

# Q-CAT

# QUAKER CONCERN FOR THE ABOLITION OF TORTURE

## MARCH 2016

## NEWSLETTER No.23

Charity No. 1093757

Our vision is to end torture and complicity in torture, upholding our testimony to peace and equality and working towards healing through reconciliation.

### In the News: two interesting items from the Guardian website

#### Shaker Aamer

On 14.12.2015 Richard Norton-Taylor wrote:

*The question of Britain's involvement in torture has been raised again by Shaker Aamer, the last British resident to have been released from Guantánamo Bay.*

*He says his head was banged against a wall at the US Bagram base in Afghanistan where he was first held and that a British intelligence officer was present at the time the "enhanced interrogation technique", which had not been approved by the UK, was carried out.*

*He says he will not sue the government. That may be because he has been offered a sum, perhaps in the region of £1m, in compensation, so long as he will not sue any government official or former minister in the courts.*

*In 2010, other British residents or citizens rendered to Guantánamo Bay were offered millions of pounds in compensation. Al-Saadi has accepted £2.2m in return for dropping his case.*

*Belhaj, however, is still pursuing his claim which the supreme court is now considering. The government argues that British courts cannot hear the case because agents of foreign powers, as well as British, were involved.*

*Dominic Grieve, the former Tory attorney general and new chairman of the parliamentary intelligence and security committee, said he hoped Aamer and other British former detainees would feel able to give evidence to his inquiry into UK involvement in torture.*

*Asked about the allegations that Straw and Blair would have known about the treatment of detainees at Guantánamo, Grieve said: "These are serious allegations and they are to be taken seriously and they are some of the issues that the intelligence and security committee will be asked to look into."*

*Asked if he would call Straw and Blair to give evidence, Grieve said: "We will go where the evidence takes us ... all such things are possible, I want to make that quite clear." Grieve added that if a British official witnessed torture, he would expect that official to report the matter to his senior managers.*

#### Unreliable evidence

On 10.2.2016 Clive Stafford Smith wrote:

*If false confessions are what the Republican presidential hopefuls want, then sleep deprivation and waterboarding are perfect. If they want useful information, they will be disappointed.*

Contd...

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*One of life's enduring mysteries is how intent politicians seem to be on ignoring the lessons of history. One recent example involves torture. There was once a consensus that torture was immoral; even today, any sensible person knows torture is of little use if you want accurate information. Yet the current crop of Republican presidential candidates have been trying to outbid one another with promises of barbarism: Senator Ted Cruz confirmed that he favours simulated drowning, which he classifies as an "enhanced interrogation technique" (EIT) that falls short of torture. (The Spanish Inquisition was rather more honest, and called it tortura del agua.) "The Donald" immediately trumped his rival: he would "bring back a hell of a lot worse than waterboarding".*

*If we know our history, it should not come as news that torture secures fantastically unreliable information. Consider just one under-reported example: Ibn Sheikh al-Libi – thought by the CIA to be number three in al-Qaida when he was detained in November 2001 – confessed under torture that Saddam Hussein was in league with al-Qaida in developing weapons of mass destruction. This "intelligence" was quoted by President George W Bush as a reason to launch a war, and it was hundreds of thousands of dead people later, and chaos across the Middle East, that the US worked out that al-Libi actually opposed Osama Bin Laden.*

*It would be easier to learn the lessons of history if we knew what that history was. In Britain, David Cameron now seems dead set on avoiding an open inquiry. One reason for a broader "torture debate" is reflected in a Guardian story detailing a new study on the effects of sleep deprivation: subjects who spent just one night awake were 4.5 times as likely to admit to something they did not do....*

*...The headline news of the study in the US National Academy of Sciences\* is that fully 50% of those who had gone just one night without sleep confessed without any meaningful pressure. Yet, when we pare away the emotion that surrounds the torture debate, it is important to recognise that eight of 44 subjects (almost one in five) who were fully rested confessed falsely as well. In other words, the mere appearance of authority can extract false information...The study also notes that those who scored lower on an intelligence test were more likely falsely to incriminate themselves...*

*Thus, the most important conclusion of the NAS study is that such false self-incrimination "is not out of the ordinary and may even be commonplace". Until we recognise this, we will have little understanding of how deeply flawed our justice system truly is.*

\*On sleep deprivation in general.

### **No Torture, No Compromise? The Heart of Darkness, Secrets and Lies**

This is the title of Chapter 5 of Shami Chakrabarti's book *On Liberty*, which starts by saying that among human rights some absolutes exist, particularly the rules against torture and slavery, though many have questioned this since 9/11. People have asked her why the Human Rights Convention allows killing – for example on the battlefield – but forbids torture and inhuman and degrading treatment in all circumstances including war or terrorist attack. Her answer rests partly on the word 'inhuman'. There is a fundamental understanding that torture and cruelty do something hideous not just to the victims but to the perpetrators and wider society. Death will of necessity come to us all but torture and depredation need not.

She speaks of the symbiotic but toxic relationship between secrecy and torture, and the inordinate lengths that governments will sometimes go to avoid scrutiny and accountability, which in the UK case led to the Justice and Security Act 2013 which allows closed material procedures supposedly in the name of national security. In this Act "centuries of British civil justice built on the principle of equality have been trashed for cash and avoidance of embarrassment."

She cites the case of Baha Mousa in Iraq as an example of torture and attempted cover-up among British forces. In September 2011 the Gage Inquiry found that Baha Mousa had been detained, tortured and beaten to death by British soldiers. The Ministry of Defence tried to limit blame to a few 'bad apples' but it was clear the fault was in the system. Six months before Baha was killed Lt.Col Mercer had advised that a judge be sent to Iraq to supervise handling of prisoners. One outcome of the affair was that military personnel were now to be trained in human rights values.

The chapter finishes "Neither a prime minister nor a judge should be able to dial up or sanction torture and I should never be able to argue that I was just following orders. That excuse for a chain of command ends humanity and responsibility for all concerned. It didn't work as a defence at Nuremberg in the last century and it should never be allowed in London, Washington or anywhere else in this supposedly more enlightened age."

## Backsliding on the torture ban

At a Freedom from Torture conference in October 2015 a keynote address “The case against backsliding on the torture ban” was given by Mr Juan Méndez UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The full text is on Freedom from Torture’s website: [www.freedomfromtorture.org](http://www.freedomfromtorture.org) and is well worth reading.\* Some of the points covered follow below.

In spite of the international obligation on states not merely to refrain from authorizing or conniving at torture but also to suppress, prevent and discourage such practices, there has, particularly since 9/11 been a regression in enforcing this, under the mantle of fighting the “War on Terror”. 38 member states of the UN have still to ratify the Convention Against Torture (CAT) and of the 157 that have, many do not live up to their commitments regarding implementation, which means many states are at risk of backsliding.

Méndez speaks about the broad range of very specific positive state obligations codified in the CAT aimed at preventing and combating torture. He lists 10 procedural safeguards that, if adequately implemented by states, could prevent further backsliding on the torture ban:

1. Abolition of secret detention
2. Abolition or tight regulation and control of incommunicado detention
3. Proper registration of every detainee from the moment of arrest or apprehension
4. Prompt access to legal counsel from the moment of arrest and access to relatives
5. Video/audio recording of all interrogations
6. Prompt access to an independent judge with powers to rule on the legality of arrest and the conditions of detention
7. Strict respect for the presumption of innocence
8. Prompt and independent medical examination of all detainees
9. Prompt, impartial and effective investigation of all allegations or suspicions of torture *ex officio*
10. Effective training of all officials involved in the custody, interrogation and medical care of detainees.

Regular and unannounced inspection of places of detention is one of the most effective preventative measures against torture and ill-treatment.

Two rules from the CAT are covered in some detail: the “exclusionary rule” that information obtained under torture cannot be allowed in court or in collecting, sharing and receiving information between states during intelligence

gathering; and the “non-refoulement provision” which prohibits the return of a person to a place where they could be in danger of being subject to torture.

Under the heading of Accountability Méndez refers to the Gibson Commission of Inquiry into the role of UK agents in rendition, detention and abusive interrogation, which was shelved. He is concerned that the subsequent investigation by the Intelligence and Security Committee (ISC) is “structurally unable of discharging the United Kingdom’s obligations to deliver an independent, effective, thorough and impartial investigation into these serious alleged violations since there are serious questions regarding the composition of the Committee and its restricted mandate. I await the report of the ISC to see if one of the recommendations may be the call for another judicial inquiry.”

It is worth quoting three paragraphs of his conclusion:

“If states effectively implement national preventative measures and take affirmative steps to enforce their obligations, torture could be eradicated in today’s world. Through standard setting an important normative framework on torture has been achieved at the international and regional level; the burden rests on national governments to acknowledge and implement the legal norms they have obligated themselves to uphold.

Backsliding is not an option; measures that permit torture or tend to make a state complicit in failing to stop torture by other states must be challenged. Every effort must be made to prevent further erosion of fundamental human rights principles.

I reiterate my strong conviction that the abolition of torture in law and practice is a goal that we can and must achieve. It is essential to regain a universal moral condemnation of torture that we had before 9/11 2001 and counter fallacious arguments about the “inevitability” or “necessity” of torture as well as the argument that it works. Torture diminishes the worth and dignity of victims, our institutions, and of our entire society, and it is up to us to recognize the essential moral imperative to prohibit torture and to fight against its use, and for accountability everywhere.”

\* The full text of the address is 17 pages long, but if anyone who is unable to access a computer is keen to read it, please let me know and I will send a copy. Jane Laxton

**Look out for this!**

**To be premiered at Britain Yearly Meeting** on Saturday 28<sup>th</sup> May at 5.30 – 6.30 in Drayton House

**'Feeding the Darkness'-Shining a light on State-Sanctioned Torture Through Story, Poem and Song'**

Q-CAT Trustees have commissioned this 65 minute performance from Journeymen Theatre. It uses both verbatim and lightly fictionalised (faction) material to portray and explore the impact of this dark trade on victims, their families, colluding bodies and perpetrators - and indeed on the unwitting support our ignorance and avoidance can give to those who sanction the use of torture. **'Feeding the Darkness'** can be followed by a discussion with performers and audience, including ways in which we can work towards 'shining a light' into these dark corners. Suitable for Age Range: 18+

After BYM Journeymen Theatre will tour with this production to Quaker or wider groups, on request.

*Journeymen Theatre is a professional Quaker touring company (supported by Stourbridge Quakers). They specialise in developing small scale performance based predominantly upon Quaker concerns. Journeymen's work is designed to be staged in any venue, theatre or non-theatre. There is normally no ticket charge for shows but donations from audiences are requested to support the company's on-going work with the Seir Women's Co-operative in Palestine's West Bank and with other Quaker Concerns.*

The next **Briefing** is due out in mid-April and the next **Newsletter** at the beginning of June.

**Q-CAT website**  
This is currently undergoing a complete reconstruction. We will let you know as soon as it is ready.

DONATION TO Q-CAT (Charity No. 1093757)

To the Treasurer: David Mellor, 23 Ebberston Road West, Rhos on Sea, LL28 4AP

Please accept the enclosed cheque/CAF voucher for £.....payable to Q-CAT.

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If you are a taxpayer you can increase the value of your donation to Q-CAT by 25% at no cost to you. Please complete the Gift Aid Declaration (not applicable to CAF vouchers).

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Signed.....

Dated.....

To receive newsletters by email contact Jane Laxton [from.qcat@hotmail.com](mailto:from.qcat@hotmail.com) and include your Local and Area Quaker Meetings if appropriate.

To receive newsletters by post please fill this in and send it to Jane Laxton, 79 Wellington Rd., New Brighton, Wirral CH45 2NE

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