

# Britain: Foreign Office colludes with US to cover-up torture of Binyam Mohamed

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A High Court ruling by two British judges regarding the torture of a Guantánamo detainee has unleashed a major political crisis.

The judges have stated that they have been pressured by the United States into concealing evidence that should be made available in any country governed by the rule of law. This took the form of threats to withdraw security cooperation, instigated under the Bush administration and continued under Barack Obama's presidency.

Binyam Mohamed, 30, is currently in Guantánamo Bay but is reportedly being prepared for a return to the UK. He states that he was tortured by US agents in Pakistan, Morocco and Afghanistan between 2002 and 2004, and that Britain's security agencies were complicit.

The High Court judgment on February 4 refused to order the disclosure of the CIA dossier said to contain evidence of his abuse. The document is a report by the US government to the British security services. The ruling followed a submission by the UK Foreign Office.

While calling for the document to be made public, the judges stated that it was not presently in the public interest to publish it, as the US government could "inflict on the citizens of the United Kingdom a very considerable increase in the dangers they face at a time when a serious terrorist threat still pertains".

The joint judgment by Lord Justice Thomas and Mr Justice Lloyd Jones registered its concern that the document remained secret. "In the light of the long history of the common law and democracy which we share with the United States it was in our view difficult to conceive that a democratically elected and accountable government could possibly have any rational objection to placing into the public domain such a summary of what its own officials reported, as to how a detainee was treated by them and which made no disclosure of sensitive intelligence matters".

The judgment continued, "Indeed we did not consider that a democracy governed by the rule of law would expect a court in another democracy to suppress a summary of the evidence contained in reports by its own officials...relevant to allegations of torture and cruel, inhumane, or degrading treatment, politically embarrassing though it might be".

The ruling stated that the High Court had been informed by lawyers for the Foreign Secretary David Miliband that a threat to withdraw security cooperation remained under the Obama

administration. The court said of the Foreign Office submissions, "We have however been informed by counsel for the foreign secretary that the position has not changed. Our current understanding is therefore that the position remains the same even after the making of executive orders by President Obama on 22 January 2009".

This refers to the recent executive orders signed by Obama to close down the Guantánamo Bay prison camp within a year and to review the military trials for alleged terrorist suspects.

The British government has denied that the US government threatened to break off security intelligence cooperation. Miliband said that he would not demand that Obama intervene in the case, stating, "I am not going to join a lobbying campaign against the American government for this decision".

Miliband's account has been flatly contradicted by BBC reporter Jonathan Beale, who said that he had been informed in Washington by a former Bush administration official who dealt with Guantánamo Bay that US intelligence agencies did tell the UK that they opposed the release of certain US intelligence without their consent.

On February 5, Channel 4 News documented the contents of confidential letters from the US State Department to the UK Foreign Office. One of the letters was dated August 21, 2008, and read, "The public disclosure of these documents or of the information contained therein is likely to result in serious damage to US national security and could harm existing intelligence information-gathering arrangements between our two countries".

A further letter sent a week later said, "Ordering the disclosure of the US intelligence information now would have only the marginal effects of serious and lasting damage to the US-UK intelligence sharing relationship, and thus the national security of the United Kingdom".

Opposition politicians have demanded a full explanation from government ministers regarding the allegations that Britain was complicit in torture. Nick Clegg, the Liberal Democrat leader said, "If British ministers were complicit in any way in the use of torture, or helped the US authorities to cover it up, they could face consequences in the International Criminal Court".

David Davis, a Conservative Party opposition MP who has projected himself as a champion of democratic rights said, "The judge rules that there is a strong public interest that this information is put in the public domain even though it is politically embarrassing".

Davis said US interference in the judicial process in Britain "is completely beyond the rule of law.... All the rumours are that it actually does show some degree of complicity by the UK and US governments. The question has come about that one of our agencies—MI5, MI6, whoever—have known about torture being used against people like that, has used information arising from torture, all of those sorts of issues".

Mohamed, an Ethiopian national resident in the UK for seven years, was arrested in Pakistan as he was about to board a flight to Britain in April 2002. Mohamed said that he had gone to Afghanistan to attempt to escape from and deal with a drug problem. He was accused by the United States of travelling to Afghanistan in May 2001 and attending "terror training camps".

He became a victim of the US government's notorious policy of "extraordinary rendition" and was forcibly transferred from one country to another on three occasions, without reference to a court of law. He was questioned in Pakistan and subjected to torture there and in Morocco and Afghanistan. In Morocco he was subjected to prolonged torture for a period of 18 months. The American Civil Liberties Union website reports that "his interrogators routinely beat him, sometimes to the point of losing consciousness, and he suffered multiple broken bones. During one incident, Mohamed was cut 20 to 30 times on his genitals. On another occasion, a hot stinging liquid was poured into open wounds on his penis as he was being cut. He was frequently threatened with rape, electrocution and death. He was forced to listen to loud music day and night, placed in a room with open sewage for a month at a time and drugged repeatedly".

The Bagram Theater Internment Facility is a US detention facility located at an air base in Afghanistan. At Bagram, Mohamed was forced to write a 20-page statement that detailed his relationship with alleged terrorist Jose Padilla. Included in the document were details of how he and Padilla went to Afghanistan together, and how they planned to go to the United States to detonate a "dirty bomb". Mohamed has always maintained that these "confessions" were extracted on the basis of torture.

He was taken from Bagram on September 19, 2004, and moved to Guantánamo, where he has spent more than four years. Mohamed was charged under President Bush's military order and was told he would face trial by a military commission. In November 2005 he was charged with conspiracy on the basis of his confessions. Mohamed made a statement denouncing the commission as illegitimate. Following a ruling by the US Supreme Court that the president lacked the constitutional authority to create military commissions, proceedings against Mohamed were halted. He could have faced the death penalty.

Mohamed's lawyer had said that that all a trial by military commission would produce "is evidence not of terrorism, but of torture.... I have seen not one shred of evidence against him that was not tortured out of him. We know the British talked to Binyam [Mohamed] in Pakistan, told him he was to be rendered and gave information to the US that was used in his torture in Morocco".

Last July his lawyers filed a petition in a UK court declaring that the Foreign Office should be compelled to turn over the evidence of his abuse. In August the High Court concluded that the British

security services had facilitated the original interrogation of Mohamed in Pakistan and that he was seen by British agents whilst in detention. The court established that British security service provided information about Mohamed and interrogation questions having full knowledge of the conditions of his detention and treatment.

The court stated that much of the case against Mohamed was believed to have been based on confessions made in Bagram between May and September 2004, and in Guantánamo Bay before November 2004. Judges ruled that the Foreign Office should disclose this material as "not only necessary but essential for his defence".

In August 2007, Foreign Secretary Miliband requested that the US government release Mohamed and four other UK residents at Guantánamo. The US released three of the men, but refused to release Mohamed and Saudi-born Shaker Aamer. In June last year the US military announced they were formally charging Mohamed. These charges were dropped in October.

In the United States, the American Civil Liberties Union (ACLU) has brought a case against a subsidiary of the Boeing Company, Jeppesen Dataplan, accusing the firm of aiding in rendition flights that carried Mohamed and others to torture. The case was dismissed in a San Francisco court last year after the Bush administration asserted its "state secrets privilege". An appeal to this decision is expected to come before the court next week.

Supporters of Mohamed in Britain have demanded that he is moved immediately from the maximum security prison Camp 5 in Guantánamo due to the risk to his mental and physical health. He is said to have smeared faeces over his cell walls and spent days in the cell with his water supply cut off. His lawyer states he is on the verge of a nervous breakdown.

The case of Binyam Mohamed reveals the extent to which basic democratic and legal norms have been overturned in the name of the "war on terror". There is a growing body of evidence revealing collusion between the UK and US governments in the suppression and erosion of democratic rights, using criminal practises including humiliation, abuse, torture and extraordinary rendition. It has been used as a pretext for waging illegal wars abroad and for attacking established constitutional rights at home.

It also demonstrates that while signing the order to close Guantánamo and promising to review the ongoing military trials, the Obama regime intends to preserve the essential elements of the "war on terror", including the suppression of evidence of torture and other nefarious activity.



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