



All Party Parliamentary Group on Extraordinary Rendition
House of Commons

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Andrew Tyrie MP comments on two recent court rulings allowing cases to proceed against the British Government for its alleged role in the renditions and maltreatment of several individuals.

“The latest judgments in the Rahmatullah and Belhaj cases conclude that there is a compelling public interest in investigating the allegations against British officials and troops, of detention and maltreatment of individuals.

These cases may be the only means by which the truth can come out about the extent of British involvement in extraordinary rendition – the programme of kidnap and torture developed after September 11. If so, it’s regrettable: we should have got to the bottom of these allegations years ago, with an exhaustive and independent inquiry that commanded public confidence.

Instead, we had a botched job by the Intelligence and Security Committee in 2007, claiming it had got to the truth after a thorough investigation, when it had done nothing of the sort. It was followed by a judge-led inquiry, established by the Prime Minister. But this struggled from the start and had to be closed down because it was suggested that to continue could have prejudiced a criminal investigation into one of the central allegations – the Libyan rendition.

It’s now nearly a decade since allegations of UK involvement in kidnap and torture were first made. Both the delay and the failure to get to the truth are unacceptable.

For closure on rendition we need disclosure. One way or another, the truth will eventually come out. It is in the British national interest and in the interest of the security services, as well as of those who may have been maltreated, that we uncover the truth sooner rather than later. Only then can we draw a line under these allegations and rebuild trust.”

Ends.

Notes to Editors:

Abdul Hakim Belhaj case

On 30 October 2014, the Court of Appeal ruled in favour of Libyan dissident Abdul Hakim Belhaj and his then-pregnant wife Fatima Bouchar, who have alleged that former Foreign Secretary Jack Straw and MI6 were complicit, along with the CIA, in his rendition from Hong Kong to Libya in 2004.

In December 2013, the High Court struck out the lawsuit, holding that it was could not hear the case because the claim called into question activities of a foreign state on its own territory, known as the ‘act of state’ doctrine. The Court rejected the Government’s argument that state immunity (a principle of international law by which a state is protected from being sued in the courts of other states) operated as a bar to the claim.

Mr Justice Simon expressed his concern that “what appears to be a potentially well-founded claim that the UK authorities were directly implicated in the extraordinary rendition of the claimants, will not be determined in any domestic court; and that Parliamentary oversight and criminal investigations are not adequate substitutes for access to, and a decision by, the Court.”

The claimants were granted permission to appeal the High Court’s ruling in February 2014.

On appeal, Mr Belhaj’s lawyers argued that the High Court was not barred from considering the case, as it was a private law claim.

The Court of Appeal agreed with Mr Belhaj that his case could be heard and that allowing the case to proceed would not damage foreign relations. Setting out its reasoning, the court stressed that the allegations at issue were “of particularly grave violations of human rights” and that there was a “compelling public interest in the investigation by the English courts of these very grave allegations.”

Documents implicating the British Government for its role in Mr Belhaj’s rendition were first discovered in 2011 after the fall of the Gaddafi regime in Libya. Mr Belhaj alleges that British intelligence provided information that facilitated his rendition, along with his wife.

Yunus Rahmatullah case

Yunus Rahmatullah, a Pakistani citizen, was captured by British forces in February 2004 in Iraq and subsequently transferred to US custody. He was transported to Bagram Airbase in Afghanistan in March 2004 and detained

there for ten years without charge or trial. Mr Rahmatullah claims he was tortured during this time by both British and American troops.

The Government argued that the court should not hear the case because of the doctrines of state immunity and foreign act of state, which forbids the courts from hearing cases against foreign governments. In his judgment, Mr Justice Leggatt ruled that the court's refusal to hear the case would be "an abdication of its constitutional function." The Government argued that neither it nor the courts had any jurisdiction or control over the acts of American troops and officials. But the judge said that if deciding whether the Government had violated Mr Rahmatullah's rights required investigating whether American officials acted unlawfully, "then the court can and must do that."

The two judgments, which have been issued in the span of three weeks, bring the claimants a step closer to seeking damages and a formal investigation into allegations of unlawful detention and abuse in custody.

In both cases, the courts rejected similar claims by the Government that proceeding with the cases would damage US-UK relations.

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