

Speech for public meeting and film showing of “Outlawed: Rendition, torture and disappearances in the war on terror”

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Thank you to Witness US and all the non-profit organisations who produced a very moving and effective documentary on extraordinary rendition, and thank you to the organisers of this meeting.

As the vice-chair on the temporary committee on extraordinary rendition in the European Parliament I am pleased to be able to speak to you all today on this subject. The European Parliament committee was set up in January 2006 to establish whether third countries agents (CIA or others) had carried out abductions, “extraordinary rendition”, detention at secret sites, incommunicado detention or torture or other cruel, inhuman or degrading treatment of prisoners on the territory of European Union or accession and candidate countries, or had used that territory to those ends, for example through flights.

We conducted 33 sessions, organised 7 official delegations, including to the US, Romania, Poland and the UK, analysed 19 cases of extraordinary renditions with the direct participation of several victims, as well as reading and analysing thousands of pages of documents and flight logs.

The committee produced its final report earlier this year and in so doing issued a damning indictment on EU member states. The adopted report asserted that over 1200 flights operated by the CIA flew into European airspace or stopped over at European airports between 2001 and 2005. We have not suggested that all of those flights were on extraordinary rendition missions of illegally transporting detainees, but we believe some were or were linked to ‘rendition circuits’ in that they were on their way to or from rendition missions.

We stated that almost a dozen European countries had either admitted such flights or turned a blind eye. Our report accused officials of several countries (notably Italy, UK, Germany, Sweden, Austria) of active involvement in, facilitation of or failure to prevent kidnapping or extraordinary rendition. In respect of the allegations of secret prisons, the final report (after tight votes) said that ‘no definitive evidence has been provided to contradict any of the allegations concerning the running of a secret detention facility on Romanian soil’ and ‘it is not possible to acknowledge or deny that secret detention centres were based in Poland.’ But Dick Marty in his recent report for the Council of Europe has made firm statements asserting there were such CIA prisons in those countries.

We were not a court, did not have the powers of a criminal prosecutor and were not empowered or required to establish proof beyond reasonable doubt. But we heard testimony and saw corroborating facts, such as flight logs, which attested to extraordinary renditions having taken place in Europe, and it is highly implausible that governments or their agencies had no idea what was going on. We did enough in cooperation and in complementarity with Dick Marty, with national MPs and judicial inquiries, to shift the burden of proof onto national governments to show they did not collude with US human rights abuses.

The report called on the Council of Ministers and the European Commission to meet their responsibilities under European and international human rights instruments. Once allegations

are no longer speculative but are shown to be credible, as has been done, then under European and international human rights instruments Member States have a positive obligation to investigate and to punish anyone responsible for human rights abuses.

Questions have been raised about 170 possible CIA rendition flights through the UK, but the UK response has been deafening by its silence, and there has been no proper UK investigation. In fact it has been the policy of this government to refuse to address the issue of rendition fully and openly. The UK's position is that it will only grant permission for a rendition if it would accord with the UK's domestic and international obligations. But the government's records on rendition are wholly inadequate, being incomplete and relying on personal recollections, as evidenced by the statement of former Foreign Secretary Jack Straw in December 2005. This poor quality of records assists a climate of confusion and obfuscation. It means, conveniently, that the government cannot adequately be held to account for the decisions they have taken.

The UK should support efforts within the Council of Europe and lead, not obstruct similar EU action, to adopt common measures to safeguard the rights of terrorist suspects being transported through member states territory. It should sign, as indeed all EU and Council of Europe member states should sign, the 2006 UN Convention on protection from enforced disappearance on which I put down a parliamentary question in the European Parliament. Terry Davis, the Secretary-general of the Council of Europe and of course a former Labour MP, last year made various suggestions for tightening the legal framework on control of domestic and foreign intelligence services and checks on possible rendition flights.

It is interesting – though possibly a red herring - to note that in the wake of Dick Marty's most recent Council of Europe report, Harriet Harman has signalled her desire to have international law changed so that foreign governments are legally required to notify another country when flying prisoners through its airspace. This seems to be supporting a similar call by the all-party group on extraordinary rendition whereby every such transfer would require prior written permission and the state requesting permission would have to provide information on destination, purpose, applicable legal regime, legal safeguards in the destination state and so on. The state through which the transfer would take place would not grant permission unless the transfer was consistent with its legal obligations, including in the field of human rights.

While such moves would make the framework even clearer, every bit of the extraordinary rendition chain is of course already illegal and there is much that can be done under existing law to inspect and check flights, see for instance a House of Lords debate on July 18th 2006 in which I took part. The situation seems to be however that under a NATO decision of October 4th 2001, NATO states pledged overflight and refuelling rights in the fight against terrorism, see <http://www.nato.int/docu/speech/2001/s011004b.htm>) and this may have set a framework which may have allowed illegality ad impunity to flourish.

They agreed inter alia to:

- “provide blanket overflight 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”; and to
- “provide access for the United States and other Allies to ports and airfields on the territory of NATO nations for operations against terrorism, including for refuelling, in accordance with national procedures”.

MEPs, believing that the fine print of this key decision might be enlightening, asked both Javier Solana and the NATO Secretary-General for a copy of the full document but our request was refused. I am now going to explore making a freedom of information request in the US for it.

What the EP report has aptly brought to light is that aspiration of the EU to be an area of security, justice and human rights is not being fulfilled. On the one hand, some Member States have not implemented EU anti-terrorism laws passed five years ago, so they do not even have a definition of terrorism and terrorists can escape conviction and imprisonment, thus the EU as a whole is not properly equipped. At the same time it is apparent on the basis of credible indications that gross human rights abuses have taken place in the name of fighting terrorism – the so-called war on terror. The EU has allowed a situation to develop where we cannot *prosecute* terrorists, but we can *persecute* terrorist suspects and deprive them of their rights.

What credibility does this give the EU at home or abroad, either for effectively combating terrorism or for upholding human rights? If anything, it gives credence to those who are already dubious of our Western values. The Council of Ministers and member states are creating a lot of hot air and rhetoric about the EU as a beacon of human rights without delivering the results.

As well as being morally objectionable, torture will never produce sound and reliable evidence, and so in turn can never be a sustainable policy for tackling terrorism. As we saw from the documentary, victims of torture will say whatever they think they need to to avoid further abuse from their torturer. Certainly, if we are looking at psychological torture, the victims may not even be aware of what it is they are admitting to.

Of course, threats to our security are threats to our freedom, but the reverse is also true. Undue infringements of our civil liberties make us less secure as individuals. The UK government, and indeed all member state governments, must be held to account for any complicity in extraordinary rendition that has already occurred and may still be occurring today.

I am glad that, as I heard just this afternoon, there will be a Commons debate in Westminster hall next Tuesday on extraordinary rendition. I will certainly continue to make my voice heard on this matter both in the European Parliament and in the House of Lords. As EU citizens, we have a legitimate right to know what practices are being conducted in our name. I for one refuse to stand idly by while Europe becomes known as a condoner of torture and inhuman treatment.