



Foreign &  
Commonwealth  
Office

London SW1A 2AH

*From The Minister of State*

November 2007

Our reference: 51305

Andrew Tyrie Esq MP  
House of Commons  
London  
SW1A 0AA

*Dear Andrew*

Thank you for your letter on behalf of the All Party Parliamentary Group on Extraordinary Rendition to the Foreign Secretary of 16 October, further to his speech at the recent Labour Party Conference. Your letter has been passed to me to reply as the Minister with responsibility for counter-terrorism at the Foreign and Commonwealth Office.

You referenced some of the points made by the Foreign Secretary, particularly with regard to perceptions of UK foreign policy in the Muslim world, and asked why the UK Government has not condemned the US policy of rendition. Rendition is not a term defined in international or UK domestic law. It is normally understood to mean the transfer of a person from one jurisdiction to another, outside normal legal processes such as extradition, deportation, removal or exclusion. The use of the expression "extra-ordinary rendition" is equally imprecise. But as you are aware, it is increasingly used to describe the extra-judicial transfer of persons from one jurisdiction to another for the purposes of detention and interrogation outside the normal legal system, and where there is a real risk of torture or cruel, inhuman or degrading treatment.

The UK Government's position on rendition is quite clear. We would not allow transfer of detainees through our airspace if we had any concerns about the treatment of the individuals in question or breaches of our obligations. We unreservedly condemn the abhorrent practice of torture whenever and wherever it may occur. Our partners are fully aware of this position.

As you will recall, in December 2005 the US Secretary of State Condeleezza Rice gave a public statement in which she said "*The United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred persons will not be tortured.*"

Secondly, your letter asks if we will look again at the findings of the European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners. We have considered the Committee's report and its recommendations. I answer your particular points in turn below.



- The UK Government is committed to engaging with such international bodies. We co-operate fully with their investigations, and did so in this case. The Committee published a resolution on 14 February 2007, which corrects para 67 of its report of 30 January and acknowledges the UK Government's co-operation.
- The UK Government has produced a guide explaining exactly what it can and cannot do in relation to consular assistance, entitled "Support for British Nationals Abroad: A Guide". On page 5 it explains that the help detailed in the guide is available to all British nationals; dual nationals in certain circumstances; and European Union or Commonwealth nationals whose country does not have a local mission and in circumstances where we have agreed to help their nationals. Consular assistance can only be provided to foreign nationals, such as non-represented EU and Commonwealth nationals, where the receiving State does not object to us providing such assistance. Apart from this narrow exception, the Vienna Convention on Consular Relations does not give us any locus to provide consular assistance to foreign nationals regardless of their residency status.
- You ask if the UK Government will carry out an investigation into the stopovers at UK airports of aircraft that have allegedly been used by the CIA for extraordinary rendition operations. You will be aware of the investigation carried out by Mike Todd earlier this year in his role as lead on aviation security for the Association of Chief Police Officers. He concluded that there was insufficient evidence on which to launch a criminal investigation into the alleged use of British airports for unlawful rendition. This is because at the time of the aircraft being in the UK's jurisdiction, they were not carrying out any illegal activity.

Your letter also asks if the UK Government will re-examine the findings of the Council of Europe's (CoE) second report on "Secret detentions and illegal transfers of detainees involving Council of Europe member States". Recommendations are being considered at meetings this month for presentation to the CoE Committee of Ministers in the coming weeks. It is too soon for me to say what will happen following these discussions. Again, I address your specific points below.

- You ask if we will carry out an investigation into the alleged use of Diego Garcia in the processing of 'high value detainees'. As recently as September, we have had robust assurances from the US that at no time have there been any detainees either on Diego Garcia, or transiting through the UK's territorial seas or airspace surrounding Diego Garcia. I have confidence in these assurances.
- You mention the blanket over-flight rights and assistance offered to the US. The UK/US clearance arrangements are a direct result of the Statement to the Press on 4 October 2001 by NATO Secretary General, Lord Robertson. This was "on the North Atlantic Council Decision on Implementation of Article 5 of the Washington Treaty following the 11



September attacks against the United States". NATO Allies agreed to "provide blanket over-flight clearances for the United States and other Allies' aircraft, in accordance with the necessary air traffic arrangements and national procedures, for military flights related to operations against terrorism". The clearance provided does not, however, remove the obligation for all parties to comply with domestic and international law. I am confident that these arrangements are satisfactory and that should the US wish to render a detainee through UK airspace they would seek our permission.

*Yours  
Kim*

KIM HOWELLS

ANDREW TYRIE MP



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt Hon David Miliband MP  
Secretary of State for Foreign and Commonwealth Affairs  
Foreign and Commonwealth Office  
King Charles Street  
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16 October 2007

*Dear David,*

I am writing to you in my role as Chairman of the All Party Parliamentary Group on Extraordinary Rendition.

I heard your speech to the Labour Party Conference with great interest, and I am writing about three major points you mentioned. The first is that British foreign policy has alienated millions of Muslims; the second is that we need a greater reliance on multilateral institutions; and the third is that the UK Government will 'stop and think' about the impact of its foreign policy abroad in the future. All of these points are extremely welcome.

It must seem extraordinary to our own Muslim community that the Government still hasn't condemned the US policy of rendition. Indeed, the Prime Minister categorically refused to do so when I asked him directly on 25 July 2007<sup>1</sup>. The effect of our continued refusal to condemn rendition is equally damaging abroad. It sends the wrong signal to moderates in the Muslim world whose support we in the West need.

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<sup>1</sup> <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070725/debtext/70725-0007.htm#07072570000279>

Multilateral institutions have investigated the issue of rendition, and their reports add weight to the growing call for UK action on this issue. Will the Government therefore look again at the findings of the European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners? In particular, will the UK Government:

- fully cooperate with future investigations of this kind? In its final report the Committee made clear that it had not received the cooperation it requested<sup>2</sup>;
- seek to provide consular assistance to both British nationals and British residents detained abroad as terrorist suspects, where those detainees are accessed by British intelligence services;
- carry out an investigation into the stopovers at UK airports of aircraft which have been allegedly used by the CIA for extraordinary renditions, including those of Jamil el-Banna, Bisher al-Rawi and Binyam Mohammed?

Will the Government re-examine the findings of the Council of Europe's 'Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report'? In particular, will the UK Government:

- carry out an investigation into the alleged use of Diego Garcia in the processing of 'high value detainees'<sup>3</sup>;
- examine the arrangements for blanket overflight rights and refuelling assistance offered to the US, to ensure they are not providing assistance of any sort to the US' rendition programme?<sup>4</sup>

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<sup>2</sup> Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, 'REPORT on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners' (2006/2200(INI)), 30.01.2007, para 67

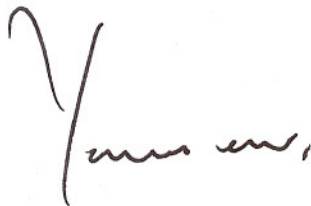
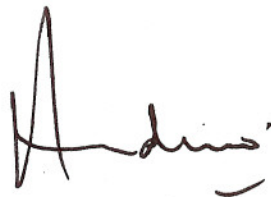
<sup>3</sup> Council of Europe Committee on Legal Affairs and Human Rights, 'Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report', 07.06.2007, para 70

<sup>4</sup> 'Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report', para 105

I am a committed Atlanticist. It is in all our interests that in tackling extremism we maintain the moral high ground. Extraordinary rendition also undermines the values of Western democracies that we are seeking to export.

Condemning extraordinary rendition would be a simple and uncontroversial step towards a new foreign policy approach, and would help to bring this barbaric practice to an end.

I am placing this letter in the public domain.

A handwritten signature in black ink, appearing to read "Yasser", written in a cursive style.A handwritten signature in black ink, appearing to read "Andrew", written in a cursive style.

**ANDREW TYRIE**