



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt Hon Sir Malcolm Rifkind QC MP
Chairman
Intelligence and Security Committee
35 Great Smith Street
London
SW1P 3BQ

11 May 2011

Dear Malcolm,

Re: Extraordinary Rendition

We discussed the issue of post-2003 detainee transfers the other day.

Sir Peter Gibson has written to tell me that, in his view, “*military detention operations should not be one of the key themes for the Inquiry*”.ⁱ This is a mistake.

It is essential that the Detainee Inquiry addresses all detainee transfers in theatre in Iraq and Afghanistan, including those post-2003, for at least two reasons. First, the confirmed case of UK forces’ involvement in rendition was in 2004.ⁱⁱ Secondly, and most important, only through a full examination of this issue can we obtain closure on rendition and restore public confidence.

The extent to which Sir Peter was asked by the Prime Minister to examine the issue of detainee transfers is unclear. In his letter to Sir Peter the Prime Minister asked him to examine whether “*the UK... [was] involved in improper treatment of detainees held by other countries in counter-terrorism operations overseas...*” This must include detainee transfers. In the House of Commons the Prime Minister confirmed to me that it did.ⁱⁱⁱ However, the same letter from the Prime Minister muddied the waters. He also wrote that “*military detention operations in Iraq and Afghanistan post-2003 are being addressed by separate arrangements made by the [MOD]*”.

Any reasonable reading of the Prime Minister’s letter suggests that Sir Peter and his team will need to engage fully with the MOD for the pre-2004 work. Therefore, it also makes sense to address the post-2003 work.

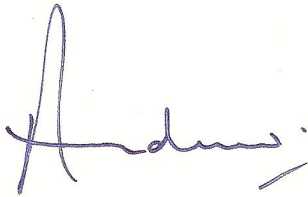
The case for relying on the ‘separate arrangements’ made by the MOD, to which the Prime Minister referred in his letter, is weak. Those arrangements appear inadequate.^{iv} Previous MOD investigations have failed to get to the truth.^v

I have made all the above points to the Prime Minister. I have also engaged in an exchange of correspondence with the Inquiry team, as well as raising this with them in a meeting earlier this year. All relevant correspondence is attached.

The Gibson Inquiry is in the process of finalising its terms of reference with the government. If you agree with me that the Inquiry should cover thoroughly detainee transfers, it would be helpful to express that view to the Inquiry as soon as possible.

I am placing a copy of this letter in the public domain.

Yours ever,



ANDREW TYRIE

Chairman, All-Party Parliamentary Group on Extraordinary Rendition

ⁱ Letter from Sir Peter Gibson, 13 April 2011, attached

ⁱⁱ See Rt Hon John Hutton MP, Records of Detention (Review Conclusions), 26 February 2009, *Official Report*, Column 394.

ⁱⁱⁱ **Mr Andrew Tyrie (Chichester) (Con):** I warmly welcome the Prime Minister's statement. It was courageous and very thoughtful, and the inquiry is a huge step forward as it can draw a line under a sorry affair that has been eroding public confidence in our security services, which do such good work on our behalf. Will he clarify that the remit that will be given to the inquiry will be broad enough to encompass all allegations of complicity in rendition, including on rendition flights, the use of Diego Garcia *and the transfer of prisoners in theatre?*

The Prime Minister: *Yes, I can confirm that the inquiry will be able to look at all those issues, including rendition, extraordinary rendition and the case that the hon. Gentleman mentions involving Diego Garcia. (Emphasis added)*

^{iv} I raised this with the Secretary of State for Defence in January (attached) but have yet to receive a reply.

^v Previous investigations failed to uncover the 2004 renditions and so were clearly inadequate. Extracts of a MOD review of detention practices, released to me under FOIA on 7 July 2008, concluded that "*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 there is no evidence of unlawful rendition and we have looked*". Such an inaccurate and glowing assessment must cast doubt on the effectiveness of MOD investigations as a whole. It is worth noting that in response to my requests the MOD has consistently refused to release further details of this review. Following litigation, it has now been ordered to do so by the Upper Tribunal.