



All Party Parliamentary Group on Extraordinary Rendition  
House of Commons

**Annual Report 2010**

**1. Background**

The All Party Parliamentary Group on Extraordinary Rendition was founded in 2005. Its aims are to get to the truth on British involvement in the United States' extraordinary rendition programme and to do what it can to ensure that law and policy is adequate to prevent such practices taking root in the future. Foundation Open Society Institute (Zug), the Oak Foundation, the Persula Foundation and Mark Moody Stuart provided financial support during 2010. Hogan Lovells and Freshfields Bruckhaus Deringer, and counsel they instructed, provided invaluable *pro bono* assistance to the Group.

**2. Inquiry**

The Group had long campaigned for a judge-led inquiry into extraordinary rendition. In February 2010, the Group held a meeting in parliament with NGOs and other interested parties to agree a set of principles for such an inquiry. These were published in a joint letter signed by the APPG, Amnesty International, Human Rights Watch, Liberty and Reprieve. The Group continued to press for an inquiry in the following months, commissioning and publishing a Legal Opinion in June 2010 which confirmed that ongoing civil litigation and criminal investigations were not necessarily an obstacle to establishing an inquiry.

In July 2010, Prime Minister David Cameron announced the establishment of an inquiry into British involvement in the mistreatment of detainees abroad. In response to a parliamentary question from Andrew Tyrie, the Prime Minister confirmed that this inquiry would examine involvement in extraordinary rendition, including rendition flights and transfers in theatre.

This inquiry was expected to start by the end of 2010. It has not yet begun, pending the conclusion of criminal cases. However, the inquiry team has been established and is consulting with Government on its terms of reference. In September 2010 the Group made a detailed submission to the inquiry with proposals for the terms of reference and protocol regarding the publication of

evidence provided to the inquiry. In November 2010 the Justice Secretary announced that a settlement had been reached with former Guantanamo detainees, removing a barrier to the inquiry starting work. This APPG has since met with members of the inquiry team and provided further submissions.

### **3. Freedom of Information Campaign**

The APPG's international Freedom of Information Campaign developed over the course of 2010. In the United States, the Group has started litigation against the US government for non-disclosure of information on rendition. The US government has argued that the APPG is a representative of a foreign government and that as a result US intelligence agencies are not obliged to deal with the Group's requests. The Group submitted witness statements from experts and its Chairman Andrew Tyrie on this point, which is before the US Courts. The requests continue to be pursued with other US agencies.

In the UK, the Group received two Decision Notices from the Information Commissioner with regard to Freedom of Information requests made in 2008 to the Ministry of Defence (MOD). The results of these were mixed but some information, including statistics on the number of detainees captured by British forces and transferred to other detention centres, was ordered to be disclosed. Both the APPG and the MOD appealed against the Information Commissioner's decisions and the case was referred to the Information Tribunal. It was heard in January 2011.

### **4. Intelligence Guidance and the Intelligence and Security Committee**

In March 2010 the Cabinet Office published the Intelligence and Security Committee (ISC) Annual Report for 2009. There was considerable criticism of the Government by members of the ISC for its delay, both in publishing the annual report and in providing to the ISC the intelligence guidance given to intelligence officers on conducting interviews with detainees held overseas. The ISC's review of this guidance was also provided to the Cabinet Office at the same time with the expectation that it would be made public. It remains unpublished.

The APPG participated in the Parliamentary Debate on the Intelligence and Security Committee on 18 March 2010, raising points about ISC reform and independence, its failures on rendition in light of the recent Court of Appeal judgments in the Binyam Mohamed case and the need for an inquiry, and the Government's failure to publish the interview guidance.

In July 2010, at the same time as his announcement of the inquiry, the Prime Minister announced the publication of new intelligence guidance. This had

been revised but still encountered serious criticism from NGOs and the press, some of whom felt that it contained ‘loopholes’ suggesting that Ministerial authorisation would make complicity in torture permissible.<sup>1</sup> The former guidance remains unpublished. After seeking legal advice, the APPG wrote to the Prime Minister in late 2010 to ask that he consider widening the prohibitions in the guidance against involvement in torture to include rendition with specific proposals for amendment. The Group will continue to pursue this issue in 2011.

## **5. The Emergence of further details about British Involvement in Rendition**

In early 2010, further judgments in the Binyam Mohamed case revealed more details of British involvement in rendition. The Government had appealed against an earlier High Court ruling that seven paragraphs containing a summary of US reports of Binyam Mohamed's treatment in Pakistan in 2002 be disclosed. On 10 February 2010 the Court of Appeal ruled that the paragraphs should be published. These paragraphs showed that the Security Service was provided with information that Binyam Mohamed was being subjected to techniques such as sleep deprivation, threats and shackling that, in the words of the judgment, “could readily be contended to be at the very least cruel, inhuman and degrading treatment by the United States authorities”.

The case was the subject of further controversy when it emerged that a passage in the judgment that was critical of the Government had been removed from the 10 February judgment. Following submissions from the parties, the decision was overturned, and the passage revised and released on 26 February, revealing the Master of the Rolls’ views that “some Security Services officials appear to have a dubious record relating to actual involvement, and frankness about any such involvement, with the mistreatment of Mr Mohamed when he was held at the behest of US officials. I have in mind in particular witness B, but the evidence in this case suggests that it is likely that there were others.” And further, regarding certificates produced by the Foreign Secretary in good faith: “Not only is there some reason for distrusting such a statement, given that it is based on Security Services' advice and information, because of previous, albeit general, assurances in 2005, but also the Security Services have an interest in the suppression of such information.”

A civil claim brought by former Guantanamo detainees, including Binyam Mohamed, also resulted in the disclosure of a number of documents relating to rendition. One, which received considerable media attention, appeared to show a handwritten note by Tony Blair expressing concern about the treatment of detainees at Guantanamo Bay. A number of consular telegrams were also

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<sup>1</sup> [http://www.reprieve.org.uk/2010\\_09\\_27\\_ehrc\\_torture\\_guidance](http://www.reprieve.org.uk/2010_09_27_ehrc_torture_guidance)

disclosed, shedding further light on the policy of the Government in early 2002 regarding its own citizens or residents. A telegram signed “STRAW” sent to various British Embassies asserted that there was “No objection to American plans to transfer UK detainees from Afghanistan to Guantanamo Bay”.<sup>2</sup> Another set of communications seemed to show that the British Embassy in Lusaka was instructed not to provide consular assistance to Martin Mubanga, who was then rendered to Guantanamo Bay.<sup>3</sup>

In March 2010 the Joint Committee on Human Rights published *Counter-Terrorism Policy and Human Rights (Seventeenth Report): Bringing Human Rights Back In*. This report considered complicity in torture, guidance on interrogation overseas and concluded that the case for establishing an independent inquiry was ‘irresistible’.

## **6. Legal Proposals to Criminalise UK Involvement in Extraordinary Rendition**

The Group published legal proposals to change the law on extraordinary rendition in November 2009, which formed the basis of a consultation. The proposals received a large number of constructive responses from NGOs, industry representatives, legal experts and Parliamentarians through 2009 and into 2010. Following a disappointing response in March 2010 from Rt Hon Jack Straw, the then Minister of Justice, the Group re-submitted the proposals to the new Government in June 2010. These were well-received and Ministry of Justice officials have engaged with the Group and its legal advisors over a series of meetings to discuss taking them forward.

## **7. Further APPG Activities**

In March 2010 the APPG made a submission on extraordinary rendition to the Iraq Inquiry. In August 2010 Senator Dick Marty MEP sought a submission from the APPG to his investigation on state secrecy and accountability in Europe. The Group prepared a submission on the difficulties it has encountered in getting to the truth on British involvement in rendition through the Parliamentary process and Freedom of Information requests. The Group’s Compendium on Extraordinary Rendition was developed over several years and will be published in the first half of 2011. More information on the APPG’s work and rendition more generally can be found on the Group’s website, [www.extraordinaryrendition.org](http://www.extraordinaryrendition.org).

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<sup>2</sup> See BBC: <http://www.bbc.co.uk/news/uk-10641330>

<sup>3</sup> See BBC: <http://www.bbc.co.uk/news/uk-10641452> ‘An August 2002 email from the Deputy High Commission in Lusaka confirms the British authorities had not sought consular access to Mr Mubanga, "which meant we broke our policy" and "we are going to be open to charges of a concealed extradition.”’