

The release of the photographs and video documenting horrific torture of Iraqi prisoners detained by the U.S. at Abu Ghraib drew demands for accountability and redress from around the world, including from top Bush Administration officials. Subsequent investigations led to the court-martial of a small number of low-level U.S. soldiers as well as documentation of the role played in the torture at Abu Ghraib and other detention facilities by contractors from two U.S. corporations: Engility Corporation (formerly L-3 Services and Titan Corporation) and CACI International, Inc. Engility was initially hired to provide translation services for U.S. personnel at Iraqi prisons. CACI was contracted to provide interrogation services. Publically available information reveals that employees from both corporations were part of the conspiracy to torture Iraqi detainees at Abu Ghraib and other prisons yet no employee of either company has been convicted of any offense.¹ Since 2004, the Center for Constitutional Rights (CCR) has been working with a team of private attorneys on behalf of hundreds of Iraqi plaintiffs on a series of civil lawsuits against these private military contractors.

Lawsuits against Private Military Contractors

These lawsuits are part of CCR's effort to secure accountability for human rights abuses committed by military contractors. This issue is only growing in importance as the United States' reliance on military contractors is expanding.

Over the last decade, private companies have made billions by providing a vast array of services in Iraq and Afghanistan ranging from security escorts for government officials to intelligence gathering and analysis to logistical support. The wars in Iraq and Afghanistan have been the most contracted out wars in United States history—and the overreliance on contractors which began with the Bush administration continues unabated under the Obama administration. Indeed, during Obama's term, the number of contractors on the ground in both countries has surpassed the number of troops. As the U.S. ended the war in Iraq, the State Department reported that it was tripling the number of armed security contractors employed in Iraq to provide security for the thousands of State Department employees working in what is now by far the largest U.S. embassy in the world.

Abuse and fraud by contractors in both countries have been rampant.²

Currently there is no effective U.S. system of contractor accountability and oversight in place. Generally speaking, the US Department of Justice (DoJ) is responsible for investigating and prosecuting these incidents. However, the DoJ has too often failed to prosecute even the most serious of human rights abuses by contractors, including but not limited to the torture that took place at Abu Ghraib and other detention centers in Iraq. Several investigations into torture, including by the military itself, have concluded that CACI and L-3 contractors participated in "sadistic, blatant, and wanton criminal abuses." But no contractors have been charged with these crimes by the DoJ. In order to secure some redress for the victims of human rights abuses and hold contractors accountable for their actions, CCR and co-counsel have brought several civil lawsuits in US courts for the war crimes and torture that took place in Abu Ghraib and other prisons.



*Salah Hasan Al-Ejaili, a plaintiff in *Al Shimari v CACI*, is an Iraqi journalist with *Al Jazeera* and was held and tortured in Abu Ghraib.*

Al Shimari v. CACI

Al Shimari v. CACI International was filed in the Eastern District of Virginia in 2008 on behalf of four "hard site" victims of torture at Abu Ghraib prison. According to statements by co-conspirators, CACI employees Steven Stefanowicz and Daniel Johnson directed and caused some of the most egregious torture and cruel treatment at Abu Ghraib. Plaintiffs were subjected to electric shocks, sexual assaults, stripped and kept naked, forced to witness the rape of a female prisoner, sensory deprivation, mock executions, stress positions, broken bones, and deprivation of oxygen, food and water as well as

other dehumanizing acts of torture. After a June 2013 dismissal by the district court "because the acts giving rise to their tort claims occurred exclusively in Iraq, a foreign sovereign"—which came in the wake of the Supreme Court's ruling in *Kiobel v. Royal Dutch Petroleum*—a unanimous panel of the Fourth Circuit Court of Appeals reinstated the case in June 2014. In finding the case satisfied *Kiobel* in that it "touches and concerns" the U.S., the court relied on the fact that CACI is a U.S. company, U.S. citizen-employees' conduct is implicated, the contract was issued in the U.S. by a U.S. government agency, U.S.-based CACI managers are alleged to have tacitly approved acts of torture and cruel treatment, and Congress expressed its intent to provide access to U.S. courts to hold U.S. citizens accountable for torture committed abroad. In 2015, CACI moved to have the case dismissed as raising a "political question"—meaning that it is a matter that should be left to the "political branches" of the government and not the court. The motion was granted by the district court judge. Plaintiffs appealed that decision, arguing that the corporate contractors were not under the military's complete control, that adjudicating the case wouldn't touch on sensitive military decisions, and that torture is unlawful and can never be a "policy" choice. Six amicus briefs were filed in support of the plaintiffs, including by retired military officers and the UN Special Rapporteur on Torture. Oral argument before the Fourth Circuit will take place on May 12, 2016 in Richmond, Virginia.

Saleh v. Titan

The case *Saleh v. Titan*, filed in June 2004, included as plaintiffs more than 250 individuals who were swept up in military raids in Iraq and detained at prisons under the control of the U.S., including at Abu Ghraib. The suit charged that Titan/L-3 and CACI violated international, federal and state law by participating in a torture conspiracy, along with U.S. government personnel, that led to the rape and other acts of torture, assault and killing of Iraqi detainees. After five years of litigation, *Saleh v. Titan* was dismissed in September 2009 in a 2-1 decision by the Court of Appeals for the District of Columbia. When asked its opinion on the dismissal, the Obama administration acknowledged flaws in the appellate court's reasoning for dismissing the case, but argued that the Supreme Court should not allocate its time and resources to review the dismissal of the case. On June 27, 2011 the Supreme Court denied the Plaintiffs' petition for certiorari, thereby ending the case.

Al-Quraishi v. Nakhla and L-3 Services, Inc.

Al-Quraishi v. Nakhla and L-3 Services, Inc., filed in the District of Maryland, includes claims of torture and war crimes as well as state law tort claims brought on behalf of 72 Iraqi plaintiffs who were abused at more than 25 prisons in Iraq. The acts of torture the plaintiffs were sexual assault, sleep deprivation, beatings, painful stress positions, sensory deprivation, electric shocks, threats (including with unleashed dogs), denial of medical treatment and other brutal acts. In addition to being a case against L-3, this case specifically names L-3 employee and U.S. citizen Adel Nakhla as a co-conspirator for his role in instigating, directing and participating in torture and other abusive conduct. Nakhla is alleged to have held down a fourteen-year old boy as his co-conspirator raped him and to have held plaintiff Mr. Al-Quraishi down while a co-conspirator poured feces on him. On October 10, 2012, a confidential settlement was reached in the case. This was the first and (thus far) only positive resolution to a post-9/11 detainee treatment challenge against either the U.S. government or their private contractors.

What can you do?

Learn more about some of the plaintiffs' stories by visiting collaborating artists' webpage www.detaineeproject.org

Watch interview with CCR Plaintiff in the *Al Shimari* case, Salah Hassan on Democracy Now! www.democracynow.org/2014/5/5/imprisoned_al_jazeera_journalist_details_abu

Read New York Times Editorial on the case, "Will Anyone Pay for Abu Ghraib? Feb. 5, 2015 www.nytimes.com/2015/02/05/opinion/will-anyone-pay-for-abu-ghraib.html

Sign up for CCR action alerts to receive updates and calls to action about contractors in Iraq and other corporate human rights cases on our website www.ccrjustice.org

¹ See Taguba Report on Treatment of Abu Ghraib Prisoners In Iraq (2004) news.findlaw.com/hdocs/docs/iraq/tagubarpt.html and Fay Report on Investigation of Intelligence Activities At Abu Ghraib (2004) news.findlaw.com/hdocs/docs/dod/fay82504rpt.pdf

² See Transforming Wartime Contracting: Controlling costs, reducing risks [final report], Commission on Wartime Contracting (2011) www.wartimecontracting.gov/docs/CWC_FinalReport-lowres.pdf

For more information...

Visit CCR's website and learn more about our pending litigation at:

ccrjustice.org/home/what-we-do/our-cases/al-shimari-v-caci-et-al