hearing are on the [ICC’s YouTube channel](#) .