



All Party Parliamentary Group on Extraordinary Rendition  
House of Commons

**Annual Report 2011**

**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 are adequate to prevent such practices taking root in the future. During 2011 the Group received financial support from the Oak Foundation, having benefited in the previous year from support from the Foundation Open Society Institute (Zug), the Persula Foundation and Mark Moody Stuart. Hogan Lovells and Freshfields Bruckhaus Deringer, and counsel they instructed provided invaluable *pro bono* assistance to the Group.

**2. The Gibson Inquiry**

The APPG had long argued for a judge-led Inquiry into rendition and therefore welcomed the Prime Minister's announcement of the Gibson Inquiry in July 2010.

The APPG engaged with the Gibson Inquiry from the start, setting out detailed proposals as to how the Inquiry should approach its work. The Group sought to draw on best practice by similar inquiries across the world, bringing together high-level participants (including the UN Special Rapporteur on Torture, Juan Mendez) in a discussion of the key issues in January 2011.

However, the APPG increasingly voiced alarm at the Gibson Inquiry's narrow approach to its remit (notably its refusal fully to address the issue of the

transfer of detainees in theatre) and its apparently passive approach to information gathering. The Group was also deeply concerned at the terms of the Protocol drafted by Sir Peter Gibson in conjunction with the Cabinet Office, giving the Cabinet Secretary the final determination as to what information would or would not be put into the public domain. These concerns – which were shared by NGOs active in the field, many of whom withdrew from cooperating with the Inquiry – were expressed not only to the Gibson Inquiry but also in a meeting between Andrew Tyrie and the Prime Minister.

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.

By this time, the Inquiry had lost so much credibility with many of those concerned with rendition that its closure was widely welcomed as offering the prospect of a fresh start. The Government made clear that it was committed to a new judge-led inquiry once the police investigations were concluded. The APPG will work to ensure that this commitment is honoured, and that the lessons from the shortcomings of the Gibson Inquiry are learned.

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

The APPG continued to pursue its Freedom of Information litigation against the authorities on both sides of the Atlantic. In this the Group was assisted by extensive pro bono legal work, notably from Tom Hickman, Freshfields and both the UK and US arms of Hogan Lovells.

The APPG's appeal against the British Ministry of Defence's refusal to release documents concerning transfers in theatre was adjudicated by the Upper Tribunal in April 2011, resulting in the release of significant documents. These

included the previously secret 2008 Memorandum of Understanding between the UK and the US; further extracts of a 2008 Detention Practices Review; and statistical information on detainees captured in Afghanistan.

The documents revealed that specific provisions to enable the UK to demand the return of people handed over to the US were removed from the MOU in 2008, and that there were significant failings on the MoD's part, with no tracking of detainees handed over to the US between March 2003 and June 2004. It was during this period (in February 2004) that two detainees captured in Iraq were handed to the US and rendered to Afghanistan.

The APPG also pursued appeals against the denial of its Freedom of Information requests to the Foreign and Commonwealth Office concerning some of the highest-profile rendition cases of recent years (such as Binyam Mohamed and the al-Rawi and el-Banna rendition). When, in January 2011, the Information Commissioner sided with the FCO, the Group and its legal advisers immediately took the case to appeal. Hearings took place in November 2011, during which Andrew Tyrie gave evidence as APPG Chairman and was cross-examined, putting particular emphasis on the public interest in disclosure.

In the United States, the intelligence agencies sought to deny the FOIA requests submitted by the APPG in 2008 on the basis that, as Members of Parliament, Andrew Tyrie and his colleagues in the APPG were the representatives of a foreign government. (This made use of 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's US legal team made the case against this, and the case was filed in the autumn of 2010. There were no further developments on this case during 2011; in the meantime, the APPG and its representatives continued to negotiate with other government agencies over the release of documents.

#### **4. Publication of *Account Rendered***

The APPG's compendium *Account Rendered: Extraordinary Rendition and Britain's Role* was published in July 2011. The book contains a forensic analysis of the background to rendition, its operation under the Clinton and Bush administrations and the role of US allies, notably Britain, in facilitating rendition. This is combined with a 200-page collection of primary documents, presented with commentary on their significance.

The APPG's intention in publishing this book was to provide a comprehensive statement of current knowledge about rendition, and in particular about its British angle, which has been less analysed than has American policy. The book should therefore serve as a starting-point for further investigation into the past and for proposals for change in the future, whether legislation to prevent a repetition of rendition or reform to the Intelligence and Security Committee (ISC). The APPG believes that it has achieved these aims.

Copies of the book were sent to parliamentarians and other policy makers, and won a warm response from parliamentary colleagues. The book was also positively reviewed; for example, Peter Osborne's review in *The Spectator* praised "this excellent and scrupulous book" and concluded that "the authors have performed an enormous public service by writing it." Writing in *The Sunday Times*, Stephen Grey described it as "an essential and disturbing dossier." The book has also been of considerable interest to those investigating rendition elsewhere, notably in the United States.

#### **5. Campaign for legal changes**

During 2011, the APPG made further progress with its proposals to change the law and prevent a repetition of British complicity in rendition. The Group's initial proposals, developed with Freshfields Bruckhaus Deringer, were set out in *Extraordinary Rendition: Closing the Gap*, published for consultation in November 2009. Meetings with the Justice Secretary, Rt Hon Kenneth Clarke QC MP, and his officials led the APPG to hone its proposals and enabled it to

achieve significant (though not yet complete) progress towards their acceptance by government. At this point, however, the Justice Secretary felt that further decisions should await the recommendations of the Gibson Inquiry. The APPG continues to pursue this issue with the Government.

## **6. Further APPG Activities**

The APPG has actively participated in the debate concerning the oversight of Britain's intelligence services and the reform of the Intelligence and Security Committee (ISC). The ISC's investigations into rendition were demonstrated to be inadequate, as made clear by the High Court judgment in the Binyam Mohamed case in 2009-10. The APPG has argued consistently for implementation of the Wright Committee's 2009 proposal for the Chairman of the ISC to be elected by the House of Commons, albeit subject to a Prime Ministerial veto.

There have been significant further developments in many of the Group's activities, notably the Freedom of Information campaign, since the end of 2011 and these will be addressed in the next Annual Report. More information on this and other aspects of the APPG's work can be found on the Group's website, [www.extraordinaryrendition.org](http://www.extraordinaryrendition.org)