

USA

‘HE JUST DISAPPEARED FROM THE FACE OF THE EARTH’

BODY OF AFGHAN MAN TORTURED TO DEATH IN CIA CUSTODY STILL NOT RETURNED TO FAMILY

On 20 November 2002, Gul Rahman died in US custody in a secret detention facility near Kabul in Afghanistan operated by the USA’s Central Intelligence Agency (CIA). Thirteen years later, no-one has been brought to justice for this Afghan national’s enforced disappearance, torture and death. Indeed, the lead CIA interrogator in the case was rewarded and allowed to forego training.

To add yet more insult to injury, to this day Gul Rahman’s family has never officially been informed of his death by the US authorities and his body has still not been returned to them for burial.

His family have joined a lawsuit in US federal court brought against two psychologists for their role in designing and operating the CIA’s detention and interrogation programme.¹ Given the Department of Justice’s past practice, Amnesty International is concerned that the administration may seek to have the case dismissed under the “state secrets privilege”.² It should make no such move.

When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation

UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

The body of a deceased prisoner should be returned to his or her next of kin as soon as reasonably possible

UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)³

THE ‘SALT PIT’ OR ‘DETENTION SITE COBALT’

Gul Rahman was taken into custody on 29 October 2002 in a joint US/Pakistani operation in Islamabad and held there for about a week. On or around 5 November, he was “rendered” by the CIA from Pakistan to Afghanistan where he was taken to a secret CIA facility, which had opened in September 2002, on the site of an old brick factory near Kabul, known as the “Salt Pit.” He was dead less than three weeks later.⁴

In the summary of its study of the CIA’s detention and interrogation programme, the Senate Select Committee on Intelligence describes conditions in “Detention Site Cobalt” which appears to be the pseudonym for the “Salt Pit” facility.⁵ This summary was published on 9 December 2014. A year later the full report remains classified Top Secret, “buried in the back of a handful of Executive Branch safes” (see below). The White House and government agencies should commit to reviewing the full report, and it should be declassified and published.

The conditions in CIA detention facilities were designed to induce in detainees a state of “psychological disorientation” and sense of “learned helplessness”, to render them more vulnerable during interrogation. So-called “enhanced interrogation techniques” were developed, authorized and used, including stress positions, various forms of physical assault, and “water-boarding”, effectively mock execution by interrupted drowning. Detainees were also subjected to rectal rehydration and others were threatened with it. Senior CIA personnel were told of allegations that rectal exams were conducted with “excessive force” against detainees held at Detention Site Cobalt, information that appears not to have resulted in any sanction. Moreover, the “full details of the CIA interrogations there remain largely unknown” because “multiple uses of sleep deprivation, required [forced] standing, loud music, sensory

deprivation, extended isolation, reduced quantity and quality of food, nudity, and 'rough treatment' of CIA detainees" went undocumented.

In 2003, the chief of interrogations at Detention Site Cobalt told the CIA Inspector General that the facility was "good for interrogations because it is the closest thing he has seen to a dungeon, facilitating the displacement of detainee expectations". An analyst who conducted interrogations there characterised the facility as itself amounting to an "enhanced interrogation technique";

"the windows at Detention Site Cobalt were blacked out and detainees were kept in total darkness. The [redacted, presumably Afghan] guards monitored detainees using headlamps and loud music was played constantly in the facility. While in their cells, detainees were shackled to the wall and given buckets for human waste. Four of the twenty cells at the facility included a bar across the top of the cell. Later reports describe detainees being shackled to the bar with their hands above their heads, forcing them to stand, and therefore not allowing them to sleep."

The Senate Intelligence Committee's summary report quoted a senior interrogator who said that "literally, a detainee could go for days or weeks without anyone looking at him" and that his team had found one detainee who, "as far as we could determine", had been "chained to the wall in a standing position for 17 days". Some of the detainees "literally looked like a dog that had been kennelled. When the doors to their cells were opened, they cowered". Detainees stripped of their clothing were "kept in a central area outside the interrogation room" at the facility, and were "walked around" by guards as a form of humiliation, according to a CIA document cited by the Committee.

GUL RAHMAN'S TREATMENT

Detention Site Cobalt was itself hidden from the International Committee of the Red Cross, leading a military lawyer who visited it in November 2002 to warn that this concealment would involve legal risks for the military if military personnel were to interrogate a detainee there. The CIA apparently had no such concerns. That same month, CIA interrogators subjected Gul Rahman to "sleep deprivation, facial slap, use of cold (including cold cells and cold showers), 'hard takedowns', dietary manipulation, nudity, and light deprivation". He was also subjected to "auditory overload", presumably via the use of loud music. One of the cold water treatments on Gul Rahman was described to the CIA Inspector General by a CIA linguist:

"Rahman was placed back under the cold water by the guards at [CIA officer 1]'s direction. Rahman was so cold that he could barely utter his alias. According to the [on-site linguist], the entire process

lasted no more than 20 minutes. It was intended to lower Rahman's resistance and was not for hygienic reasons. At the conclusion of the shower, Rahman was moved to one of the four sleep deprivation cells where he was left shivering for hours or overnight with his hands chained over his head".

Around the time that Gul Rahman was being subjected to this torture and other cruel, inhuman and degrading treatment, "a delegation of several officers from the Federal Bureau of Prisons conducted an assessment" of Detention Site Cobalt. After their visit, on 4 December 2002, they met with officers at CIA Headquarters in Virginia and reported that they had been "WOW'ed" by the facility because they had never visited one where individuals were

"so sensory deprived, i.e., constant white noise, no talking, everyone in the dark, with the guards wearing a light on their head when they collected and escorted a detainee to an interrogation cell, detainees constantly being shackled to the wall or floor, and the starkness of each cell (concrete and bars)."

Gul Rahman was "shackled to the wall of his cell in a short chain position", naked from the waist down. On 20 November 2002, his dead body was found in his cell. He died "at the end of the Federal Bureau of Prisons visit to the CIA detention site", noted the Senate Committee.

The Senate Select Committee on Intelligence is not the only source of information about Gul Rahman's death. Nearly a decade before the Committee released its summary, the Washington Post had reported that "a newly minted CIA case officer in charge of a secret prison just north of Kabul allegedly ordered guards to strip naked an [unidentified] uncooperative young Afghan detainee, chain him to the concrete floor and leave him there overnight without blankets, according to four US government officials aware of the case. The Afghan guards – paid by the CIA and working under CIA supervision in an abandoned warehouse code-named the Salt Pit – dragged their captive around on the concrete floor, bruising and scraping his skin, before putting him in his cell, two of the officials said."⁶

A 2004 CIA Inspector General's report on CIA detentions and interrogations, a declassified version of which was released in 2009, described the "hard takedown" at the facility as a tactic that formed "part of the atmospherics":

"For a time, it was the standard procedure for moving a detainee to the sleep deprivation cell. It was done for shock and psychological impact and signalled the transition to another phase of the interrogation. The act of putting a detainee into a diaper can cause abrasions if the

detainee struggles because the floor of the facility is concrete”.

Someone who “assisted” in the interrogation of Gul Rahman was “Dr Hammond Dunbar”, the Senate Committee reported. In an interview after Gul Rahman’s death, he also gave a description of the “hard takedown” tactic:

“According to [Dunbar], there were approximately five CIA officers from the renditions team. Each one had a role during the takedown and it was thoroughly planned and rehearsed. They opened the door of [a detainee] cell and rushed in screaming and yelling for him to ‘get down’. They dragged him outside, cut off his clothes and secured him with Mylar tape. They covered his head with a hood and ran him up and down a long corridor adjacent to his cell. They slapped him and punched him several times. [Dunbar] stated that although it was obvious they were not trying to hit him as hard as they could, a couple of times the punches were forceful. As they ran him along the corridor, a couple of times he fell and they dragged him through the dirt (the floor outside of the cell is dirt). [The detainee] did acquire a number of abrasions on his face, legs, and hands, but nothing that required medical attention.”

ROLE OF PSYCHOLOGISTS

The Senate Committee summary reported that it had been “Dr Dunbar” who had “conducted an assessment of Gul Rahman to determine which enhanced interrogation techniques should be used on him”. The summary pointed to “Dr Dunbar” and another psychologist as having been the individuals contracted by the CIA to work on the development of its interrogation programme, and who became central to its operation as contract interrogators. The other was “Dr Grayson Swigert” – like Dunbar a pseudonym. In 2005, the two men formed a company, which then was contracted by the CIA to provide interrogators and “operational psychologists, debriefers, and security personnel on CIA detention sites”. The CIA paid the company tens of millions of dollars “for services in conjunction with the CIA’s Detention and Interrogation Program”. The summary calls the company “Company Y”.

In fact, the names of these contractors and their company had been in the public domain for years, indeed were published by the Senate Armed Services Committee in its November 2008 report on the treatment of detainees in US custody, six years before the Senate Intelligence Committee released its summary. Dr Grayson Swigert’s real name is Dr James Mitchell and Dr Hammond Dunbar is Dr Bruce Jessen. Company Y is Mitchell, Jessen and Associates.

The CIA interrogator (“CIA Officer 1”) who ordered Gul Rahman shackled overnight to the wall of his cell in Detention Site Cobalt in Afghanistan in

November 2002, and who had earlier ordered that the detainee’s clothing be removed due to his alleged lack of cooperation during interrogation, was recommended for a “cash award” of \$2,500 four months after Gul Rahman died on that night, “likely froze to death” as the Senate Committee put it. The recommendation was in recognition of the interrogator’s “consistently superior work”. The interrogator was formally certified as a CIA interrogator in April 2003 after the practical part of his training was waived because of his past experience at the secret detention facility.⁷

About three years after Gul Rahman’s death – with the fact of it now in the public domain – the CIA convened an “Accountability Board” on the case. The Board recommended that the interrogator in question be suspended without pay for 10 days. This “punishment”, the Board suggested, would strike a balance between the fact that the interrogator was the only person who made decisions that led directly to Gul Rahman’s death, and the “significant weight” which the Board attached to the “mitigating factors at play in this incident”. Even this 10-day suspension for causing the death of a detainee under indisputable cruelty was considered inappropriate by the CIA’s Executive Director K.B. Foggo. On 10 February 2003, he notified the interrogator that no action would be taken against him, explaining that: “While not condoning your actions, it is imperative, in my view, that they... be judged within the operational context that existed at the time of Rahman’s detention”. Foggo cited “cable traffic” showing that CIA headquarters was aware of the conditions of detention and interrogation techniques being used at Detention Site Cobalt.

TRUTH, REMEDY AND ACCOUNTABILITY

No one has been brought to justice for Gul Rahman’s torture, enforced disappearance, and death in custody. In August 2012, the US Attorney General announced that an investigation was closed and no charges would be filed against anyone.⁸ It did not name Gul Rahman publicly.

The Washington Post article in March 2005 that first reported that a young Afghan man in his 20s had died in the Salt Pit facility – although it did not name Gul Rahman – said that the dead man’s family had not been notified and his remains had not been returned to them for burial. “He just disappeared from the face of the earth,” an unidentified US government official was quoted as saying. To his family, 13 years after he was taken into custody, he remains disappeared, with no official confirmation of his death from the US government and his body still not returned to them.

The cruelty inflicted on families of those subjected to enforced disappearance has long been recognized. Over three decades ago, for example, the UN Human Rights Committee recognized “the anguish and stress caused to the mother by the disappearance of her daughter and by the continuing uncertainty

concerning her fate and whereabouts." The mother "has the right to know what has happened to her daughter" and in these circumstances was also a victim of the human rights violations suffered by her daughter, in particular violations of the prohibition of torture and other cruel, inhuman or degrading treatment.⁹ Other bodies, including international courts, have made similar findings since.

Gul Rahman's family, and wider society, have the right to know the truth about what happened to him. The USA professes to recognize the right to truth:

Respect for the right to truth serves to advance respect for the rule of law, transparency, honesty, accountability, justice and good governance... One of the core tenets guiding our participation as a member of the UN General Assembly is fidelity to the truth. We see the right to truth as closely linked to the right to seek, receive, and impart information under Article 19 of the International Covenant on Civil and Political Rights... In conclusion, we underscore that the right to truth is inextricably intertwined with the promotion of democratic ideals, human rights, and justice".¹⁰

In 2012, the European Court of Human Rights issued a ruling in which four of its judges wrote in a concurring opinion:

"In practice, the search for the truth is the objective purpose of the obligation to carry out an investigation and the *raison d'être* of the related quality requirements (transparency, diligence, independence, access, disclosure of results and scrutiny). For society in general, the desire to ascertain the truth plays a part in strengthening confidence in public institutions and hence the rule of law. For those concerned – the victims' families and close friends – establishing the true facts and securing an acknowledgment of serious breaches of human rights and humanitarian law constitute forms of redress that are just as important as compensation, and sometimes even more so. Ultimately, the wall of silence and the cloak of secrecy prevent these people from making any sense of what they have experienced and are the greatest obstacles to their recovery."¹¹

That case concerned Khaled El-Masri, who like Gul Rahman, was subjected to CIA rendition to Afghanistan and enforced disappearance and other ill-treatment in secret CIA detention there. Khaled El-Masri got out alive. Gul Rahman did not.

Gul Rahman died in the custody of a government which routinely portrays itself as the global champion of human rights and accountability. Here

then is another case that gives the lie to this claim. Although shockingly late in the day, the USA remains under an obligation to ensure truth, remedy and accountability, which includes providing justice and redress to the family of Gul Rahman. It can begin by formally notifying the family of Gul Rahman's death and returning his remains to them for a dignified burial.

'BURIED IN THE BACK OF A HANDFUL OF EXECUTIVE BRANCH SAFES'

It is now a year since the summary report of the Senate Select Committee on Intelligence's study into the CIA detention and interrogation programme was published. The full 6,700 page report remains classified Top Secret, gathering dust out of public view. Even government officials are failing to review it.

On 5 November 2015, US Senators Dianne Feinstein and Patrick Leahy wrote to Attorney General Loretta Lynch and FBI Director James Comey to express their grave disappointment that executive officials had not read and were not being permitted to read the full report, pending the outcome of litigation relating to it that had been brought under the Freedom of Information Act. The Senators urged the Attorney General and FBI Director to "disseminate the full and final Committee Study to appropriately cleared senior individuals in the Department of Justice and FBI, and instruct other appropriate federal departments to take the same position."

The Senators' letter concluded: "We hope you agree that the legacy of this historic report cannot be buried in the back of a handful of Executive Branch safes, never to be reviewed by those who most need to learn from it".

According to Senator Feinstein as Senate Intelligence Committee Chairperson in 2014, the full "excruciating" details on "each of the 119 known individuals who were held in CIA custody" are contained in Volume III of the final Committee's report. The many footnotes in the summary stating "see Volume III for additional information" direct the public to information it cannot see. This is secrecy blocking the individual and collective right to truth.

The White House and agencies should commit to reviewing the full report. The Department of Justice, in particular, should commit to reviewing the report and assessing whether it presents evidence that would warrant prosecution for federal crimes including torture, homicide, conspiracy, sexual assault and obstruction of justice.

The full report should be declassified, with priority for expedited release given to Volume III. The USA's obligation to disclose all evidence of human rights violations requires that it release the full picture.

ENDNOTES

- ¹ *Salim v. Mitchell*, Complaint and demand for jury trial, In the US District Court for the Eastern District of Washington, 13 October 2015.
- ² See, for example, USA: Remedy blocked again. Injustice continues as Supreme Court dismisses rendition case, 25 May 2011, <https://www.amnesty.org/en/documents/amr51/044/2011/en/>
- ³ The revised Standard Minimum Rules, adopted by the Third Committee of the UN General Assembly, are due for formal final adoption by the plenary of the UN General Assembly in December 2015.
- ⁴ See, for example, "Death shed light on CIA 'Salt Pit' near Kabul, 28 March 2010, http://www.nbcnews.com/id/36071994/ns/us_news-security/#.Vk3BMXbhDIU
- ⁵ For citations in SSCI report see Amnesty International, USA: Crimes and impunity, April 2015, <https://www.amnesty.org/en/documents/amr51/1432/2015/en/>
- ⁶ CIA avoids scrutiny of detainee treatment. Washington Post, 3 March 2005, <http://www.washingtonpost.com/wp-dyn/articles/A2576-2005Mar2.html>
- ⁷ See also "Who killed Gul Rahman?", The New Yorker, 31 March 2010, http://www.newyorker.com/news/news-desk/who-killed-gul-rahman?sm_au=iVVR5s88L4PnjSH5; "The charmed life of a CIA torturer: How fate diverged for Matthew Zirbel, aka CIA Officer 1, and Gul Rahman", <https://theintercept.com/2014/12/15/charmed-life-cia-torturer/>
- ⁸ Statement of Attorney General Eric Holder on Closure of Investigation into the Interrogation of Certain Detainees, 30 August 2012, <http://www.justice.gov/opa/pr/statement-attorney-general-eric-holder-closure-investigation-interrogation-certain-detainees>
- ⁹ *Quinteros v. Uruguay*, 21 July 1983.
- ¹⁰ Explanation of position by Laurie S. Phipps, Advisor, of the Proclamation of 24 March as the International Day for the Right to the Truth Concerning Gross Human Rights Violations and the Dignity of Victims Resolution, 11 November 2010, <http://usun.state.gov/briefing/statements/2010/151114.htm>
- ¹¹ *The case of El-Masri v. Former Yugoslav Republic of Macedonia*, 13 December 2012, Joint concurring opinion of Judges Tulkens, Spielmann, Sicilianos and Keller.