

Center for Constitutional Rights

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

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Public Facing Advocacy Writing

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March 8, 2021, Washington, D.C. Lawyers representing Guantanamo prisoner [Mohammed al Qahtani](#) are urging a federal judge to deny an effort by the Trump administration in its final days to reverse a court order to convene a panel of medical experts to evaluate him. A former Defense Department official appointed by Trump attempted to avoid convening the panel by purporting to make an exception excluding men imprisoned at Guantanamo from the military regulation requiring such an evaluation. Mr. al Qahtani is the only person imprisoned at Guantanamo whose torture has been formally admitted to by a U.S. government official, and he suffers from schizophrenia, diagnosed years before his detention, and major depression, and post-traumatic stress disorder (PTSD) stemming from his torture. He has attempted suicide multiple times, including twice within the last four months, when, in a haze of hallucinations, he swallowed broken glass and cut veins in his arms. He is legally entitled to a neutral medical evaluation to determine whether the United States may continue to detain him.

In an unclassified phone call with his lawyer, **Mr. al Qahtani** said, I feel so much worse. I tried to kill myself again. I was in a state of madness. I don't know what I did... Even the psychiatrists here told me I've reached a stage where I might kill myself without even realizing it. These are dangerous behaviors. They put me in the clinic at first and now I'm back in the cellblock. They're watching me but it's as if they're just waiting for me to kill myself.

Al Qahtani experiences a host of symptoms, including hallucinations, screaming, insomnia, crying for hours, banging his head against walls, impaired concentration and memory, hypervigilance, hopelessness, and physical pain throughout his body, among others.

Under a regulation with force of domestic law designed to comply with the Geneva Conventions, prisoners of war and other detainees in U.S. military custody are entitled to repatriation if they are sufficiently ill, as determined by a Mixed Medical Commission, composed of one doctor chosen by the government and two from neutral, third countries. In March 2020, a federal court found Mr. al Qahtani entitled to evaluation by a Mixed Medical Commission, and ordered one convened. Should the Commission move forward, this would be the first time anyone detained at Guantanamo was evaluated by such a panel. The Trump administration tried to appeal and to stay the order, but both the district court and the appellate court rejected these attempts. In a last-minute attempt to prevent al Qahtani's evaluation, on January 11, 2021 the 19th anniversary of the opening of the prison Trump's army secretary issued a memorandum purporting to except men detained at Guantanamo from the regulation, a move the brief filed today by Mr. al Qahtani's lawyers argues was not authorized by the regulation.

Our government knowingly tortured a man who was already suffering from schizophrenia from his teenage years, long before he was brought to Guantanamo. Eighteen years later, it serves no purpose to hold him alone in a largely-empty prison, where he is losing what little touch with reality he still has, said [Shayana Kadidal](#), Senior Managing Attorney at the Center for Constitutional Rights. He belongs in a psychiatric facility in Saudi Arabia.

Shortly after being rendered to Guantanamo in 2002, Mr. al Qahtani was subjected to physical, sexual, and psychological torture, including beatings, stress positions, restraints for months on end, extreme temperatures, sleep deprivation, forced nudity, threats to his family, religious humiliation, and other forms of abuse. He was hospitalized twice during his interrogations because he was on the brink of heart failure and death. Government-employed medical staff and psychologists were involved in his torture at Guantanamo, and Secretary of Defense Donald Rumsfeld personally signed off on it.

The Biden administration can and should reverse course on Trump's effort to resist the independent medical examination of a mentally ill prisoner that the U.S. government has admitted torturing, said [Ramzi Kassem](#), a professor at CUNY School of Law and the director of the CLEAR Clinic, which also represents Mr. al Qahtani. Time is of the essence for Mohammed al Qahtani, and his examination would confirm what should already be obvious: that the only fair and humane option is to repatriate him to Saudi Arabia where he can finally receive effective psychiatric care.

The legal brief argues that the Trump administration was not authorized to simply except men at Guantanamo from the protections provided under domestic law. The purported authority to deny Mr. al Qahtani and his fellow prisoners these protections boilerplate language allowing for waivers of certain policies consistent with controlling law and regulation is typically used to except *individuals* from broad policies, in order to avoid unintended negative consequences, such as creating an exception to a prohibition on facial hair in order to allow an individual to maintain facial hair for religious purposes. Instead, the brief argues, in making an exception excluding the men detained at Guantanamo from the regulation, the military has excepted *itself* from its obligations under the Geneva Conventions a consequence neither intended nor permitted under the purported authority to provide exceptions.

I am a human being, Mr. al Qahtani told his lawyers. Why should I be the exception to the examination by Mixed Medical Commission? Why should someone like me who's sick not be entitled to an independent medical examination? Why should I be deprived of my right to live? The U.S. agreed to this many years ago as part of the Geneva Conventions. I can't believe that a single individual can undo everything with the stroke of a pen.

For more information, [visit the Center for Constitutional Rights case page](#).

The CLEAR project (Creating Law Enforcement Accountability & Responsibility) is based out of Main Street Legal Services, Inc., the clinical arm of CUNY School of Law. CLEAR serves Muslim and all other clients, communities, and movements that are targeted by local, state, or federal government agencies under the guise of national security and counterterrorism. Learn more at www.cunyclear.org and follow CLEAR on social media: @CUNY_CLEAR on Twitter, CUNY CLEAR on Facebook, and CUNY_CLEAR on Instagram.

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