

# Britain illegally detained Afghans at Camp Bastion, Afghanistan

**Harvey Thompson****31 May 2013**

Afghan prisoners have been held in detention by British forces for more than a year, sometimes without charge.

After legal documents were obtained by the BBC, the Ministry of Defence (MoD) announced its readiness to hand over to Afghan authorities up to 90 prisoners the British Army has been holding at Camp Bastion, Afghanistan.

Lawyers in the UK acting for some of the men said that their clients had been held for up to 14 months without charge. They compared the public revelations to those surrounding the US detention and interrogation facility at the Guantánamo Bay Naval Base, Cuba, which operates in contravention to the Geneva Conventions.

Public Interest Lawyers, acting on behalf of eight detainees at the High Court, stated, "Our clients have been held for between eight to 14 months without charge and without access to lawyers in clear breach of UK and international law.

"Applications for habeas corpus were issued on behalf of two of the men on April 18 2013 and the court has ordered a four-day hearing from July 23 2013."

Phil Shiner, of Public Interest Lawyers, told the BBC, "This is a secret facility that has been used to unlawfully detain or intern up to 85 Afghans that they have kept secret, that parliament doesn't know about, that courts previously, when they have interrogated issues like detention and internment in Afghanistan, have never been told about—completely off the radar.

"It is reminiscent of the public's awakening that there was a Guantánamo Bay. And people will be wondering if these detainees are being treated humanely and in accordance with international law."

Lawyers criticised the lack of access they have had to

their clients, who have not been told what they were accused of or given a trial date. Speaking on BBC Radio 4's *Today* programme, Shiner said that the MoD has refused them access to their clients, and only as a result of legal proceedings have they managed to establish telephone contact.

"What happens is the UK could have trained the Afghan authorities to detain people lawfully with proper standards and making sure that they are treated humanely. They could have then monitored that, including with ad hoc inspections to make sure that the Afghans were obeying the law. They have chosen not to do so.

"And they have chosen to go down a route which I think is completely worrying and entirely unconstitutional where no one's been told, Parliament has not been told that we have this secret facility. Whatever the solution is, flagrant breaches of the common law and international law, that's not the answer."

Richard Stein, from law firm Leigh Day, representing one of the detainees, said, "Our client has been held at Camp Bastion since August 2012. He has not been charged with any crime and has had no access to a lawyer to receive legal advice about his detention.

"We have been asking for access to our client since March and, to date, it has still not been provided. The right of access to a lawyer is a fundamental and constitutional principle of our legal system. Unimpeded access to a lawyer is part of our concept of the rule of law.

"The Government states that one of the objectives of its current work in Afghanistan is to establish the rule of law and build a fair justice system by the time UK forces leave in 2014. In such a context, for the UK Government itself to be refusing my client and other

individuals the right to access justice is wrong and completely unlawful.”

UK defence secretary Philip Hammond has denied that the Afghan prisoners were being held illegally, claiming that detentions in Afghanistan are legal under the United Nations (UN) mandate. Hammond had earlier mounted a scurrilous attack on the lawyers, accusing them of making requests that would pose a security threat to British troops.

“Let’s be clear what they are asking for,” he said. “They are asking the court to release these people to turn them back to the battlefield so they can carry on with the activities for which they were detained in the first place, putting British troops and other Isaf [International Security Assistance Force] lives at risk.”

Without offering a shred of proof, he continued, “These are people suspected of murdering British troops, facilitating or planting or being involved with IEDs (improvised explosive devices) at a time when most people are focused on how we protect our troops from being murdered, whether it’s on the streets of London or on the battlefield.”

Lawyers representing eight of the detainees said the British Army has no power to continue holding their clients, who were arrested by soldiers in raids in villages in Helmand and Kandahar provinces.

Along with other US-led forces, the British military was recently compelled to temporarily suspend transfers of prisoners to Afghan authorities following horrific revelations of detainee torture, such as those contained in a UN report.

The MoD now claims to have found a “safe route” for prisoner transfers, according to the BBC, and “Once the policy and legal obligations have been met, direction will be given to restart transfers.”

Hammond told the BBC, “We would like nothing more than to hand these people over to the Afghan authorities so they can be handed over to the Afghan judicial system.”

In an interview that would be considered comical if not for its menacing implications, Mohammad Daud Yaar, the Afghan ambassador to the UK, told BBC Radio 4’s *World at One*, “We believe that those detainees who are Afghans, based on the principle of national sovereignty, should be placed under Afghan authority.”

“Believe me, the world should take us at our word,”

he added. “We promise that we will not mistreat these people.”

Yaar said he hoped that the prisoners would be transferred to the Parwan detention facility near Bagram airfield, a US-built prison that was placed under Afghan government control last year and the site of a previous abuse scandal in which two detainees were killed.

Asked about claims that prisoners in Afghan detention were mistreated, Yaar said the issue had been investigated by experts appointed by the US-backed Afghan president, Hamid Karzai.

“What they found was that there were some occasions of torture, but the torture was not systematic. It’s a war environment and people get emotional. In the process of detaining people, usually, some degree of violence does occur,” he said.



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