

## MI5, MI6 and all that - British Security Services and Extraordinary Rendition

### **Some basic definitions**

The Security Service, also known as MI5 (Military Intelligence section 5), and the Secret Intelligence Service, commonly known as MI6 (Military Intelligence section 6), both originated in the Secret Service Bureau set up in 1909. MI5 was set up to counter infiltration of British organisations by foreign intelligence services, but has subsequently acquired a much wider remit covering national security. MI6 was set up to undertake espionage overseas.

MI5 is responsible to the Home Secretary, MI6 to the Foreign Secretary.

MI5 and MI6 liaise with each other, and with Government Communications Headquarters (GCHQ) and Defence Intelligence Staff (DIS). All are directed by the Joint Intelligence Committee (JIC). The Intelligence and Security Committee of Parliament (ISC) was set up in 1994 to scrutinise MI5, MI6 and GCHQ. Its remit was widened in 2013 to include oversight of, *inter alia*, Defence Intelligence and JIC. It reports directly to Parliament, but may also report to the Prime Minister on matters deemed “national security sensitive”.

Extraordinary rendition is the government sponsored practice (especially by the US) of illegally capturing foreign criminal or terrorist suspects and abducting them for interrogation to countries known to torture prisoners. More than 50 countries including the UK are reported to have assisted the US in carrying out such renditions.

A black site is a secret CIA prison, located abroad, where suspects are interrogated.

### **Extraordinary rendition**

The Crown Prosecution Service (CPS) announced on 9 June of this year that Sir Mark Allen<sup>1</sup>, former director of counter-terrorism at MI6, would not face prosecution for involvement in the extraordinary rendition of Libyan dissidents Abdel Hakim Belhaj and Sami al-Saadi. and their families, in 2004. In announcing its decision not to prosecute, the Crown Prosecution Service acknowledged that Sir Mark had sought political authority for some of his actions from the then Foreign Secretary, Jack Straw. It also claimed that there was “insufficient evidence”, a verdict which a recent writer in the Guardian described as “as disappointing in the circumstances as it is predictable”.<sup>2</sup>

It might be thought remarkable that a dossier of 28,000 pages was deemed insufficient evidence,<sup>3</sup> and scandalous that the pretext for this conclusion was that CPS investigations had been compromised by the length of time which had elapsed since the events in question had taken place.

### **Intelligence and Security Committee**

The current official line appears to be that an inquiry into the role of the UK government in relation to detainee treatment and rendition is currently being conducted by the Intelligence and Security Committee of Parliament (ISC), and that once the ISC has published its report the government will be able to consider whether a new judge-led inquiry is in the country's best interests. In view of this, and the fact that Belhaj is currently pursuing a civil case, it now becomes officially

“inappropriate” to comment further.

The Intelligence and Security Committee oversees both MI5 and MI6. It is a committee of parliament. Is it, therefore, sufficiently independent to investigate very serious allegations that the UK failed to act according to its international legal obligations?

The ISC itself has declared that the current enquiry is a “longer term priority”. Given that the CPS pleaded the passage of time as a reason for not pursuing the case against Mark Allen, one wonders how still further delay advances the process.

### **Rift between MI5 and MI6**

Lady Eliza Manningham-Buller, then head of MI5, wrote to Tony Blair in 2004 to protest against the conduct, in relation to the abductions of Belhaj and al-Saadi, of MI6 officers.<sup>4</sup> According to Lady Manningham-Buller, the behaviour of the MI6 officers had threatened UK intelligence gathering, and possibly endangered MI5 officers and their informants.

The letter was discovered recently by investigators deciding whether there should be criminal prosecutions arising out of the role played by British Intelligence officers in the abductions. Human rights lawyers wanted the full text to be released, but Theresa May, then Home Secretary, declined to comment when asked about it in the Commons.

### **What was the role of MI6 in the Libyan renditions?**

The renditions involved delivering not just Belhaj and al-Saadi, but their wives and al-Saadi's four children. They were seized in Bangkok in March 2004, handed over to the CIA, and finished up in Tripoli. Both men were severely tortured. Both al-Saadi and Belhaj have testified that they were interrogated by British intelligence officers in Tripoli. Al-Saadi's wife and 4 children were also tortured. Fatima Boucher (wife of Belhaj) was similarly mistreated in a CIA black site in Bangkok and en route to Libya, and subsequently gave birth to a 4lb baby.<sup>5</sup>

Our knowledge of the UK's involvement came about as a result of the ransacking of the offices of Libya intelligence chief Moussa Koussa, after the fall of Gaddafi. Several MI6 documents were found, including a note from Sir Mark Allen to Moussa Koussa congratulating him on the “safe arrival” of Belhaj in Tripoli, and adding “Amusingly, we got a request from the Americans to channel requests for information from [Belhaj] through the Americans. I have no intention of doing any such thing. The intelligence on [Belhaj] was British.”<sup>6</sup>

In concluding that there was “insufficient evidence” to bring charges, the CPS acknowledged not only that Allen had sought political authority for some of his actions, but that he had been in touch with countries that detained Belhaj and al-Saadi. The CPS concluded that “officials from the UK did not physically detain, transfer or ill-treat the alleged victims directly, nor did the suspect have any connection to the initial physical detention of either man or their families.”<sup>7</sup>

As the chair of the all party parliamentary group on extraordinary rendition remarked somewhat laconically, “It is now crucial to find out who authorised these operations.”

### **We have been here before**

Fifteen years after 9/11, and even after the Chilcot Report, Britain continues to do everything it can to prevent its complicity in rendition and the abuse of suspects coming to light. This is despite civil action against the British government in several cases, and payouts without admission of liability in cases where courts resisted government pressure to hold hearings in camera. British government officials have made representations to the US Senate to redact any mention of British involvement from its report into CIA torture.

US files relating to alleged UK collusion in torture and rendition continue to be suppressed at the request of the British government. These include communications between Tony Blair and George Bush, and between Jack Straw and Colin Powell. Most of the documentation involved is intelligence-derived, but twelve documents not so derived, relating to interventions by British

politicians and officials over the treatment of detainees, were also withheld by the US State Department because “the UK Government's Foreign and Commonwealth Office requested that all 12 documents be withheld in full from public disclosure.”<sup>8</sup>

### **So what now?**

If the government sees a way out of tackling the allegations of MI6 involvement in rendition and torture in a possible new judge-led enquiry, why is it dragging its feet so, and what leads one to believe that it will not suffer the same fate as the Gibson enquiry which collapsed in 2010, in part because the police had to investigate some potentially very damaging evidence of MI6 involvement?

Before it ended, the Gibson inquiry asked 27 questions, including  
Did UK intelligence officers turn a blind eye to specific, inappropriate techniques or threats used by others and use this to their advantage in interrogations?  
Did the government and its agencies become inappropriately involved in some renditions?

In the USA, CIA files can be accessed under Freedom of Information. Although prosecutions and apologies have not yet materialised, America has admitted to torturing prisoners. It's a start. Under UK law security service material remains exempt from disclosure, without any public interest test, and without time limit.

Following the debate in the Commons on 29<sup>th</sup> June, the government insists that it opposes any form of deprivation of liberty which places the detained person outside the protection of the law, including so-called extraordinary rendition. It does not participate in, solicit, encourage or condone the use of torture for any purpose, and has made that position absolutely clear, both publicly and bilaterally with overseas partners.

There is also the promise to consider whether a new judge led inquiry is in the country's best interests. (No mention of the victims' best interests appears to be forthcoming.) Why was a direct question in parliament regarding the concerns of Lady Manningham-Buller not responded to, even though it is said that the rift between MI5 and MI6 has since been healed?

### **What can we do?**

We now have a new government, notwithstanding the lack of any kind of electoral process, so it would be timely at least to ask your MP to make enquiries regarding the scope and timetable of the ISC report into the role of the UK Government and security and intelligence agencies in relation to detainee treatment and rendition. Also, ask for clarification on the government's position regarding a possible new judge-led enquiry. How might such an enquiry succeed where the Gibson enquiry collapsed (see above)?

When you get an answer, it should be worth replying to it. If your MP is critical of the way governments have handled these allegations, support them. If they simply repeat official assurances or plead that further comment is inappropriate, challenge this. Hopefully this Briefing, together with some of the articles referred to below should help you make your case.

**Notes and References** (to find the articles in 2,3,5 and 8 go to the appropriate website and “search” for the title)

<sup>1</sup> Allen is not named in the announcement, but has been widely identified in the press

<sup>2</sup> see *Sonya Sceats* British complicity in torture still needs to be smoked out for the victims' sake *in the Guardian* 9 June 2016.

<sup>3</sup> see *Ian Cobain* Libyan rendition couple criticise CPS decision not to bring charges *in the Guardian* 10 June 2016

<sup>4</sup> Details of the letter, and of the conditions in which Belhaj alleges he was kept were reported in the *Guardian* on 31 May 2016. Neither MI5 nor MI6 nor Manningham-Buller have commented publicly.

<sup>5</sup> see *Sam Raphael* Britain's part in torture and rendition is still kept hidden 15 years after 9/11 *The Conversation* 18 July 2016. Also *Cori Crider* Libya renditions should put UK spies firmly under the spotlight *in the Guardian* 21 June 2016

<sup>6</sup> memo from Mark Allen to Moussa Koussa 2004. Obtained by Human Rights Watch after the fall of Tripoli and passed to UN Committee against Torture

<sup>7</sup> CPS June 2016

<sup>8</sup> see *James Hanning* British government suppressing key documents on allegations of UK collusion in torture and rendition *in The Independent* 5 March 2016

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