

# Torture charges dropped against UK intelligence officers

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The prosecution case against British intelligence officers accused of complicity in the torture of detainee Binyam Mohamed has been dropped.

Pressure from the intelligence establishment in the UK and the United States is now mounting on the British government to pass further legislation to suppress intelligence information in court and prevent officers from ever being brought before them in future.

In a joint statement last week, the Crown Prosecution Service (CPS) and Scotland Yard said that members of the domestic security agency MI5 “provided information to the US authorities to put to Mr. Mohamed, while he was being detained between 2002 and 2004, including at times when Mr. Mohamed’s precise whereabouts was not known to them.”

However, the CPS has concluded that there is “insufficient evidence” to launch “a criminal conviction against an identified individual” for having provided information “at a time when he or she knew or ought to have known that there was a real or serious risk that Mr. Mohamed would be exposed to ill treatment amounting to torture.”

Mohamed rejected the CPS decision, saying there had been “a pattern of massive complicity by UK bodies in criminality at the highest levels directed at other Muslim prisoners.”

“My experience was not isolated,” he added, “it was part of a pattern.”

Up to 16 British citizens or residents have also made accusations against British intelligence officers for colluding in their mistreatment at the US detention camp at Guantánamo Bay and elsewhere. Some received millions of pounds in compensation from the previous Labour government in out-of-court settlements.

Mohamed, an Ethiopian citizen and British resident,

says he was subject to extraordinary rendition in Pakistan and flown by the CIA to Morocco in 2002. There, he was “routinely beaten, suffering broken bones and, on occasion, loss of consciousness due to the beatings. His clothes were cut off with a scalpel and the same scalpel was then used to make incisions on his body, including his penis. A hot stinging liquid was then poured into open wounds on his penis where he had been cut. He was frequently threatened with rape, electrocution, and death.”

Mohamed was then held at the Bagram Air Base in Afghanistan and Guantánamo Bay before being released in February 2009 to Britain. No credible evidence was ever produced linking him to terrorism, and the British government immediately released him.

Mohamed sued the Labour government on the grounds that MI5 was complicit in his torture. Labour home secretary Alan Johnson insisted that the case involved “baseless, groundless accusations.” Foreign Secretary David Miliband unsuccessfully attempted to get the judges to suppress parts of their report, after the Obama administration threatened to end security cooperation with Britain if US communications with the UK were made public.

In February 2010, the Appeal Court found that Mohamed was subjected to treatment that “could readily be contended to be at the very least cruel, inhuman and degrading treatment by the United States authorities” and that “at least some security service officials appear to have a dubious record when it comes to human rights and coercive techniques....”

The US director of national intelligence later complained, “The decision by a United Kingdom court to release classified information provided by the United States is not helpful, and we deeply regret it.”

The Obama administration also made sure

Mohamed's case in the US against Jeppesen Dataplan, Inc., which organised the CIA's secret rendition flights, was dropped, arguing that if it went forward, "state secrets" would be compromised. Not a single US agent since 9/11 has been prosecuted as a result of "state secrets" legislation.

After the Appeal Court made its judgement, Liberal Democrat leader Nick Clegg, now deputy prime minister in the Conservative/Liberal-Democrat coalition government, declared what had occurred was "at best a cover-up and at worst collusion in torture. Knowledge of Britain's potential complicity in torture looks likely to have gone to the very top of government."

The Conservative Party promised to hold an inquiry into the torture allegations should they win the May 2010 elections. Once in power, Miliband's successor, William Hague, announced the setting up of an inquiry by none other than Sir Peter Gibson, the intelligence services commissioner since 2006. The inquiry has no legal powers to initiate prosecutions, and the victims' lawyers are unable to identify the accused intelligence officers or cross-examine their accounts. The great majority of evidence will be heard behind closed doors while the government determines what gets published in the final report.

Ten leading human rights organisations and lawyers representing 12 former detainees have boycotted the inquiry, saying it does not comply with international law. According to the *Guardian*, "Well-placed Whitehall sources say there are serious doubts whether the Gibson inquiry, already undermined, will now ever get off the ground."

The day the CPS dropped the Mohamed case, another investigation was announced into allegations of extraordinary rendition of oppositionists to Libya in 2004, while Labour Prime Minister Tony Blair was courting Colonel Muammar Gaddafi, that are "so serious that it is in the public interest for them to be investigated now".

Gibson has said he will not begin hearings until all criminal proceedings have finished.

The government is now pursuing its Justice and Security Green Paper, which include the creation of "closed material" procedures like the appointment of special advocates who will determine whether intelligence material should be brought before a court.

Even this is insufficient for the spymasters. The Intelligence and Security Committee (ISC), the parliamentary watchdog supposed to oversee Britain's security agencies, says the government proposals "do not go far enough" and is pressing for further curbs. The ISC is chaired by the Conservative Sir Malcolm Rifkind and includes former labour minister Hazel Blears and former Liberal Democrat leader Sir Menzies Campbell. It has unanimously called either for the introduction of "a statutory presumption against disclosure of any intelligence material," or for the introduction of a "state secrets" privilege, which it admits may not comply with the European Convention on Human Rights.

Rifkind sent a letter to the government's national security adviser saying it had been approached by "certain interlocutors within the US intelligence community" and that, "Put simply, if we do not respect the confidentiality of the sensitive information we receive, we won't be given any."

Lawyer Clive Stafford-Smith, who has helped secure the release of 65 detainees from Guantánamo Bay including Mohamed, said, "Here is the watchdog, totally toothless and useless, now saying that the same courts which have proved somewhat effective should be gagged.

"It would effectively impose a complete bar on UK courts receiving intelligence evidence. The ISC is useless at doing its job, and equally useless at giving advice on changing the law," he added.

These cases reveal that the entire state machinery in the US and Britain is guilty of grave crimes, which are themselves the essential product of the illegal, colonial-style wars against Afghanistan, Iraq and Libya.



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