

By Andy Worthington

The 9th anniversary of the opening of the “War on Terror” prison at Guantánamo Bay is on January 11, and, in the hope of raising awareness of the need for action to close Guantánamo and to secure fair trials or release from the prison for [the 174 men still held](#), Andy Worthington, freelance investigative journalist, author of

[The
Guantánamo
Files](#)

and co-director of the documentary film, “

[Outside the Law: Stories from Guantánamo](#)

,” is traveling to the US to take part in a number of events during the week of this baleful anniversary, with the support of

[The World Can't Wait](#)

and

[Witness Against Torture](#)

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Sadly, two years into Barack Obama's Presidency, and a year after [the failure of his promise](#) to

[close Guantánamo within a year](#)

, the outlook for the remaining 174 prisoners in Guantánamo is bleaker than it has been at any time since June 27, 2004, the day before

[the Supreme Court ruled](#)

that the prisoners had habeas corpus rights.

Although 90 of the remaining 174 prisoners have been [“approved for transfer” for at least a year](#) by the Guantánamo Review

Task Force, established by President Obama to review the cases of the remaining prisoners, 58 of these men are Yemenis, whose release is prevented by

[a moratorium on the release of any Yemeni prisoners](#)

, which was issued by the President last January, in response to hysterical overreaction to the news that the failed Christmas Day plane bomber, Umar Farouk Abdulmutallab, had been recruited in Yemen. In addition, Congress has now stepped in,

[unconstitutionally restricting the President's powers](#)

by declaring Yemen as one of several countries that are too dangerous for prisoners to be

released to.

The remaining 32 men “approved for transfer” are mostly still held because of fears that they will face torture or other ill-treatment in their home countries, and because no third countries have been found that will accept them. They should, therefore, be offered new homes in the United States, but the Obama administration, the courts and Congress have [all acted to prevent the relocation](#) of a single cleared Guantánamo prisoner to the US mainland.

Of the remaining 84 prisoners, three are [imprisoned after trials by Military Commission](#), 33 were recommended for trials by the Task Force, and 48 others were recommended for indefinite detention without charge or trial. Congress recently passed legislation preventing the transfer of any of these men to the US mainland to face trials, and also preventing the administration from [buying a US prison to rehouse them](#), but this is not the only stumbling block to attempts to secure justice for any of these men.

Although the administration has been prevented from proceeding with [the planned federal court trials](#) for Khalid Sheikh Mohammed and four other men accused of involvement in the 9/11 attacks, officials have also shown little appetite for trials by Military Commission either, especially after the negative publicity that greeted the plea deal negotiated in October with the former child prisoner [Omar Khadr](#), who was obliged to plead guilty to war crimes invented by Congress and endorsed by the administration.

In addition, it was recently announced that President Obama is set to sign an executive order [formalizing the indefinite detention](#) of the 48 men designated for indefinite detention by the Task Force. This will allow them a periodic review of their cases, but it remains an unjustifiable position for the administration to maintain (and is symptomatic of the administration's disregard for the US courts and

[the prisoners' ongoing habeas petitions](#)

), and the combination of factors in play as Guantánamo begins the 10th year of its lawless business — the executive order regarding indefinite detention, the unwillingness to proceed with any trials, and the self-imposed obstacles preventing the release of 90 men whose release was recommended by the Task Force — means that, on this particular anniversary, there is a very real possibility, without concerted effort by Americans opposed to the existence of Guantánamo and all it stands for, that almost everyone still held at Guantánamo will continue to be held indefinitely.