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Foreign Affairs Committee

Human Rights Annual Report 2008

Seventh Report of Session 2008–09

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written evidence*

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The Foreign Affairs Committee

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Conclusions and recommendations

The structure of the FCO report

1. We conclude that the FCO's inclusion in its report of extensive sections on what steps it is taking to promote equality and democracy, including women's and children's rights, is welcome. We recommend that next year's report includes what the FCO is doing both to extend the right of freedom of association, and to achieve progress amongst Commonwealth countries in implementing the human rights provisions of the Harare Declaration. (Paragraph 10)

US policy on extraordinary rendition

2. We conclude that the shift in attitude of the new US Administration on the definition of torture and in its approach to extraordinary rendition is to be welcomed. We recommend that, in its response to this Report, the Government supplies us with a full assessment of whether, in its opinion, the present US policy in relation to secret and transitory detention and permitted interrogation techniques fully conforms to international human rights standards as interpreted by the UK. (Paragraph 20)

Rendition

3. We conclude that it is unacceptable that the Government has not taken steps to obtain the full details of the two individuals who were rendered through Diego Garcia. We recommend that the Government presses the new US Administration to provide these details, and that it should then either publish them, or explain the reasons why it considers it would not be in the public interest to publish them. (Paragraph 28)
4. We conclude that the use of Diego Garcia for US rendition flights without the knowledge or consent of the British Government raises disquieting questions about the effectiveness of the Government's exercise of its responsibilities in relation to this territory. We recommend that in its response to this Report, the Government indicates whether it considers that UK law has effect in British Indian Ocean Territory, and whether it considers that either UK law or the agreements between the US and UK over the use of BIOT were broken by the admitted US rendition flights in 2002. (Paragraph 30)
5. We conclude that, in the light of the controversy over the use of British Indian Ocean Territory for purposes of rendition by the US, it is important that full records of flights through the territory are kept, and retained for an indefinite period. We conclude that it is to be welcomed that the British representative on Diego Garcia now keeps flight records. We recommend that the Government discloses how, why and by whom the records relating to flights through Diego Garcia since the start of 2002 were destroyed. We further recommend that the Government provides, in its response to this Report, full details of its record-keeping and record-disposal policy in relation to flights through British territory, particularly BIOT, and state for how

long it now retains such records. We recommend that, in its response, the Government addresses the question of whether it considers that current aviation law and aircraft identification procedures are sufficient to identify flights which may be carrying out rendition both through Diego Garcia or elsewhere through UK airspace. (Paragraph 33)

6. We conclude that it is a matter of concern that many allegations continue to be made that the two acknowledged instances of rendition through British Indian Ocean Territory in 2002 do not represent the limit of the territory's use for this purpose. We further conclude that it is extremely difficult for the British Government to assess the veracity of these allegations without active and candid co-operation from the US Administration. We recommend that the Government requests the Obama Administration to carry out a further, comprehensive check on its records relating to the use of BIOT with a view to testing the truth of the specific allegations (including those set out in paragraph 34 above) relating to rendition through the territory. We conclude that it is unsatisfactory that the Government is not able to give us a categorical assurance that re-victualling of ships anchored outside BIOT's territorial waters by any vessel from BIOT, for purpose of assisting rendition, has not occurred. We further conclude that it is unsatisfactory that the US has only undertaken to inform the UK of the movement of ships in Diego Garcia's territorial waters in normal circumstances but not in all cases. We recommend that the Government requests the US Administration to supply details of any movement of ships in Diego Garcia's waters since January 2002 that were not notified at the time to the UK authorities, and seek assurances that at no point were these or other vessels used for re-victualling of vessels outside Diego Garcia's territorial waters which were being used for purposes of rendition. (Paragraph 37)
7. We reiterate our previous conclusion that it is deplorable that previous US assurances about rendition flights through Diego Garcia have turned out to be false. We further conclude that the basis of trust in subsequent US assurances about the use of BIOT has been undermined. We recommend that the Government outline what practical action it is taking to ensure that it has full sources of information about US rendition activity on BIOT. (Paragraph 41)
8. We reiterate our earlier conclusion that the Government has a moral and legal obligation to ensure that flights that enter UK airspace or land at UK airports are not part of the rendition circuit. We acknowledge the practical difficulties in the way of monitoring all empty flights transiting UK territory or airspace. We recommend that the Government, in its response to this Report, sets out options for more effectively establishing whether flights, including those by civilian aircraft, are on their way to or from a rendition operation. (Paragraph 43)
9. We recommend that the Government complete its analysis of practicalities of signing the UN Convention on Enforced Disappearances as soon as possible. We further recommend that, having been supportive of the Convention at the drafting stage, the Government should declare its intention, in principle, to sign. (Paragraph 46)

Allegations of UK complicity in torture

10. We conclude that the practices of the Pakistani Inter-Services Intelligence (ISI) Agency continue to give cause for great concern, in the light of the allegations we have received that the Agency subjects detainees to mistreatment and torture. We further conclude that while the UK must, by necessity, maintain its relationship with Pakistani intelligence, we are very concerned by allegations that the nature of the relationship UK officials have with the ISI may have led them to be complicit in torture. We recommend that, in its response to this Report, the Government supplies us with details of the investigations it has carried out into the specific allegations of UK complicity in torture in Pakistan brought to public attention by Reprieve and Human Rights Watch, and the grounds it has for supposing those allegations to be baseless. We further recommend that the Government make an explicit statement that in future co-operation with the Pakistani authorities, UK officials should in no circumstances be uncritical of, or complicit in, abuses of human rights. We recommend that, in its response to this Report, the Government confirms that it is its policy, in respect of every case where allegations of torture in Pakistan are drawn to its attention, for such allegations to be passed to the Pakistani authorities and every available step taken to ensure that they are investigated and responded to fully. (Paragraph 54)
11. We conclude that the Government's intention to establish the same standards for dual and mono British nationals in relation to consular access is to be welcomed. We recommend that this change should be brought into effect as soon as possible, and that in its response to this Report the Government sets out a timetable for this to be achieved. We further recommend that all British nationals should be offered consular advice as soon as the Government is aware of their detention, and certainly before they are interrogated by any foreign intelligence service. (Paragraph 57)
12. We conclude that, notwithstanding the recent changes to House of Commons standing orders, the Intelligence and Security Committee (ISC) remains a creature of the Government, not a committee of Parliament, and that consequently there continues to be a deficit in the parliamentary scrutiny of intelligence and security matters. We reiterate our previous recommendation that the ISC should be reconstituted as a select committee of the House of Commons. (Paragraph 63)
13. We conclude that if the Investigatory Powers Tribunal is to be an effective safeguard it should be able to investigate allegations made by third parties. We recommend that the Government brings forward proposals to make this change. (Paragraph 64)
14. We conclude that, while we understand the Government's caution about publishing historical guidance to intelligence officers whilst current court cases are in progress, we are not convinced that the release of material that would be available to a court on request is likely to prejudice a case. We therefore recommend that such historical guidance should be placed in the public domain as soon as possible. (Paragraph 68)
15. We conclude that it is essential that there is a robust system of accountability to ensure that the Foreign Secretary uses section 7 of the Intelligence Services Act 1994 in a responsible fashion. We recommend that, in its response to this Report, the Government informs us whether the Intelligence Services Commissioner has ever

