

Devoid of the Rule of Law

Pakistan's War on Terror

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CAGEPRISONERS

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INTRODUCTION

Since shortly after 9/11 – when many Al Qaeda members fled Afghanistan and crossed the border into Pakistan – we have played multiple games of cat and mouse with them. The biggest of them all, Osama bin Laden, is still at large at the time of this writing, but we have caught many, many others. Some are known to the world, some are not. We have captured 672 and handed over 369 to the United States. We have earned bounties totalling millions of dollars.

[President Pervaiz Musharraf]

A question hangs over the international community at the moment. Who is the grey lady of Bagram? In 2003, prisoner 650 was heard screaming in the detention facility at Bagram Airbase. Her abuse at the hands of the US soldiers led to mass protests amongst the male inmates being detained there. To this day, no one knows the identity of that tortured woman; what we do know, is that she was sent from Pakistan.

Pakistan has found itself at the epicentre of the War on Terror. With over two thirds of those held in Guantanamo Bay having been detained in Pakistan, the Pakistani government has pushed itself and its country to the very forefront of international detention policies. The quote above from President Pervaiz Musharraf addresses the relationship that the Pakistan has with the US; cooperation has been bought, but the price has been the rule of law.

Due to the activities of the security services in Pakistan, the country's detention policy has become synonymous with words such as **secret detention, enforced disappearances, torture and rendition**.

ISI units in Sindh, Dalbandin Airfield as a temporary US military base in Balochistan across through prisons in Punjab to Shaukat Killa prison in Kashmir and to the plethora of prisons run by the Pakistanis and US in the North West Frontier Province – the country has become a large network for prisons used to house detainees beyond the law.

Secret detention is used in order to bypass the rule of law away from scrutiny of the courts. Hundreds of detainees have been lost through detention by the police, US and Pakistani security services. The protection of habeas corpus has been completely diminished by the regional jurisdiction of its application. Before a habeas petition can be filed in the jurisdiction of arrest, the detainee is moved to another prison in the country in order that he is prevented from being produced before the courts.

A by-product of secret and arbitrary detention in Pakistan has been the usage of enforced disappearances, torture and rendition. With the security services having the ability to hold people outside of the law, abuse of detainees and their illegal transfer to other jurisdictions outside of Pakistan have become commonplace.

For many, the treatment of detainees in Pakistan has become the central issue in fighting for the soul of the country. The sacking of the Chief Justice of Pakistan and the subsequent movement by the country's lawyers speaks heavily to the dissatisfaction that is felt by the people of Pakistan in the way they are being treated. There is a void in Pakistan where the rule of law and due process once existed; failure to produce those arrested before the courts has increased instability in the region and given further cause to those who would propagate violence.

[Asim Qureshi – Senior Researcher, Cageprisoners]

SECRET DETENTION and ENFORCED DISAPPEARANCES

Detention in secret is strictly prohibited under international human rights law and internationally recognised standards. Principle 6 of the UN Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions states that, *"Government shall ensure that persons deprived of their liberty are held in officially recognised places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyers or other persons of confidence."*¹

Additionally, it relates closely to other violations fundamental human rights, international law and the Geneva Conventions. Closely related to the practice of secret detention is the policy of enforced disappearances, which is a crime under international law and involves also multiple human rights violations. The ICRC has pronounced that *"no one has the right to keep that person's fate or whereabouts secret or to deny that he or she is being detained. This practice runs counter to the basic tenets of international humanitarian law and human rights law."*² It has also been stressed by the General Assembly on several occasions that enforced disappearance constitute an offence to human dignity, a grave and flagrant violation of human rights and essential fundamental freedoms.³

Declaration on the Protection of All Persons from Enforced Disappearances states that *"any act of enforced disappearance is an offence to human dignity"*, which,

"places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life".

It also states that *"No State shall practice, permit or tolerate enforced disappearances."*⁴ Additionally it requires that *"Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction"*⁵ and adds, *"In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable under civil law."*⁶

What is more, the Rome Statute of the International Criminal Court states that *"the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time" constitutes a crime against humanity.*⁷

Further dimension in the controversy of these closely related crimes is that they together potentially allow for an impunity for the perpetrator. The dominating element is that they

¹ See also Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly Resolution 47/133, Article 10, 18/12/1992

² ICRC: "Enforced disappearance must stop", Press Release 30.8.2003

³ See for example: General Assembly resolution 47/133 of 18 December 1992

⁴ Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly resolution 47/133, Article 2, of 18 December 1992

⁵ Ibid, Article 3

⁶ Ibid, Article 5

⁷ Rome Statute of International Criminal Court, Part 2, Article 7(2)(i)

both take the detainee beyond the protection of rule of law while simultaneously shielding the violations of external scrutiny making the exposing of the violations very difficult.

In May 2006 the US finally sent the first state delegation to the United Nations Committee against Torture since the events of 9/11 took place. The delegation was headed by the Chief Legal Advisor to the Department of State, Mr John Bellinger who oversaw the presentation. US submitted its "exhaustive written responses" to most of the Committee's list of issues. Its policy regarding secret detentions and intelligence activities was, however, mainly given the response of "no comment".

As one of the strongest allies of the US in the War on Terror, Pakistan has taken steps to give latitude to American activity on her own soil. Many of those detained in secret were done so at the request of the US or at minimum with knowledge of US security personnel. According to Pervaiz Musharraf, 672 individuals were detained by the Pakistani security services. Human rights organisations however estimate that figure to go into the thousands.

CASE STUDIES

1. Majid Khan⁸

Since March 2003 Majid Khan was among those being held by the US in secret detention after it was suggested that he was an Al Qaeda operative. In late 2006, Majid was one of 14 high-value detainees (HVD) that were moved from secret detention to Guantanamo Bay to face processing through the Military Commissions established by President Bush.

On 5th March 2003, 14 or 15 cars came to arrest Majid Khan and his family. Having sealed off the entire block in which they lived the police and security services arrested Khan, his brother, sister-in-law and their one month old baby. According to other members of the family present at the time of the arrest alongside the Pakistani authorities were US personnel who seemed to be conducting the operation. Handcuffed and hooded, the family members were led away to be interrogated by Pakistani and US agents. According to his brother who was later released, Majid said that the Americans tortured him for eight hours at a time, tying him tightly in stressful positions in a small chair until his hands, feet and mind went numb. He describes how

*"They retied him in the chair every hour, tightening the bonds on his hands and feet each time so that it was more painful. He was often hooded and had difficulty breathing. They also beat him repeatedly, slapping him in the face, and deprived him of sleep. When he was not being interrogated, the Americans put Majid in a small cell that was totally dark and too small for him to lie down in or sit in with his legs stretched out. He had to crouch. The room was also infested with mosquitoes. This torture only stopped when Majid agreed to sign a statement that he was not even allowed to read. But then it continued again when Majid was unable to identify certain streets and neighbourhoods in Karachi that he did not know. Majid almost cried when he told Mohammed how he was accused of lying even when he was telling the truth."*⁹

Mohamed also testified to the presence of children as young as 6 in the prison and women, often pregnant and forced to give birth in their cells, one of whom almost died because the guards could not get her to a hospital quickly enough. The only information given to the family following the detention was from security personnel whom paid a visit to Khan's Uncles. They were told in strict terms that if any of them created a fuss over his detention, something bad would happen to him. Soon Khan's brother and family were released; however Khan was kept in detention at an unknown location.

⁸ Cageprisoners Interview with Rabia Yaqoob, wife of Majid Khan, 02/10/2006

⁹ Written testimony by Ali Khan, Majid Khan's father, released by Center for Constitutional Rights.

For three years Khan was held as part of the HVD programme during which time his attorneys in the US allege he was tortured and coerced into giving false testimony. According to declassified notes of Gitanjali Gutierrez he is suffering from post-traumatic stress disorder, loss of concentration and memory and also often has frantic expressions. Khan remains in Guantanamo Bay until this day where his attorneys at the Center for Constitutional Rights strongly contest his detention and the destruction of the CIA interrogation tapes recorded during his period of secret detention.¹⁰

2. Aafia Siddiqui

On the morning of 1st March 2003, Pakistani authorities arrested Khalid Sheikh Mohammed, the alleged mastermind behind the 9/11 attacks. His arrest led to the disappearance of Aafia Siddiqui. Authorities say that it was Khalid Sheikh who gave her name up to the Pakistani authorities.

Due to the secretive nature of the interrogation that took place by the US and Pakistani authorities, it is impossible to corroborate whether or not he actually gave Siddiqui's name and in what capacity he knew her.

According to her mother Ismet Siddiqui, Aafia *"left the family home in Gulshan-e-Iqbal in a taxi on March 30, to catch a flight for Rawalpindi, but never reached the airport. Inside sources claim that Aafia had been "picked-up" by intelligence agencies while on her way to the airport and initial reports suggest she was handed over to the FBI."*¹¹

Aafia Siddiqui had been missing for more than a year when the FBI put her photographs on its website. After a FBI conference, a newspaper broke the story linking a woman involved in the 2001 diamond trade in Liberia to Aafia as an Al Qaeda operative. The family's attorney, Elaine Sharp, says the allegation was a blessing in disguise because it places Siddiqui somewhere at a specific time. She says she can prove Siddiqui was in Boston that week.

Aafia's mother claims that it was only a matter of days after her daughter's disappearance that a man arrived at the family home on a motorcycle. He told her that if she ever wanted to see her daughter and grandchildren again, she should keep quiet about the whole affair.

The last Aafia's mother saw of her was when her daughter was getting into a taxi with her three children – the youngest only six months – bound for Karachi airport on 30th March 2003. Since then no one has heard or seen them.

According to the Pakistani Urdu press the family had been seen being picked up by the Pakistani authorities and taken into custody. A spokesman for the Pakistani interior ministry and two unnamed US officials confirmed these reports in the press. However, within the same week, both had retracted their statements saying that Siddiqui had fled. Chicago's NBC later claimed that Siddiqui was being interrogated by American intelligence officials.¹²

The FBI website says of Aafia, *"Although the FBI has no information indicating this individual is connected to specific terrorist activities, the FBI would like to locate and question this individual"*. But Aafia Siddiqui and her children are quite possibly the victims of extra-judicial detention.

Cageprisoners has learned through former detainees held at the Bagram (Afghanistan) detention facility, run by US forces, that during 2003 and 2005 there was a female prisoner being held in solitary confinement. They stated they could hear her incessant screaming and

¹⁰ CCR Attorneys Release Revelations of Torture of Former Ghost Detainee Majid Khan, Center for Constitutional Rights: <http://ccrjustice.org/newsroom/press-releases/ccr-attorneys-release-revelations-torture-former-ghost-detainee-majid-khan>

¹¹ Ozment K (October 2004), *Who is Afraid of Aafia Siddiqui*, Boston Magazine

¹² Woman Sought By FBI Reportedly Arrested in Pakistan: Neurologist Questioned By FBI For Alleged Al-Qaida Links, NBC5: <http://www.intellnet.org/news/2003/04/03/19137-1.html>

that she had been terribly abused – though did not elaborate. They also said they carried out hunger-strikes in protest against her treatment.¹³ Eventually, it is claimed, she lost her mental faculties and was sent elsewhere. Her ISN number was 650.

The organisation has also been able to confirm independently, via former ICRC staff assigned to Bagram during 2004/5, that a female prisoner had been held for sometime there and that they had met her. This person may have been Siddiqui.

3. Masood Ahmad Janjua and Faisal Faraz¹⁴

Friends Masood Ahmad Janjua and Faisal Faraz went missing on 30th July 2005 on their way to an Islamic retreat. The two men were detained on separate operations as it quickly emerged that both men never made it to their destination.

After weeks of using connections within the police, security services and military, Janjua's family gathered enough information to realise that he was being detained beyond the law. Janjua's father-in-law, a onetime senior officer to President Pervaiz Musharraf called in his connections to find information. It took until 31st May 2006 for the President's office to contact the family to inform them that Janjua was well and had not been harmed but for the moment was still to be detained and would return to them soon. Due to the efforts of the Janjua family, the Faraz family also became aware of Faisal's situation. Until that time, not a single official had visited them to inform them of his detention.

Searching for the loved ones has become as difficult as chasing ghosts for the families of the disappeared. Amina Masood Janjua through her organisation, Defence for Human Rights, has led a movement of hundreds of families who have had loved ones kidnapped and taken into the programme of enforced disappearances. Only rarely do they receive snippets of information which has led them to chase cell 20 in I-9 of Islamabad, to believing their relative is in Shaukat Killa or Amoor Camp in Kashmir, or many of the hundreds of prisons that are used to hide the detainees.

In July 2008, a senior official in Pakistan confirmed to Cageprisoners that Masood Ahmad Janjua and Faisal Faraz were still in detention in Pakistan and that they would continue to be detained due to involvement by the US. The official confirmed that the CIA had information on the men and it is their involvement that is hindering appearance before the courts or release.

4. Mohammed Naeem Noor Khan¹⁵

On 13th July 2004, Mohammed Naeem Noor Khan was arrested in Lahore, Pakistan by the Pakistani authorities.¹⁶ Khan became a 'ghost detainee'. He was picked up after two Malaysian students implicated him¹⁷ in an Al-Qaeda active cell (after they had allegedly been tortured). Although Khan was held for two and half years, he was never given the opportunity to use legal representation or defend himself in front of a court.

Khan has a strong background in computer science and was suspected of sending coded messages on behalf of Al Qaeda. Having graduated from Nadir Eduljee Dinshaw Engineering University in Karachi, he moved to the UK and enrolled in a human resource management course at City University in January 2003.¹⁸

¹³ See appendix for statements from former Bagram detainees about Prisoner 650.

¹⁴ Cageprisoners Interview with Amina Masood, wife of Masood Ahmad Janjua, 02/10/2006 and Interview with Sohail Faraz, brother of Faisal Faraz 04/10/2006

¹⁵ Based on Cageprisoners Report – *Fabricating Terrorism: British Complicity in Renditions and Torture* 2004

¹⁶ Brean J 'Terrorists Surprisingly Easy to Turn: 'Sing Like a Bird'' National Post 09/08/2004

¹⁷ Levy A and Scott-Clark C 'Afghanistan: 'One Huge US Jail'' The Guardian 19/03/2005

¹⁸ BBC News 'Al-Qaeda's 'computer expert'' 06/08/2004

In June 2005, *The Telegraph* reported that British officials from MI5 had flown out to Pakistan in order to question Zeeshan Siddiqui and Mohammad Naeem Noor Khan. According to the officials conducting the interview, Khan confessed fully to having been part of a London cell who were planning to carry out attacks against Heathrow Airport through his many visits to London.¹⁹ An MI5 source told Gordon Thomas, *"We have been given first crack at the pair because of their backgrounds and the valuable information they could provide about a new attack."*²⁰

In early 2007, Mohammed Naeem Noor Khan was released into the public without any charge or trial. Despite the US claiming that he had been a key member of Al Qaeda who provided technical support and gave up key names, after two and half years in the US secret detention programme he was simply released.

5. Kashan and Zain Afzal²¹

Brothers Kashan and Zain Afzal were abducted from the home in Karachi on 13th August 2004. By 22nd April 2005, they had been released without any charges being laid against them. The two men were quickly taken into custody by the Pakistani police and made to disappear within the system as their family members sought to launch a petition for habeas corpus to have them brought before a court and charged.

Being US citizens the brothers pleaded that they be given the right to consular visits however these were denied. While the FBI were publicly claiming that the men were not in their custody, they were in fact using secret nature of their detention in order to carry out interrogations. There were at least six occasions when the FBI used situation of the brothers in order to interrogate them, at no point did any of the agents offer to stop the torture that was being used against them or request that the Pakistani government comply with the habeas order or offer any consular services. On one occasion he returned home with a burst eardrum and severe lacerations on his back. He was subsequently unable to walk and needed an operation on his ear. The brothers were given one of two options, either to cooperate or be sent to Guantanamo Bay.

After some time the two men were blindfolded by their captors and taken to the airport. As they were forced to board the plane while hooded, they were told that they were being sent to Cuba. After an hour or two of flying to an unknown location, the men were taken to another prison in Pakistan as the guards all spoke Urdu. He says they were "treated worse than animals" and held in windowless cells, like a "grave".

The brothers were finally released in April 2005, but it was on the condition that they would never tell anyone that they were being held by a government agency. They were forced to sign a declaration to that effect. The Pakistani and US authorities have refused to help the Afzals in any way and have still refused to issue them with passports despite their US citizenship.

¹⁹ Harndern T 'Pakistan: the incubator for al-Qaeda's attacks on London' *The Telegraph* 27/07/2005

²⁰ Thomas G 'Terrorist Provides High Value Information' <http://www.globe-intel.net/?p=36>

²¹ Based on - *Pakistan: US Citizens Tortured, Held Illegally*, Human Rights Watch 05/2005

RENDITION

The legal inter-State transfer of individuals facing trial for criminal charges is governed by bilateral and multilateral agreements. Non-interference in the matters of another State is one of the main underlying principles of international law and thus these agreements are in place to ensure the accused will not escape responsibility simply by escaping to the territory of another sovereign. The rationale of the legal regulation of the inter-State transfer of an individual is to respect state sovereignty and to monitor and guarantee the individual rights of suspects in that process.²²

The US has, however, found that amongst others, this traditional instrument of criminal law in addition to procedural rules and the laws of war concerned are all inadequate as a response to the kind of terrorist threat posed since 9/11. As a result new legal concepts were advanced and one of these was 'rendition'. Where the concept of rendition does not *per se* constitute a breach of international human rights law, this newly defined concept of 'rendition' is previously unheard of in international law and stands absolutely contrary to the fundamentals of the law of international human rights.²³

Besides transferring captured people to Guantanamo Bay, illegal renditions have taken place to transfer individuals to other countries to face "*enhanced interrogation methods*". As these methods comprise controversial means at times amounting to torture, cruel, inhuman or degrading treatment illegal under international law, some surrendering states have developed a policy of asking for diplomatic assurances or had memorandums of understanding signed. Both of these undertakings are legally non-binding and unenforceable agreements but have during the years of the evolving anti-terrorism measures increased in number.

These assurances and memorandums of understandings serve to discharge the sending state's obligations under international law as to the treatment and fate of the transferred detainee. The sending countries are aspiring to discharge their obligations under international law not to send individuals to countries where they might be tortured. This lip service does not, however, discharge the duty of the sending country not to send an individual to a country where s/he is likely be tortured under any circumstances. This is because the right not to be tortured is absolute. It is not to be bilaterally contracted upon.²⁴

The States on the receiving end tend to have poor record in the protection of human rights and it is evidenced that the use of torture in those countries as an interrogation method is widespread. The need to supervise the treatment of the detainee in the custody of the receiving State is thus pressing. It is, however, very difficult to supervise if the receiving State upholds the standards and norms of international human rights law or has abided by the undertaking in the memorandum or assurance for the transfers are being conducted in secret. This deprives the process of a very essential element in the protection of human rights; the transparency. For the complete lack of transparency, not only in rendition policy but in all key elements in the counter-terrorism measures, there are no safeguards in place to make sure the rights of suspects are being respected.²⁵

With two thirds of those detained in Guantanamo Bay having been initially detained in Pakistan, the country's role in the worldwide network of renditions is undisputed. It is not just to Guantanamo that these renditions took place; Afghanistan, Egypt, Morocco, Syria as well as other countries all received detainees sent by the US with the help of the Pakistani authorities.

²² The Redress Trust; Terrorism, Counterterrorism and Torture, International Law in the Fight against Terrorism", July 2004

²³ Fleur J; "Guantanamo Bay and the Annihilation of the Exception", European Journal of International Law, September 2005, EJIL 2005.16(613)

²⁴ Amnesty International, Index POL 30/002/2006, 19 January 2006

²⁵ Human Rights Watch document "Diplomatic Assurances Against Torture", published November 2006

CASE STUDIES

1. Abou Elkassim Britel²⁶

An Italian citizen of Moroccan ethnicity, Abou Elkassim Britel married Italian convert Anna Lucia Phigizzni. The couple decided to move to Pakistan in order to establish a translation business in Lahore. On 10th March 2002, Britel left his home and while in a taxi was stopped by a road block set up by the Pakistani police. On seeing his Italian passport he was told it was a fake and took him into custody. He was not heard from until 11th February 2003.

Britel was kept from having any contact with the Italian consulate or authorities. He was not given any opportunity to prove that his passport was real and have the ambassador intervene in his situation. Being kept away from any legal means of help, he was taken to a villa four times in order to be interrogated by US personnel about his connections with international terrorism. From the questioning and the amount that was known about his life in Italy, Britel guessed that the Italians were the ones feeding the information for his questioning. Whilst in custody he underwent torture, including beatings (sometimes using cricket bats), being hung from the walls of his cell and forced sleep deprivation.

On 24th May 2002 he was hooded and handcuffed then taken to the airport. He had been placed on Gulfstream N379P better known as the *Guantanamo Express* – it departed from Islamabad to land in Rabat, Morocco; made its way back through Porto in Portugal only to make its final stop in Washington.

As soon as Britel landed in Rabat, he was immediately taken to the infamous Temara prison where he was to face further interrogation. The extent to which the Moroccans knew of his life in Italy confirmed his suspicions that the all the information they had could only have emanated from the Italian authorities.

Britel has been sentenced to fifteen years in prison without being given any reasonable access to legal representation. His kidnapping to rendition and eventual torture at the hands of the Moroccans is the result of mass detention policies carried out by Pakistan with the help of the US.

2. Binyam Mohamed²⁷

Studying Islam in Pakistan and Afghanistan after having converted to the religion of Islam; Binyam Mohamed found himself caught in the aftermath of the 9/11 attacks. Before US attacks could begin on Afghanistan, Mohamed made his way south to Pakistan eventually procuring himself an air ticket to leave the country via Karachi. On 10th April 2002, he was arrested by the Pakistani authorities and placed in secret detention.

Incarcerated in a Pakistani prison, the first in a shadowy network of transnational ghost prisons Binyam was to experience, Pakistani intelligence operators abused him, employing the strappado technique, and beating him with a leather strap. He was told by MI6 officers that he would be rendered to an undisclosed Arab country for further torture, thereby contravening international law.

On or around 21st July 2002 Binyam reports being taken to a military airport in Islamabad, with two others also apparently slated for rendition. After around two hours of waiting, Binyam was turned over to American personnel. Binyam was then shackled, with ear-mufflers, blindfolded, and put into a plane. He was tied to the seat for the roughly 8-10 hour flight, and arrived on 22nd July 2002, in a place he later learnt was Morocco.

²⁶ Cageprisoners Interview with Khadija Anna Lucia Phigizzni, wife of Abou Elkassim Britel 09/01/2008

²⁷ Based on Cageprisoners Report – *Fabricating Terrorism: British Complicity in Renditions and Torture* 2004

As evidence mounted regarding the UK's role in the rendition, Foreign Secretary Jack Straw, was forced to admit that MI6 officers had interrogated him in Pakistan. Speaking before the Foreign Affairs Committee on 13 December 2005, Mr Straw said,

"Mr Habashi was interviewed once in Karachi by the security services. The security services had no role in his capture or transfer from Pakistan. The security services officer did not observe any abuse and no incidents of abuse were reported to him by Mr Habashi."

Despite having accepted that the MI6 agents met with Binyam, there is still official denial that he was subjected to any abuse or torture, and no acknowledgement that he was to be handed over to the CIA and rendered elsewhere. According to Binyam though, the MI6 officers were very much aware of what was about to take place,

"They gave me a cup of tea with a lot of sugar in it. I initially only took one. 'No, you need a lot more. Where you are going, you need a lot of sugar,' they said...I didn't know exactly what [the MI6 officer] meant by this, but I figured he meant some poor country in Arabia. One of them did tell me that I was going to get tortured by the Arabs."

Following months of torture and detention in Morocco and Afghanistan, Binyam was eventually transferred to Guantanamo Bay, where he remains to date. Binyam is one of a dozen Guantánamo detainees named in a US Presidential Order to be tried by Military Commission. Human Rights experts and NGOs have widely denounced these commissions.

3. Mohammed El Gharani

A Chadian national brought up in Saudi Arabia, Mohammed El Gharani decided to move to Pakistan in order to gain an education due to limited prospects in Saudi. Moving to Karachi just before the attacks of 9/11, he tried to find courses in order to learn English and gain IT skills. In October 2003, when only 15 years old, he was abducted from a mosque in Karachi where he was praying.

El Gharani was subjected to torture at the hands of the Pakistani authorities who claimed that he was lying about his age and his reasons for being in the country. During his detention he was hung from his wrists and beaten repeatedly for 16 hours a day for three weeks. Other forms of torture that were used against him included forcing him to drink large quantities of water and then tying his penis with a string.

Mohammed El Gharani was then transferred north to Kohat in the tribal regions of Pakistan. There he was detained with many other foreign prisoners who were being kept in large numbers in small cells. He was soon told that he would be transferred to US custody – El Gharani took this as a positive step as he felt that he would be treated fairly by the US. His idealism was soon shattered as he was taken to Kandahar Airbase in Afghanistan in order to be placed on a rendition flight to Guantanamo.

4. Marwan al-Jabour²⁸

In 1994 Marwan Ibrahim Ali al-Jabour moved to Pakistan to complete his education after having been born in Jordan and lived in Saudi Arabia all his life. A Palestinian by origin, al-Jabour made the decision to settle in Pakistan and in 1999 married his wife with whom he had three daughters.

On 9th May 2004, al-Jabour was detained by the Pakistani security services after having dinner at his friend's home in Lahore. Immediately he was taken to a police station where he was beaten, with fists, kicks and sticks. His connections to Arabs in Pakistan and Afghanistan

²⁸ Based on Ghost Prisoner Two Years in Secret CIA Detention, Human Rights Watch, 2007

drew suspicion to him and he was treated brutally due to his status as a suspected terrorist. Part of his torture included being hung from his wrists while having a rubber string wrapped tightly around his penis to prevent him from urinating. With the exception of brief moments of respite, al-Jabour was kept in that condition for close to four days.

It was on the third day of his detention in Lahore that al-Jabour was visited by American interrogators. During the period of questioning by them the abuse stopped and the US personnel made offers for al-Jabour to collaborate with them. Soon after, he was transferred to Islamabad to a villa which the US seemed to control. During the day the Americans would interrogate al-Jabour and show him pictures of suspected militants; during the night the Pakistanis would take over and abuse him.

After over a month of imprisonment in the facility in Islamabad, al-Jabour was finally flown to a Central Intelligence Agency (CIA) prison in what he believes was Afghanistan. After two years he was transferred to the custody of the Jordanians and finally the Israelis. A few days after his transfer to Israel, Jabour was for the first time allowed to see a lawyer, and soon after that he was brought before a judge. After six weeks in Israeli custody, the authorities finding no evidence against him, Al-Jabour was released into Gaza.

OTHER DETAINEES

There are other foreign nationals who were detained in Pakistan and subsequently placed on rendition flights out of Pakistan with the complicity of foreign governments. Hundreds of these prisoners were eventually sent to Guantanamo Bay, amongst them British nationals Moazzam Begg, Omar Deghayes, Richard Belmar and Australian, Mamdouh Habib. Until this day they have not been charged with any crime and have not been compensated for their unlawful rendition to torture.

TORTURE

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

This rule, before 9/11 and the detentions in the 'War on Terror', was considered to be one of the most immutable principles of international law, one that could never find derogation in any shape, form or manner. However, reports and practice have shown that the governments both in the UK and US are now trying to use linguistic semantics in order to bypass this rule, especially through the invocation of national security and defence. Although Pakistan has long been known for its abuse of prisoners, the acquiescence of torture by the US has allowed for the War on Terror to take these abuses to unprecedented levels.

US policies on the usage of torture²⁹

On 1st August 2002, the Assistant Attorney General Jay S. Bybee, had a memorandum leaked which showed that US policy had narrowed the definition of torture to such a great extent, that it is in direct contravention to the torture conventions. The wording of the memorandum states that in order for an act to constitute torture it must inflict pain, *"equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function or even death."*³⁰

Once the issue had been raised by the international community, the US reviewed its policy to state that, *"procedures calculated to disrupt profoundly the sense or personality"*, could not be considered torture unless there was direct evidence of long-term harm.³¹

In an Action Memo on Counter-Resistance Techniques to Donald Rumsfeld, William J. Haynes II General Counsel for the Department of Defense, sought approval for three counter-resistance techniques that he wished to implement in interrogations.³² The three categories needing approval included:

Mild and fear-related techniques – placing a dagger on a table in front of the detainee is an example of the way in which an implicit sense of torture of danger is imminent.³³ Sexual humiliation may also be included by playing on religious sensibilities through exposure to pornographic material.³⁴

Use of stress positions, falsified documents, isolation for 30 days, removal of clothing, preying on fears and interrogations outside of official interrogation rooms.³⁵

²⁹ Based on primer by Bazelon E, Carter P and Dahlia L 'What is Torture? An Interactive Primer on American Interrogation' 28/05/2005

³⁰ US Office of the Assistant Attorney General 'Memorandum for Alberto R. Gonzales Counsel to the President Re: Standards of Conduct for Interrogation under 18 U.S.C. 2340-2340A' 01/08/2002 <http://www.slate.com/features/whatistorture/pdfs/020801.pdf>

³¹ 'Cruel, Inhuman. Degrades Us All.' Amnesty International 2005

³² William J. Haynes II General Counsel for the Department of Defense to Donald Rumsfeld 'Action Memo, Re: Counter-Resistance Techniques' 27/11/2002 <http://www.slate.com/features/whatistorture/pdfs/020927.pdf>

³³ Carter P 'The facts and the law' What is Torture? <http://www.slate.com/features/whatistorture/taxonomy.html?http://www.slate.com/features/whatistorture/FearUp.html>

³⁴ Jumah al-Dossari was subjected to sexual humiliation by US interrogators in Guantanamo Bay as he was held down by soldiers while a female soldier undressed herself and smeared her menstrual blood over him – Testimony of Jumma al-Dossari 07/2005 Amnesty International <http://www.cageprisoners.com/articles.php?id=11641>

³⁵ Miles S.H. 'Oath Betrayed: Torture, Medical Complicity, and the War on Terror' Random House 2006

Exposure to cold, water or simulated suffocation using a wet towel – these were denied approval.³⁶ Threats to kill or cause imminent physical harm were held not to be illegal but to be used cautiously.³⁷

In response to the request made by Hayne, Rumsfeld replied, "*I stand for 8-10 hours a day. Why is standing limited to 4 hours?*"³⁸

What is patently clear is that no matter what legal and linguistic semantics the US government tries to use to justify its torture in order to interrogate, the fact remains that they are acting in direct contravention of the torture norms and should be held accountable for such policies.

UK policies on the usage of torture

As far as the UK's obligations, there are two pieces of law that must be considered in relation to any abuses that have been occurring. They are the Human Rights Act 1998 (HRA) and the European Convention on Human Rights (ECHR). Both instruments clearly establish commonly under Article 3, "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*" The terms of the articles are verbatim those of the UDHR once again reiterating the strong position that such a concept has under international law.

The 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³⁹ provides a furthered obligation upon states. The wording of the convention provides in itself the duty on to implement as part of their national criminal jurisdiction, any offences relating to torture in line with the definition that it sets out. The requirement is specifically for parties to take effective, legislative, administrative, judicial, or other measures to prohibit torture within their own jurisdiction but also to bring all offences of torture outside of their sovereignty within their jurisdiction. Extradition proceedings must not take place where a state is in the position to charge and try a known torture criminal.

Thus all crimes of torture taking place within the UK or outside of it come under the jurisdiction of UK criminal law and must be prosecuted in compliance with both international and domestic legal obligations.

Instead of condemning all the above abuses in the strongest possible terms, the UK government has been complicit in the breaches of international human rights law. A particularly worrying aspect of their position stems from the UK Court of Appeal decision in August 2004 to accept in a court of law, information that is extracted under torture in order to prosecute other suspected terrorists.

Subsequently when the case, A and Others v Secretary of State for the Home Department went before the House of Lords, Dame Eliza Manningham-Buller, Director-General of the Security Service gave evidence to justify policies of using intelligence gleaned from torture. The position was simply put that in an era of international terrorism, there was, "*the need for enhanced international cooperation*" and that due to this, "*...where the reporting is threat-*

³⁶ Although the official position was that the use of the cold was denied, Jamil El Banna, Bisher al-Rawi, Martin Mubanga and Saifullah Paracha all relate that at times they were exposed to extremes of temperature. Mickum G.B. 'MI5, Camp Delta, and the story that shames Britain' The Independent

³⁷ A statement from Shafiq Rasul, Asif Iqbal and Ruhel Ahmed 'The Tipton Three' is one example of the use of death threats carried out routinely in Afghanistan.

³⁸ William J. Haynes II General Counsel for the Department of Defense to Donald Rumsfeld 'Action Memo, Re: Counter-Resistance Techniques' 27/11/2002
<http://www.slate.com/features/whatistorture/pdfs/020927.pdf>

³⁹ UKTS No 107 (1991), Cm 1775

*related, the desire for context will usually be subservient to the need to take action to establish the facts, in order to protect life."*⁴⁰

The line of argumentation used by Dame Manningham-Buller was emphatically rejected by the House of Lords. The landmark judgment for the protection of human rights despite the security risk in a post 7th July 2005 world was best summarised by the judgment of Lord Hope who said,

*"Torture is one of most evil practices known to man. Once torture has become acclimatised in a legal system it spreads like an infectious disease, hardening and brutalising those who have become accustomed to its use ... Views as to where the line is to be drawn may differ sharply from state to state. This can be seen from the list of practices authorised for use in Guantánamo Bay by the US authorities, some of which would shock the conscience if they were ever to be authorised for use in our own country."*⁴¹

Despite the strength of the statement made by Lord Hope and the remaining judges on the panel, the practice of using evidence gained by torture had already been systematically used by the intelligence services. Although Dame Manningham-Buller attempted to use the example of the evidence gained from the torture of Mohamed Meguerba by the Algerian intelligence services, the example only served to work against the government due to the complete acquittal of those involved in the suspected 'Ricin Plot'.⁴² It was in the Security Council that claims were made by the British government that the threat of ricin came directly from Iraq, and used it as one of its justifications for invading Iraq, this is despite no ricin ever being found.⁴³

Pakistani Torture

The policies that have been implemented by the US and the UK in their justification of torture have directly impacted the way in which the Pakistani security services have carried out abuses against those in their custody. A pattern emerges where although the western agencies may not directly partake in the abuse of a detainee, they will do nothing to speak against it or further stop it from taking place.

CASE STUDIES

1. Detainee X⁴⁴

After the earthquakes that affected Kashmir, X made the decision to travel to Pakistan from the UK in order to help in the relief effort. Wishing to make his stay a productive one, he registered himself with Al Qasim, a humanitarian non-governmental organisation based in Islamabad. He was given the task of helping to distribute corrugated iron sheets which would help to set up temporary shelters for those displaced from their homes.

On 20th August 2006, X became another victim of the War on Terror as he was forcibly taken in the town of Haripur on his way back to Islamabad. Having had all of his belongings taken away from him, the police cuffed and hooded X and took him to a secret location. During his arrest X noticed the presence of a Caucasian woman in the lead car that was in charge of detaining him – he strongly believes it was a westerner who was conducting the operation.

⁴⁰ A and Others v Secretary of State for the Home Department Statement of Eliza Manningham-Buller in the House of Lords 20/09/2005

⁴¹ Travis A and Duncan C 'Crucial Decisions For Detention Judges' The Guardian 09/12/2005

⁴² R v Bourghass [2005] All ER (D) 254 (Jul)

⁴³ Norton-Taylor R 'Ricin Plot: London and Washington used plot to strengthen Iraq war push' 14/04/2005 The Guardian

⁴⁴ Detainee X cannot be named due to a current on-going trial – his treatment however is very much relevant to this report and the information comes directly from the detainee himself.

After being put through an initial round of questioning, X was made to sit in front of two men who became more aggressive than their colleagues. Immediately accusations began to be thrown at X who denied any involvement with international terrorism. The security officers repeated he was lying over and over again and began to beat him.

"The other male rang the bell on the table and then someone came into the room and handed in a piece of wood with rubber wrapped around it. He said to me that if I didn't say everything including links with Al-Qaeda that they would beat me. I told them repeatedly that I had no links with this organisation or any other Islamic organisations."

For the next two weeks X was kept in the same interrogation facility during which time he was beaten severely with wooden sticks on the soles of his feet, whipped with a rubber lash, and had three of his fingernails pulled out with pliers. Both British and CIA agents had unfettered access to him throughout this period and were very much aware of the abuse he endured. After this period of detention he was taken to another location where he was permitted to meet with British personnel. These British officials however made it perfectly clear to X that they were not from the consulate but were there to question him. It was clear for the British men to see that he had been tortured.

2. Zeeshan Siddiqui

Siddiqui was arrested in North West Pakistan on the 15th May 2005, initially thought by the Pakistani Intelligence to be 'Shahzad'.⁴⁵ He was initially picked up after information had been fed to the Pakistani authorities by British officials regarding links that Siddiqui had with suspected Islamic militants in the UK. After the London bombings, there was an effort to interrogate him over any possible involvement. What he was actually charged with though, was being in possession of a forged national identity card. However on 23rd December 2005 he was acquitted of all charges.⁴⁶

Having been hurt badly during his interrogations, District Judge Shahjehan Khan Akhundzada of Peshawar ordered the provincial health department to conduct corneal grafting treatment of Siddiqui after he lost sight in his left eye.⁴⁷ Having had ample opportunity to interrogate Siddiqui before his trial, MI6 had enough chances to see the conditions under which he was being held and also to raise objections with the Pakistani government and secret service. Silence by the British authorities and Foreign Office implicates complicity in their part in the torture of this British citizen.

In his own words, Zeeshan Siddiqui, speaking to BBC's Radio 4 Today Programme explained the types of torture carried out against him,

"I was drugged. I was forcibly injected with chemicals, I had chemicals injected up my nose which burnt my nasal passage and burnt my throat. I was forcefully inserted with a feeding tube and forcefully fed, even though I was capable of feeding myself. I was chained to a bed for approximately eleven days in a row and was not allowed to even use the bathroom. I had the catheter forced up me, only in order to stop me using the bathroom, then this catheter was forcefully pulled out and I was made to bleed. Then I had the shackle pressed into my wrists so tightly that it slit my wrist. Then I was threatened with sexual abuse, for example one person came along and started opening up my clothes, they forcefully stripped me and started touching up my body and telling me tat they would commit sexual abuse if I did not cooperate."⁴⁸

⁴⁵ Statement by Zeeshan Siddiqui 26/01/2005

⁴⁶ Dawn 'Pakistan: London Bombing Suspect Acquitted of Charges' 23/12/2005

⁴⁷ Dawn 'Court orders treatment of UK national' Bureau Report 4/12/2005

⁴⁸ BBC Radio 4 Today Programme 01/03/2006 Zubeida Malik interviews Zeeshan Siddiqui

Pakistani ISI and British MI6 both took turns interrogating Siddiqui alongside others whom they felt were part of a circle of connections linked to the London. Among the names of those who were questioned was that of Naeem Noor Khan who subsequently disappeared and is now part of the ever growing list of ghost detainees. MI5 had implicated Siddiqui by the slightest of acquaintances that he had with others in the UK.⁴⁹

What is interesting though, is that Siddiqui was questioned by the British intelligence officers before the 7th July bombings. He clearly remembers that on the 5th of July 2005 he was approached by British agents for the first time,

"...a few seconds later four British guys came in...they came up to me and shook my hand. They said are you Mr Siddiqui? I replied yes. They sat down in front of me. They could see I was in such a state. I was unable to even talk properly. They said to me there are people from the British embassy who are designed to help people like you. We are not those people. At a later stage we will try and get those people to speak to you later.

*First they just confirmed my address and details. Then they spoke about the consular. They told me they are from the intelligence. They said if you can talk to us then we want you to tell us what you know about people involved in illegal activities. I asked for a lawyer. They said yes but anything you can tell us today we can tell our Pakistani friends and they can help you."*⁵⁰

The security services of both countries went to the effort of seeing if they could use him in order to provide more information on the London bombings and other possible missions aimed at targets in the UK. British intelligence dropped their interest in him though soon enough as they had ascertained that he was an 'ordinary citizen'.⁵¹

3. Tariq Mahmood

After a joint operation between British, Pakistani and American intelligence services, British citizen Tariq Mahmood was arrested on 20th October 2003. Having already travelled through Saudi Arabia, Tariq was on his way to Pakistan in order to see his relatives in Pakistan.⁵² From his departure from the UK, MI6 were fully aware of Tariq's movements, and as soon as he arrived in Saudi Arabia, information was being passed over to Saudi intelligence by the British who followed his every step.⁵³

When Tariq finally reached Pakistan, he was detained by the Pakistani secret service (ISI) who began to question him. According to spokesman for the Pakistani authorities, Masud Khan, "He is being investigated on suspicion of having links with al-Qaida...I cannot tell you his whereabouts and how the investigations are being carried out."⁵⁴ While he was being held by the Pakistanis, he was kept bound and hooded; however, from the accents of those who were interrogating him, he could quite easily discern that there were Pakistani, American and British interrogators questioning him.⁵⁵

⁴⁹ Aziz A 'Judge denies bail to 7/7 bombings suspect' 29/09/2005 Daily Times

⁵⁰ Statement by Zeeshan Siddiqui 26/01/2005

⁵¹ Ansari M 'The Pakistan Connection' 08/2005 Newline

⁵² Al Jazeera 'Guantanamo Bay Travel Agency – A Joint US and UK Project' 04/11/2003
<http://www.cageprisoners.com/articles.php?id=121>

⁵³ Al Jazeera 'Guantanamo Bay Travel Agency – A Joint US and UK Project' 04/11/2003
<http://www.cageprisoners.com/articles.php?id=121>

⁵⁴ Al Jazeera 'Pakistan grills British al-Qaida suspect' 10/11/2003
<http://english.aljazeera.net/NR/exeres/1ED24A70-F5E4-46AF-A2D8-4A7A9D355D6B.htm>

⁵⁵ Al Jazeera 'Guantanamo Bay Travel Agency – A Joint US and UK Project' 04/11/2003
<http://www.cageprisoners.com/articles.php?id=121>

What is particularly worrying with regard to the process of interrogation that took place against Tariq is the way that MI6 officers threatened him with death if he did not cooperate. After five months in custody, Tariq was released without charge and sent back to the UK.⁵⁶

Being a dual national of Britain and Pakistan, Tariq Mahmood was not given the full protection that he is entitled to by the British Foreign and Commonwealth Office. His case is only one among many where the British government has failed to make correct representations on behalf of those citizens who hold dual nationalities with other States.

4. Salahuddin Amin⁵⁷

In April 2004 Salahuddin Amin was detained by the security services of Pakistan after he voluntarily surrendered himself when his uncle informed him that the police were looking for him. Amin's arrest was part of wide arrests there were made in the UK when 18 people were detained over a plot to blow up the Bluewater shopping centre in Kent.

Amin was immediately tortured as part of his detention. According to claims that he has made, he was put through sleep deprivation for extended periods of time, beaten, whipped and threatened with an electric drill. As part of routine torture in Pakistani prisons, he was also hung from his wrists for days on end.

After just over two weeks of torture, Amin was taken to another building where he met individuals who identified themselves as being from MI5. He realised during the next ten months of interrogation by the British security officials, that every single time he was interrogated by MI5 it was inevitably after he would be put through a long session of abuse by the Pakistanis.

Amin was sent back to the UK without any formal deportation or extradition proceedings. He was essentially rendered back to the UK where he was immediately arrested on his arrival to Heathrow airport. The government has officially denied that he was ever tortured, despite the overwhelming evidence that exists to support such a claim.

5. Jack Thomas⁵⁸

Australian national Jack Thomas was captured by the Pakistani authorities in January 2003. He was detained by officers in military uniform and taken to a military base near Karachi. He was immediately interrogated by two Pakistani and two American officials and was told by them that he was someone that was very much wanted.

Not before long Thomas was moved to a large house where he was to be detained for about two weeks. Being outside of the law and away from any reasonable legal protection, the Pakistanis soon began to abuse him; first through threats, then making their way through a list of torture techniques. Among the techniques used were sleep deprivation, starvation, beatings, suffocation and strangulation. Repeated claims were made that they would send Australian agents to rape his wife, in addition to threatening to electrocute and execute him.

After the two weeks of abuse, Thomas was finally flown back to Islamabad where he was permitted a consular visit from the Australian High Commission. Despite being held beyond the law, the Howard government refused to give him any assistance. The consulate later denied that Thomas had been abused at all.

Further pressure was placed on Thomas as he became a pawn of the Australian security services who wanted him to work for them and the Americans. He refused to do this, claiming that his life would be in danger if he did. Thomas was eventually returned to Australia who attempted to lay charges of involvement with terrorism against him. During his

⁵⁶ Al Jazeera 'Guantanamo Bay Travel Agency – A Joint US and UK Project' 04/11/2003
<http://www.cageprisoners.com/articles.php?id=121>

⁵⁷ Based on Cobain I, *Questions, Answer, Months of Brutality*, The Guardian 29/04/2008

⁵⁸ Based on *The Torture of Jack Thomas*, World Socialist Website

trial the judge accepted that Thomas had been abused and coerced into making false statements. Despite never being charged with any crime, Thomas was placed under a control order under the Australian Anti-Terrorism Act 2005.

6. Abdullah Khadr

Abdullah Khadr is the eldest son of Ahmed Said Khadr, who was killed by Pakistani forces in October 2003. His younger brother Omar is detained in the US prison camp at Guantanamo Bay, Cuba.

On 12th October 2004 he was arrested in Pakistan along with a friend of his father's. Pakistani security officials kidnapped Khadr and placed him in an unmarked car but did not realise his identity until later.

During the first 48 hours of his detention, Khadr claims that he was tortured through sleep deprivation, being stripped, beaten and sexually harassed. In the first prison that he was detained, Khadr was interrogated by US and Pakistani officials who threatened him in many ways, amongst them sexual assault with a stick near his rectum. He was beaten in the head hard enough to make his ears bleed for two weeks.

During the 18 days of detention in that prison, Khadr was spoken to by the CIA, RCMP and FBI. Soon Khadr was moved to another prison about 30 minutes from Islamabad where he was visited by the Canadian Embassy, RCMP and CSIS on five different occasions. During the following 14 months of detention, none of these agencies did anything to reduce the abuse that he was forced to endure which inevitably led to him making false statements regarding his involvement with international terrorism.

Abdullah Khadr was released and allowed to return to Toronto in December 2005. Two weeks after his return he was arrested on a US extradition warrant. He was indicted in the US for allegedly purchasing weapons for Al Qaeda. He remains in Toronto's West Detention Centre after losing his application for bail.

GHOST DETAINEES

According to a missing persons list gathered together by the NGO Defence for Human Rights, the number of those detained at the hands of the security services now stands at 160. This number does not include the hundreds of detainees that were picked up immediately after the World Trade Center attacks.

Pakistan is not alone in the act of kidnapping possible suspects, behind the scenes the US has been orchestrating detentions in a bid to capture and interrogate any individual possibly linked to international terrorism. According to *Off the Record*, a joint report published in 2007 by Cageprisoners, Reprieve, Center for Constitutional Rights, Center for Human Rights and Global Justice, Amnesty International and Human Rights Watch, there are a number of detainees still missing who were detained in Pakistan at the hands of the US:

1. Hassan Ghul
2. Mohammed Omar Abdel-Rahman (Asadullah)
3. Yassir al-Jazeeri
4. Ayoub al-Libi
5. Mohammed al-Afghani
6. Mustafa Setmariam Nasar (Abu Musab al-Suri)
7. Retha al-Tunisi
8. Jawad al-Bashar
9. Safwan al-Hasham
10. Abu Naseem
11. Walid bin Azmi
12. Ibad Al Yaquti
13. Amir Hussein Abdullah al-Misri
14. Khalid al-Zawahiri
15. Musaab Aruchi
16. Qari Saifullah Akhtar
17. Mustafa Mohammed Fadhil
18. Sharif al-Masri
19. Osama Nazir
20. Osama bin Yousaf
21. Speen Ghul
22. Aafia Siddiqui

RECOMMENDATIONS

Pakistan is currently going through a transition phase where the new People's Party government has the ability to begin a reverse trend in abuses of human rights in the War on Terror. The previous administration has become associated with arbitrary detention and enforced disappearances; however the new government can change the perception of Pakistan by placing human rights at the top of its agenda.

Cageprisoners calls on the **Pakistani government** to immediately:

- End the process of secret detention and bring all detainees before fair and open courts.
- Transfer all detainees to prisons that are known as part of the penal system of the state and qualify as being acceptable according to international standards of detention.
- Give access to all foreign nationals within their borders to diplomatic or consular assistance from their country of origin.
- Refuse the transference or refoulement of suspects to any state with a history of human rights violations, especially those that systematically carry out torture.
- Provide access to the families and lawyers of those held in their custody.
- Restore the position of the deposed Lord Chief Justice of Pakistan Iftikhar Chaudary in order for him to continue his fight against the enforced disappearances.

Calls on the **UK and US governments** to immediately:

- Cease cooperation with Pakistani security services in cases where individuals are being held outside of the legal system of the country.
- Encourage the Pakistani government to end its violations of international human rights through the use of secret detention and enforced disappearances.
- Investigate the torture and rendition of their own nationals detained beyond the law.
- Provide compensation to all those who have been tortured and kept in secret detention illegally as well as compensation to their families.

Calls on the **public** to:

- Write to both the home and foreign ministries raising issues relating to the extent to which these secret detentions, renditions and torture have taken place in Pakistan with the complicity of Western governments, also calling government to carry out the above recommendations.
- Organise events in your locality raising awareness relating to the issues surrounding the issues highlighted in this report.

APPENDIX A:

Statements from Former Bagram Detainees

Moazzam Begg (held in Bagram, 2002-2003):

"I began to hear the chilling screams of a woman next door. My mind battled with asking questions I was too afraid to learn the answer to. 'What if it was... my wife?' They clearly registered the look on my face. I was sure that in all their reports they had written, 'Get to this guy through his family . . .' I was always asking about my family. I was looking for somebody among them who would have a little bit of human compassion. I prayed that someone would say, 'OK, we can do anything to this guy, but let's at least give him the solace of knowing that his family is OK.' But none of them did.

For two days and nights I heard the sound of the screaming. I felt my mind collapsing, and contradictory thoughts ran through it. Once I thought, when the screams started up, 'I am just going to slip my wrists out of the shackles, hit the guard, grab the weapon off him, and go next door to stop what is happening.' But my other thought was, 'Just give them whatever they want.'

...At the end of it all, I asked them, 'Why have you got a woman next door?' They told me there was no woman next door. But I was unconvinced. Those screams echoed through my worst nightmares for a long time. And I later learned, in Guantánamo, from other prisoners, that they had heard the screams too and believed it was my wife. They had been praying for her deliverance.

...Knowing these men as I did now, I couldn't put it past them to torture women, or even children, to get the answers they wanted from men. In their own minds they were completely justified in doing things like that for the bigger picture – 'saving innocent American lives', as they so often put it, as if no other lives were innocent in this world, or worth saving.

The memory of those screams was even worse than the physical humiliation. It was worse than being kept naked, even worse than the beatings."⁵⁹

Abu Yahya Al-Libi, (held in Bagram until his escape in July 2005):

"And the story that I wanted to narrate; there is a woman from Pakistan. She stayed two complete years in solitary confinement in Bagram prison among more than 500 men. She goes out to the bathroom, led by the American [soldier], placing his hand on one of her shoulders and the other hand on her back, and her hands and feet chained together, and she is treated exactly in the same way as a man, even in her clothing, the red suit that the brothers wear in Guantanamo and the [prisoners] in Bagram. This woman stayed there until she lost her mind, until she became insane, hitting the door and screaming day and night, and those ones all they do is make it worse by calling her by her number 650, that's the number she had in the Bagram prison... "What's the problem?" And she didn't find a person to talk to. She is in solitary confinement, in front of her is a solitary room belonging to a man, on her side is a solitary room belonging to a man, and next to her is a solitary room belonging to a man. She didn't find a woman to talk to, she only sees men. She only sees the [female soldiers] from the American army. So the woman lost her reasoning and mind and she stayed in this condition for two complete years, probably no one knew anything about her."⁶⁰

⁵⁹ *Enemy Combatant: A British Muslim's Journey to Guantanamo and Back*, Moazzam Begg, February 2006, Free Press.

⁶⁰ Transcribed and translated from the Arabic video, *Escape from Bagram*, 2005.

Abu Nasir Al-Qahtani (held in Bagram until his escape in July 2005):

"This woman stayed in this prison for two complete years. So me and some of my brothers, me, Abu Yahya and the brothers here now and some of the Afghans, we tried to rescue our sister from this humiliation and imprisonment, so we went on a hunger strike for around nine days, we refused to eat and drink for a duration of nine days, until the American interrogator came and asked, "Why aren't you eating?" We said, "We will not eat until death, until this woman leaves this prison!" And with the blessing of Allah All Mighty, Allah got her out."⁶¹

⁶¹ Transcribed and translated from the Arabic video, Escape from Bagram, 2005.