

# British government faces legal action over Camp X-Ray detainees

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Solicitors acting for Feroz Abbasi, one of five Britons held at the US military prison at Guantanamo Bay, Cuba, are to take legal action against the Blair government.

Louise Christian, representing 22-year-old Abbasi's mother, Zumrrati Juna, said she would launch proceedings in the High Court unless the Foreign Office agreed to use its influence with Washington to ensure access to lawyers and other basic rights for the detainees.

The threat was made on February 26, as the Law Society and the Bar Council's human rights committee, representing more than 100,000 lawyers in England and Wales, demanded that the detainees be given immediate access to legal advice. In a letter to Prime Minister Tony Blair dated February 25, the Law Society's President, David McIntosh, asked him to press the US government to let the five Britons see their lawyers. The government replied with a fax from Treasury solicitors, saying they would be unable to respond before the end of the week. Christian said, "As the fundamental human rights of my clients are at issue I will not be able to wait that long. We are going ahead with proceedings but it may take until the end of the week or the beginning of next week to get things moving."

Abbasi was captured by US troops in December after allegedly helping defend the Taliban stronghold of Konduz in northern Afghanistan. There is no suggestion that he was involved in the terrorist attacks of September 11.

US President Bush has said that the rights of prisoners of war laid down in the Geneva Convention apply to Taliban prisoners, but not to captured Al Qaeda terrorists. However, his administration has refused to consider any of the 300 to 500 detainees

from 26 countries held at Camp X-Ray as actual prisoners of war, saying they were fighting for an outlawed terrorist group and an unrecognised government. No criminal charges have been brought against the detainees either, thus denying them any of the legal rights defined in law in the US and their home countries.

The case against the British government rests on a clause in United Nations regulations that says a state can be held responsible for the unlawful actions of another state if it "knowingly aids in the commission" of the act. Lawyers claim that Blair's refusal to act on behalf of the captured Britons constitutes "aiding or assisting" the US in its unlawful detention.

At a press conference held at the Law Society's central London headquarters, Mrs Juma and Riasoth Ahmed, the father of Ruhul Ahmed, another Briton held at Camp X-Ray, called for their sons to be returned to Britain. Speaking publicly for the first time, Juma, a nurse, said, "I'm frightened he is being treated badly and being kept in a cage without any exercise. I don't believe Feroz is being given freedom to talk about the conditions he is being kept in or his health—the physical conditions or even the psychological."

In a statement made to her lawyers, Juma has said that she contacted an official at the Foreign Office, who described herself as the case worker in charge of the detained Britons. When Juma proposed finding a lawyer for her son, the official responded: "I do not think it is advisable to try and find a lawyer for Feroz at the moment because he is not charged with any crime. All the Americans are doing is trying to interrogate him. Basically, there is nothing much a lawyer can do at present." Later the official is said to have described Camp X-Ray as a "place of safety and not a prison."

The official added, “Besides, if Feroz is charged by the Americans and tried in America, he will be entitled to a lawyer in the United States. There will be no access for lawyers from over here to defend him over there.”

Denying that any such conversation had taken place, the Foreign Office said, “We support the US’s right to bring suspected Al Qaeda terrorists to justice. Al Qaeda represents a threat to the UK as well as the US national security. We have asked the US to clarify the legal procedures under which the detainees may be prosecuted. We have passed on requests from the families for access by lawyers. Our consular officials cannot give legal advice.”

In an interview published February 25, US Defence Secretary Donald Rumsfeld said that when the US authorities had finished questioning the detainees, “very likely we’ll let as many countries as possible have any of their nationals they would like, and they can handle the law enforcement prosecution.” He told the *Telegraph* newspaper that this preference was qualified by another consideration, however. The US would “prefer to only give them back to countries that have an interest in prosecuting people that ought to be prosecuted” and would want the right to go back and interrogate them later.

In a legal opinion, Professor Goodwin-Gill said, “The presumption of innocence seems to have been disregarded. The UK has a responsibility as a party to the Geneva Convention. We need to ask the British government whether they are doing enough to guarantee human rights.”

The legal case against the Blair government comes as criticisms mount over the unquestioning support being offered by Labour to the Bush presidency. Of particular concern is the fact that in its detaining of British citizens, the US is seen to be flouting Britain’s sovereignty. In an editorial comment published on February 28 under the heading “Play it by the law book: US must not detain captives without trial”, the *Guardian* newspaper pointed out that according to a defence department briefing in Washington last week, “US interrogators have not yet been able to compile a worthwhile prosecution case against any single prisoner now being held at Camp X-Ray.”

After citing this extraordinary admission, the editorial calls for the prisoners to be placed before an appropriate tribunal to determine their status as is their

right under the Geneva Convention. In addition to the concerns over national sovereignty, there are fears that the actions of the US in illegally detaining people who have neither been charged with any criminal offence, nor designated as prisoners of war will blow apart the claim that the Bush administration is defending democratic freedoms.

“The most important thing that the US must not do is follow the implications of Defence Secretary Donald Rumsfeld’s statement this week that one option for the US ‘would be to just keep them, as you would a person you didn’t want to get back out there and rejoin a Taliban or an Al Qaeda unit, and keep them during the period of conflict, so that they can’t go back and kill more people.’ That may sound reasonable until you realise that Mr Rumsfeld himself has said that the war against terrorism may last for decades. Internment without trial for decades? The US has taken a very strict view against other countries which have adopted such a policy—not least the UK in Northern Ireland 30 years ago.”



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