

Attorneys demand preservation of evidence of detainee torture

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Lawyers representing detainees held at the Guantanamo Bay prison camp are bringing new claims that their clients have been subjected to brutal interrogation methods constituting torture, and are demanding that evidence of this torture be preserved. The charges come as the controversy builds over revelations that in 2005 the CIA destroyed hundreds of hours of videotape of interrogations of prisoners held in US custody.

Attorneys representing **Binyam Mohammed**, 27, a British resident whom the US government refuses to release from Guantanamo, say they have determined the existence of photographs taken by CIA agents that show horrific injuries suffered by their client under torture. Reprieve, representing Mr. Mohammed, says it will be seeking criminal prosecutions against the agents alleged to have carried out the torture.

The photographic evidence is crucial for Mohammed's case, which is due to go before a Military Commission on charges of terrorism. His lawyers have sent a letter to British Foreign Secretary David Miliband, urging him to ask the US government to stop the CIA from destroying the photos.

Clive Stafford-Smith, one of Mohammed's attorneys, says he also knows the identities of the CIA agents who were present during his client's interrogation. In his letter to Miliband, quoted in the *Independent*, Stafford Smith wrote: "Given the opportunity, we can prove that the evidence was the fruit of torture. Indeed, we can prove that a photographic record was made of this by the CIA. Through diligent investigation we know when the CIA took pictures of Mr. Mohammed's brutalized genitalia, we know the identity of the CIA agents who were present including the person who took the pictures (we know both their false identities and their true name), and we know what those pictures show."

Binyam Mohammed was born in Ethiopia and was granted asylum in Britain in 1994. In 2001, he traveled to Pakistan and Afghanistan. He was arrested in 2002 by Pakistani officials at Karachi airport on his way back to the UK. The US alleges he underwent firearms and explosives training during his trip to South Central Asia.

Mohammed says he was then taken to Morocco, where he was subjected to torture for 18 months, including having his penis slashed. He was then sent to the Guantanamo prison camp, where he has remained for five-and-a-half years.

His attorney's letter added, "As you are aware, Mr. Mohammed was rendered to Morocco by the CIA and tortured for 18 months in a way that was medieval. There can be no rational dispute that this is true. We have the CIA flight records which precisely match Mr. Mohammed's version of events. He has nothing to do with Morocco, and he was not taken there by the CIA for a Club Med vacation."

Lawyers for another Guantanamo detainee, **Majid Khan**, 27, contend that their client was subjected to "state-sanctioned torture" while being held in secret CIA prisons. In a legal filing November 29, Khan's attorneys have asked for a court order barring the government from destroying evidence of his treatment.

In documents released last Friday, lawyers representing Khan, a former Baltimore, Md., resident, claim he "was subjected to an aggressive CIA detention and interrogation program notable for its elaborate planning and ruthless application of torture." The documents have been heavily redacted by government security officials. One entire page of Khan's assertions of torture has been blacked out.

The Center for Constitutional Rights in New York, representing Mr. Khan, has also released recently declassified notes of their first meetings with their client in October. They assert that he displayed symptoms of post-traumatic stress disorder because of his treatment, including memory problems and "frantic expression," and that he was "painfully thin and pale."

Responding to Khan's charges of torture, CIA spokesman Mark Mansfield commented to the *New York Times* that "the United States does not conduct or condone torture," but that a small number of "hardened terrorists" have required "special methods of questioning."

The documents obtained by the attorneys also indicate that Khan and 13 other detainees are now being held in an area of Guantanamo called "Camp 7." The Bush administration has acknowledged that these 14 men, whom they have classified as "high-value detainees," were held in the secret CIA prisons. They were transferred to military custody in Guantanamo last year.

Pentagon officials claim that Majid Khan was contacted by Khalid Shaikh Mohammed, dubbed the "mastermind" of the

9/11 attacks, to study the feasibility of blowing up gasoline stations and poisoning reservoirs in the United States. No charges have ever been brought against Khan.

Khan's lawyers say that while he was living in Pakistan he was "forcibly disappeared" and under torture had "admitted anything his interrogators demanded of him, regardless of the truth."

Attorneys have filed a request with the US Court of Appeals for the District of Columbia Circuit for an order barring the government from destroying any evidence of torture in Khan's case. The court is considering a challenge by Mr. Khan to his detention.

J. Wells Dixon, one of Khan's attorneys, said that the admission by the CIA that it had destroyed hours of interrogation videotape showed the need for such an order. "They are no longer entitled to a presumption that the government has acted lawfully or in good faith," he told the *Times*.

Abdul Hamid al-Ghizzawi, a Libyan meteorologist, has been subjected to brutal treatment during his more than five years of detention at Guantanamo.

He has appeared before two Combatant Status Review Tribunals, including one in November 2004, which unanimously determined that there was no factual basis for concluding that he should be classified as an enemy combatant.

Without al-Ghizzawi's knowledge, a second tribunal was formed and held a hearing in Washington DC. This tribunal found him to be an enemy combatant, despite no new evidence being introduced.

Since arriving at Guantanamo, al-Ghizzawi's health has steadily deteriorated. While suffering from hepatitis B and tuberculosis, he has received no treatment for his ailments despite his repeated requests and those of his attorney.

He was moved in December to the newest detention facility at Guantanamo, "Camp 6." According to Amnesty International, detainees there are held in violation of international human rights standards under conditions of "extreme isolation and sensory deprivation for a minimum of 22 hours a day in individual steel cells with no windows to the outside."

They are held in extremely small cells and are allowed only two hours of "recreation time" a day, taking place in a metal cage measuring just 4 ft. by 4 ft. Al-Ghizzawi's attorney says her client is often granted his "rec time" in the middle of the night or in the midday sun.

Camp 6 detainees have no access to radio, television or newspapers and are given just one book a week. All Guantanamo prisoners are denied telephone calls and family visits and most are forbidden to touch another human being. They are given plastic sheets in place of blankets.

After visiting him in May 2007, Abdul Hamid al-Ghizzawi's lawyer described the condition of his health as "alarming. His face was drawn and his skin looked both ashen and jaundiced. He had a difficult time focusing on anything.... He was in

constant visible pain.... He was very weak and tired ... [he] told me he could not walk more than a few feet before being overcome with fatigue."

His eyesight has deteriorated to the extent that he can no longer read and he spends the day pacing his cell. She has expressed fears for his life.

On Sunday, lawyers for 11 Yemeni detainees at Guantanamo asked a federal judge to initiate a formal inquiry into the CIA's destruction of the videotapes. The motion was filed with Justice Henry H. Kennedy, Jr. in District Court in Washington in the case of *Abdah, et al., v. Bush*. Lawyers for other detainees are expected to follow suit.

In June 2005 Judge Kennedy ordered the Bush administration "to preserve and maintain all evidence and information regarding the torture, mistreatment, and abuse of detainees now at the United States Naval Base at Guantanamo Bay, Cuba." Most judges have issued similar orders in detainee cases. In one case in 2005—the year CIA officials have admitted to destroying the videotapes—attorneys forwarded the order directly to the CIA.

In requesting the preservation order, attorneys for the Yemeni detainees said the documents reportedly "include eyewitness accounts by FBI agents of 'extreme interrogation techniques' used against detainees at Guantanamo.... Even the fragments that have been released contain shocking revelations."

Confessions and other evidence obtained through torture are the government's only evidentiary basis for continuing to hold scores of detainees whose cases are now pending in the DC District Court. A request for a preservation order in another detainee case in July 2005 cited reports that a former interpreter at the prison camp "has stated that at least one video of abuse of a detainee is missing from the records at Guantanamo."

In a filing January 12, 2005, before Judge Kennedy, Justice Department lawyers accused the detainees' attorneys of advancing a "conspiracy theory." They wrote that "there is no evidence of any document destruction in the instant case," adding that the government "has numerous reasons ... for ensuring the preservation of the documents in question."



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