

Human Rights Watch

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

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Complaint Provides First Look at Isolation and Abuse

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A lawsuit filed today against U.S. Secretary of Defense Donald Rumsfeld reveals the gratuitous cruelty inflicted on a foreign student held without charges for more than two years as an enemy combatant in a South Carolina naval brig, Human Rights Watch said.

Ali Saleh Kahlah al-Marri, a citizen of Qatar who had been studying in Peoria, Illinois, before his arrest, asked the federal district court in South Carolina to declare unconstitutional the severe and unnecessary deprivations and restrictions to which he has been subjected since he was placed in military custody in June 2003. Al-Marri had already initiated habeas proceedings challenging the legality of his detention as an enemy combatant. That case continues.

It is bad enough that al-Marri has been held indefinitely without charges and incommunicado, said Jamie Fellner, director of Human Rights Watch's U.S. Program. Now we learn that his life in the brig has also been one of cruelty and petty vindictiveness. Whatever the Bush administration believes he has done or wanted to do, there's no excuse for how they are treating him.

Al-Marri's complaint describes virtually complete isolation from the world. He has been confined round the clock in a small cell with an opaque window covered with plastic. He has not been allowed to speak to his wife or five children. He is allowed no newspapers, magazines, books (other than the Koran), radio or television. He is allowed no personal property. His cell contains a steel bed, a sink and a toilet. During the day, the mattress on his bed has been removed.

Out-of-cell time has been limited to three showers and three short periods of solitary recreation a week but al-Marri has frequently been denied that out-of-cell time. Once he went 60 days without being permitted to leave his cell at all. When bad weather prevents him from going outside, he must remain in hand cuffs and leg irons during his indoor recreation. Leg irons and handcuffs are placed on him when he goes to the shower.

Al-Marri alleges that on occasion he has been denied basic hygiene products such as a toothbrush, toothpaste, soap and toilet paper. When not provided with toilet paper, he has had to use his hands to clean himself after he defecates, and it has taken more than an hour before soap was brought to him so that he could wash his hands. The water in his cell has frequently been turned off. He has been denied socks or footwear for months at a time, including during the winter months. Officers at the brig often lower the temperature in his cell until it becomes exceedingly cold, but they do not give him extra clothes or blankets to keep warm.

According to al-Marri's complaint, he has not been formally interrogated for almost one year. He states, however, that when he was interrogated, government officials threatened he would be sent to Egypt or Saudi Arabia, where they told him he would be tortured and sodomized and his wife would be raped in front of him.

For more than a year, al-Marri was not allowed to speak with any non-governmental personnel other than representatives of the International Committee of the Red Cross. Military personnel guarding him would not talk to him other than to give him orders. In October 2004, the government finally agreed to let him have access to counsel.

Al-Marri is a devout Muslim. According to his complaint, military officials have not permitted him to meet with a Muslim cleric, do not let him have a prayer mat and punish him if he follows his religious requirement to cover his head while he prays (he uses a shirt for this purpose). They do not tell him which way Mecca lies, so he does not know in which direction to pray; nor do they provide him with a clock, so he does not know when to pray.

It's the combination of restrictions imposed on al-Marri that offends basic norms of decency, said Fellner. There is no security justification for them. The Pentagon apparently believes it can hold him under any conditions they choose for as long as they choose.

Al-Marri also claims he has been denied appropriate care for medical and mental health symptoms he has developed while in the brig. Prolonged solitary confinement pushes the boundary of what humans can psychologically tolerate. It can cause serious mental damage.

Al-Marri is a citizen of Qatar who lawfully resided in the United States, having come with his wife and children to obtain a graduate degree at Bradley University in Peoria, Illinois, the same university from which he had earned a bachelors degree 10 years earlier. The Federal Bureau of Investigation arrested al-Marri at his home in December 2001 as a [material witness](#) in the investigation of the September 11 attacks, and he was subsequently indicted on federal charges of credit card fraud and lying to the FBI.

In 2003, President Bush designated al-Marri an enemy combatant, and shortly before his criminal trial was to begin, the criminal charges against him were dismissed, and he was sent to the Consolidated Naval Brig in North Charleston, South Carolina. Lawyers for al-Marri immediately challenged the Presidents actions in federal district court in Illinois, where his criminal case had been pending, but the courts ultimately held that this challenge had to be brought in the district where al-Marri was presently confined. On July 7, 2004, counsel for al-Marri filed a writ of habeas corpus in federal district court in South Carolina, challenging the lawfulness of his detention. On July 8, 2005, the court ruled that President Bush has the authority to detain non-citizens who had been residing in the United States as enemy combatants.

Human Rights Watch condemns the designation by presidential order of any civilian as an enemy combatant when the individual was detained far from any battlefield. Holding someone in military custody without charges because of such a designation constitutes a violation of the prohibition against arbitrary detention under international law. By treating al-Marri as an enemy combatant, the Bush administration made an end-run around the due process and other constitutional guarantees of the U.S. criminal justice system.

Human Rights Watch disputes the governments contention that the laws of war permit holding al-Marri indefinitely and without charges. Those laws are not applicable outside areas of armed conflict and where there is no direct connection to an armed conflict. In the case of a civilian detained within the United States whether or not affiliated with any terrorist organization international human rights and constitutional law require that he be formally charged and given a fair trial before a civilian court.

Al-Marri is one of three men whom President Bush has designated as enemy combatants in the U.S. campaign against terrorism and who have been confined within the territorial United States. Lawyers for all three went to court challenging the lawfulness of their detentions. The government in each case insisted the president has the authority to decide unilaterally who is an enemy combatant and that anyone so designated is not entitled to a judicial hearing.

The first case was that of Yassir Hamdi, a U.S. citizen turned over to U.S. forces during the fighting in Afghanistan. In June 2004, the Supreme Court ruled that he was entitled to his day in court; the United States chose not to proceed with a hearing and allowed Hamdi to go to Saudi Arabia, where he also held citizenship.

The second designated enemy combatant was Jose Padilla, a U.S. citizen detained at Chicagos OHare Airport upon his return from the Middle East. According to the Bush Administration, Padilla had plotted with Al-Qaeda to commit terrorist acts in the United States. In June 2004, the Supreme Court ruled he had to bring his case before the federal district court in South Carolina, where he is being confined in the same navy brig as al-Marri. On February 28, 2005, the federal district court in South Carolina ruled that President Bush had no power, neither express nor implied, neither constitutional nor statutory to hold Padilla as an enemy combatant.

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