

USA

Who are the Guantánamo detainees?

CASE SHEET 23

February 2008

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Stateless Palestinian: Maher Rafat al-Quwari

ISN#: 519

Age: 43

“I am Palestinian and I have a wife and two children and we don’t have any official identification. I wanted to go to the UN to solve that problem...For that reason I decided to stay in a place where there was not a problem if you did not have identification. That is why I chose to go to Afghanistan.”

Maher Rafat al-Quwari is a stateless Palestinian. In February 2007, his lawyers learned that he has been declared eligible for release from Guantánamo, but he remains detained as he has no residency papers and no country to return to. His lawyers are seeking residency for him in a safe third country.

Maher al-Quwari was born in Gaza, in the Palestinian territories in 1965. He and his parents moved to southern Lebanon when he was a teenager, but by the time he was 18, both of his parents had died. He has no brothers or sisters. When he was about 20 years old he moved to Jordan where he met and married his wife with whom he has two sons. They lived in both Lebanon and Jordan, but Maher al-Quwari did not have official status in either country. He does not have a passport, any form of travel document or any identification papers.

In 2001 he says that he decided to travel to Pakistan, via Iran and Afghanistan, to obtain identification papers from the United Nations office in Quetta. He arrived in Afghanistan at the start of the US invasion in October 2001 and began working as a sheep trader in Jalalabad whilst organizing his travel to Pakistan. He says that after US forces attacked Jalalabad he fled fearing for his safety but was captured by local villagers in the Tora Bora mountain region whilst trying to escape. He was sold to the Northern Alliance who handed him over to US forces 40 days later. He was held in Bagram and Kandahar in Afghanistan before being

transferred to Guantánamo in July 2002. He asserts that he does not know how to use weapons and that he never fought or carried weapons while he was in Afghanistan.

Treatment in detention

Maher al-Quwari has alleged that he has been tortured and ill-treated during his time in US detention and when he was held by the Northern Alliance. He has stated that, whilst detained by the Northern Alliance he was beaten with a chain inside a hose and forced to sign a document written in Farsi, a language he does not understand. He alleges that he was beaten in Bagram and Kandahar and has told his lawyers that whilst in Kandahar he was subjected to strangulation, almost to the point of death. In Guantánamo he says that on one occasion he was shackled to the floor in a squatting position for hours, and had cold water thrown over him. He has further alleged that he has been subjected to sleep deprivation and threatened with being sent to Israel or Jordan, including by Jordanian officials who told him that they would “know how to make him talk”. Maher al-Quwari suffers from ongoing health problems as a result of his treatment and conditions of detention, including severe back and neck pain and digestive problems.

Isolation and sensory deprivation

Maher al-Quwari is held in Camp 6 at Guantánamo, one of the harshest of the detention facilities where detainees are held in conditions of extreme isolation and sensory deprivation.

In Camp 6, detainees are confined for between 22-23 hours a day to individual, enclosed, steel cells where there are almost completely cut off from human contact. The cells have no windows to the outside or access to natural light or fresh air. No activities are provided, and detainees are subjected to 24-hour lighting and constant observation by guards through the narrow windows in the cell doors. They exercise alone in a high-walled yard into which little sunlight filters. Detainees are often only offered exercise at night and may not see daylight for days at a time.

The US authorities have described Camp 6 as a “state of the art modern facility” which is safer for guards and “more comfortable” for the detainees. However, Amnesty International believes that the conditions, as shown in photographs and described by detainees and their attorneys, contravene international standards for humane treatment. In some respects, they appear more severe than the most restrictive levels of “super-maximum” custody on the US mainland, which have been criticized by international bodies as incompatible with human rights treaties and standards. Amnesty International has repeatedly raised concerns about conditions in Guantánamo and specifically about the impact of extreme isolation on the mental and physical health of detainees already distressed by the indefinite and prolonged nature of their detention.

Resettlement in a safe third country?

The US authorities have the ultimate responsibility for finding a durable solution for those detainees who cannot be returned to their countries of origin or habitual residence and should provide released detainees with the opportunity to apply for asylum in the USA if they so wish. Alternatively, the US authorities must actively and urgently facilitate the search for durable solutions in third countries, taking into account the

individual detainee's views and preferences in each case, in addition to the protection needs of the individuals. The detainee must not be subjected to pressures or restrictions that may compel them to resettle in a particular third country.

In the case of Maher al-Quwari, Amnesty International understands that he wishes to be resettled in a safe third country. As such, Amnesty International urges other governments to give active consideration to accepting Maher al-Quwari if he seeks resettlement there. Any such governments should reject any conditions attached to his transfer requested by the USA which would violate the receiving country's obligations under international human rights law.

TAKE ACTION FOR Maher Rafat al-Quwari

Write to the US authorities:

Noting that Maher Rafat al-Quwari has been cleared for transfer from Guantánamo for the past year, indicating that the US authorities do not intend to charge or try him;

Calling on the US authorities to actively and urgently facilitate the search for a durable solution for Maher al-Quwari in a third country, taking into account his individual views and preferences;

Appealing for Maher Rafat al-Quwari's family to be kept fully informed of his status, health and well-being, and for the US authorities to ensure that he has adequate communication with his family;

Calling on the authorities to take immediate steps to improve the conditions of confinement for those detained in isolation, including in Camp 6, in line with international standards;

Urging the authorities to investigate all allegations that Maher Rafat al-Quwari was tortured or ill-treated in US custody, to make the findings public, and to ensure that anyone responsible for such treatment is brought to justice;

Calling on the USA to close the detention facility at Guantánamo Bay and either release the detainees held there or charge and try them in accordance with international law in an independent and impartial court, without recourse to the death penalty.

APPEALS TO:

John B. Bellinger III, State Department Legal Advisor
Office of the Legal Advisor
US Department of State
2201 C Street NW
Washington, DC 20520
USA

Salutation: Dear Sir

Commander Joint Task Force Guantánamo
Department of Defense
Joint Task Force Guantánamo
Guantánamo Bay, Cuba
APO AE 09360

Fax: +1 305 437 1241

Salutation: Dear Sir

Sandra Hodgkinson
Office of Detainee Affairs
Office of the Assistant Secretary of Defense
2900 Defense Pentagon
Washington DC 20301-2900
United States of America

Email via: <http://www.defenselink.mil/faq/comment.html>

Salutation: Dear Assistant Secretary

COPIES TO:

The Honorable Gordon England
Deputy Secretary of Defense
1010 Defense Pentagon
Washington DC 20301-1010
United States of America

If you want to take further action on this case, please contact your national AI office
Amnesty International, International Secretariat, Peter Benenson House,
1 Easton Street, London WC1X 0DW, UK. www.amnesty.org