

British government and security agencies seek to legitimise torture

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The Blair government and Britain's security agencies are seeking to legitimise the use of evidence obtained by torture overseas against terror suspects.

On August 11, 2004 the Court of Appeals had ruled such evidence admissible in UK law and, on this basis, upheld the continued detention of 10 foreign nationals imprisoned without charge for more than two years.

Lawyers acting for the 10 had argued that their imprisonment was "morally repugnant," given that the evidence against them may have been extracted through torture at the US military concentration camp at Guantánamo Bay, Cuba. But in a two-to-one ruling, the Law Lords ruled that evidence obtained through torture could be used in British courts so long as Britain was not directly involved in extracting it.

Lawyers representing the detainees challenged the verdict, arguing that it breached Article Three of the European Convention on Human Rights prohibiting torture or degrading treatment.

On October 17 the government requested the Law Lords to rule on the issue. The hearings ended on October 22 and a final ruling may take weeks or even months.

Appearing before a panel of seven Law Lords last month, Ben Emmerson, QC, representing the detainees, said that allowing the use of such evidence gave an incentive to the torturer "by making the act of torture worthwhile."

In opposition, Ian Burnett, QC, for the home secretary, maintained that there was no rule of law preventing a court from relying on statements of a third party obtained by agents of a foreign state through torture.

The Home Office has so far refused to comment on the case. Last week the Lord Chancellor, Lord Falconer, the secretary of state for constitutional affairs, said the government faced "difficult practical decisions."

"In facing the dangers posed by international terrorism, we have to ensure that those charged with protecting our security have all the tools they legitimately require," he said.

Lord Falconer claimed, "In adapting our legal tools to face new threats, we will ensure that we do so in a way that

reflects our values for democracy and tolerance and ensures our continued support for the rule of law." But a seven-page statement to the Law Lords from the head of Britain's secret service M15, Eliza Manningham-Buller—which was leaked to Channel 4 News—made clear where the security agencies stand on democratic rights.

Whilst careful not to use the word "torture," Manningham-Buller praised the uncovering of the so-called "ricin terror plot." In January 2003 police had raided a London flat, seizing what was described as a "poisons laboratory." The apparent find, of what was described as a major Al Qaeda cell planning a terror campaign in Britain, played a central role in government efforts to justify the war against Iraq and its accompanying "war on terror."

The raid followed allegations by one Mohammad Meguerba to security agencies in Algeria that he had been part of the terror plot. Manningham-Buller said Meguerba's "evidence" had been vital and "In those circumstances, no inquiries were made of Algerian liaison about the precise circumstances that attended their questioning of Meguerba. In any event, questioning of Algerian liaison about their methods of questioning detainees would almost certainly have been rebuffed and at the same time would have damaged the relationship to the detriment of our ability to counter international terrorism."

In fact, Meguerba's statement was widely believed to have been obtained through torture and when British investigators went to Algeria to question him further he withdrew most of his allegations. The subsequent trial of nine people accused of involvement in the supposed poison plot in April this year heard that no ricin had in fact been found in the flat and the case against eight of them collapsed. The remaining suspect, Kamel Bourgass, was eventually jailed for killing a police officer during his arrest and for "conspiracy to cause a public nuisance."

Referring to the case before the Law Lords, Kate Allen, director of Amnesty International, said:

"Let us be clear what we are talking about. This is not about whether evidence is useful. This is about whether the

UK will turn a blind eye to someone being thrown in a cell and having pain and terror inflicted upon them. The UK authorities must of course do their utmost to protect the public from terrorism—but going soft on torture is not the answer.”

Further evidence is emerging regarding the tacit support that the British government has given to those regimes routinely engaged in the torture of those held in captivity.

On October 27, the *Independent* newspaper published an article by Craig Murray, a former British ambassador to Uzbekistan, opposing the contradictions, omissions and deceptions contained in Manningham-Buller’s submission to the Law Lords.

Murray described in graphic detail how Uzbekistan agencies used extreme torture methods to obtain “evidence” and how this “intelligence” was then passed on for use by Britain’s security forces.

Murray wrote that Manningham-Buller’s statement to the Law Lords “argues, in effect, that we need to get intelligence from foreign security services, to fight terrorism. And if they torture, so what? Her chief falsehood is our pretence that we don’t know what happens in their dungeons. We do. And it is a dreadful story.

“Manningham-Buller also fails to mention that a large number of people have been tortured abroad to provide us with intelligence—because we sent them there to be tortured. The CIA’s ‘extraordinary rendition’ programme has become notorious. Under it, detainees have been sent around the world to key torture destinations. There is evidence of British complicity—not only do these CIA flights regularly operate from UK airbases, but detainees have spoken of British intelligence personnel working with their tormentors.”

Murray added that the “UK receives this intelligence material not occasionally, not fortuitously, but in connection with a regular programme of torture with which we are intimately associated. Uzbekistan is one of those security services from whose ‘friendly liaison’ services we obtained information.”

The torture methods employed included a woman “who was raped with a broken bottle in both vagina and anus, and who died after ten days of agony” and an old man who was “suspended by wrist shackles from the ceiling while his children were beaten to a pulp before his eyes.” According to Murray, another male “had his fingernails pulled before his face was beaten and he was immersed to his armpits in boiling liquid.”

Another victim of torture was an “18-year-old whose knees and elbows were smashed, his hand immersed in boiling liquid until the skin came away and the flesh started to peel from the bone, before the back of his skull was stove

in.”

None of these victims were terrorists, Murray continued, and the “great majority of those who suffer torture at the hands of these regimes are not terrorists, but political opponents. And the scale of this torture is vast. In Uzbekistan alone thousands, not hundreds, of innocent men, women and children suffer torture every year.”

Murray states in his article that he protested to the UK Foreign and Commonwealth Office at torture in Uzbek and was informed “that [Foreign Secretary] Jack Straw and the head of MI6 had considered my objections, but had come to the conclusion that torture intelligence was important to the War on Terror, and the practice should continue. One day, the law must bring them to account.”

Referring to Manningham-Buller’s statement that the evidence obtained in the case of Mohammed Meguerba was justified as it prevented the development of a terrorist plot, Murray states, “If that argument is accepted, then in logic there is no reason to rely on foreign intermediaries. Why don’t we do our own torturing at home? James VI and I abolished torture—New Labour is making the first attempt in English courts to justify government use of torture information. Why stop there? Why can’t the agencies work over terrorist suspects?”

According to another article by Dana Priest published in the *Washington Post*, November 2, “Parliaments in Canada, Italy, France, Sweden and the Netherlands have opened inquiries into alleged CIA operations that secretly captured their citizens or legal residents and transferred them to the agency’s prisons.”

Priest reported that “a covert prison system” was “set up by the CIA nearly four years ago that at various times has included sites in eight countries, including Thailand, Afghanistan and several democracies in Eastern Europe, as well as a small centre at the Guantánamo Bay prison in Cuba, according to current and former intelligence officials and diplomats from three continents.”



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