

Britain: Security Service “facilitated” torture of Guantánamo detainee

By Richard Tyler
27 August 2008

A London court has ruled that the British government must disclose information that could support the claim that torture was used to extract confessions from Binyam Mohamed, a former British resident who has been held in Guantánamo Bay since September 2004.

The ruling by the Judicial Review—a special court that considers the lawfulness of a decision or action made by a public body—is a rebuff to Foreign Secretary David Miliband, who had initially argued that he was under no obligation to provide Mohamed’s lawyers with the information.

Binyam Mohamed has now been incarcerated for nearly six and half years. He was first detained in Pakistan, and then subjected to “extraordinary rendition”—Washington’s euphemism for its programme of organised kidnapping and torture—to Morocco. Here he was held for 18 months while his captors used torture—including slicing his genitals with a razor—to wring a “confession” out of him.

He currently faces trial by a US Military Tribunal, charged with conspiring to commit terrorism and providing material support for terrorism in an alleged “dirty-bomb” plot. He could face the death penalty if found guilty. The judges ruled that the information is “not only necessary but essential for his defence”.

Human rights lawyer Clive Stafford Smith, Director of Reprieve, who has represented Mohamed since 2005, told the press, “This is a momentous decision. Compelling the British government to release information that can prove Mr. Mohamed’s innocence is one obvious step towards making up for the years of torture that he has suffered. The next step is for the British government to demand an end to the charade against him in Guantánamo Bay, and return him home to Britain.”

In their ruling, the judges state, “It is a long standing

principle of the common law that confessions obtained by torture or cruel, inhuman or degrading treatment cannot be used as evidence in any trial.”

The Judicial Review was held at the end of July over five days in both open and closed sessions, also hearing testimony *in camera* from British Security Service and Secret Service officers who had been involved in the questioning of Mohamed while he was detained in Pakistan and elsewhere. The court’s 75-page open judgement was finally published last week, while a secret “closed” judgement has also been made.

Lord Justice Thomas and Mr Justice Lloyd Jones found there were compelling grounds that the “exculpatory” information should be released in confidence to Mohamed’s legal representatives. No order for the provision of such information has been made until a further hearing considers the issues of “national security” raised by the Foreign Secretary as grounds for its non-disclosure.

At the Judicial Review, Dinah Rose QC, representing Mohamed, told the court that by cooperating with the US in its unlawful treatment of her client, the security and intelligence agencies were “mixed up in wrongdoing”. It was also alleged that the US “provided the UK with the fruits of his interrogation”.

Rose said that a British agent—identified only as “Witness B”—had made a “veiled threat” to Mohamed while he was being held in Pakistan, to encourage his “cooperation”, with the implication that “we won’t help you unless you confess”. She also asserted that MI5 had “repeatedly” provided the US authorities with detailed information about Mohamed’s life in the UK, information that was then used by his captors during interrogation.

In his summing up, Ben Jaffey, another of Mohamed’s legal team, highlighted the contradictions

in MI5's accounts; one MI5 officer had said that British security and intelligence agencies "did not know" Binyam Mohamed's whereabouts after he was flown out of Pakistan in 2002, whereas an MI5 representative had explicitly told the House of Commons Intelligence and Security Committee that it believed he was in US custody.

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