

5 YEARS OF GUANTÁNAMO

Clive Stafford Smith reports on

Guantánamo Bay has just reached its fifth anniversary. I have been there 16 times, and in two decades of representing people on death row, I have never seen prison conditions as harsh. Here the men wait in solitary confinement, in limbo, without charges, with President Bush asserting his right to hold them until the end of the war on terror, perhaps two generations hence.

There are roughly 385 prisoners left in Guantánamo. Foremost in our thoughts on this shameful anniversary should be

the families of those who were British residents and the failure by Tony Blair's government to bring these husbands, fathers and sons home. On page 4-5, we tell some of their stories.

And we should also spare a thought for the estimated 13,600 other ghost prisoners held in secret American detention centres around the world. At least we know the names of the men in Guantánamo; for 97 per cent of the prisoners, families may not even know whether their loved one is still alive.

THE SONG NOT THE SINGER

Musicians may yet succeed where human rights lawyers have failed

Q: What do Aerosmith, Eminem, Don Mclean, Bruce Springsteen, Tupac, Meatloaf and the theme tune of Barney, the purple talking dinosaur, have in common?

A: All of their music has been used by the US government to torture prisoners in the War on Terror – by blasting it at them at full volume for 24 hours a day.

The torturers' choice of tunes has been highly questionable. For example, Springsteen's 'Born in the USA' has been a favourite in the secret prisons. Yet the ultimate message of the song is harshly critical, condemning war in Vietnam, and describing a returning veteran's struggle to rejoin the society that sent him to war

Other lyrics being used by today's torturers seem equally inappropriate. In 'White America' Eminem raps that he plans to 'piss on the lawns of the White House' and 'spit liquor in the faces of this democracy of hypocrisy'.

But the then US Secretary of Defense Donald Rumsfeld should have been more careful because some of these sensitive artists may well be offended that their music is being used to abuse. While the Bush Administration may have abolished virtually all legal rights of prisoners in the War on Terror, they failed to eliminate copyright law for musicians.

Even if torture victims cannot sue these days, artists can – and because the torturers did not get permission to spin particular discs, they are liable for royalties.

This means that one day Rumsfeld will end up on the wrong end of a lawsuit and will have to explain how many times each song was played, and why a particular tune was selected. We may yet see a day when copyright lawyers succeed where human rights lawyers have so far failed – in holding the American government to account.

YOUNG AMERICANS TAKE ON

DEATH PENALTY

REPRIEVE recently selected three young opponents of the death penalty to work in the US, fighting for the lives of prisoners facing the death penalty. The competition for these fellowships is fierce.

The 2007 **REPRIEVE** Fellows are Frances Bourliot, Christine DeMaso and Michael Moore, all from the United States. Frances will be transforming the way the state of Texas conducts eye-witness identifications to minimise the likelihood of wrongful convictions.

Christine will be challenging the execution of accomplices to murder who did not actually kill or intend to kill. Michael will be enlisting a new generation of capital defence investigators to work in the Deep South.

In 2007, these new **REPRIEVE**

Fellows will begin their battles on behalf of the men and women facing the executioner. Working long hours and driving huge distances between prisons, they will be knocking on doors looking for reluctant witnesses, digging their way through archives and storage rooms in sleepy court-houses searching for that critical piece of evidence that could save someone's life by proving their innocence.

Meanwhile back in London, **REPRIEVE** is searching for more sponsorship for the fellowship programme. Each fellowship costs £20,000 a year. Gradually more individuals and corporations are stepping forward, attracted by a unique opportunity to sponsor an individual who will deliver justice and save lives.

REPRIEVE EVENTS

Bridewell Theatre, Bride Lane, Fleet Street, London, EC4

Monday 26 March
Tuesday 27 March
Thursday 29 March to
Thursday 5 April

'This is a True Story', a play written by Nick Harrington and Tom Wright. It was last performed in London in 2001, and tells the story of Howard Neal who has been on death row in Mississippi for more than 25 years. Howard is mentally disabled and the play follows his life from childhood to his lonely cell on death row.

Tickets cost £10, available from Caroline Morten at **REPRIEVE** on 020 7353 4640

Lent Festival, St Bride's Church, Fleet Street, London, EC4

A festival of music, events and drama in support of **REPRIEVE** every Wednesday at 7pm during Lent.

Wednesday 21 February	Allegri Miserere*
Wednesday 28 February	'Witness from Death Row'. Nick Yarris who spent 23 years on Pennsylvania's death row before being exonerated will tell his story.
Wednesday 7 March	Carissimi and Scarlatti*
Wednesday 14 March	'Can the Death Penalty ever be Justified?' A debate led by Clive Stafford Smith, REPRIEVE 's founder and legal director, who will be joined by a panel of journalists and exonerees.
Wednesday 21 March	Howells Requiem*
Wednesday 28 March	'This is a True Story' (see above, for details of this play)
Wednesday 4 April	Stainer Crucifixion*
Wednesday 18 April	Handel Messiah: REPRIEVE Gala evening followed by a reception*

Tickets for the festival events cost from £10.

*Tickets for concerts are available from: <http://www.stbrides.com/ticket/index.php>

Tickets for all other events are available from Caroline Morten at **REPRIEVE** 020 7373 4640

THE REALITY OF EXECUTIONS

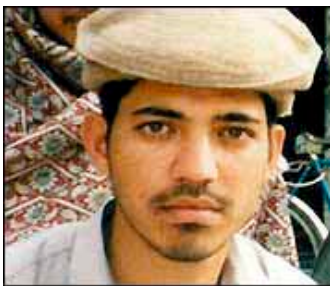
The western media has declared itself shocked at the way in which the executions in Iraq were carried out in January.

First, Saddam was mocked and humiliated on the gallows by masked officials; and at the subsequent executions of two of his associates, one had his head ripped off by the noose. Even supporters of the death penalty have complained that the executions should have been handled in a more decorous and civilised manner. Yet some American newspapers' immediate response

to Saddam's death (before the unofficial mobile phone footage was released) was anything but dignified or civilised and, instead, showed much in common with the gloating, masked guards. 'Yo, Saddam! Say Hi to Hitler'; 'Saddam: the King of Swing', were just two of the jeering headlines.

The hangings in Iraq must finally give the lie to the idea that executions can ever be anything other than barbaric. The reality is – whatever method is used; however sanitised it may appear

Only a few weeks ago, Mirza Tahir Hussain was being advised to make plans for his burial. Today, he is back in Leeds. Zachary Katznelson reports



When I met Mirza Tahir Hussain (pictured above) on 3 October 2006, he was weeks away from death. Sentenced to die for an act he always maintained he committed in self-defense, Tahir sat on death row in Pakistan. He had been there for 18 years. Now, his execution date had been set: 1 November.

I had been in Pakistan lobbying government officials to intervene, to exercise their power to reverse a massive injustice. As I sat with him, an official joined the conversation. She asked of Tahir's health, joked for a moment or two, then got starkly serious: the time had come, she told Tahir, for him to start to think about his wishes for burial, about what he wanted to do with his few belongings.

As we spoke, Tahir sat behind steel bars in a barren, concrete courtyard. Inside the courtyard were two 10 foot by 8 foot cells where Tahir and six other men awaited their deaths. I sat on a plastic stool in a separate courtyard, roses incongruously dotting the grounds. Behind me, in the direct line of Tahir's sight was a 4 metre-high brick wall. Behind the wall sat the gallows on which he was due to hang.

Only 36 years old, he moved like an old man. Every breath was

slow, almost laboured. His hair was white, his beard silver.

Six weeks later, I saw Tahir again. This time, we were not separated by bars and there were no gallows nearby. Instead, we were near Russell Square in central London. The day before, Tahir Hussain had landed at Heathrow Airport a free man, thanks to the tireless efforts of his brother Amjad, who quit his job to campaign for his brother, assisted by **REPRIEVE**, Amnesty International, Fair Trials Abroad, Human Rights Watch, Islamic Human Rights Committee and the Muslim Council of Britain.

Tahir was set free because people with power recognized the injustice of his case and stepped forward. The prime minister, responding to calls from **REPRIEVE** and others, raised the matter twice personally with President Musharraf of Pakistan. Prince Charles similarly made a personal plea for Tahir's life. This was the first time in recent memory that a member of the royal family had intervened in such a case. And the pressure paid off. On 16 November, President Musharraf commuted Tahir's death sentence to life in prison. In Pakistan, a life sentence computes to approximately 12 years. Tahir had already served 18, so the next day, he was put on a plane and sent home. His brother Amjad greeted him joyously at the airport, reunited with his kid brother for the first time in almost two decades. The readjustment to life as a free man will take a while, but for Tahir and his family, finally, after 18 years, the nightmare was over.

– there is no civilised way for the State to snuff out the life of a human being. The hangings in Iraq merely exposed the process as state-sponsored brutality, with revenge, rather than justice, at its heart.

REPRIEVE director Clive Stafford Smith says: 'Perhaps the most offensive execution I had to attend was Leslie Martin's, where the spectators chatted merrily away through the process, then cheered and clapped at the end. For the Bush administration to be sanctimonious about the ghastly

tableaux of Saddam Hussein's execution is simple hypocrisy.'

In the words of Edward Fitzgerald QC, a barrister who acts for prisoners on death row in the Caribbean: 'In order to kill someone, people have often to work themselves up into a state of inhumanity. It's not a surprise that the guards taunted [Saddam]. But it just shows how the death penalty brutalises us. The idea that it's going to be some sort of clinical exercise in justice is a dream.'

Fiona Bawdon

THE WAITING GOES ON

5 years on, the families of the 10 British residents held at Guantánamo Bay still have no idea when their loved ones will be released



The families of prisoners, including Anas El Banna (third from left) held a candlelight vigil outside Downing Street in January 2007 to mark the fifth anniversary of the opening of Guantánamo Bay and to try to persuade the government to act

On 11 January 2002, the first 20 people were flown from Afghanistan to Guantánamo Bay, characterised by the then US Secretary of State for Defense Donald Rumsfeld as ‘the least worst place to hold them’. Since those first weeks of 2002, the prison has held well over 700 prisoners, been the focus of constant media attention, and been a cause of complaint for governments and other organisations around the world. Yet five years on, 395 prisoners remain detained indefinitely without trial at Guantánamo Bay, and at least a third of those remaining prisoners have not even had the chance to meet a lawyer.

Lawyers at **REPRIEVE** represents 38 people held at Guantánamo Bay, including 10 prisoners who were British residents. With the passing of the fifth anniversary of the opening of Guantánamo Bay, we highlight the stories of two of them: Bisher Al-Rawi and Jamil El-Banna.

Bisher Al-Rawi is a 39-year-old Iraqi citizen. He left Iraq in 1984 after his father was detained and tortured under Saddam Hussein’s regime. Bisher lived with his parents, sister and brother in Kingston-upon-Thames for almost 20 years. He was the only one of his family to have retained Iraqi citizenship after fleeing the Ba’athist regime, as it was decided that this was the best chance the family had of reclaiming the property that was seized in Iraq by Saddam’s government. Since moving to the UK, Bisher never went back to Iraq.

Jamil El-Banna is a 44-year-old Jordanian citizen. Jamil was granted asylum by the UK 10

years ago. His wife and five children live in north London. Jamil’s children are all British citizens, the youngest of whom has never seen him.

Bisher and Jamil’s story began on 1 November 2002, when they travelled to the Gambia to set up a mobile peanut-processing plant with Bisher’s brother, Wahab al-Rawi, and another partner. On account of a ‘suspicious device’ in Bisher’s luggage, Bisher and Jamil were detained until the device was determined to be, in the words of the police, an ‘entirely innocent’ home-modified battery charger. Bisher and Jamil returned home, and then tried again to reach the Gambia.

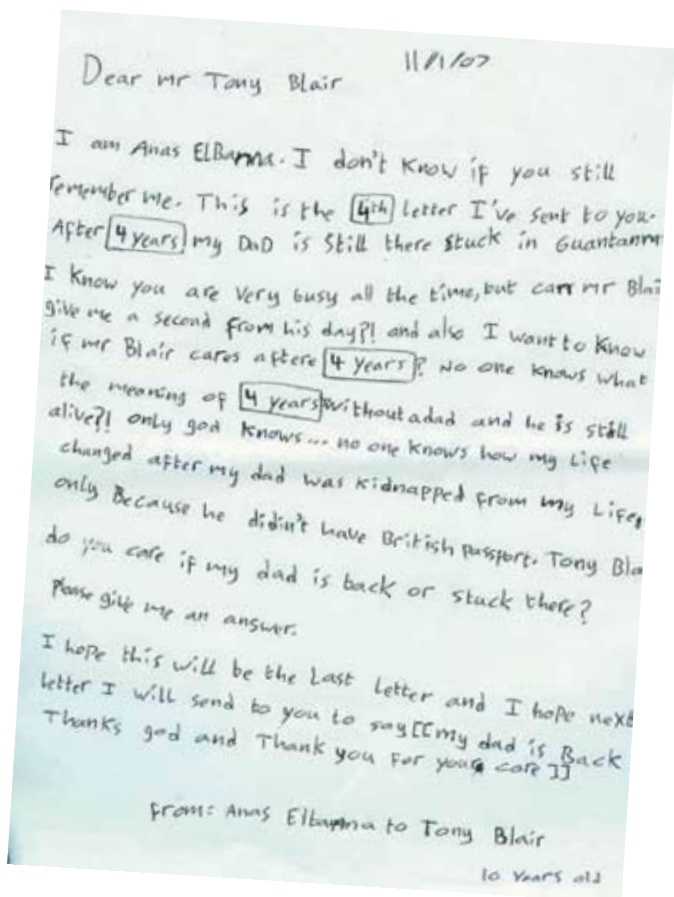
Court documents show that between the period of Bisher and Jamil’s initial detention on 1 November and their eventual arrival in the Gambia on 8 November, UK intelligence services provided defamatory and false information about the men in the form of telegrams to the US government.

At Banjul airport on 8 November 2002, Bisher, Jamil, Wahab and another partner were arrested by Gambian authorities. Within days, they were turned over to US agents outside Banjul. The men’s requests for British consular assistance were declined and they were told independently that the British had initiated their arrest. After just under one month, Wahab and the other partner – both UK citizens – were returned to the UK. Bisher and Jamil were not. Instead, they were rendered by the US authorities to the Dark Prison, outside Kabul, Afghanistan, then to Bagram Airforce Base in Afghanistan, and

then to Guantánamo Bay.

In the spring of 2006, the UK government promised to make representations to the US about Bisher Al-Rawi, however almost a year on, both Bisher and Jamil remain in Guantánamo Bay. Bisher, once regarded by fellow prisoners as one of the most stable and balanced among

those held in Guantánamo, has been put in solitary confinement and the three lawyers who have seen him recently are worried that his mental health is deteriorating rapidly. Jamil remains without hope, and his wife and five young children wait helplessly for him in the UK.



Dear Mr Tony Blair 11/1/07

I am Anas ElBanna. I don't know if you still remember me. This is the [4th] letter I've sent to you. After [4 years] my Dad is still there stuck in Guantánamo. I know you are very busy all the time, but can Mr Blair give me a second from his day?! and also I want to know if Mr Blair cares after [4 years]? No one knows what the meaning of [4 years] without a dad and he is still alive?! only god knows... no one knows how my life changed after my dad was kidnapped from my life only because he didn't have British passport. Tony Blair do you care if my dad is back or stuck there? Please give me an answer.

I hope this will be the last letter and I hope next letter I will send to you to say [[My dad is Back Thanks god and Thank you for your care]]

from: Anas ElBanna to Tony Blair
10 years old

10-year-old Anas Al Banna has repeatedly written to the prime minister begging him to help bring his father, Jamil, home.

WHY WON'T THEY HELP BISHER?

Although it's the American authorities who are holding Wahab Al Rawi's brother, Wahab blames the British for Bisher's continued incarceration in Guantánamo Bay.

Wahab is adamant that if this government were to press the US for Bisher's return, he would speedily be on a plane home to his family in Surrey. 'The Americans don't want them!', he says of Bisher and his close friend Jamil El Banna, who is also being held (see main article). 'If the Egyptian government can do it [intercede to have prisoners released], surely the British government has more leverage.'

Wahab, who himself was held for 27 days before being released, is increasingly concerned about his brother's mental well being. Lawyers who visited Bisher recently say he is losing his sanity because of the conditions he's being held under. Wahab says: 'He is being put in solitary for long stretches, he's not allowed to exercise and is refused contact with other prisoners.' Wahab adds that Bisher's cell is also deliberately alternately made too hot or too cold. 'We know how it's affecting him by the deterioration in the letters he's sending us. The letters we're getting now are nonsensical, they just go on and on...'

The Al Rawi family MP, Lib Dem Edward Davey, has now written to the government asking for action to release Bisher.

Wahab adds that Bisher's freedom may be the key for winning Jamil's release. 'I don't know what else I can do for Jamil. The person who knows most about his situation is Bisher. I need Bisher back here so he can help me get Jamil out.'

A TURNING TIDE

America seems to be losing its appetite for the death penalty following a botched execution & growing concerns about the innocence of some inmates. REPRIEVE's Denise Eastlake explains

Some 30 years after it was reintroduced in the US, there are signs that public and judicial opinion is turning against the death penalty.

Governor Jeb Bush – previously a supporter of the death penalty – suspended all executions & ordered an enquiry into Mr Diaz's death

In recent weeks, growing opposition to the death-penalty has been fuelled by the botched execution of Angel Nieves Diaz, who took over half an hour to die. However, even before Mr Diaz's spectacularly mismanaged execution, enthusiasm for the death penalty – once an article of faith for conservatives – has been on the wane. Last year (2006), a significant number of American states halted or delayed executions because of concerns that lethal injection constitutes a cruel and unusual punishment.

When Angel Nieves Diaz was executed in Florida on 13 December, it took two rounds of lethal injection chemicals and 34 minutes before he finally died.

Witnesses reported that Mr Diaz appeared to be moving, grimacing, and trying to mouth words after the first round of drugs were administered. The Governor of Florida, Jeb Bush – previously a strong supporter of the death penalty – responded by suspending all executions and ordering an immediate enquiry into Mr Diaz's death.

The following day, after a review of the lethal injection, Judge Jeremy Fogel, halted executions in California stating that the procedure was 'broken' and noted a 'pervasive lack of professionalism' in the supervision of executions.

New forms of evidence like DNA testing are being used

There are also growing concerns among the public and politicians alike about miscarriages of justice – with relatively new forms of evidence like DNA testing being

used to establish the innocence of those previously convicted and sentenced to death.

Currently, 37 states carry out the death penalty by lethal injection and almost all of these states use the same three-drug cocktail that was used to kill Mr Diaz.

Arguments against lethal injection have gained momentum across the USA over the last three years as New Jersey, Maryland, Delaware, Ohio, Arkansas, Missouri, and South Dakota are also taking steps to review the death penalty.

Just last month (January 2007) the New Jersey Death Penalty Study Commission recommended that the State of New Jersey should abolish the death penalty. The commission's findings effectively demolished three key planks often cited by those in favour of the death penalty:

- the death penalty is inconsistent with 'evolving standards of decency';
- there is 'no compelling evidence' that it has a deterrent effect;
- due to the lengthy appeal process and other procedural safeguards involved in capital cases, it costs more to execute someone than it does to send them to prison for life without parole.

As a result of challenges to lethal injection, the number of executions in 2006 dipped to 53, their lowest level in ten years. Even in Texas, death sentences have dropped by 65% since 1997. Even where execution is an option, juries in high-profile cases are starting to balk at imposing the death penalty – most notably in the case of the '20th hijacker', Zacarias Moussaoui, where, to the frustration of the prosecution, jurors voted for him to be sent to prison for life.

The jury's restraint appears to be in line with a shift in public opinion more generally. A Gallup poll revealed that for the first time in 20 years, 48% of those surveyed favoured life imprisonment without the possibility of parole for convicted murderers as opposed to 47% opting for the death penalty.

REPRIEVE PEOPLE

REPRIEVE's work is only possible because of the dedication of its small staff and larger volunteer group. In this issue, we profile a member of our London team



Clara Gutteridge,
staff member, London office

Working at **REPRIEVE** is a mix of 'crazy idealism' and 'a total lack of illusion about the reality of the legal system', says Clara Gutteridge.

Clara has been on the staff at **REPRIEVE's** office since March 2006 and spent eight months working as a volunteer before that.

Her work has encompassed investigating British (and other governments') complicity in extraordinary rendition – where terrorist suspects are picked up by the CIA and whisked off to secret prisons – and working on the cases of British residents held in Guantánamo Bay.

Clara is conducting a research project looking at the history of rendition and secret prisons around the globe and the different ways countries are complicit in these operations. Her work has shaped public debate about this issue and fuelled the public outcry against the practice. As well as helping raise awareness, Clara's work also has a more direct impact, in identifying

groups of 'ghost prisoners' that **REPRIEVE** can legally represent.

'Everything we do here has a purpose; it has an effect,'

Clara says: 'I didn't much like studying law. As law students, we were told such lies about it! We were told the law is fair and that everyone is equal under it and that justice is always found in legal rulings.'

She'd already spent a summer doing research into the death penalty at Westminster University, so working for **REPRIEVE** was an obvious move. 'Everything we do here has a purpose; it has an effect,' says Clara.

She adds that she hasn't totally lost her faith in the law. 'Any justice system is a work in progress. Anyone who is involved in it has to work hard to make it better. I feel very strongly that the law is a powerful tool.'

WHAT IS REPRIEVE?

REPRIEVE is a UK charity that fights for the lives of people facing the death penalty and other human rights violations.

We provide lawyers and investigators to help those who cannot afford to pay for their own legal representation. We rely on donations and help from volunteers to carry on our work. See our website (www.reprieve.org.uk) for information on how you can get involved; or send back the donation form on the back page.

STANDING UP AGAINST THE DEATH PENALTY WITH A STANDING ORDER

Please support **REPRIEVE**'s frontline work on behalf of people facing the death penalty by asking your bank to set up a regular donation. All you have to do is fill in the form below and send it to: Annabel Harris, **REPRIEVE**, PO Box 52742, London, EC4P 4WS.

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