



All Party Parliamentary Group on Extraordinary Rendition
House of Commons

Press release: Immediate, 26 February 2009

Andrew Tyrie calls on the Government to conduct a comprehensive inquiry into its involvement in the US rendition programme, following the MOD's admission that people captured by UK Forces were rendered to Afghanistan for interrogation by the US.

“Since the All Party Parliamentary Group on Extraordinary Rendition was created, I have made a number of specific allegations: that the UK has facilitated rendition; that Diego Garcia was used for this purpose; that our Armed Forces were dragged into rendition.”

“Each of these was categorically denied. A recent MOD review of detention practices condemned as ‘baseless’ speculation that the MOD was complicit in rendition. Yet all of them have turned out to be true, confirmed in three Ministerial Statements over the past year, and a High Court judgment.”

“US assurances that it does not use torture are unreliable, as the Foreign Affairs Committee concluded in its Human Rights Annual Report published last year.”

“Given that all previous assurances have been baseless, we can have no confidence in the ones we are being given now. The Government must now carry out a comprehensive inquiry in order to bring closure to this sorry business.”

Ends.

Notes to editors

The APPG has been investigating this issue since 2007.

The Statement today sets out that two people, captured by UK Forces, were rendered to Afghanistan by the US: *“Two individuals were captured by UK forces in Iraq. They were transferred to US detention, in accordance with normal practice, and then moved subsequently to a US detention facility in Afghanistan. This information was brought to my attention on 1 December 2008... Following consultations with US authorities, we confirmed that they transferred these two individuals from Iraq to Afghanistan in 2004. They remain in US custody there.”*

“officials were aware of this transfer in 2004. It has also been shown that brief references to this case were included in lengthy papers that went to the then Foreign Secretary and Home Secretary in April 2006... In retrospect, it is clear to me that the transfer to Afghanistan of these two individuals should have been questioned at the time. We have discussed the issues surrounding this case with the US Government. They have reassured us about their treatment...”

This is the third branch of Government caught up in the US rendition programme. On 21 February 2008 the Foreign Secretary was forced to reveal that two rendition flights had used the British island of Diego Garcia. The High Court has confirmed that UK Security Services were involved in the rendition of Binyam Mohamed. Today the Defence Secretary has confirmed that two individuals captured by UK Forces in Iraq were transferred to US detention and subsequently rendered to Afghanistan.

As early as 2005 Andrew Tyrie asked the first PQ on this, on 20 December 2005:

Andrew Tyrie: To ask the Secretary of State for Foreign and Commonwealth Affairs whether any detainees originally held by UK (a) armed forces and (b) other agencies and subsequently transferred to United States responsibility has been rendered to (i) Egypt, (ii) Syria and (iii) other countries.

Kim Howells: We are unaware of any individuals originally detained by UK authorities and subsequently renditioned by the USA to any country.

The MOD's initial unsatisfactory position on this when the APPG took up the issue in late 2007, in response to a Parliamentary Question and further correspondence, was that *"Whenever we have passed an individual from UK jurisdiction into the jurisdiction of the Iraqi, Afghan or US authorities, we have had in place an understanding that they would not transfer that individual to a third country without first seeking our consent or at least informing us of their intention."* (Letter of 31 January 2008).

Ben Griffin

Today's statement does not substantially refer to the allegations made by Ben Griffin, set out below. As the statement sets out: *"UK forces have undertaken operations to capture individuals who were subsequently detained by the US. These individuals do not feature in the data I set out above..."*

The allegations that the UK was capturing people and handing them over the US, essentially in attempt to avoid legal obligations to the detainees, were first made by former SAS soldier Ben Griffin on 25 February 2008 (statement attached). He alleged that people captured by the UKSF would not be officially 'arrested', but quickly handed over to the US in an apparent attempt avoid any UK legal obligations in relation to them. He is currently under an MOD injunction not to speak about any of this:

"...it has been British soldiers detaining the victims of Extraordinary Rendition in the first place. Since the invasion of Afghanistan in the autumn of 2001 UKSF has operated within a joint US/UK Task Force. This Task Force has been responsible for the detention of hundreds if not thousands of individuals in Afghanistan and Iraq. Individuals detained by British soldiers within this Task force have ended up in Guantanamo Bay Detention Camp, Bagram Theatre Internment Facility, Balad Special Forces Base, Camp Nama BIAP and Abu Ghraib Prison... As UK soldiers within this Task Force a policy that we would detain individuals but not arrest them was continually enforced. Since it was commonly assumed by my colleagues that anyone we detained would subsequently be tortured this policy of detention and not arrest was regarded as a clumsy legal tool used to distance British soldiers from the whole process."

MOD Responses

In responses to the APPG's correspondence, PQs and Freedom of Information Act requests the MOD has generally refused to comment on the actions of the Special Forces, and refused to confirm or deny that such a policy exists or existed.

They did carry out a review of detention practices, and disclosed a very limited amount of this review (just 4%) to the APPG following a FOIA request. It was annexed to Des Browne's letter to Andrew Tyrie of 7 July 2008. The information disclosed demonstrated that the review was based on a mere 48hr visit to Iraq, and the conclusion was that: *"The picture is a positive*

one. *The UK has met its obligations by a combination of assurances, operational judgement, and record keeping. The Department will always be open to baseless speculation that we have been complicit in rendition or ill treatment. To end all speculation would require us to prove a negative. We can say, however, that we have no evidence of unlawful rendition and we have looked*".

As recently as 13 January 2009, John Hutton wrote to the APPG and set out that *"I remain confident that the processes currently in place are in accordance with UK policy and legal obligations."* These conclusions may be contradicted by any statement tomorrow.

Freedom of Information Requests

The APPG appealed against the MOD's FOIA refusals in October 2008, and is still waiting for a determination. In the meantime the APPG has made FOIA requests in the US (to the FBI, CIA, Dept of Defense, etc) about this policy in the hope of getting more information on all of this. A full list of Freedom of Information Act requests is attached.

Legal Advice

In September 2008 the APPG commissioned and published a Legal Opinion on detainee transfers by Michael Fordham QC and Tom Hickman of Blackstone Chambers. This Opinion set out that detainee handovers could breach the HRA and ECHR in certain circumstances. It was passed to the MOD. The Opinion stated that any assurances given by the US authorities, that an individual handed over by UK forces to the US authorities would not be mistreated or unlawfully rendered, would not absolve the UK government of the obligation to examine whether the assurances provide a sufficient guarantee that the individual will be protected against the risk of ill-treatment. Furthermore, the Legal Opinion highlights *"specific concerns about the legality of the UK having accepted such assurances"* from the US.

The Foreign Affairs Committee has also highlighted that US assurances that it does not use torture cannot be relied upon, as set out in submissions by the APPG, in its Human Rights Annual Report 2007, published in July 2008.

Select Committee Involvement

The APPG passed this information to the Defence Committee and the Foreign Affairs Committee (see, for example, Andrew Tyrie's letter of 15 May 2008 to the Defence Committee) and asked them to look into these allegations.

In a Joint Evidence Session on 28 October 2008 they quizzed John Hutton on this. He was unable to confirm how many detainees had been captured by the UK in Iraq. He stated that no-one 'detained' by UK Forces had ever ultimately found themselves at Guantanamo.

In a subsequent letter to the Defence Committee, John Hutton committed to make a statement to the House on this issue – which I imagine is tomorrow's statement. He also wrote that *"the UK does not have legal obligations towards the treatment of individuals we have detained once they have been transferred to the custody of another state"*. This appears to contradict his oral evidence to the Defence and Foreign Affairs Committees, and the MOU which sets out that the Detaining Power retains full rights of access to any detainee following a transfer; that the Detaining Power must agree to any onward transfer of a detainee; and that the Detaining Power can demand the return of a detainee from the Accepting Power.

All correspondence on this issue is available at www.extraordinaryrendition.org <http://www.extraordinaryrendition.org/>.

Andrew Tyrie is Conservative MP for Chichester and Chairman and founder of the All Party Parliamentary Group on Extraordinary Rendition. Mr Tyrie can be contacted on 020 7219 6371. His office email is bennetter@parliament.uk. The website of the All Party Group is www.extraordinaryrendition.org [<http://www.extraordinaryrendition.org/>](http://www.extraordinaryrendition.org)

=====

Stuart McCracken

Coordinator

All Party Parliamentary Group on Extraordinary Rendition

Office of Andrew Tyrie MP

House of Commons

London

SW1A 0AA

0207 219 5425

07814 253 622