



Foreign &
Commonwealth
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London SW1A 2AH

Andrew Tyrie MP
House of Commons
London
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From the Foreign Secretary

D. Andrew,

Thank you for your letter of 9 July to the Prime Minister about Mr Binyam Mohamed. I apologise for the delay in replying to you.

You are correct that Mr Mohamed has now been charged under the US Military Commissions Act (MCA). You may be aware that the Military Commissions procedures have been through a number of reviews of one form or another by both the US Congress and most recently the Supreme Court, which found that detainees have the right to challenge the legality of their detention in the US Federal Courts. Such challenges have already begun. The Government recognises that the current MCA represents a step forward over previous iterations in meeting international legal standards for the detention and trial of those accused of terrorism offences. But we continue to have outstanding concerns about a number of its aspects which we have raised with the US authorities.

The Government continues to have an active dialogue with the US over Mr Mohamed's case, including our request that he be released and returned to the UK. Mr Mohamed's lawyers have brought Judicial Review proceedings against the Government in order to obtain any information which could support his defence in any future trial at Guantanamo Bay, and in particular his allegations of torture and mistreatment. In preparing for the Judicial Review, Government departments performed a thorough search of files and discovered a limited amount of information which we determined was potentially relevant and could support his defence. We informed Mr Mohamed's lawyers about the existence of this information as soon as possible after it was discovered and brought the material to the attention of the US Government so that they could assess whether it would be disclosed to Mr Mohamed through the US legal system. The High Court considered the information during the Judicial Review and concluded that it related "to a small part of Mr Mohamed's account of what happened to him".

The Government has never contested that Mr Mohamed should have access to this information. As the Court concluded, we have gone to "very considerable lengths" to ensure that Mr Mohamed's legal representatives are able to obtain it through the US system. This has led to significant steps by the US Government to guarantee that if Mr Mohamed's case proceeds to trial, the US will disclose the information in question to his US counsel. It remains for the Court to determine whether, in this context, disclosure by the UK should be ordered.

In the course of the case, there have also been allegations that the British Security Service was complicit in Mr Mohamed's alleged torture. We reject any accusation that UK security and intelligence officials have been complicit in torture. The UK unreservedly condemns the use of torture as a matter of fundamental principle. We take Mr Mohamed's allegations of mistreatment very seriously indeed and have raised them with the US Government and asked them to investigate. They have also underpinned our approach to his case and the decisions that we have taken about it.

We are also aware of the concerns about Mr Mohamed's health. We have made clear to the US the importance we attach to ensuring that Mr Mohamed is treated humanely at Guantanamo Bay and receives any medical attention that he may require. The British Embassy in Washington has been in regular contact with the US Department of Defence about Mr Mohamed's welfare and mental state. The US assures us that he has access to good medical care as well as independent evaluation by the International Committee of the Red Cross. UK officials also visited Mr Mohamed on 23 July. As he is not a UK National this visit was undertaken in the context of the Government's request for his release and return to consider issues related to his welfare. We are in contact with Mr Mohamed's family and legal representatives on these issues.

Us,
Jan

DAVID MILIBAND