

Lawyers claim British government approved systematic policy of torture in Iraq

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Lawyers are claiming that the British government approved a systematic policy of torture of detainees in Iraq.

The claim follows a ruling on June 13 by the Law Lords in the House of Lords—the highest court in Britain—in the *Al-Skeini and others v Secretary of State for Defence* case. The case was brought by the families of six Iraqi civilians who died in British-occupied Basra in 2003. One of the dead, Baha Mousa, died in British custody while UK soldiers on patrol shot the other five.

Mousa, a 26-year-old receptionist, was detained and allegedly tortured along with others by soldiers in the Queen's Lancashire Regiment at the UK's Temporary Detention Facility. This is said to have involved hooding with sandbags, keeping stress positions for long periods, sleep deprivation and being subjected to kickboxing "games," where soldiers competed to see how far they could be kicked.

Photographs and records show Mousa suffered 93 injuries, including four broken ribs, a fractured nose, smashed wrists and a ligature around his neck. According to one witness, "I heard Baha Mousa screaming. I was still hooded but it sounded like he was in another room. I heard him scream: 'Please help me, blood is coming out, please help me, I am going to die.' The last thing I heard him say was: 'My nose broke.' After this there was silence."

In February 2004, the International Red Cross "expressed concern" to the British government over the treatment meted out to Mousa and other detainees who were "made to kneel, face and hands against the ground, as if in a prayer position.... The soldiers stamped on the backs of the necks of those raising their head."

Medical examinations showed "large haematomas

with dried scabs on the abdomen, buttocks and sides, thighs, wrists, nose and forehead consistent with their accounts of beatings."

The Law Lords' judgement confirms a High Court ruling in 2004, which was opposed by the government. Mousa's family and the relatives of the five other Iraqis had argued that the government was in breach of the European Convention on Human Rights (ECHR) and the UK Human Rights Act 1998 (HRA) by not conducting an independent inquiry into the deaths. They added that such an inquiry was made even more necessary because coalition personnel enjoyed complete immunity from prosecution under Coalition Provisional Authority Order 17.

The government argued that the ECHR only applied to Europe and was not applicable to British troops in Iraq, and that the HRA only applied in UK territory.

In their judgement, the Law Lords ruled that there must be a full independent inquiry whenever detainees such as Mousa suffer inhuman treatment, torture or death whilst detained in UK military establishments anywhere in the world. However, they also agreed with the High Court that because the other five Iraqis were not in custody and their shootings had occurred on Iraq territory, which was outside UK jurisdiction, their case was therefore "outside the scope of the convention and the Act." Their case is now to be taken to the European Court of Human Rights in Strasbourg.

Des Browne, the defence secretary, welcomed the Law Lords ruling, saying it provided "helpful clarification of the precise legal framework under which UK forces operated overseas."

He claimed, "We have never argued that the treatment of Baha Mousa was acceptable or that his death should not have been investigated," but he

continued to refer to the Mousa's treatment as "an unlawful conditioning process" rather than torture.

Following the Law Lords' ruling, lawyer Phil Shiner representing the Mousa family repeated his calls for an independent inquiry. He told the *Times* that the government had tried to cover up the "shocking new revelations" during a court martial of those involved in Mousa's death that revealed that the government and the top army brass were "complicit in a systematic policy of torturing detainees in British military custody."

At the court martial at Camp Bulford in southern England earlier this year, Corporal Donald Payne of the Queen's Lancashire regiment pleaded guilty to inhumane treatment and was jailed for a year and dismissed from the army, making him Britain's first convicted war criminal. Six other soldiers, including the former commander of the regiment, Col. Jorge Mendonca, had their cases thrown out amid claims that there were gaps in the evidence and that some key suspects did not appear at the trial.

Shiner explained, "To date the UK Government has managed to suppress much of this material, including all the bundles of documents and evidence from the court martial, and a shocking video showing hooded and cuffed detainees being verbally and physically abused as they were man-handled into the UK's preferred stress position."

Shiner added, "We're not just talking about nuanced degrading treatment, this is torture by any definition of that word.... And we're not just talking about torture, we're talking about the techniques the Heath government banned, such as hooding, sleep deprivation, stressing, food deprivation and white noise."

According to Shiner the ban brought in by Edward Heath's Conservative government in 1972 during the crisis in North Ireland was overturned after the government's chief law officer, Attorney General Lord Peter Goldsmith, declared that the HRA did not apply abroad and thus lower legal standards were permitted. The Defence, Intelligence and Security Centre at Chicksands in central England became the centre for training in these techniques.

As a result, it became standard practice to hood detainees in Iraq using sandbags and plastic cement bags. And there was "huge resistance at the highest

levels" to stopping the practice because of pressure from the US.

Shiner also criticised army doctors who certified that detainees were fit to withstand ill-treatment and actually initiated it.

He concluded by saying, "The implications of this case are enormous."

Shami Chakrabarti of Liberty, one of the human rights groups that initiated the court cases, commented, "The significance of this decision is that individual soldiers cannot be left as scapegoats and left to carry the can for the failures of our government and our military high command.... [T]he Human Rights Act protects anyone detained by British authorities anywhere in the world."

Further hearings are likely following the Al-Skeini ruling. A number of cases involve abuses committed at Camp Breadbasket in May 2003 by soldiers in the 1st Battalion, the Royal Regiment of Fusiliers. They detained Iraqis who had been looting and then beat them, forced them to simulate oral and anal sex and suspended them from a forklift truck. Martyn Day, a lawyer acting for the claimants, said, "There are 10 cases being prepared in relation to Camp Breadbasket and a further 20 claims relating to a variety of allegations of abuse committed by soldiers in other parts of southern Iraq."



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