

By Katherine Gallagher

From [The Gaurdian](#) | Original Article



One thing brings together these four men - Hassan bin Attash, Sami el-Hajj, Muhammed Khan Tumani and Murat Kurnaz: they are all survivors of the systematic torture program the Bush administration authorized and carried out in locations including Afghanistan, Iraq, Guantánamo, and numerous prisons and CIA "black sites" around the world. Between them, they have been beaten, hung from walls or ceilings, deprived of sleep, food and water, and subjected to freezing temperatures and other forms of torture and abuse while held in US custody.

None was charged with a crime. Two were detained while still minors. And one of them remains at Guantánamo.

This week, in a complaint filed with the United Nations committee against torture, they are asking one question: how can the man responsible for ordering these heinous crimes, openly enter a country that has pledged to prosecute all torturers regardless of their position and not face legal action?

The Center for Constitutional Rights (CCR) and the Canadian Centre for International Justice (CCIJ) filed the complaint on the men's behalf. The country in question is Canada, visited last year by former US President George W Bush during a paid speaking engagement in Surrey, British Columbia.

Bush's visit drew hundreds in protest, calling for his arrest, and it also provided bin Attash, el-Hajj, Tumani and Kurnaz the opportunity to call on the Canadian government to uphold its legal obligation under the UN convention against torture, and conduct a criminal investigation against Bush while he was on Canadian soil.

To this end, the four men, submitted a 69-page draft indictment (pdf) that CCR and CCIJ had presented to Canada's attorney general ahead of Bush's arrival in support of their private prosecution. The submission included thousands of pages of evidence against Bush, consisting of extensive reports and investigations conducted by multiple US agencies and the UN. The evidence is overwhelming - not to mention the fact that Bush has admitted, even, boasted of his crimes, saying "damn right" when asked if it was permissible to waterboard a detainee, a recognized act of torture.

Canada should have investigated these crimes. The responsibility to do so is embedded in its domestic criminal code that explicitly authorizes the government to prosecute torture occurring outside Canadian borders. There is no reason it cannot apply to former heads of state, and indeed, the convention has been found to apply to such figures including Hissène Habré and Augusto Pinochet. A criminal investigation into the allegations was the lawful thing to do. It was also what Canada had agreed to do when it pledged its support to end impunity for torture by ratifying the convention.

But Canada looked the other way. Not only did federal Attorney General Robert Nicholson refuse to investigate Bush, but the attorney general of British Columbia swiftly intervened to shut down a private criminal prosecution (pdf) submitted to a provincial court in his jurisdiction the morning of Bush's visit.

Thanks to the Obama administration's call to look only "forward" - even in the face of torture that demands a proper reckoning - and a court system in the US that has readily closed its doors to torture survivors, the crimes of the Bush era are effectively beyond the reach of justice in the US. But the immunity - the impunity - granted to these criminals here should not follow them into other countries, particularly those that are signatories to international laws and treaties against torture.

If the UN convention against torture is to have any hope of fulfilling its mission of preventing torture, the committee must send countries like Canada a clear message: it is their legal obligation to ensure there is no safe haven for torturers; and any action to the contrary makes

these states effectively complicit in furthering impunity for some of the worst crimes of the past decade.

These four survivors are asking the UN to enforce its own convention, nothing more and nothing less. They call upon the UN, unlike Canada, to unequivocally reject a worldview in which the powerful are exempt from rules, treaties and prohibitions against senseless acts of barbarity. Will the UN now hear their call?