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**CRUEL.
INHUMAN.
DEGRADES
US ALL.**

**STOP TORTURE
AND ILL-TREATMENT
IN THE 'WAR ON TERROR'**

USA

Who are the Guantánamo detainees?

CASE SHEET 9

Libyan citizen/UK resident: Omar Deghayes



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Full name: **Omar Deghayes**
Nationality: **Libyan citizen/UK resident**
Age: **35**
Family status: **Married with a three-year-old son**
Occupation: **Lawyer**

Background

"If torture and abuse had a smell, none of the American soldiers would be able to sit next to anyone else."

Omar Deghayes

In March 1980 Amnesty International issued an Urgent Action featuring a Libyan trade union leader and political opponent of Colonel Mu'ammur al-Gaddafi. He had been arrested by Libyan secret police and was executed three days later. The Urgent Action stated that the man had five children. One of those children is Omar Deghayes.

Omar Deghayes and his family managed to flee persecution in Libya and were eventually granted political asylum in the UK. Omar Deghayes grew up

in Brighton and studied law in British universities. A devout Muslim, Omar Deghayes visited prisoners to offer them support. Omar Deghayes' ambition was to be a human rights lawyer.

In 2001, Omar Deghayes decided to travel with a friend and look for work. He went to Malaysia, Pakistan and eventually Afghanistan, where he married and had a son.

When the international conflict in Afghanistan started after the 11 September 2001 attacks in the USA, Omar Deghayes fled to Pakistan with his wife and baby. They were planning to return to the UK when they were arrested in Lahore in April 2002, reportedly for a bounty of US\$5,000.

Omar Deghayes was caught up as an "enemy combatant" and eventually transferred to Guantánamo

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Bay via Afghanistan. In all, four governments have been complicit in his detention, alleged ill-treatment and torture, and in denying him justice for over three years.

Torture allegations

“I underwent systematic beatings every night for three days. Each time, when I was nearly unconscious, I would be thrown back into the cell to await more.”

Omar Deghayes

In **Pakistan**, Omar Deghayes alleges that he was tortured in custody. He was told he was being held in Pakistan at the behest of the USA. Omar Deghayes says that he was:

- subjected to “systematic beatings”;
- forced into stress positions;
- kept in a dimly lit room full of glass boxes with “very large snakes”, and threatened with being left in the room after the snakes had been released;
- submerged under water until he believed he would drown.

In **Afghanistan**, Omar Deghayes likened the US-run prison at Bagram air base to “Nazi camps that I saw in films”. When asked by his lawyer about beatings in Bagram, Omar Deghayes replied, “Of course, beating and torture is considered normal [there]”. Omar said he was also subjected to:

- forced nudity;
- food deprivation;
- being locked in a box with very little air for prolonged periods;

- being chained to the wall and suspended by the wrists.
- Omar Deghayes states that the “guards forced petrol and benzene up the anuses of prisoners. This would burn horribly”.

In **Guantánamo Bay**, where Omar Deghayes was transferred in September 2002, he has reportedly been targeted for ill-treatment because he has legal training and has spoken out against abuses through his lawyer. The alleged abuses include:

- he and other detainees were sexually assaulted during a strip search, and when he challenged the guards he was repeatedly pepper-sprayed in the eyes and face, and a guard forced his finger into one of Omar’s eyes, leaving him blind in that eye;
- a jet of high pressure water was sprayed up his nose until he thought he would suffocate;
- he was kept in solitary confinement for over eight months;
- on 9 and 11 September 2004 he was interrogated by Libyan intelligence agents who threatened him with violence and death. In addition, British intelligence agents are reported to have interrogated Omar Deghayes up to seven times while in Bagram and Guantánamo.

Family

“[The letters] are heavily censored – they just say things like ‘how are you?’ and ‘I’m fine’”

Taher Deghayes, Omar Deghayes’ brother.

Omar Deghayes’ family has found it difficult to deal with his long, indefinite captivity and the gruesome



allegations of torture. For most of the three years, their only contact with Omar Deghayes has been through heavily censored letters delivered by the Red Cross. Omar Deghayes' wife is distraught, and Omar Deghayes has not seen his son, who is now three, since he was a couple of months old.

Omar Deghayes' family is convinced this is a case of mistaken identity. Omar Deghayes' name appeared on the FBI's Most Wanted list, and the accompanying picture was taken from a training video of a Chechen separatist group. According to the family, the person in the video looks nothing like Omar Deghayes, a view supported by facial recognition experts.

Legal issues

In June 2004 the US Supreme Court ruled, in *Rasul v Bush*, that the federal courts have jurisdiction to hear *habeas corpus* petitions from foreign nationals detained in Guantánamo Bay. Yet none of the detainees still held there has had the lawfulness of his detention judicially reviewed. Instead, the administration set up Combatant Status Review Tribunals to determine if each detainee was an "enemy combatant". For this process, the detainee had no access to secret evidence used against him or to legal counsel. Meanwhile, the tribunals were allowed to draw on evidence extracted under torture or other ill-treatment.

Omar Deghayes was notified that one of these tribunals had found him to be an "enemy combatant", and that "the United States may continue to detain you".

After the June 2004 ruling, lawyers representing Guantánamo detainees filed *habeas corpus* petitions with the US District Court in Washington DC. The first judge on the DC District Court to interpret the *Rasul v Bush* decision, Judge Richard Leon, ruled in favour of the executive authority of the US President during war-time, holding that the Guantánamo detainees had no right to challenge the lawfulness of their detention.

Two weeks later, Federal District Judge Joyce Hens Green gave a different opinion. She rejected

the government's argument that the detainees have no substantive rights, and held that the detainees had the US constitutional right not to be deprived of liberty without due process of law. The government is seeking to have a higher court, the US Court of Appeals for the District of Columbia Circuit, resolve the difference of opinion between the two judges in its favour. Meanwhile, the legal limbo of the detainees continues, with none having had the lawfulness of his detention judicially reviewed.

Whatever the Court of Appeals decides, the case is likely to be sent for appeal to the US Supreme Court. This would keep the detainees in their legal limbo and leave the lawfulness of their detention unreviewed by the courts.

Citizenship

"The biggest fear is if they send him back to Libya."

Taher Deghayes, Omar Deghayes' brother

Omar Deghayes' situation is worsened by his citizenship status. He has had refugee status in the UK since 1987, and his family are all British citizens. Omar Deghayes had applied for citizenship, but missed an interview because he was abroad. The UK has argued that under international law it can only intervene on behalf of British citizens. Omar Deghayes still has a Libyan passport, which means it is left to the Libyan government, the same government that executed his father and threatened Omar Deghayes with torture, to make diplomatic representations on his behalf.

This raises the concern that, if released from Guantánamo Bay, the US authorities will send Omar Deghayes to Libya where he will be at risk of further torture. One of the Libyan agents who interrogated him in Guantánamo Bay allegedly said: "You will be brought to judgement in Libya. In here I cannot do anything but if I meet you [later] I will kill you."

TAKE ACTION FOR OMAR DEGHAYES

Write to the US authorities:

- Stating that Omar Deghayes and all other detainees must be given full and fair trials or released;
- Calling for a full and impartial investigation into the allegations of torture and ill-treatment of Omar Deghayes while in US custody, and that all those found responsible will be brought to justice;
- Reminding the US authorities that they cannot forcibly return anyone to a country where they might be tortured or ill-treated;
- Calling for the US government to set up a commission of inquiry into all aspects of the USA's "war on terror" detention policies and practices.

Write to the UK authorities:

- Calling on them to make representations on behalf of Omar Deghayes as a British resident with refugee status, and ensure that his family are being kept fully informed of his legal status and welfare;
- Seeking assurances that the allegations of torture and ill-treatment while in US custody have been raised with the US authorities;
- Calling on them to make sure that Omar Deghayes is not transferred to a country where he will face further torture and ill-treatment;
- Seeking assurances that he may be returned to the UK, and that he will be released or charged with a recognizably criminal offence and given a full and fair trial, and that evidence gained through torture would not be used against him.

WRITE TO:

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If you want to take further action on this case, please contact your national AI office