



Detainee Team
Intelligence and Security Committee of Parliament
35 Great Smith Street
London
SW1P 3BQ
United Kingdom

E-mail: detainee@isc.x.gsi.gov.uk

30 October 2014

1. We wrote to the then Secretary of State for Foreign and Commonwealth Affairs and the Cabinet Secretary on 25 March 2014 to raise our concerns about the role of the ISC in the investigation of the treatment of detainees and the UK involvement in rendition (we copied this letter to the Chair of the Intelligence and Security Committee (“ISC”)) (copy annexed). This letter sets out in detail our joint concerns as to whether the decision to ask the ISC to conduct its current investigation into detainee treatment and rendition was lawful or appropriate. The concerns we raised remain unaltered and have not been allayed by the Foreign Secretary’s response. Consequently, we as a collective of domestic and international nongovernmental organizations do not propose to play a substantive role in the conduct of this inquiry.ⁱ

2. The Government had previously assured the public and the international community that an independent judicial inquiry would be established into the matters on which the ISC is now calling for evidence.ⁱⁱ By way of contrast, the Prime Minister had expressly ruled out the possibility of the ISC carrying out the investigation, recognising that an inquiry led by a judge who is “*fully independent of Parliament, party and Government*” was required “*to get to the bottom of the case*”.ⁱⁱⁱ We are therefore deeply disappointed that, having pledged to hold a judge-led inquiry shortly after taking office, both parties of Government have now u-turned on that promise.

3. We remain unpersuaded that the decision to cut short the work of the flawed Gibson inquiry and to pass the baton on to the ISC is an adequate substitute for the establishment of an independent judicial inquiry.

4. An inquiry compliant with international and domestic human rights standards is required to get to the truth about these allegations, fulfil the UK’s obligations under international law and comply with the Human Rights Act 1998. Our earlier correspondence with the Government and the Detainee

Inquiry (annexed) addressed the minimum requirements of that framework and the need for transparency, openness and effective engagement with the detainees and their families.

5. We have consistently offered support and expertise on how the Government could ensure a fully rights-compliant process for accountability. As a group, our concerns are founded on the international commitment to the absolute prohibition on torture and other protections, including effective redress, afforded detainees by international human rights standards. The participation and engagement with the detainees in this process must be paramount. Without such participation, it is difficult to see how any inquiry could learn lessons from the past and work toward providing redress and reparation for victims of abuse. It is a matter of significant regret that the Government has to date refused to establish such an inquiry.

6. We have not yet received a satisfactory response explaining how the limitations inherent in the ISC's mandate and powers can be reconciled with the obligation under domestic and international law that the Government conduct an independent, effective, thorough and impartial investigation into the serious human rights violations which are currently before the Committee.

7. The ISC is not and cannot be, by its very design, adequate to the task of carrying out an independent investigation of these violations. Despite the minor changes to the Committee made by the recent Justice and Security Act, it remains the case that the Prime Minister holds an absolute veto over its membership, the evidence which it is allowed to examine, and the information which it is allowed to publish. We are therefore of the view that the Committee has neither the powers nor the independence necessary to get to the truth of Britain's involvement in the rendition and torture of detainees abroad. Any investigation conducted by the ISC will be inherently flawed.

8. We understand that you have already received evidence from the intelligence agencies on the 27 points raised by the Detainee Inquiry report. We urge the ISC and the Government to make these submissions available to the public to the fullest extent possible.

9. We have no objection to this letter being published by the ISC. We intend to make the document publicly available through our respective organizations' websites.

10. The principal point of contact for further information about concerns raised in this letter is Kartik Raj, Researcher, EU Team, Amnesty International (Peter Benenson House, 1 Easton Street, London WC1X 0DW, email: UK-SHR@amnesty.org, fax: 020 7956 1157); Amnesty International will in turn forward any correspondence to all the signatory organizations.

Yours sincerely,

Matthew Evans, Director, The AIRE Centre

John Dalhuisen, Director, Europe and Central Asia Programme, Amnesty International

Muhammad Rabbani, Managing Director, Cage

Susan Munroe, Chief Executive, Freedom from Torture

Andrea Coomber, Director, JUSTICE

Shami Chakrabarti, Director, Liberty

Carla Ferstman, Redress

Clare Algar, Executive Director, Reprieve

Hanne Stevens, Director (Interim), Rights Watch (UK)

ANNEXES

1. United Kingdom: Joint NGO letter regarding the parliamentary Intelligence and Security Committee's examination of allegations of UK complicity in torture and other ill-treatment of detainees held overseas, AI Index: EUR 45/005/2014, 7 April 2014
<http://www.amnesty.org/en/library/info/EUR45/005/2014/en>
2. UK: Joint NGO letter to the Solicitor to the Detainee Inquiry, AI Index: EUR 45/010/2011, August 2011, <http://www.amnesty.org/en/library/info/EUR45/010/2011/en>
3. UK: Joint NGO letter to the Secretary to the Detainee Inquiry, AI Index: EUR 45/003/2011, 25 February 2011, <http://www.amnesty.org/en/library/info/EUR45/003/2011/en>
4. UK: Joint Submission to Chair of the Detainee Inquiry, AI Index: EUR 45/002/2011, 25 February 2011, <http://www.amnesty.org/en/library/info/EUR45/002/2011/en>
5. UK: Joint letter re: Inquiry into alleged UK involvement in the mistreatment of detainees held abroad, EUR 45/016/2010, 14 September 2010,
<http://www.amnesty.org/en/library/info/EUR45/016/2010/en>

ⁱ Some of signing organizations are currently considering submitting written evidence individually on a discrete matter, i.e. the adequacy of the Consolidated Guidance document. All the undersigned organizations consider this second matter thematically related but fundamentally distinct in terms of the appropriateness of the ISC role in examining it.

ⁱⁱ See, for example, the UK's acceptance of UPR recommendation 110.84, where it reiterated its intention to hold an independent judge-led inquiry and the replies of the UK to the CAT list of issues (UN Doc CAT/C/GBR/Q/5/Add. 1) para. 23.4.

ⁱⁱⁱ Oral statement by Prime Minister David Cameron, 6 July 2010.