

Britain: defence argues Spanish extradition could lead to human rights abuses

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On October 27 at Bow Street Magistrates Court, London, the latest hearing was held into the Spanish High Court's request for the extradition of Moutaz Almallah Dabas.

The 39-year-old Spaniard of Syrian descent was arrested at his home in Slough, Berkshire, in March on a European extradition warrant. Just 24 hours earlier Spanish police had arrested his brother, Mohannad Almallah Dabas, a Syrian national, in Madrid.

The Spanish Interior Ministry claims that the two brothers helped run a flat where Al Qaeda-inspired militants were recruited, including those directly responsible for the Madrid train bombings that killed 191 people and injured 1,500 on March 11, 2004.

Dabas's defence lawyer Mark Summers raised concern that his client could face human rights abuses if extradited to what he described as Guantánamo Bay-type conditions that exist in the Spanish judicial system.

During the extradition hearing District Judge Anthony Evans reserved judgment until November 16 after being presented by Summers with a 300-page report detailing alleged torture and abuse in Spanish police stations and prisons.

Summers said, "This report contains 755 cases, investigated cases, of torture or ill-treatment within the Spanish judicial system for the year 2004. It breaks down the cases by way of the persons involved and 5 percent of the report, something in the region of 50 or so, were made by people held under the anti-terrorism law and that is significant in the context of this case."

Spain's High Court representative John Hardy derided the report as "causist and partisan," adding, "We are dealing with an EU member state and an established democracy with the rule of law."

Spanish authorities have been accused for a number of years of dismissing accusations of torture and abuse out of hand. And where investigations have occurred they are drawn out and result in light sentences for the guilty. Responding to Hardy, Summers stated, "All signatories to the European Convention on Human Rights at one stage or

another have been held to be in violation of it. It is no blanket absolution."

Summers's dossier is evidence that the antidemocratic methods used to suppress the Basque separatist movement are now being deployed against Muslims.

Spain's anti-terror legislation is amongst the most draconian in the world. A Human Rights Watch briefing paper published in March 2003 describes the creation of repressive structures within the judicial system comparable to the US camp in Guantánamo Bay. It states, "Spain's anti-terror laws permit the use of incommunicado detention, secret legal proceedings, and pre-trial detention for up to four years. The proceedings governing the detentions of suspected Al Qaeda operatives apprehended in Spain in November 2001, July 2002, and January 2003, among others, have been declared secret (*causa secreta*)..."

"The investigating magistrate of the Audiencia Nacional, a special court that oversees terrorist cases, can request *causa secreta* for 30 days, consecutively renewable for the duration of the four-year pre-trial detention period. Secret proceedings bar the defense access to the prosecutor's evidence, except for information contained in the initial detention order. Without access to this evidence, detainees are severely hampered in mounting an adequate defence."

In a previous hearing last August, Summers argued, "What is at risk here is the disappearance of this client into a black hole."

Summers based his argument on the brutal experiences of dozens of detainees. What Dabas will confront has already happened to those arrested in the aftermath of the 9/11 terrorist attack. A Human Rights Watch (HRW) report, "Setting an Example?" published on January 27 this year, examined the cases of those arrested and detained under the "war on terror" legislation. The lawyer for Mohamed Needl Acaid, remanded to prison on November 18, 2001, says her client is serving what she described as an "anticipatory sentence."

She continued, "He has been in prison for three years accused of three things: a trip to Bosnia, sending money to

people in Jordan and Yemen, and using stolen credit cards. But these are all police suppositions, because to date they haven't obtained any proof of criminal activity."

No additional information on Needl Acaid had been gathered since 1998, when the examining magistrate and the public prosecutor both held that there was insufficient evidence to warrant an arrest.

His lawyer commented, "it makes you think these guys [her client and the other 13 in pre-trial detention] are being prejudged." She has filed for Needl Acaid's provisional release on at least five occasions, but has received the exact same denial of the appeal, with only the date changed, stating "nothing has changed since his detention."

According to HRW report the European Court of Human Rights has specifically stated that the reasons given for continued deprivation of liberty must be fully substantiated and domestic courts may not merely confirm the detention in "an identical, not to say stereotyped, form of words."

The report notes that Sebastian Sallelas, the criminal defence lawyer for several defendants in the case, said he was convinced his clients were being held in preventive detention: "Preventive detention refers to the imprisonment of people suspected of posing a threat to national security or public order where the goal is to avoid the alleged danger rather than the prosecution of any criminal act."

Another lawyer says of the detentions in connection with the March 11 bombings, "What should be an exceptional measure has in this case been applied as the rule... they have used preventive detention, and that is barbaric. It looks like they just went around arresting everyone in the same circle; they're letting them go now either because there really isn't any evidence or in order to fish for more information."

Prolonged detention before trial and the conditions of confinement under harsh security measures may have a deleterious impact on the mental health of the detainees. Several of those detained are taking medication to stabilize mental illnesses developed while under pre-trial detention.

Those arrested eventually faced what amounted to a show trial that ended on September 26. Based on the flimsiest of circumstantial evidence, the Spanish High Court declared that 18 of the 24 accused were guilty of involvement in the 9/11 New York attacks in one degree or another. They received sentences of between 6 and 27 years imprisonment. Convictions were often based on phone tapping, which is inadmissible in court in many other countries, and relied on establishing guilt by association.

Even the right-wing *El Mundo* newspaper (which has supported the anti-terrorist crackdown) described its dissatisfaction with the flimsy evidence. It conceded that the defendants may have "formed part of a group dedicated to making propaganda for the jihad, financing fundamentalist

Islamic movements, recruiting fanatics for Chechnya, Bosnia and Afghanistan and maintaining contacts with the Algerian GIA and other violent groups," but added, "It is another thing to try to connect this group with the preparation for September 11, which was the basis for reopening this investigation at the end of October 2001."

One of those jailed was *Al Jazeera* journalist Tayssir Allouni, who denied all the charges against him. Allouni was sentenced to seven years imprisonment. Prosecutors used an interview that he conducted in 2001 with Osama bin Laden and the transfer of a small amount of money to another suspect as evidence that he had assisted Al Qaeda.

Allouni is well known in the Middle East as a war correspondent for *Al Jazeera*. He was bureau chief in Kabul when the bombing of the city commenced on October 7, 2001. He barely escaped with his life after the US bombed the *Al Jazeera* office in that city. He was also witness to the killing of Spanish cameraman Jose Couso when the US military bombed the Palestine Hotel (home to many journalists) in Baghdad in April 2003.

The father of five was first arrested in September 2003 at his home in Granada. Suffering from a serious heart condition, he was released a month later. On the day of his second arrest, Allouni was due to undergo treatment and according to his wife has received no medical attention since being jailed. She described Spain's prisons as having become "another Guantánamo."

At the time she told Australia's ABC News that her husband had been placed in solitary confinement without his lawyer being notified. According to press reports, prison officials confirmed that Allouni and 85 others were being held in isolation. ABC reported, "Allouni must eat meals in his cell and can only exercise alone on the prison patio for one hour a day despite ill health."



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