

DETAINEES ARE PEOPLE TOO: SUPREME COURT UPHOLDS MAGNA CARTA

By Nick Gier

The weak will do anything to stop the pain;
The strong will resist until the end.

--a Roman jurist on torture

I don't think the bad eggs are at the bottom.
I think the bad eggs are at the top.

--Philippe Sands, author of *Torture Team*

I'm aware our national security team met on
this issue [enhanced interrogation]. And I approved.

--President George Bush, April 11, 2008

In early 2003 British citizen Richard Reid, the infamous "shoe bomber" and Al Qaeda sympathizer, received a life sentence in a Boston court for attempting to blow up an American Airlines flight. In March, 2006 French citizen Zacarias Moussaoui was locked up for life in a maximum security prison for his role in planning the 9/11 attacks.

Just as with American terrorists Timothy McVeigh and Theodore Kaczynski, Reid and Mousaoui were not beaten or tortured. On the contrary, they were given the right to counsel, the right to know the charges against them, and the right to defend themselves.

The recent Supreme Court decision essentially upholds the position that all persons, regardless of their origin or circumstances, have basic legal protections that go back to the Magna Carta of 1215.

The Bush administration will now be embarrassed by prospect that because of indiscriminate arrests (using \$3,000-\$5,000 bounties as an incentive), most of the remaining Gauntanomo detainees will have to be released.

Reporters from the McClatchy newspapers have tracked down 66 of those who have already been released and it appears that at least two thirds of these people were not involved in terrorist actions or plans.

For example, Abu Mohammed, an Algerian doctor working for the UN in Pakistan, was picked up by Pakistani intelligence agents only after they could not find the person they had targeted. Even though he was cleared by German intelligence, German citizen Murat Kurnaz was held at Gauntanomo for another 4 years.

Equally unfortunate is the fact that the few detainees who are probably guilty of heinous crimes will escape conviction because evidence obtained by torture is inadmissible in traditional legal proceedings.

The saddest fact of all is that because Bush chose his own form of cowboy justice, America's moral authority as a nation of decency and laws is ruined for the foreseeable future.

In a June 27, 2004 interview with David Frost, former Defense Secretary Donald Rumsfeld admitted that "enhanced interrogation" techniques were used against Mohammed al-Katani. Rumsfeld said that he was the only 9/11 suspect tortured and that was because he was a "very bad person." I supposed we could say the same for McVeigh and Kaczynski.

We now know that al-Katani was only one of many who were tortured on orders from the highest level. In his book *The One Percent Solution*, Ronald Suskind reports that President Bush was personally involved in the decision to

water board Abu Zubaydah. Zubaydah immediately started talking about all sorts of plots, but not a single one checked out.

Even before Supreme Court decision, but a week before the release of Philippe Sands' *Torture Team: Rumsfeld's Memo and the Betrayal of American Values*, the Pentagon announced on May 13, 2008 that it was dropping all charges against al-Katani.

In his book Sands had exposed the details of the torture of al-Katani and how both Navy psychologists and FBI agents had objected to the methods used. Furthermore, in an NPR interview on June 19, 2008, Sands reported that at the end of his 54-day ordeal, al-Katani was "spouting complete rubbish."

When Sands testified before the House Judiciary Committee in May, 2008, he said that the U.S. should have learned from the British experience in Northern Ireland.

Initially, British officials approved of torture techniques that provided very little information, but they served as an excellent recruiting tool for potential terrorists. Some of the Guantanamo detainees, who previously had no interest in terrorist activities, are now committed to Al Qaeda's goals.

Sands, an attorney and professor at the University of London, estimated that torturing IRA suspects prolonged the conflict for 15-20 years. In his NPR interview Sands said that an attorney who testified at the same hearing simply made up the claim that these techniques had elicited the names of 700 IRA suspects.

Sands has also interviewed European jurists who maintain that if Bush, Rumsfeld, or other American officials involved in torture travel to any foreign country, they might very well be arrested for war crimes.

In October of 1999, while receiving medical care in England on the invitation of his good friend Prime Minister Margaret Thatcher, Chilean dictator Augusto Pinochet was arrested on orders from a Spanish judge. Claiming the principle of "universal jurisdiction," the judge had good evidence that Pinochet's government had tortured a Spanish citizen. A British court approved Pinochet's extradition to Spain, but he was finally allowed to return home because of ill health.

The House Judiciary Committee has the authority to investigate the evidence for Bush administration war crimes. Wouldn't be better for Bush and Rumsfeld to attempt to clear their names in a U.S. court than to face an uncertain fate somewhere else in the world? The fact that they would not be executed in most countries would be at least one consolation.

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