

Center for Constitutional Rights

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Public Facing Advocacy Writing

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Military Lawyer Who Led Effort Against Unlawful Interrogation at Guantanamo Among Amicus Parties

September 29, Richmond, VA Last evening, six amicus briefs were filed with the Fourth Circuit Court of Appeals in support of four men suing private military contractor CACI Premier Technology, Inc. (CACI) for the company's role in torturing and otherwise seriously mistreating them at the infamous Abu Ghraib prison in Iraq.

The briefs were filed by Alberto J. Mora, former General Counsel of the United States Navy, who led efforts within the Defense Department to oppose Bush administration legal theories sanctioning torture and to end unlawful interrogation techniques at Guantanamo; constitutional scholars; prominent human rights organizations; the United Nations Special Rapporteur on Torture; survivors of human rights violations; and retired military generals, admirals, and other officers. The briefs were filed in the appeal of a district court ruling in the Center for Constitutional Rights case [Al Shimari v. CACI et al.](#) that effectively granted CACI immunity for its role in torture and other abuse at Abu Ghraib on the grounds that adjudicating the torture claims might implicate military policy and that the prohibition on torture was insufficiently clear to permit a court to evaluate the allegations of sadistic, cruel, and wanton abuse.

Former Navy General Counsel Alberto Mora wrote to the court:

The court *can* and *must* adjudicate the case. . . . [F]ailure to do so would cause massive damage to our national identity and values, our laws and legal system, our foreign policy and national security interests, and to the architecture of international human rights. In the United States, our independent courts were founded on the proposition that they should neither be completely submissive to the military nor willing to become submissive by disregarding the clear mandates of the law. Whether this proposition continues to be true is put to the test in this appeal.

[Al Shimari v. CACI et al.](#) was filed in 2008 on behalf of four Iraqi men who were tortured at the so-called hard site at Abu Ghraib. The men were subjected to electric shocks, sexual violence, forced nudity, broken bones, and deprivation of oxygen, food, and water. CACI's co-conspirators, Ivan Frederick III and Charles Graner, were court martialed and imprisoned for their role in the abuse of detainees, and implicated CACI interrogators in the abuse of detainees.

In June, a federal judge ruled that even though U.S. military investigators concluded that several CACI interrogators conspired with the U.S. soldiers to soften up detainees for interrogations, which contributed to sadistic, blatant, and wanton criminal abuses, CACI's responsibility for its role in the torture is a political question unreviewable by the courts. The amicus briefs support the plaintiffs' argument that torture is a legal question, not a question of policy, and that torture survivors must be able to seek accountability through the courts.

The prohibition on torture and inhuman treatment is a universal and absolute legal requirement; it is not a policy judgment left to the discretion of the military or its contractors, said **Center for Constitutional Rights Legal Director Baher Azmy**. As this broad range of amicus filings makes clear, the failure of courts to review these men's compelling claims of torture and abuse is inconsistent with our constitutional and international law obligations and undermines the strength of the torture prohibition here and abroad.

Last year, the Fourth Circuit Court of Appeals vacated the district court's earlier dismissal of the case, [reinstating](#) CCRs' claims and allowing the torture survivors to sue CACI under the Alien Tort Statute (ATS), which allows federal courts to hear suits for abuses committed abroad in violation of the law of nations.

Amicus briefs were filed by Alberto J. Mora, now at the Carr Center for Human Rights Policy at Harvard University's Kennedy School of Government; prominent constitutional law and federal jurisdiction scholars including Steven Vladeck; human rights groups including the American Civil Liberties Union, Amnesty International, and Human Rights Watch; the Center for Justice and Accountability on behalf of human rights survivors; the United Nations Special Rapporteur on Torture, Juan Mendez; and retired senior military officers. They are available on CCRs [case page](#).

Jeena Shah of the International Human Rights Clinic at Rutgers Law School-Newark, Patterson Belknap Webb & Tyler LP, and Shereef Akeel & Valentin, P.C. in Troy, Michigan are co-counsel on the case.

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, the Center for Constitutional Rights has taken on oppressive systems of power,

including structural racism, gender oppression, economic inequity, and governmental overreach. Learn more at ccrjustice.org.

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