

QUAKER CONCERN FOR THE ABOLITION OF TORTURE (Q-CAT)

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Too much of this year has been spent by the UK government protesting its utter opposition to torture while rejecting the findings of independent reports into its own complicity, such as those of Amnesty International and the UN Human Rights Council, and seeking to hide the workings of the judicial system under a cloak of secrecy in the name of "national security". This was no change from last year, when the first of these Briefings appeared, and up to now the coalition government has not really fulfilled its initial promise in this respect. The payment of enormous sums in compensation to former detainees at Guantanamo – without admission of liability – speaks for itself. (The beneficiaries include Moazzam Begg who spoke at our Friends House conference in 2009.) The director of public prosecutions decided that there was not sufficient evidence to prosecute the MI5 officer implicated in Binyan Mohamed's interrogations abroad. A final blow is the fact that the "independence" of the forthcoming inquiry into the intelligence services is flawed by the role of its chairman, Sir Peter Gibson, as intelligence and security services commissioner for the past few years. *Quis custodiet ipsos custodes?*

Last month Liberty wrote to the attorney general, Dominic Grieve, accusing the government of increasing its use of national security as a cover for administrative embarrassment. Citing the Binyan Mohamed case in the high court Shami Chakrabati, director of Liberty, noted that MI5 withdrew demands that material should be withheld on national security grounds when the appeal court found previously redacted information to be "anodyne", and already in the public domain. The then Labour government, supported in the case by the security and intelligence services, was heavily criticised by the judges, saying information it wanted to protect was "not in any way secret", partly because it had already been put into the public domain by an American judge. "As we await the establishment of the Gibson inquiry into British complicity in torture, it is imperative that the public have confidence in the integrity of our Security Services," the letter said. (Guardian 25th November).

Time and again we have had to rely on the independence of the judiciary, from the High Court to the Supreme Court itself to face down the government when it sought to ignore the requirements of its own Human Rights Act and of international law. The death of Lord Bingham was a great loss as a champion of human rights and civil liberties. A retrograde step was the Government's commitment to enact legislation requiring ministerial approval for an arrest warrant for suspects of crimes against humanity under the provisions of universal jurisdiction. Motivated by a desire to remove the possibility of such warrants being executed on visiting military and government leaders from Israel, this will compromise the right to arrest those implicated in torture abroad. Would Mrs Thatcher have authorised the warrant that led to General Pinochet's arrest?

One positive development was the much-delayed publication of guidelines on interrogation which define torture as "a public official intentionally inflicting severe mental or physical pain or suffering in the performance or purported performance of his duties." The document lists cruel inhuman or degrading treatment as the use of stress positions; sleep deprivation; hooding; physical abuse; withdrawal of food, water or medical treatment; degrading treatment or white noise. It also includes guidance on the lawfulness of detention that says personnel should take into account incommunicado detention, whether they have been brought before a judge and whether they will get a fair trial. A table for intelligence and security officers as well as soldiers says they must not proceed with interrogation if they believe that torture will take place and must refer to senior personnel if they are not able to mitigate the risk of mistreatment through "reliable caveats or assurances." If senior officers and lawyers decide there is still a serious risk of torture or mistreatment, the case has to be referred to ministers. (Daily Telegraph, 6 July 2010)

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