



## All Party Parliamentary Group on Extraordinary Rendition House of Commons

### Annual Report 2012

#### **1. Background**

The All Party Parliamentary Group on Extraordinary Rendition was founded in December 2005. Its aims are twofold: (1) to get to the truth on British involvement in the United States' extraordinary rendition programme and (2) to do what it can to ensure that law and policy are adequate to prevent such practices taking root in the future.

During 2012-13, the Group received financial support from the following charitable foundations and trusts: Oak Foundation; Foundation Open Society Institute (Zug); the Persula Foundation; Cornwell Charitable Trust; Edith M Ellis 1885 Charitable Trust; and the Roger and Sarah Bancroft Clark Charitable Trust. Hogan Lovells and Freshfields Bruckhaus Deringer and counsel they instructed provided invaluable *pro bono* assistance to the Group.

#### **2. The Justice and Security Bill**

The APPG was one of the prime movers of opposition to the Justice and Security Bill, which was introduced into the House of Lords on 28 May 2012. The Bill proposed the extension of Closed Material Procedures (CMPs) to civil cases.<sup>1</sup> The Government introduced the Bill after expressing its concern that it felt forced to settle cases because it could not disclose sensitive information relating to national security in open court. It claimed that some cases need to

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<sup>1</sup> This would mean that in cases involving national security the government would be able to present its evidence in secret session in the absence of the other party, his or her lawyers, the press and the public.

be heard in closed session so that judges could hear certain sensitive evidence.

The APPG was concerned that the Bill would make it more difficult to uncover the truth about rendition because individuals who brought civil suits against the Government for its alleged complicity in their rendition would likely be shut out of their own cases on national security grounds. The APPG lobbied for the inclusion of a number of amendments into the legislation to increase the accountability and transparency in such proceedings. It held discussions with other government ministers, Members and Peers, NGOs and legal counsel to discuss the implications of the legislation.

During the Bill's consideration in both Houses, the APPG published two pamphlets through the Centre for Policy Studies: *Neither Just Nor Secure* and *Still Neither Just Nor Secure*. The publications argued that the Bill would damage Britain's system of open justice and moral authority. The publications received extensive national and local media coverage and proved influential amongst lawmakers.

Andrew Tyrie MP also conducted many newspaper and radio interviews, opposing aspects of the Bill. The *Times* published a written exchange of opinions between Mr Tyrie and Kenneth Clarke, Minister without Portfolio, who had ministerial responsibility for the Bill.

### **3. The Gibson Inquiry**

The APPG welcomed the establishment of a judge-led Inquiry into rendition (Gibson Inquiry), which was announced by the Prime Minister in July 2010.

The opening of the Inquiry was constantly delayed by police investigations into potential criminal proceedings, and the discovery in September 2011 of documents that appeared to implicate the British intelligence services in renditions to Libya opened a new line of enquiry. When it became clear that this would result in further police investigations, the Government announced in

January 2012 that the Gibson Inquiry would be stood down. The Government has stated its commitment to a new judge-led inquiry once the police investigations were concluded.

On 27 June 2012, the Inquiry delivered its preliminary report to the Prime Minister. The Government said it will publish as much of the report as possible. No date, however, has been set for its publication, despite repeated calls from the public.

The APPG will work to ensure that the report is published and that a new Inquiry is set up as soon as possible.

#### **4. Freedom of Information Campaign**

The APPG continued to pursue its Freedom of Information litigation against the authorities on both sides of the Atlantic. The Group has benefited from extensive pro bono representation by both the UK and US arms of Hogan Lovells and counsel at 11 King's Bench Walk.

In the UK, the APPG's appeal to the Upper Tribunal against the denial of its Freedom of Information requests to the Foreign and Commonwealth Office is currently underway. The requests were made for information concerning several high-profile rendition cases (Binyam Mohamed, Al-Rawi and El-Banna) from the past decade. Hearings are scheduled to take place during the summer of 2013.

In the US litigation, the APPG has been granted leave to appeal the April 2012 decision of the federal district court that ruled in favour of the intelligence agencies and denied the APPG's FOIA requests from 2008. In that decision, the court relied on the 'Foreign Government Exception', introduced under the Intelligence Authorization Act of 2003, which exempts bodies that are part of the intelligence community from FOIA if those making the request are representatives or subdivisions of a foreign government. The APPG is

currently appealing the court's finding that, as Members of Parliament, Andrew Tyrie and his colleagues in the APPG were the representatives of a foreign government.

In the meantime, the APPG and its legal counsel continue to negotiate with other US government agencies over the release of documents.

## **5. Website update**

The APPG's website has been updated extensively over the past year to make it more user-friendly. The website is updated regularly with news, publications, parliamentary business, correspondence and debates relating to extraordinary rendition. Website traffic has steadily increased over the past year.

## **6. Partnership with Other Organisations**

The APPG worked with numerous other organisations over the past year, both in the UK and abroad. The work included the Justice and Security Bill, Freedom of Information litigation, and report launches.

Plans are in progress for the launch of a new report recently published by the Constitution Project's Task Force on Detainee Treatment, based in Washington, DC. The event is intended to take place in Parliament.

## **7. Further APPG Activities**

The APPG continues to call for strengthened parliamentary oversight of the British intelligence services, namely through the reform of the Intelligence and Security Committee (ISC). It proposed several amendments to the Justice and Security Bill that would have implemented the Wright Committee's 2009

proposal for the Chairman of the ISC to be elected by the House of Commons, subject to a Prime Ministerial veto.

More information on other aspects of the APPG's work can be found on the Group's website, [www.extraordinaryrendition.org](http://www.extraordinaryrendition.org)