

BHATT MURPHY SOLICITORS

STATEMENT:

RANGZIEB AHMED v MI5, MI6, FOREIGN OFFICE, HOME OFFICE & OTHERS

Hearing before the High Court: w/c 26 October 2020

**UK Government seeks to prevent scrutiny
of British intelligence agencies' unlawful conduct**

1. Later in October 2020, the High Court will hear yet another attempt by the UK Government to prevent scrutiny of the involvement of the British intelligence agencies in the mistreatment of detainees in the custody of foreign states.
2. The case concerns a claim by Rangzieb Ahmed about the role of the British intelligence agencies in his unlawful detention and treatment by the Inter-Services Intelligence (ISI) in Pakistan between 20 August 2006 and 7 September 2007. It raises very serious concerns of constitutional importance about the conduct of those agencies and, indeed, of the UK Government.
3. It is Mr Ahmed's case that the conduct of the British intelligence agencies in facilitating his interrogation in the custody of the ISI was such as to expose him to arbitrary detention and torture or other ill-treatment for which they should be required to answer before the Court.
4. The UK Government seeks to argue that Mr Ahmed's claim should be struck out as an abuse of process on the grounds that he is seeking to re-litigate in the civil courts matters that were determined in criminal proceedings in which he was convicted of terrorist offences. Significantly, however, the offences for which he was convicted relate to matters which occurred before his detention in Pakistan, i.e. the events upon which his civil claim is premised have no relationship at all with the criminal charges.
5. At the hearing of the case – when the High Court will be asked to consider whether it should take place behind closed doors contrary to the usual 'open justice' principles – the UK Government will be required to justify its stance in the face of the "Report on Detainee Mistreatment and Rendition 2001-2010" of the UK Parliament's Intelligence and Security Committee ("ISC"). The report – published in June 2018 – documents a broader pattern of the British intelligence agencies' conduct and knowledge in relation to detainee mistreatment in foreign states such as Pakistan, evidence of which was not available to the criminal courts that considered Mr Ahmed's allegations before that date.

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6. The High Court's attention will also be drawn to other significant material which was not available in the criminal proceedings but is now in the public domain to give a full and accurate picture of the propensity of the British intelligence agencies in the relevant period to facilitate, assist and encourage foreign states to breach international human rights norms in order to obtain intelligence considered useful the broader pattern of conduct and knowledge of the British intelligence agencies in relation to detainee mistreatment in foreign states. This includes material relating to the unlawful detention and ill-treatment of individuals such as Binyam Mohammed, Abu Zubaydah, Abdi-Hakim Belhaj and his family.
7. In those circumstances, it is clear that Mr Ahmed's case is not an abuse of process. On the contrary, it is of critical importance to our rule of law – and therefore to our democracy – that his serious allegations concerning the complicity of the Security Services in torture and ill-treatment abroad are properly determined on the basis of the available evidence about their conduct.

12 October 2020

Bhatt Murphy
Solicitors for Rangzieb Ahmed

Note:

- For background and further details, please see the attached extracts from the statement made by the Rt Hon David Davies MP in the course of an adjournment debate in the House of Commons on 7 July 2009 (HC, Hansard, 7 July 2009, Cols 940).
- This is the second attempt by the UK Government to strike out Mr Ahmed's claim. In March 2012, they tried to argue that the claim should be struck out without allowing Mr Ahmed and his legal team to rely upon relevant sensitive material that they had been required to disclose in the criminal proceedings subject to 'in camera' rulings which prevented any access outside those proceedings. That rather unbecoming argument was rejected at a hearing in October 2012 when the High Court ordered that the necessary arrangements should be made for the sensitive material from the criminal proceedings to be shared with Mr Ahmed and his legal team.
- Some eight years later – in the course of which the UK Government declined to proceed with their strike out application on the basis that they needed to await the outcome of proceedings in a separate case unrelated to Mr Ahmed or his claim – there is no longer any excuse available to prevent the matter coming back before the High Court.
- On this occasion, the High Court will be able to consider, not only the open court findings in his criminal proceedings which positively support his pleaded allegations, in particular that he was the victim of both illegal detention and inhumane conditions of detention, but also the relevant parts of the sensitive material that the Security Services previously sought to withhold.

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Extracts from statement made by the Rt Hon David Davies MP in the House of Commons on 7 July 2009 (HC, Hansard, 7 July 2009, Cols 940).

In the case I am about to describe, we can follow the entire chain of events from original suspicion, through active encouragement of the Pakistani authorities to arrest and through the subsequent collaboration between UK and Pakistani agencies. This is the case of Rangzeib Ahmed, a convicted terrorist, whose treatment I can describe in some detail.

*As the house will realise, the account I am about to relay comes from several sources. I cannot properly give my sources, given the vindictive attitude of this government, particularly the Foreign Office, to whistleblowers. Indeed, in this case of Rangzeib Ahmed, the authorities were so paranoid that they threatened to arrest a journalist for reporting facts stated in open court. Nevertheless, although I am prevented from naming my sources, I can say that I am confident of these facts beyond reasonable doubt. I will not, of course, disclose any names, or anything that discloses intelligence agency techniques – other than *torture* – or other issues that threaten national security.*

I should say that the individual whose case I am going to describe is not someone for whom I have any natural sympathy. He is a convicted – indeed, self-confessed – terrorist. So what I am talking about today is just as much about defending our own civilised standards as it is about deploring what was done to this man in the name of defending our country.

In 2005-06, Rangzeib Ahmed was a suspected terrorist who was kept under surveillance for about a year before leaving the country to go first to Dubai and on a subsequent trip to Pakistan. During that time, evidence was collected against him, on the basis of which he was later convicted. Let me repeat that point, as it is very important to my subsequent argument – during that time, evidence was collected, on the basis of which he was subsequently convicted.

Despite the authorities having that evidence, he was – astonishingly – not arrested but instead allowed to leave the country. To understand how odd this decision was, we should remember that this was only a year after the tragedy of 7/7, after which agencies were criticised for allowing terrorist suspects to leave the country to go to Pakistan. Since they knew he was leaving, since they knew where he was going, and since they had more than enough evidence to arrest him, allowing him to leave was clearly deliberate. That the authorities knew his itinerary is demonstrated by the fact that he was kept under surveillance when he was in Dubai. He later went on to Pakistan, where the Pakistani authorities were warned of his arrival by the British government. The British intelligence agencies wrote to their opposite numbers in Pakistan – the members of the directorate for inter-services intelligence – suggesting that they arrest him. I use the word "suggest" rather than "request" or "recommend" because of the peculiar language of the ISI's communication. No doubt the minister can confirm that

for himself by asking to see the record.

We also know that the intelligence officer who wrote to the Pakistanis did so in full knowledge of the normal methods used by the ISI against terrorist suspects that it holds. That is unsurprising, as it is common public knowledge in Pakistan. The officer would therefore be aware that "suggesting" arrest was equivalent to "suggesting" torture.

Rangzeib Ahmed was arrested by the ISI on 20 August 2006. Once he was taken into custody in Pakistan by the ISI, the Manchester police and MI5 together created a list of questions to be put to him. MI5 arranged for those questions to be given to the ISI.

Rangzeib Ahmed was viciously tortured by the ISI. He says, among other things, that he was beaten with wooden staves the size of cricket stumps and whipped with a 3ft length of tyre rubber nailed to a wooden handle, and that three fingernails were removed from his left hand. There is a dispute between Ahmed and British intelligence officers about exactly when his fingernails were removed, but an independent pathologist employed by the Crown Prosecution Service confirmed that it happened during the period when he was in Pakistani custody.

Rangzeib was asked questions, under torture, about the UK by ISI officers. He claims that he saw "UK/Pakistan Secret" on the question list used by the ISI. That was presumably the list put together by the Manchester police and MI5. After about 13 days, he was visited by an officer from MI5 and another from MI6. He claims to have told them, during questioning, that he had been tortured. They deny that, but it is significant that they did not return for further interviews. By that stage, MI5 policy was not to return after any interview in which the subject claimed that he had been tortured. The British agents did not return, but Rangzeib was subsequently questioned by Americans.

Is it also an extraordinary, if sinister, coincidence that the Manchester police accessed Rangzeib Ahmed's medical records within days of the MI5/MI6 interview? Why would they do that if he was in perfect health?

Rangzeib Ahmed was kept in detention by the Pakistani authorities for a total of 13 months – first at the ISI centre, then at Rawalpindi and then at Adiyala jail – before being deported to the United Kingdom in September 2007. He was tried and convicted of terrorist offences in late 2008 – according to the prosecution, entirely on the basis of evidence obtained while he was under surveillance in the UK and Dubai in 2005-06. I cannot imagine a more obvious case of the outsourcing of torture, a more obvious case of "passive rendition".

Let me recap. Rangzeib Ahmed should have been arrested by the UK in 2006, but he was not. The authorities knew that he intended to travel to Pakistan, so they should have prevented that; instead, they suggested that the ISI arrest him. They knew that he would be tortured, and they arranged to construct a list of questions and supply it to the ISI.