

# Reports confirm Canada's complicity in Afghan state torture

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*"If this report is accurate, Canadians have engaged in war crimes, not only individually but also as a matter of policy"*—law professor Michael Byers

Developments this week, including a federal government report and a newspaper exposé, have established irrefutably that the claims of Stephen Harper and his Conservative government that they were not aware that prisoners transferred to Afghan authorities by the Canadian Armed Forces (CAF) were being tortured, or worse, are utterly false.

On Wednesday the *Globe and Mail* published excerpts of a document prepared by Canadian diplomats in Kabul that informs the government that prisoners in the custody of Afghan authorities face the possibility of abuse, torture and extra-judicial execution.

The government had initially denied the existence of such a document, stating in writing that "no such report on human-rights performance in other countries exists." The *Globe and Mail* subsequently used the access of information law to force the government to turn over a copy of the report, which is titled "Afghanistan 2006: Good Governance, Democratic Development and Human Rights." But the report given the *Globe* had been heavily censored. In the name of "national security," numerous passages depicting the deplorable human rights situation in Afghanistan and the violation of basic civil liberties by Afghan authorities were blacked out.

The *Globe* was able, however, to obtain a more complete version of the report, apparently as the result of a leak. The censored passages included the assertions that "Extra-judicial executions, disappearances, torture and detention without trial are all too common" and that "the overall human rights situation in Afghanistan deteriorated in 2006."

Yet the government, with the enthusiastic support of most of the corporate media, extols the Canadian intervention in Afghanistan as a mission to promote democracy and heaps praises on the "elected"—in truth US-installed government—of Hamid Karzai. Only recently Public Safety Minister Stockwell Day said of the Afghan government, "We've got good confidence levels.... We're seeing an increased understanding and appreciation for human rights..."

On Monday, the *Globe* published a graphic investigative report on the torture and abuse of persons imprisoned by the Afghan authorities on the grounds that they are active in the Taliban insurgency in Kandahar, the south Afghanistan province where some 2,500 CAF personnel are stationed. The article presents firsthand evidence, including photographs and interviews with prisoners handed over by the CAF to the Karzai regime, providing chilling proof of the routine and brutal treatment of prisoners by Afghan security forces.

Even prior to these latest developments, the government's claims

that there is no proof the Afghan state is abusing prisoners were, to say the least, not credible. That torture and even extrajudicial killings are routine has been conceded by everyone from the US State Department to the Afghan government itself. But what this week's two reports do is to conclusively foreclose any possibility that the Canadian military and Harper government were unaware of the atrocities being committed by the Afghan regime.

The ease with which *Globe* correspondent Graeme Smith was able to obtain firsthand evidence of the abuse being carried out in Afghanistan's prisons is itself revealing. Smith interviewed 30 prisoners captured in Kandahar province who reported that they were "beaten, whipped, starved, frozen, choked and subjected to electric shocks during interrogation" after having been handed over to the National Directorate of Security (NDS), Afghanistan's intelligence police, by their Canadian Armed Forces' captors.

The article is careful to point out that none of the abuse was carried out by CAF personnel, who were invariably praised "for their politeness, their gentle handling of captives and their comfortable detention facility." But it makes clear that Canadian forces were well aware of what happened to prisoners after they were transferred to the Afghan authorities and suggests that they used the threat of violence by Afghan government operatives to press detainees to provide information.

The experience of one prisoner, Mahmud Gul, illustrates the more general situation. Gul relates how he was tortured over a period of three days last year but visited between beatings by Canadian soldiers who told him to "give them real information, or they will do more bad things to you." Gul went on to say that he was lucky because in two months of questioning the worst thing he suffered was "having his teeth punched out on the left side of his mouth."

Regardless of whether it is proven that Canadian forces were directly involved in prisoner abuse, as University of Ottawa law professor Amir Attaran and various human rights groups have charged based on CAF field reports, it is illegal under both Canadian and international law to transfer prisoners into the hands of those known to practice torture. According to Michael Byers, a professor in international law and politics at the University of British Columbia, "Under international law, you are prohibited from transferring to torture. You are prohibited from facilitating torture in any way.... We're not simply speaking about the criminal responsibility of individual Canadian soldiers. We're speaking also of command responsibility, of criminal responsibility that continues up the chain of command, to any superior officer who knew of the risk of torture and who ordered or allowed our soldiers to transfer detainees nevertheless."

Ignoring the *Globe* reports and sticking to the government's story, international opposing on the grounds of the constitution and defence, Prime Minister Stephen Harper initially commented, "We are not, at the moment, being told of any problems.... Obviously if there are such problems, we will act." But Harper then sought to cast aspersions on the veracity of Smith's report, if not the reporter's and even the *Globe's* political loyalties, adding, "I think what's disgraceful is to simply accept the allegations of what some Taliban suspects say at face value."

His Defence Minister, Gordon O'Connor was equally dismissive, stating, "We take these allegations seriously.... The (Afghanistan Independent) Human Rights Commission promised to advise us if any of our detainees are abused." This from a minister who has repeatedly been caught out misinforming parliament and the public about how Canada is assuring that those it hands over to the Karzai regime are being treated humanely and accorded their rights under international law.

Only after it became apparent that the government's position was causing a public outcry and further undermining support for Canada's military intervention in Afghanistan did the government mount a salvage operation, announcing that it had struck a new deal with the Afghan government which will allow Canadian officials access to Afghan jails. O'Connor's office released a statement yesterday saying that the new agreement was put in place after discussion with General Qyaum of the NDS and will for the first time allow Canadian officials to monitor the treatment of detainees rather than leaving such monitoring to an outside organization. But later in the day, Prime Minister Harper told parliament that the agreement has not yet been finalized and so the rigmarole continues.

For a year, Defence Minister O'Connor insisted that the Canadian military tracked the treatment of prisoners turned over to Afghan authorities through the oversight of the Red Cross or the Red Crescent—a fiction which was exposed as such by the Red Cross themselves, compelling O'Connor to make a public apology before parliament last month.

O'Connor then changed his story to say that the agreement between Canada and the Afghan government for the safeguard of the rights of prisoners was being monitored by the Afghanistan Independent Human Rights Commission (AIHRC), a body that is partially funded by the Afghan government. Yet the head of that organization has maintained that, given the commission's lack of resources and manpower, it is impossible for them to effectively monitor the treatment of prisoners.

On Monday of this week O'Connor again offered assurances to parliament: "We have made a recent agreement with the human rights commission of Afghanistan and it has guaranteed that it will report to us any abuses of any detainees we transfer. I have the personal assurance of the leader of the human-rights commission in Kandahar and at the national level."

However, the lead investigator for the AIHRC in Kandahar, Amir Mohammed Ansari, said in a recent interview, "We have an agreement with the Canadians, but we can't monitor these people. Legally, we have permission to visit prisoners inside the NDS prison, but they don't allow it." He further explained that besides himself, he has only two assistants to monitor all prisoners captured in Kandahar province and as a result he doesn't even have a good estimate of the number of detainees, let alone their condition.

In a related development, the Canadian government has served notice that it will petition the Federal Court to throw out a case brought by the British Columbia Civil Liberties Association and

international opposing on the grounds of the constitution and international law the CAF's transfer of prisoners to an Afghan government notorious for human rights violations. The Justice Department's motion asserts that Canada's Charter of Rights and Freedoms "does not apply to the military operations of the Canadian Forces in foreign jurisdictions" and that Charter protection doesn't apply "to allegations of torture by other states."

Taking its cue from the government, the military has repeatedly made clear its opposition to any real civilian oversight of its actions in Afghanistan and has refused to provide civil liberties groups investigating the fate of prisoners placed in the hands of the Afghan police with any of their names.

This week's revelations have provoked demands from all the opposition parties for the temporary halt of CAF detainee transfers in Afghanistan and for O'Connor's resignation. The opposition parties are clearly hoping to capitalize on mounting public opposition to Canada's participation in the US-led colonial occupation of Afghanistan. But all the opposition parties—the Liberals, the social-democratic NDP, and the pro-Quebec independence Bloc Québécois—supported the CAF's participation in the US conquest and occupation of Iraq and the expansion of the CAF's role to include responsibility for waging the counterinsurgency war in the Kandahar region of south Afghanistan.

Typical of the posturing of the opposition parties was the performance of deputy Liberal leader Michael Ignatieff, who last year endorsed the Conservatives' decision to extend the CAF counterinsurgency campaign in Afghanistan till 2009 and has provided "liberal" arguments in support of Bush's assault on democratic rights.

Declared Ignatieff, "The honor of our country is at stake. We have, our military have, a great record of compliance with the Geneva Conventions, but we've got to get control of this situation." Yet it was the previous Martin-Chrétien Liberal government that for years insisted that the Geneva Conventions should not apply to alleged insurgents in Afghanistan and which in December 2005 signed an agreement with Afghan authorities over the handling of prisoners that, by providing for no oversight of their fate, gave Kabul carte blanche to abuse and even kill them.

The latest prisoner abuse revelations come at a time when the Conservatives are seeking to prepare public opinion for a CAF mission in Afghanistan well past 2009. Earlier this month, in justifying the government's decision to buy 100 new tanks, Defence Minister O'Connor said he foresaw the CAF being involved in wars in Afghanistan and elsewhere for the next 10 to 15 years.

The mounting death toll in Afghanistan has combined with the war crimes allegations to turn public opinion against the war. A poll taken early this week by the Strategic Counsel showed that support for the CAF mission in Afghanistan has hit an all-time low, with nearly two thirds of respondents opposing the deployment—up from just over half a year ago.



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