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

<https://www.hrw.org/news/2008/08/22/uk-disclose-information-treatment-and-interrogations-guantanamo-detainee-binyam>

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Letter to UK Foreign Secretary David Miliband

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On August 21, 2008, Binyam Mohamed, a former UK resident detained at Guantanamo who is slated for trial before the military commissions, won the first stage in a battle for access to evidence showing he was tortured. The British government, which previously refused to turn over evidence that may back up Mohamed's claims, was given one week by a UK court to reconsider its refusal, concluding that the information is essential for Mohamed to adequately defend himself. In a letter sent today, Human Rights Watch urges the British government to disclose to Mohamed's lawyers any and all evidence it has about his interrogation and detention.

The Rt Hon David Miliband MP
Secretary of State for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH

Via facsimile

August 22, 2008

Dear Foreign Secretary,

We write to you in response to the High Courts ruling in the case of [Binyam Mohamed](#) on August 21, and urge you to disclose to his lawyers all available information related to his treatment and interrogations since his arrest in Pakistan in April 2002.

As you are aware, Mr Mohamed, an Ethiopian national and former United Kingdom resident, was arrested in Pakistan in 2002, reportedly rendered to Morocco, and then to Afghanistan, before ultimately being taken to [Guantanamo Bay](#) in September 2004. Mr Mohamed is now facing possible charges of conspiracy and material support for terrorism before military commissions at Guantanamo.

Mr Mohamed contends that the charges against him are largely based on confessions extracted through torture. In yesterday's ruling, the High Court noted that your office accepted that Mr Mohamed had established an arguable case that he had been subject to illegal renditions and torture by or on behalf of the United States. The High Court also found that the British government facilitated interrogations of Mr Mohamed, that a British agent visited Mr Mohamed in Pakistani custody on May 17, 2002, and that the UK government received information about Mr Mohamed from the United States until February 2003.

Shockingly, however, the United States government has refused to provide Mr Mohamed or his lawyers any information whatsoever about his treatment or whereabouts from the time of arrest in April 2002 until he was transferred to Bagram Air Force Base in Afghanistan in May 2004. To date, the UK government has similarly refused to provide Mr Mohamed's lawyers any such information, even though your office has acknowledged that some of the documents in your possession might be exculpatory.

The High Court has now required you to reconsider your refusal to provide this information, concluding that this information is not merely necessary but essential to Mr Mohamed's ability to adequately defend himself against the military commission charges. Moreover, as the High Court noted, it is essential that he be provided this information as soon as is practically possible. As of now, Mr Mohamed's charges have been prepared, but not yet signed off on by the military commissions convening authority. Mr Mohamed therefore has a significant interest in getting any exculpatory information to the convening authority before the final charging decision is made.

As the High Court found, it is lamentable that this information has not been provided by the United States to Mr Mohamed's counsel

particularly since both counsel are security-cleared. But the United States failure should not be an excuse for the United Kingdoms inaction. Rather, the United Kingdom should use the opportunity presented by the courts verdict to begin to remedy past wrongs and help ensure that Mr Mohamed be dealt with as fairly as possible while still being detained in Guantanamo.

Finally, we emphasize that the failure to turn over key documents to Mr Mohameds counsel is just one of the [military commissions systems fundamental flaws](#). We urge the United Kingdom to formally request that Mr Mohamed be prosecuted in a fair process by a US federal court, rather than the fundamentally flawed military commissions, and to redouble its efforts to secure Mr Mohameds release to the United Kingdom.

Yours Sincerely,

Tom Porteous
London Director
Human Rights Watch

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