

By The Editorial Board

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What happened at the Abu Ghraib prison during the early days of the Iraq war is no secret: The whole world has seen the [appalling photos](#) .

Detainees under American control were raped, beaten, shocked, stripped, starved of food and sleep, hung by their wrists, threatened with death and, in at least one case, [murdered](#) . These are war crimes, punishable under both American and international law.

Yet more than a decade after the fact, only a few [low-level military personnel](#) have been held criminally accountable for the abuse and torture that went on there. Meanwhile, the private companies that contracted with the United States military to help “interrogate” detainees are still trying to avoid any accounting at all by civilian courts. They had no problem taking taxpayers’ money, but when it comes to taking responsibility for their role at the prison, they try to hide behind a web of convoluted arguments that would render them legally untouchable.

On Friday, a federal trial court in Virginia will consider whether one of these contractors — [CA CI International Inc.](#) — can be sued for damages in American courts.

The hearing is the latest in a [long-running civil suit](#) first brought in 2008 by four Iraqi men alleging that they were tortured on the orders of private contractors at Abu Ghraib. All four were eventually released without charge, and their suit may be the last chance to hold anyone to account for the atrocities committed at the prison.

CACI has claimed, among other things, that their employees had nothing to do with any torture, and that they are not liable in any case because they were acting under the complete control of the military.

Reports prepared in the wake of the prison scandal [say otherwise](#). Whatever chain of command was written into the terms of the contract, military investigators found that in day-to-day practice, there was “[no credible exercise of appropriate oversight](#)” of the contractors. According to one report, the torture and abuse were the work of “[morally corrupt](#)” military personnel and the contractors who told them to “soften up” detainees for interrogation.

Last June, a federal appeals court [rejected](#) one of the contractors’ latest attempts to avoid the courts, which was based on the fact that the acts occurred outside the United States. But it ordered the trial court to determine whether CACI might still avoid liability under the “[political question](#)” doctrine. This murky concept, nearly as old as the Supreme Court itself, holds that courts are not authorized or equipped to resolve certain matters — like some military decisions or aspects of foreign relations — and must leave them to the other branches of government.

The doctrine has its place, but it should not be invoked to protect the civilian contractors in this case, who are not subject to the military justice system. Sheltering them from the federal courts as well means they can operate with impunity.

That accountability gap becomes a bigger concern as the military relies increasingly on contractors. By 2010, [a quarter-million contractor employees](#) were working for American forces in Iraq and Afghanistan — more than the total number of United States troops. And despite the reports' findings and the Abu Ghraib lawsuit, CACI, which was paid more than \$19 million for its work at the prison, [continues to collect](#) millions in government contracts.

For those accused of abuse, mistreatment or worse, from Guantánamo Bay, Cuba, to Abu Ghraib, the all-too-common response has been to try to keep the federal courts from getting involved. Allowing that to happen in this case would be a mistake; the plaintiffs' claims involve straightforward questions of fact and law that courts are perfectly capable of resolving.

A civil trial does not guarantee that anyone would be held to account for the horrific crimes committed at Abu Ghraib. But it would be an important start.

### **Correction: February 5, 2015**

An earlier version of this editorial incorrectly identified one defendant. L-3 Services, Inc. has settled claims against it and is no longer a defendant in the current lawsuit.