

# Britain: Government crisis deepens over Binyam Mohamed torture revelations

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The political fallout over revelations of Britain's complicity in the torture by US forces of former Guantanamo Bay detainee Binyam Mohamed has embroiled the Brown government and MI5 in equal measure.

Following confirmation by the Court of Appeal last week of Mohamed's claim that the MI5 intelligence agency was fully aware of the brutal treatment he received, and even provided information and questions to be asked by his torturers, senior political figures, including the attorney general at the time, have demanded that the government provide answers.

Ethiopian-born Mohamed, a British resident, was arrested in Pakistan on April 10, 2002 as he was about to board a flight to Britain. After being imprisoned and tortured in Pakistan, he was turned over to the FBI. A victim of extraordinary rendition at the hands of the CIA, he was flown to Morocco, where he was again tortured, including being slashed with scalpels or razor blades on his chest and penis. He was moved to Afghanistan, where he was frequently tortured in the infamous "Dark Prison" before being finally detained in Guantanamo Bay, Cuba. Held at Guantanamo for four years, he again suffered torture and abuse.

Mohamed was finally released in February 2009 without charge, after nearly seven years in captivity. He is now suing the British government.

After the failure of a challenge by Foreign Secretary David Miliband, the Court of Appeal made public seven redacted paragraphs from its earlier findings based on 42 still classified documents, handed over by US intelligence to MI5 and confirming that Mohamed had been tortured. The judgement found that Mohamed's treatment had been "at the very least cruel, inhuman and degrading." The court said that Mohamed's account of his torture had already been acknowledged as fact in a US court in November.

Miliband and Home Secretary Alan Johnson, in a joint open letter, immediately denied that the UK was complicit with the CIA in torture. Johnson accused the media of publishing "ludicrous lies" about MI5.

Richard Evans, the head of MI5, writing in the *Telegraph*, implied that the court was acting as an unwitting tool of terrorists. He stated, "For their part, our enemies will also seek to use all tools at their disposal to attack us. That means not just bombs, bullets and aircraft but also propaganda and campaigns to undermine our will and ability to confront them."

Mindful of what could yet be revealed as a result of the Binyam Mohamed case and others yet to be heard in court, Evans claimed that the "British intelligence community was merely slow to detect the emerging pattern of US mistreatment of detainees after September 11."

He was supported by the parliamentary Intelligence and Security Committee (ISC) chairman, Kim Howells. Howells stated that any assertion to the effect that the intelligence services had colluded in torture was "a calumny and a slur and it should not be made." The Intelligence and Security Committee supposedly exists to monitor and supervise the policies of MI5.

Such was the naked defence of MI5 by the ISC that senior Labour MP David Winnick said it had become a "mouthpiece for MI5." "The impression given is that this committee, which reports directly to the prime minister, is in danger of being open to the accusation that it has gone native," he added.

Shami Chakrabarti, the director of civil rights group Liberty, said, "The implication is that all of us are enemies of the state—just for trying to find out what happened."

Several members of Parliament, including the leader of the Liberal Democrats, Nick Clegg, demanded that the government reveal what it knew about Mohamed's torture, stating, "Knowledge of Britain's potential complicity in torture looks likely to have gone to the very top of government." Conservative former shadow home secretary David Davis and Andrew Tyrie, the Conservative chair of the all-party parliamentary group on extraordinary rendition, have both called for the establishment of a judicial inquiry.

Home Secretary Johnson accused Davis of a "gross and offensive misrepresentation of the truth," after Davis stated

he believed there were further cases where MI5 and MI6 had been involved in torture.

Lord Goldsmith, the former attorney general, said of the Mohamed case, “I believe it needs to be clarified in the interests of the public and the intelligence agencies. However that clarification comes about, I look forward to hearing how the government proposes that that should be done.”

Responding to the intervention of MI5 chief Evans, Clive Stafford Smith, the lawyer for Binyam Mohamed and director of the legal charity Reprieve, warned that Evans could face criminal charges for his own responsibilities relating to the torture of his client. In 2002, when Mohamed was first arrested in Pakistan, Evans was the director of international counterterrorism at MI5.

In a *Guardian* article, “A Green Light for Torture,” published Monday, Stafford Smith wrote that Evans was implicated in formulating any policies at the time connected to torture. Stafford Smith said, “If [Evans] did not issue the policy directive himself, then he had to be closely involved in its promulgation.”

Writing of MI5 operative “Witness B,” who helped interrogate Mohamed in Pakistan in 2002, Stafford Smith said, “The villain of the piece was not the functionary, but the person who sat at the desk setting the rules.”

He continued, “It is not permissible to act the ostrich in the face of medieval mistreatment of prisoners. The Convention Against Torture is explicit that it is a crime to commit ‘an act... which constitutes complicity... in torture’. The courts have long since concluded that British officers were, indeed, deeply enmeshed in the abuse.”

The consequences flowing from the illegal character of the practices of the US and British authorities, including collusion in torture, are critical. On February 7, 2002, then-President George Bush suspended from US law the application of the Geneva Convention to those picked up by the US on or near battlefields and designated as “enemy combatants.” Under the new designation, those detained were to be treated as “criminals” and were stripped of their rights under international law.

The Geneva Convention does not allow the use of torture, stating unequivocally that it is illegal. This applies to “non-combatants” and “combatants” alike. In order for the US government to carry out the torture of those detained, it was necessary to overturn such fundamental legal precedents.

The UK, however, did not suspend the application of the Geneva Convention, and in light of the US action would have necessarily had to formulate policies for its own intelligence agencies to follow. According to journalist and broadcaster Jon Snow, “This disconnect between two allies over the convention must have sent shock waves though

Whitehall. Indeed, my informant... tells me they immediately began to work on the implications for British forces. And so they should have done.”

The content of such policies, guiding the work of MI5 at the time, have still not been revealed by the government.

The case has revealed that MI5 has been operating as a law unto itself. Supposedly accountable to the government and overseen by parliament’s secretive Intelligence and Security Committee, the documents released in court attest to MI5 having lied to the ISC regarding what it knew about Mohamed’s torture.

According to a *Guardian* report on Monday, Jonathan Evans admitted to the ISC “in the middle of 2008” that its previous assurances of MI5 non-involvement in torture “had in fact been false.”

The *Guardian* said, “The committee, which was supposed to supervise MI5’s policies, had already published a reassuring report on the basis of what it had been told. That report, based on testimony from Eliza Manningham-Buller, Evans’s predecessor, informed the world that MI5 had been unaware of any ill-treatment dished out by its US allies to Binyam Mohamed.”

The article reports that the CIA files relating to the treatment of Mohamed were kept from the ISC by MI5 and their existence was disclosed only as a result of a court order in legal action by Mohamed’s lawyers.

The *Guardian* continued, “The MI5 head finally felt obliged to confess to the ISC in 2008 and hand over the documents, because disclosure orders obtained by Mohamed’s lawyers and enforced by the courts had led to the discovery of 42 incriminating files.”



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