

British High Court instructs government to release evidence of CIA torture of Binyam Mohamed

Julie Hyland
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Britain's Labour government is continuing its efforts to suppress evidence of intelligence service involvement in the torture and abuse of former Guantanamo Bay detainee Binyam Mohamed.

On Friday, the High Court ordered the release of details of a CIA briefing to British officials made prior to Binyam's secret interrogation during his detention in Pakistan in 2002.

Ethiopian-born Binyam Mohamed, a British resident, was arrested in Pakistan as he was about to board a flight to Britain. Accused by the United States of involvement in terrorism, he was then subject to extraordinary rendition by the CIA to Morocco, where he was tortured with razor blades.

Binyam was moved again to Afghanistan and was finally detained in Guantanamo Bay, Cuba, where he was held for four years. He was released in February without charge after nearly seven years in captivity.

Binyam, 31, is suing the British government on the grounds that MI5 was complicit in his torture. He says that an MI5 officer, known only as Witness B, visited him during his detention in Morocco.

A previous High Court ruling in February that material relating to Binyam's case should be released was challenged on national security grounds. In March, however, the attorney general passed the allegations concerning Witness B to the Metropolitan Police for investigation.

In their latest ruling, Lord Justice Thomas and Mr. Justice Lloyd Jones dismissed the government's claims of a national security threat arising from the material relating to Binyam as "not a serious one" and ordered that the seven paragraph summary of the CIA briefing suppressed earlier be redacted.

They accused Foreign Secretary David Miliband of acting in a manner harmful to the rule of law by attempting to suppress evidence about what the government knew of Binyam's torture.

"The suppression of reports of wrongdoing by officials in

circumstances which cannot in any way affect national security is inimical to the rule of law," they wrote. "Championing the rule of law, not subordinating it, is the cornerstone of democracy."

"In our view, as a court in the United Kingdom, a vital public interest requires, for reasons of democratic accountability and the rule of law in the United Kingdom, that a summary of the most important evidence relating to the involvement of the British security services in wrongdoing be placed in the public domain in the United Kingdom."

Miliband had argued that publication of intelligence material supplied by the CIA would damage UK-US relations and lead the American authorities to limit intelligence sharing with Britain, at a "time when the UK faces a serious threat from international terrorism."

"We only share British intelligence with other countries on the basis that they will not disclose that intelligence without our express permission," he said.

Rebutting Miliband's assertions, the judges wrote, "It cannot be suggested that information as to how officials of the US government admitted treating [Binyam] during his interrogation is information that can in any democratic society governed by the rule of law be characterised as 'secret' or as 'intelligence.'"

The government will challenge the ruling "in the strongest possible terms," Miliband said, announcing an immediate appeal.

This stance was supported by the Obama administration. US State Department spokesman Ian Kelly said the US and Britain, "both have a stake in ensuring that this kind of intelligence sharing continues to the fullest extent possible."

"We keep this information confidential because this information is important to protect our own citizens."

Binyam's lawyer Clive Stafford Smith pointed out regarding US "ownership" of intelligence information,

“Mohamed owns his body, and did not give the Americans permission to torture him.”

“The Americans own the details of their torture of Mohamed in the same way that a criminal ‘owns’ the money that he stole from the bank.”

Stafford Smith, who has seen the relevant information but is unable to relate it while it is subject to appeal, wrote in the *Guardian* that the “judges tell us that these are ‘reports by officials of the United States Government...[that] amount to admissions by those officials of the way in which...[Mohamed was treated]. Given their source and detail, they would...amount to powerful evidence’ against the United States and, perhaps, Britain.”

“So it would be an irrational person, the judges ruled, who would pretend that this material was classified. Rather, it is evidence of the crime of torture,” Stafford Smith stated.

Binyam told *Channel 4 News* that he welcomed the judgement, but he could not see documents being made public. It was very hard to find justice “when politicians are trying to cover for themselves or others.”

“There’s people higher up, maybe all the way to 10 Downing Street, involved themselves in this case,” he said.

Binyam’s scepticism is justified. The government’s attempts to suppress information relating to his torture has little to do with “national security” and everything to do with concealing war crimes, authorised at the highest echelons of the British and American state as part of their wars of aggression in Afghanistan and Iraq.

In an unprecedented public speech delivered less than 24 hours before the High Court ruling, Jonathan Evans, director general of MI5, defended the British authorities’ collusion with foreign intelligence agencies involved in torture.

In his remarks to an audience at Bristol University, he said intelligence obtained from such sources was “of the utmost importance to the safety and security of the UK” and had “saved British lives.”

Stating for the record, “We do not solicit or collude in torture,” he continued, “But we are operating in a difficult and complex environment.”

The claim that “difficult” circumstances justify abrogating the rule of law is the standard refrain of every authoritarian regime. Commenting on his remarks, the *Times* stated that Evans had “taken a risk in speaking out in defence of his organisation” under conditions where it faced police investigation for possible complicity in the abuse of detainees.

It “might be argued that the issue of the mistreatment of detainees is sub judice while the inquiries are still continuing,” it noted.

Evans had showed no caution in making such a potentially contentious interjection, with his full speech being “placed

on MI5’s web site to give it maximum coverage.”

His remarks “appeared to be directed not just at the general public but also to the Metropolitan Police and the Attorney-General.”

In this regard, it is worth noting a March 1 article in the *Sunday Times* concerning the call by Lord Carlile for an inquiry into the role of Britain’s intelligence and security personnel in the torture and rendition of those arrested under the guise of the “war on terror.”

Lord Carlile, who was appointed by the Home Secretary to review the implementation of the government’s anti-terrorism laws, accused ministers of providing only a “limited” account of the UK’s role in alleged abuses. A judicial inquiry was necessary, he said, to examine Binyam’s claims against MI5, as well as the cases of two other detainees handed over by the SAS to American forces in Iraq in 2004.

Commenting on the possible scope of such an inquiry, the *Times* wrote, “A criminal investigation would raise the prospect of an MI5 officer being charged with torture or war crimes and facing an Old Bailey trial.

“The MI5 case files could also throw light on the role of Jonathan Evans, the director-general of MI5. At the time of Mohamed’s alleged mistreatment, Evans was the MI5 director responsible for counter-terrorism.

“Since Mohamed was suspected of plotting a dirty bomb attack in the US he was considered a ‘priority’ suspect for MI5. Evans would almost certainly have been aware of his interrogation, and he is likely to be interviewed by detectives if there is a police inquiry.”



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