

PUBLIC

AI Index: AMR 51/026/2009

UA 49/09

Legal concern/III-treatment

19 February 2009

USA

Mohammed el Gharani (m), Chadian national, aged 22

More than a month after a US federal judge ordered that Chadian national Mohammed el Gharani be released from the US detention facility at Guantánamo Bay in Cuba, he is still held there. Taken into custody when he was a child, he has spent nearly a third of his life in US military custody. He is alleged to have been ill-treated since the judicial order for his release was handed down. He has previously been ill-treated in Guantánamo in the context of interrogations to which he has been subjected.

Judge Richard Leon on the US District Court for the District of Columbia (DC) ordered on 14 January that Mohammed el Gharani's detention was unlawful and that he should be immediately released. El Gharani, a Chadian national who was born and brought up in Saudi Arabia, has been held at Guantánamo as a so-called "enemy combatant" since February 2002. He was taken into custody by Pakistani forces in Pakistan in late 2001, at the age of 14, handed over to US authorities and taken to Kandahar air base in Afghanistan, before being transferred to Guantánamo.

Judge Leon ruled that the evidence against Mohammed el Gharani "consists principally of the statements made by two other detainees while incarcerated at Guantánamo Bay. Indeed, these statements are exclusively, or jointly, the only evidence offered by the Government to substantiate the majority of their allegations. In addition, unlike the other cases reviewed by this Court to date, the credibility and reliability of the detainees being relied upon by the Government has either been directly called into question by Government personnel or has been characterized by Government personnel as undetermined." "Simply stated," Judge Leon concluded, "a mosaic of tiles bearing images this murky reveals nothing about the petitioner with sufficient clarity, either individually or collectively, that can be relied upon by this Court." He ordered the government "to take all necessary and appropriate diplomatic steps to facilitate his release forthwith," (see USA: Judge orders release of detainee held in Guantánamo as child 'enemy combatant', 15 January 2009, <http://www.amnesty.org/en/library/info/AMR51/006/2009/en>).

Mohammed el Gharani is held in the harsh conditions of Camp 5 of the detention facility. Camp 5 was opened in 2004 as an isolation and interrogation facility in which detainees are held for up to 24 hours a day in small cells. Amnesty International understands that Mohammed el Gharani is being allowed out into Camp 5's exercise yard for about two hours a day, during which time he is also alone.

It is alleged that Mohammed el Gharani was subjected to repeated beatings by Guantánamo Bay's "Immediate Reaction Force" (IRF) following the order for his release last month. Over the years of the detention operations at Guantánamo, there have been consistent allegations of IRF teams using excessive force.

Mohamed el Gharani has previously been ill-treated in Guantánamo. Some details of this were revealed in a 2008 report by the Inspector General at the US Department of Justice. FBI agents described how in 2003, when still only 16 years old, el Gharani was "short-chained": a chain round his waist was bolted to the floor, preventing him from standing up straight. He was left like this for several hours. Another FBI agent stated that a military interrogator had ordered guards to place Mohammed el Gharani in a "stress position," described as being "shackled on the hands and feet and then chained to the floor to force him to sit on the floor or crouch without a chair." Left like this for several hours, el Gharani was forced to urinate on himself. El Gharani himself told investigators of another occasion when military guards chained him overnight for 12 to 16 hours.

The report also revealed that the teenager had been subjected to the “frequent flyer program” of disorientation and sleep disruption and deprivation that has been used against numerous detainees in Guantánamo (see USA: From ill-treatment to unfair trial. The case of Mohammed Jawad, child “enemy combatant,” August 2008, <http://www.amnesty.org/en/library/info/AMR51/091/2008/en>). Mohammed el Gharani has alleged that during interrogations in 2003, he was subjected to racist abuse, physical assaults, and doused with cold water.

BACKGROUND INFORMATION

Under international law and standards, detention and imprisonment of a child must be used only as a measure of last resort and for the shortest appropriate period of time. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. Under international law, states must adhere to the principle that the best interests of the child are to be a primary consideration in all actions concerning children who come into conflict with the law. However, the USA’s treatment of children labelled as “enemy combatants” has been conducted in accordance with its own perceived national security interests rather than the best interests of the child.

On 22 January, President Obama signed three executive orders on detentions and interrogations (see: The promise of real change. President Obama’s executive orders on detentions and interrogations, 30 January 2009, <http://www.amnesty.org/en/library/info/AMR51/015/2009/en>). One of the orders required his administration to close the Guantánamo Bay detention facility “as soon as practicable” and to conduct a review of all the cases of detainees held there to decide what should happen to them.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in your own words:

- expressing concern that Mohammed el Gharani is still detained in Guantánamo Bay, more than a month after District Court Judge Richard Leon ruled his detention unlawful and ordered his immediate release;
- expressing concern that Mohammed el Gharani is not only still in custody, but is being held in isolation in Camp 5;
- calling on the authorities to improve his conditions of detention immediately, give him increased time in the fresh air outside his cell and an end to his isolation, and allow him to telephone his family;
- expressing further concern at reports that he has been subjected to beatings by members of the Immediate Reaction Force, and calling for an investigation into these allegations and for the results to be made public;
- calling on the authorities to release him immediately to Saudi Arabia, where he resided and has immediate family, or, if this cannot be promptly arranged, to Chad, the country of his nationality, where he has extended family.

APPEALS TO:

The Honorable Eric Holder, Attorney General, US Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001, USA

Fax: +1 202 307 6777

Email: AskDOJ@usdoj.gov

Salutation: Dear Attorney General

The Honorable Robert Gates, US Secretary of Defense, 1000 Defense Pentagon, Washington DC 20301, USA

Fax: +1 703 571 8951

Salutation: Dear Secretary of Defense

Gregory Craig, Counsel to the President, The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500, USA

Fax: +1 202 456 2461

Salutation: Dear Mr Craig

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 2 April 2009.