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"RENDITION" AND SECRET DETENTION: A GLOBAL SYSTEM OF HUMAN RIGHTS VIOLATIONS

Questions and Answers

1. What is "rendition"?

Amnesty International uses the term "rendition" to refer to a variety of practices by the US authorities involving transfers of individuals from one country to another, without any form of judicial or administrative process such as extradition. These practices, usually carried out in secret, include transferring "war on terror" detainees into the custody of other states, assuming custody of individuals from foreign authorities and abducting suspects on foreign soil.

The practice of transferring a detainee from US custody to the custody of a foreign state is usually called "extraordinary rendition" in the USA, and appears to have been carried out by the Central Intelligence Agency (CIA) since 1995. Cases in which suspects are transferred into US custody, and are detained and interrogated by US personnel outside of the US, have also been referred to as "extraordinary renditions", but are sometimes called "reverse renditions". Amnesty International describes all such practices as "rendition".

2. What happens to victims of "rendition"?

Some victims of "rendition" have later turned up in official US detention centres, such as Guantánamo Bay. Others have simply "disappeared" after being arrested by US agents or turned over to US custody.

It has been reported that the CIA, often using covert aircraft leased by front companies, has flown individuals to countries including Egypt, Jordan, Morocco, Pakistan, Saudi Arabia and Syria. Most of the states to which the USA transfers these individuals are known to use torture and other ill-treatment in interrogations. It is alleged that states which are known to practise torture have been specifically selected to receive detainees for interrogation and that detainees have been threatened by US interrogators that they will be sent to such states.

It has also been reported that victims of "rendition" transferred to US custody from other countries have been held in US-run secret detention centres outside US territory (sometimes called "black sites"). See question 6: What are "black sites"?

3. Has the USA admitted that it uses "rendition"?

The US administration has acknowledged it uses "rendition", maintaining that the practice is aimed at transferring "war on terror" detainees from the country where they were captured to their home country or to other countries where they can be questioned, held or brought to justice. It has contended that these transfers are carried out in accordance with US law and treaty obligations, including those under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or
Punishment. It denies transferring detainees from one country to another for the purpose of allowing interrogations involving torture.

4. Does Amnesty International accept US claims that "rendition" is legal? Amnesty International believes that these practices are illegal because they bypass any judicial or administrative process such as extradition. Under international law, it is illegal to transfer people from one country to another without any kind of judicial or administrative process.

Moreover, most victims of "rendition" were arrested and detained illegally in the first place: some were abducted; others were refused access to any legal process. Many victims of "rendition" have been or continue to be held in prolonged arbitrary detention and they have been or continue to be subjected to enforced disappearance. All of the victims of "rendition" Amnesty International has interviewed have also said they were subjected to torture and other ill-treatment.

"Rendition" usually involves multiple human rights violations, including abduction, arbitrary arrest and detention and unlawful transfer without due process of law. It also violates a number of other human rights safeguards: for example, victims of "rendition" have no possibility of challenging their detention, or the arbitrary decision to transfer them to another country.

"Rendition" is a key element in the global system of secret transfers and arbitrary detention. This system is designed to detain people, often for obtaining intelligence from them, free from any legal restriction or judicial oversight. Most of those held in secret detention centres (so-called "black sites") have been subject to "rendition". See question 6: What are "black sites"?

5. According to Amnesty International estimates, how many people have been victims of "rendition"?

Based on the available evidence, the number is likely to be in the hundreds. However, given the secrecy surrounding the transfer and detention of victims of "rendition", who are kept beyond the reach of the law, the scale and scope of the practice is extremely difficult to estimate.

The USA has acknowledged the capture of about 30 "high value" detainees – thought to be high-ranking members of al-Qa'ida – whose whereabouts remain unknown. Most of them have been subjected to one or more "renditions". The Washington Post newspaper recently reported that the CIA is investigating some three dozen additional cases of "erroneous" "rendition", in which people were detained based on flawed evidence or confusion over names. The New York Bar Association estimated in 2005 that about 150 people had been subjected to "rendition" to other countries since 2001. This estimate is likely to be conservative, as the Egyptian prime minister noted in 2005 that the US has transferred some 60-70 detainees to Egypt alone, and a former CIA agent with experience in the region believes that "hundreds" of detainees may have been sent by the US to prisons in Middle Eastern countries.

About 25 "rendition" cases have become public, and Amnesty International has documented several other cases of "rendition" and "disappearance". See question 11: Does Amnesty International have any specific evidence from individuals? See also:
6. **What are "black sites"?**

The CIA reportedly runs a system of covert prisons, referred to in classified documents as "black sites", which have operated at various times in some eight countries. According to reports, these facilities tend to be used in rotation, with detainees transferred from site to site together, rather than being scattered in different locations. Although the existence of secret CIA detention facilities has been acknowledged since early 2002, the term "black sites" was first revealed by the *Washington Post* in November 2005.

7. **Where are these "black sites"?**

Amnesty International has received persistent reports that the USA operates, or has operated, secret detention centres in Afghanistan, Guantánamo Bay in Cuba, Iraq, Jordan, Pakistan, Thailand, Uzbekistan, and other unknown locations in Europe and elsewhere, including on the British Indian Ocean territory of Diego Garcia. The US State Department, the Federal Bureau of Investigation (FBI) and the CIA have all declined to comment on these reports. The UK government has denied allegations of such detention centres on Diego Garcia.

8. **What are conditions like in these "black sites"?**

Amnesty International published extensive interviews with three Yemeni men who had "disappeared" in US custody and who had been held in secret detention sites for some 18 months. According to their testimony, the men were moved several times, but were always held in complete isolation, always in cells with blank walls, no floor coverings, no windows, no natural light. They spoke to no one but their interrogators and no one spoke to them. In their cells there was a constant low-level hum of "white noise" (indistinct non-musical sounds), sometimes replaced by loud western music. With artificial light kept on 24 hours a day, morning, noon and night were suggested only by the kinds of meals served, or because detainees were told it was time to pray. For over a year the men did not know what part of the world they were in, whether it was night or day, hot or cold, raining or sunny. For the first six to eight months, they spent nearly every waking hour staring at the four blank walls of their cells, leaving only to go to interrogation. None of the men ever saw each other, or any other detainee, but one of the men calculated that some 20 people were being taken to the shower room in his section each week, although he does not know how many sections the facility contained.

The information available on those known to be held in such sites indicates that many of them have been victims of "rendition".

9. **Is secret detention illegal?**

The US and other governments refuse to acknowledge the detention of many victims of "rendition" or keep their fate and whereabouts secret, even from their families and lawyers.

When people are held in secret detention and the authorities refuse to disclose their fate or whereabouts, they have "disappeared". This practice, known as enforced disappearance, is expressly prohibited under international law (see the 1992 UN Declaration on the Protection of All Persons from Enforced Disappearance, and the draft International Convention for the Protection of All Persons from Enforced Disappearance). International law requires that any person deprived of their liberty be held in an officially recognized place of detention.

Enforced disappearance violates the rules of international law which provide for, among others, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture or other ill-treatment. It also violates - or constitutes a grave threat to - the right to life. In certain circumstances, enforced disappearance can also be a crime against humanity. See: ‘Disappearances’ in the ‘war on terror’ (AI Index: ACT 40/013/2005) [http://web.amnesty.org/library/index/engamr511772005]

"Disappeared" detainees are outside the protection of the law, cut off from the outside world and completely in the power of their captors. They have no access to lawyers, families or doctors. They are often kept in prolonged arbitrary detention without charge or trial. They are unable to challenge their arrest or detention, whose lawfulness is not assessed by any judge or similar authority. Their treatment and conditions are not monitored by any independent body, national or international. The secrecy of their detention allows the concealment of any further human rights violations they suffer, including torture or ill-treatment, and allows governments to evade accountability.

International human rights bodies have held that secret detention and enforced disappearances themselves constitute ill-treatment or torture, in view of the considerable suffering of persons detained without contact with their families or anyone else from the outside world, and without knowing when or even if they will ever be freed or allowed to see their families again.

The same is true for the suffering caused to family members of "disappeared" persons. In a number of cases, international human rights bodies have held that the authorities’ denial of their right to know what has happened to their relatives has violated the prohibition of torture and ill-treatment.

10. **The US government has denied that "rendition" is used to facilitate torture: what is Amnesty International’s evidence to contradict this?**

Amnesty International has obtained information from interviews it has conducted with victims of "rendition" and from various other sources, including statements that victims have made to their lawyers and families, their own written testimonies and statements made by released former detainees.
Many of these accounts allege that detainees have been subjected to torture and other ill-treatment, both physical and psychological. (See question 11: Does Amnesty International has any specific evidence from individuals?) Moreover, the detention regime and practices in US-run places of detention are aimed at inducing maximum disorientation, dependence and stress in the detainees. Hooding, cuffing and shackling, isolation and "white noise" impair an individual’s sight, hearing and sense of smell, lead to disorientation and an increased sense of vulnerability, and cause mental and physical suffering. Prolonged isolation has been shown to cause depression, paranoia, aggression, hallucinations and suicide. Former "war on terror" detainees consistently underline the mental suffering caused by prolonged isolation and uncertainty about their fate, and many have said it was worse than the physical abuse they suffered.

11. Does Amnesty International have any specific evidence from individuals? Victims of "rendition" have given Amnesty International the following testimonies.

Muhammad Abdullah Salah al-Assad, a Yemeni national, was arrested in December 2003 at his home in Tanzania by Tanzanian officers. He was taken to a waiting airplane and turned over to US custody. After about two weeks in an unknown detention facility, he was flown to a second detention facility, where he stayed for about two weeks, and was then taken by car to a third place, where he stayed about three months. His last secret transfer probably took place in April 2004. He was held in isolation in the last facility until May 2005, when he was returned to Yemen on the same plane that took Salah Nasser Salim ‘Ali and Muhammad Faraj Ahmed Bashmilah. In January 2006 he was still detained in Yemen.

Salah Nasser Salim ‘Ali, a Yemeni national, was arrested in August 2003 in Indonesia, where he was living. Indonesian officials told him he was being deported to Yemen, via Jordan, but when he landed in Jordan he was arrested and taken into custody. He says he was beaten by Jordanian officials, including by being subjected to the torture technique known as falaga (beatings with sticks on the soles of the feet).

Muhammad Faraj Ahmed Bashmilah, another Yemeni national living in Indonesia, was arrested in Jordan in October 2003 and says he was tortured during his four days of detention in Jordan. Both men were then taken onto a small plane and transferred to a secret location, where they stayed for the next six months, interrogated by US officials. They were then transferred to a second secret place of detention, run by US officials, where they were kept in cells for over a year in solitary confinement. They were transferred back to Yemen in May 2005, where they were still detained in January 2006.

Maher Arar, a dual Syrian/Canadian national, went to Canada in 1987 from Syria, where he was born, and became a Canadian citizen in 1991. In September 2002 he was changing planes in New York on his way home from a family holiday in Tunisia. He was taken into custody by the US Immigration and Naturalization Service (INS) and was then held incommunicado detention in New York for 13 days before being told he would be deported to Syria. He was taken, in chains, to a small private jet, which flew him to Jordan, where he was interrogated and beaten before being taken overland to Syria. In Syria, he says he was severely beaten with electrical cable during six days of interrogation, and threatened with electric shocks. He says he was held
alone in a tiny, basement cell without light, which he called "the grave", for more than 10 months. He was finally released without charge one year later, in October 2003. In February 2004, the Canadian authorities established a Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. Professor Stephen Toope was appointed "fact finder" by the Commission. In his October 2005 report, Professor Toope noted: "...as the beatings became less intense, it was the daily horror of living in the tiny, dark and damp cell all alone and with no reading material (except later, the Koran) that came to be the most disturbing aspect of the detention. Whereas at first the cell was a refuge from the infliction of physical pain, later it became a ‘torture’ in its own right. … He remained in this cell for ten months and ten days, and saw almost no sunlight except for when he was transferred for consular visits... Mr. Arar describes the cell as 'a grave' and as a 'slow death'."


12. The US government says that "rendition" is a legitimate and necessary tool for the changed circumstances brought on by the "war on terror". Surely the new threat from global terrorism justifies new measures. Existing international law provides states with an adequate and sophisticated framework to respond to very serious threats. The threat of international terrorism does indeed require law enforcement agencies to develop special skills and techniques in policing, investigation and intelligence, including international cooperation. However, this cannot justify the use of secret detention, enforced disappearance, torture or ill-treatment or other human rights violations. When adopting counter-terrorism measures, governments must respect their international law obligations.

In particular, the prohibition of torture and ill-treatment is absolute under international law. It is binding on all states irrespective of whether they are party to relevant international treaties. It applies in all circumstances, with no exceptions of any kind, and cannot be suspended even in times of war or public emergency.

States are also under the absolute and unconditional obligation not to transfer any person to a country where they risk torture or other ill-treatment (the principle of non-refoulement). This obligation applies to all states, irrespective of whether they have signed up to the relevant treaties, and to all forms of involuntary transfer. It permits no exceptions arising from circumstances or from individual factors such as offences allegedly committed or danger posed by the individual concerned.

13. The US government said it seeks assurances from receiving countries that detainees will not be tortured after "rendition". Doesn't this make "rendition" acceptable?
The practice of "rendition" is illegal under international law. (See question 4: Does Amnesty International accept US claims that "rendition" is legal?) Humane treatment after transfer does not make it acceptable, still less reliance on assurances of such treatment.

The USA says it seeks assurances about the treatment of detainees after "rendition" arguing that these assurances would remove the risk of torture or ill-treatment. However, reliance on such "diplomatic assurances" is in itself unacceptable. Under international law, states are under the absolute and unconditional obligation not to transfer any person to a country where they risk torture or other ill-treatment (the principle of non-refoulement). This obligation applies to all states and allows no exceptions. See Cruel. Inhuman. Degrades us all. Stop torture and ill-treatment in the 'war on terror’ (AI Index: ACT 40/010/2005).

If there is no risk of torture or ill-treatment in a particular case, diplomatic assurances are unnecessary. If there is a risk of torture or ill-treatment, such assurances are inherently unreliable. See: 'Diplomatic assurances’ – No protection against torture or ill-treatment (AI Index: ACT 40/021/2005)

Diplomatic assurances cannot relieve the USA of its obligations under the principle of non-refoulement, and are no substitute for the receiving state’s obligation to establish and implement properly functioning, systematic and comprehensive safeguards against torture and ill-treatment.

14. Many states have denied having any involvement in the practice of "rendition". What is your evidence to contradict this?
The body of publicly available information on known cases of "rendition" is large enough to justify serious concern. In addition, Amnesty International has seen unpublished flight records showing that aircraft known to have been used by the CIA for "rendition" have made thousands of flights in or out of European airports and airspace since October 2001. At least eight of these flights have been linked to known cases of "rendition", and the timing and flight plans of a number of others are suggestive of involvement in the practice. This information confirms other persistent and reliable reports in the media and by non-governmental organizations (NGOs) that CIA-chartered flights are used for "rendition".

15. Apart from Amnesty International, the media and other NGOs, who else has contradicted these denials?
Evidence that European states have been implicated in "rendition" has come from many sources, none better placed than the current and former US Secretaries of State. In December 2005 former Secretary of State Colin Powell suggested that the outrage expressed by some European leaders has been, at best, hypocritical. Speaking to the BBC, Colin Powell said: "Well, most of our European friends cannot be shocked that this kind of thing takes place...The fact is that we have, over the years, had procedures
in place that would deal with people who are responsible for terrorist activities, or suspected of terrorist activities, and so the thing that is called rendition is not something that is new or unknown to my European friends" [Interview with David Frost, BBC World TV channel, 18 December 2005].

Two weeks earlier, embarking on a visit to some European capitals, current Secretary of State Condoleezza Rice had said that "extraordinary rendition" was used when a state could not detain or prosecute a suspect, and traditional extradition was not an option. In such cases, she said, the state could choose to cooperate in a "rendition", adding that "the United States has fully respected the sovereignty of other countries that cooperate in these matters". She further noted that: "Some governments choose to cooperate with the United States in intelligence, law enforcement, or military matters. That cooperation is a two-way street. We share intelligence that has helped protect European countries from attack, helping save European lives" [Remarks upon her departure for Europe, U.S. Department of State website, 5 December 2005]. Her remarks have been taken to mean that European states approved, or were at least aware, of the use of their airspace and airports by planes carrying out "rendition" missions.

16. Why would states be responsible for what happens in "rendition" aircraft passing through their territory? Why would states be responsible for secret detention facilities run by the USA on their territory?

The cases documented by Amnesty International indicate that US agencies are placing considerable reliance on the security and intelligence services of the countries where victims of "rendition" are arrested. Some countries have allowed their territory to be used to facilitate flights by CIA-chartered aircraft known to have secretly transported detainees to countries where they risk enforced disappearance, torture or other ill-treatment. Other countries have received victims of "rendition" in their facilities, where they have "disappeared", been tortured and ill-treated. In other cases, states have reportedly allowed the US to run secret detention facilities within their territory.

A state which aids or assists another state in the commission of a violation of international law is internationally responsible if it does so with knowledge of the circumstances of the violation. In other words, states that knowingly facilitate torture or other ill-treatment, enforced disappearances and secret detention are complicit in these violations.

Some governments, including European governments, have maintained that they had no knowledge of the practice of "rendition". However, the international system of "rendition", secret detention, enforced disappearance, torture and ill-treatment put in place by the US government since 2001 has been so widely reported by the media and NGOs that by now it is hardly conceivable that a state would not have noticed such a gross and systematic violation of international law.

The Secretary General of the Council of Europe, Terry Davis, has said that European governments have a positive obligation to investigate allegations that rights protected by the European Convention on Human Rights have been breached. "Not knowing is not good enough regardless of whether ignorance is intentional or accidental."

17. What is the responsibility of any US or other state official found to have
carried out, ordered or authorized either enforced disappearance and/or torture?

Enforced disappearance and torture are crimes under international law. States should ensure that acts of torture and enforced disappearance are also offences under their national criminal law.

International law requires states to bring to justice those responsible for torture and other ill-treatment, as well as enforced disappearance. Governments should ensure that all allegations of enforced disappearance, torture or ill-treatment are promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. If there is sufficient admissible evidence, anyone suspected of having committed, ordered or authorized enforced disappearance, torture or other ill-treatment should be prosecuted in a fair trial. Those found guilty should be punished under a law providing for sentences commensurate with the gravity of the crime and without recourse to the death penalty.

18. Which international and regional bodies are already conducting investigations?

Concerns about European involvement and the use of European facilities in "rendition" have prompted the Council of Europe to launch inquiries into alleged CIA activities in Europe.

The Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE) is looking into the alleged existence of secret detention centres in Council of Europe member states and flights which may have transferred prisoners without any judicial involvement. Dick Marty, Chairperson-Rapporteur of the Committee, said to the press that the information received so far had "reinforced the credibility of allegations concerning the transfer and temporary detention of individuals, without any judicial involvement, in European countries" [Statement to the press, 13 December 2005].

The Secretary General of the Council of Europe, Terry Davis, has invoked the European Convention for the Protection of Human Rights and Fundamental Freedoms to call on all member states of the Council to provide information on how their domestic laws ensure the effective implementation of the Convention, particularly in regard to preventing illegal detention and transfer of detainees. Member states must respond by 21 February 2006.

19. Which states are already conducting investigations?

In addition, a number of European states have launched individual official inquiries into suspected "rendition" activities. Germany, Italy and Sweden have conducted inquiries into the role of government officials in specific "rendition" cases. In Spain, there is an investigation into the use of Spanish airports and airspace by CIA aircraft. In other countries, including Iceland, Ireland, and the Netherlands government officials or activists have called for official inquiries.

The Danish Ministry of Foreign Affairs has apparently prohibited the use of Danish airspace and airports by unauthorized CIA aircraft, while Italy has issued arrest warrants for 22 CIA agents allegedly involved in the February 2003 abduction and transfer to Egypt of the Egyptian cleric Osama Nasr Mostafa Hassan (known as Abu
20. **What is Amnesty International calling for?**

Amnesty International calls on all states to stop "rendition", investigate and prosecute those responsible for the human rights violations connected to this practice, and ensure full reparation to the victims and their families.

In particular, Amnesty International calls on all states to:

**Stop.**

Stop "rendition" and other human rights violations connected to this practice, including enforced disappearance, torture and ill-treatment.

Officially and publicly condemn "rendition" and other human rights violations connected to this practice, including enforced disappearance, torture and ill-treatment, making clear that they are prohibited and will not be tolerated.

Ensure that they do not in any way facilitate "rendition" or other human rights violations connected to this practice, including enforced disappearance, torture and ill-treatment.

Require, in particular, full and detailed information about the use of any aircraft chartered by the CIA or its front companies which land at their airports. This information should include the purpose of the flight; the origin and destination of the aircraft; and the number, identity and nationality of the people on board.

Act on any of this information, or any other information received, which may indicate that the flight or any of the officials on board are or have been involved in human rights violations. Appropriate actions include boarding relevant planes on landing to conduct full investigation.

**Investigate.**

Investigate any allegations that their territory hosts or has hosted secret detention facilities.

Investigate any allegations that their facilities are or have been used to assist any aircraft chartered by the CIA or its front companies that may transport or have transported victims of "rendition".

Refer all allegations to a competent and independent authority for a prompt, thorough and impartial investigation. This authority should have the necessary powers and resources to enable it to investigate effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits. In particular, the investigating authority should have the power to take evidence from national intelligence services.

**Prosecute.**

Prosecute anyone suspected of having committed, ordered or authorized "rendition" or any other human rights violations connected to such practice, including enforced disappearance, torture or ill-treatment. All prosecutions must be conducted in proceedings which meet international standards of fairness. Those found guilty should be punished under a law providing for sentences commensurate with the gravity of the crime and without recourse to the death penalty.
Ensure reparation.

Ensure that judicial or other mechanisms guarantee full reparation to the victims of "rendition" and any other human rights violations connected to such practice, including enforced disappearance, torture or ill-treatment, and to their families. This includes restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Further information

For some answers to other common questions on the use of torture and other ill-treatment in the "war on terror", see:


‘Disappearances’ in the ‘war on terror’ (AI Index: ACT 40/013/2005) [http://web.amnesty.org/library/index/engact400132005]

‘Diplomatic assurances’ – No protection against torture or ill-treatment (AI Index: ACT 40/021/2005) [http://web.amnesty.org/library/index/engact400212005]

