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Why Guantanamo Detainees Should not be Prosecuted Under US Law

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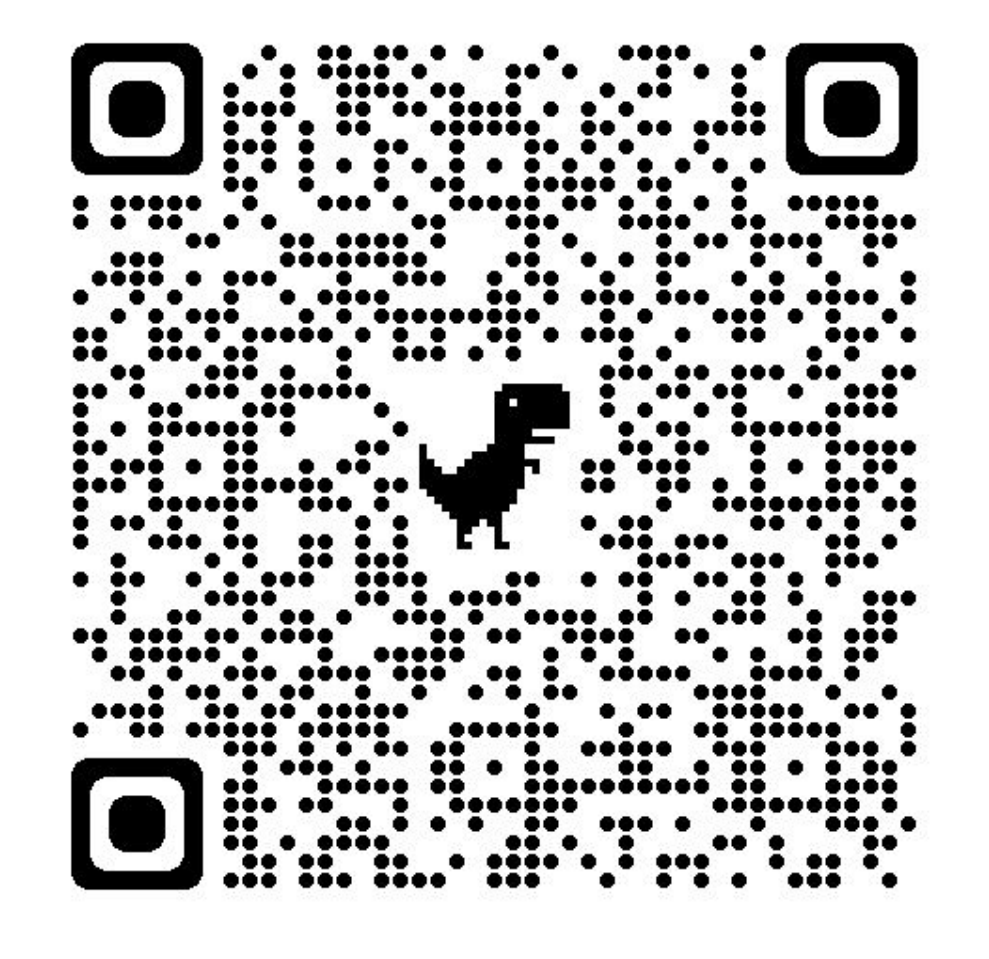
Fruguada, Isabela, "Why Guantanamo Detainees Should not be Prosecuted Under US Law" (2023).
Research Days Posters 2023. 31.

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Pushed to Starve, Forced to Eat: How the U.S. Impedes Guantanamo Hunger Striker's Human Rights

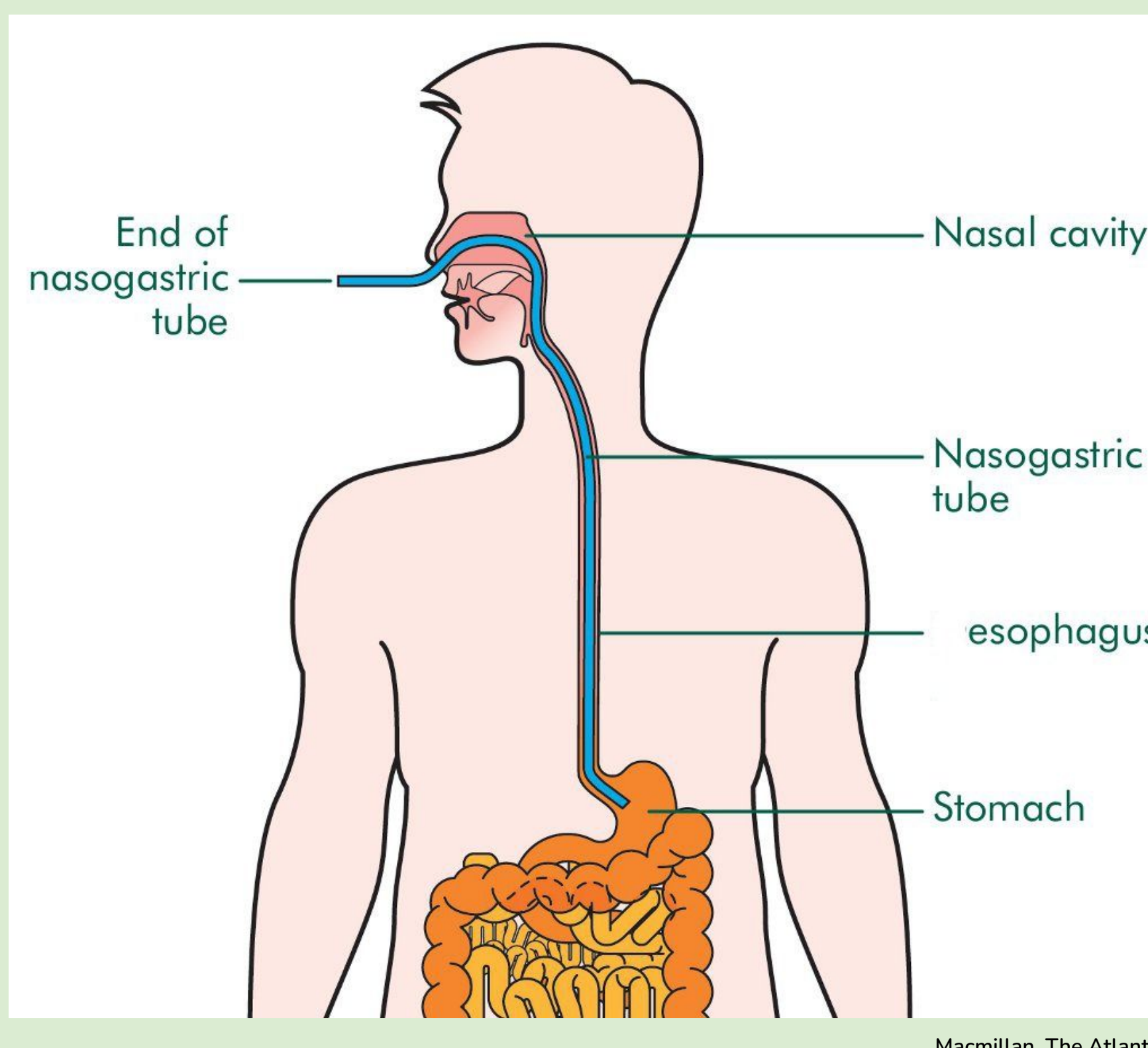
Presenter: Isabela Fraguada



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Guantanamo's Hunger Strikes

- 779 Muslim men held without charge, assumed to be members of terrorist orgs
- Subjected to interrogation and torture
- Two major hunger strikes: Summer 2005 and February 2013 (Seven Month Strike)
- Force feeding → inserting a tube down the nose and feeding liquid meal replacements
- Detainees are prosecuted in military courts, not US judicial system



The path of a nasogastric tube

Macmillan, The Atlantic

Question + Methods

- Should Guantanamo Bay hunger strikers be subjected to trial under US law or international law?
- Methods → Analyzation of court cases, scholarly articles on hunger strikes and Guantanamo, and memoirs of detainees



Valery, Chantal. AFP, Getty Images

A guard showing a feeding tube and supplement

Protestors advocating for closure of GTMO and an end to the strikes



AFP, Getty Images

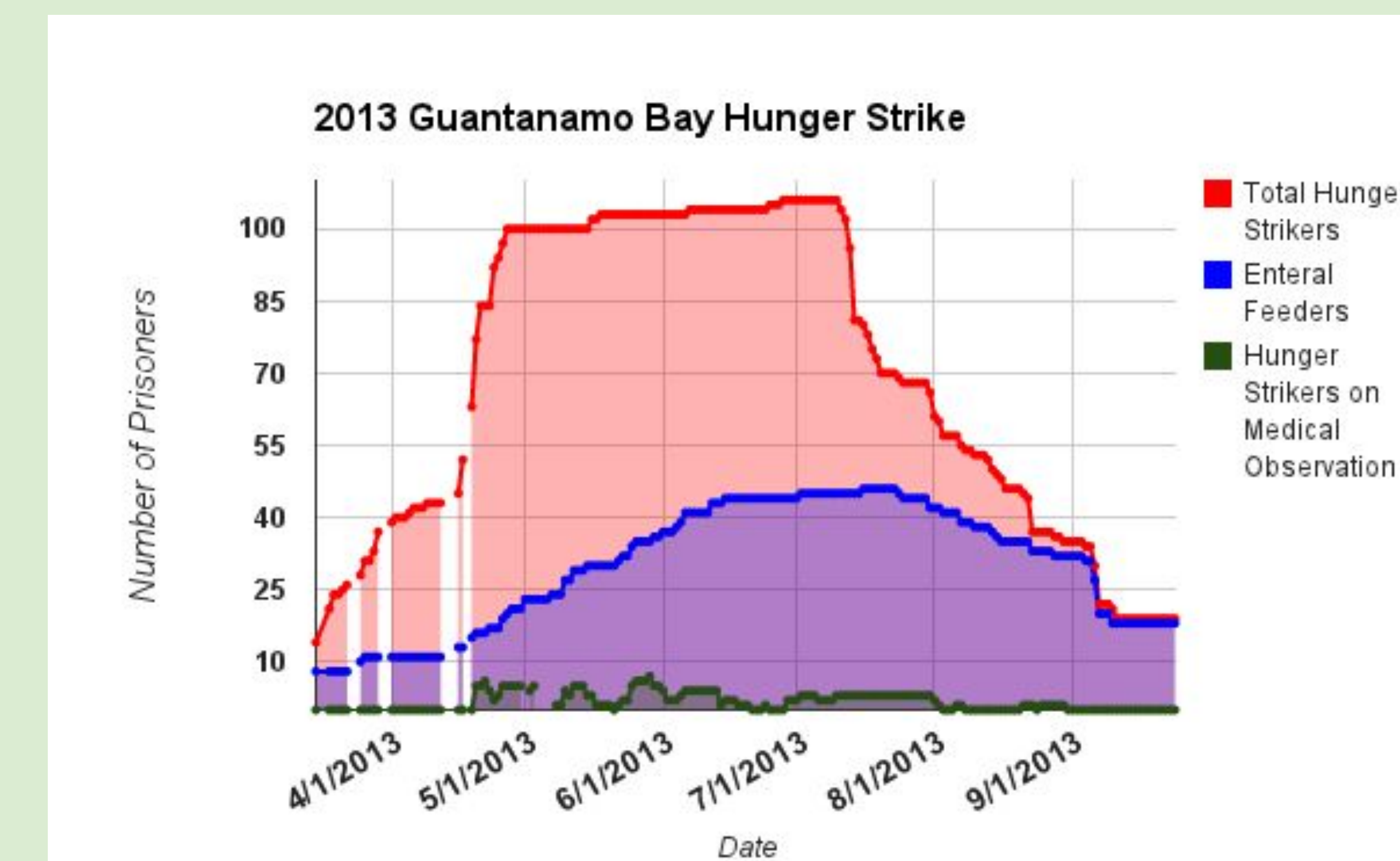
Reflections from a detainee

- Mansoor Adayfi, a Yemeni detainee held in GTMO for 14 years
- Book *Don't Forget Us Here* describes harrowing experiences being force fed + treatment before American military
- Considered a “leader” of 2005 hunger strike



Georges, Salwan. Photograph. n.d.

“What they didn't understand was that the hunger strike wasn't about art or contraband or even living conditions—it was about life. Our lives.”
- Mansoor Adayfi



2013 Guantanamo Bay Hunger Strike, Center for the Study of Human Rights in the Americas

Scholarly Opinions

- GTMO is “jurisdictionally quirky” → beyond reach of US courts, “Indefinable space”
- Physical and mental separations of detainees prevents outsiders from advocating for them + recognizing abuses
- Demonstrations of force feeding without a body → looks positive

Legal Analysis

National

- US judges inconsistent in case decisions for hunger strike portections
- US protects force feeding for “preservation of life”

International

- UN and WMA treaties: rights for hunger strikers, declaring force feeding as torture

Findings + Limitations

- GTMOs physical circumstances + US's inconsistent rulings means detainees would benefit from prosecution with protections under international law
- Limitations → not reading every US court case concerning hunger striking, very complicated relationship and debate on hunger strikers rights in prosecution