

Press Release

For immediate release

Assurances from Jack Straw and Condoleezza Rice over torture flights are 'as good as worthless'.

13th December 2005

The All Party Parliamentary Group on Extraordinary Rendition publishes today a legal Opinion commissioned from leading authority James Crawford, Whewell Professor of International Law at the University of Cambridge.

The Opinion shows that the UK may not be fulfilling its legal obligations, despite Jack Straw's protestations to the contrary.

The opinion analyses the statement made by United States Secretary of State Condoleezza Rice on 5th December in response to allegations that the US is engaging in unlawful renditions of terror suspects. It also advises on the legal issues related to the concern that United Kingdom territory or facilities may have been used to assist the US in carrying out 'torture flights'.

Andrew Tyrie, Chairman of the APPG said:

"Jack Straw said on the Today programme: 'careful research has been unable to identify any occasion . . . when we have received a request for permission by the US for a rendition through the UK territory or airspace . . . [the FCO] have found no records.'

This should reassure nobody.

On the specific issue of records on the 13th July the Home Office told me in an answer to a PQ (Number 442 27.6.05): "records of a transit application are not kept once the transit has been completed." So it's hardly surprising there are no records."

Mr Tyrie continued:

"It is crystal clear that the UK must investigate allegations that it has been complicit in torture. Checking for instances of the US requesting permission is simply derisory.

Two important conclusions come from Professor Crawford's Opinion. First, to comply with its legal obligation the British government must satisfy itself that Extraordinary Rendition is not leading to torture. As Professor Crawford puts it: 'the question that must be asked is whether torture is likely to take place if a person is transported, irrespective of whether or not the government claims that the answer is no, or what its hopes or beliefs may be' (para. 20).

Secondly, relying on Condoleezza Rice's assurance provides little or no legal cover for the government. Condoleezza Rice's assurance is based on the US government's interpretation of its obligations but they are as good as worthless for ensuring compliance with Britain's legal obligations. It is the duty of the UK government to take all the necessary active steps to achieve this.

In particular, as Professor Crawford clarifies, all UK assistance to US aircraft which may be engaged in Extraordinary Rendition should be conditional on the US respecting obligations not to engage in torture, at the legal standard at which the obligations apply to the UK. In other words, if the US is to use UK airports and airspace for these practices, the

US must abide by the legal rules that bind the UK and UK courts' interpretation of them, not just US law or the US administration's interpretation of them.

We also need a thorough investigation of detailed allegations that have been made.¹

For example, the Saad Madni case raises a number of specific questions which Mr Straw needs to answer:

Did this Gulfstream 5 stop in the UK?

Was Mr Madni on board?

Did the US seek permission for this flight to refuel?

Did the UK give permission for the flight to refuel?

Was Mr Madni likely to be tortured as a result of this transfer?"

Mr Tyrie concluded:

"Professor Crawford is not raising abstract legal or technical issues. His opinion goes to the heart of what's being done in our name. There should be no place for torture in British Foreign Policy, nor for turning a blind eye to it.

The government's position is now badly exposed. Jack Straw knows this very well. That is why he has been engaging in the same sort of legally

¹ In the case of Saad Iqbal Madni, it was alleged that: The Gulfstream V on to which Iqbal was bundled and flown to Egypt left Cairo on January 15 [2002] and headed for Scotland. After a brief stopover at Prestwick, probably to refuel, it departed again for Washington. Iqbal was held in Cairo for two years before appearing in Guantánamo, where he told other detainees who have since been released that he was tortured by having electrodes placed on his knees. It also appears that his bladder was damaged during interrogation. See *Destination Cairo: human-rights fears over CIA flights*. Ian Cobain, Stephen Grey, Richard Norton Taylor. *The Guardian*, September 12, 2005.

inspired economy with the truth that we have already seen from Condoleezza Rice.

The truth will come out on all of this eventually, anyway. It would be far better for Britain's standing in the world, and for the government, if it told us now.

If many people's concerns and fears turn out to be well grounded, we will be undermining the very values that we are seeking to export and, as a result, we will make ourselves less secure not more."

Encl: Copy of Prof Crawford Legal Opinion

Ends

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Notes:

1. The All Party Parliamentary Group on Extraordinary Rendition is chaired by Andrew Tyrie MP. It is a cross party group and comprises over 50 MPs and Peers.

2. About James Crawford SCA FBA, Whewell Professor of International Law at the University of Cambridge (taken from Matrix Chambers website www.matrixlaw.co.uk):

'He was formerly Director of the Lauterpacht Research Centre for International Law, also at Cambridge. Before moving to Cambridge in 1992 he was a Member of the Australian Law Reform Commission; from 1992 he was a member of the International Law Commission, and was responsible in that capacity for the ILC's Draft Statute for an International Criminal Court (1994) and the ILC's Articles on State Responsibility (2001).

Professor Crawford has an extensive practice in international law and international arbitration, appearing before the ICJ, ITLOS, ICSID and ICC tribunals. He has been an arbitrator in ICSID and ad hoc arbitrations as well as in inter-state cases, is

a member of the ICSID panel of arbitrators, author of numerous books, and co-editor of the British Yearbook of International Law.

Professor Crawford, along with Philippe Sands QC and Ralph Wilde, Faculty of Laws, University College of London, prepared an opinion on the question of the compatibility of Article 98(2) and the 1998 Rome Statute of the International Criminal Court (ICC Statute) for the Lawyers' Committee on Human Rights and the Medical Foundation for the Care of Victims of Torture.'