

**presentation to the European parliament, 23 February 2006,
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Rendition and Secret Detention in CIA "Black Sites"

1. In Amnesty International's research on government responses to the war on terror, we have found a close link between renditions and enforced disappearances. Many of those who have been illegally detained in one country and illegally transported to another have subsequently "disappeared", including many who have "disappeared" in US custody. These include, of course, all those thought to be held in "black site" detention
2. I think we need to emphasise that rendition is not simply an enhanced transportation system, for moving detainees from one place to another without red tape, it is very often a means of carrying out an enforced disappearance, no different from those that took place during the "dirty wars" in Argentina and Chile, or more recently in Iraq, Algeria or Sri Lanka.
3. Enforced disappearances are well-recognised crimes in international law and are absolutely prohibited in all situations. According to the Convention, expected to be adopted this year, "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."
4. The International Committee of the Red Cross (ICRC) has said that "No matter how legitimate the reasons for a person's detention, no one has the right to keep that person's fate or whereabouts secret or to deny that he or she is being detained. This practice runs counter to the basic tenets of international humanitarian law and human rights law.

5. A disappearance takes place when agents of the state, or their proxies, deprive someone of their liberty – by arrest, abduction or any other means – then refuse to acknowledge the deprivation of liberty or conceal the fate and whereabouts of the disappeared person. Sounds very much like the typical rendition case, in which the victim disappears from an airport or a local jail, or off the street. And when his family asks where he is, no one knows. Under international law, a victim of a disappearance is not simply the person disappeared, but others who suffer as a result, including the family members.
6. Rendition, like disappearance, involves multiple human rights violations, and thrives on secrecy. We don't know how many cases there are because many of the victims have disappeared. Some cases come to light by accident. A few of the victims have been released, and a few have resurfaced in Guantanamo. Unfortunately, the real figures on how many people have been rendered by the United States is unlikely ever to be known. In many countries, families are reluctant to report their relatives missing, for fear that the authorities will turn their attention on the families. We also don't know how many have been released but are too frightened to speak.
7. In Yemen last week, I spoke to a man whose case has never been reported, but who claims to have “disappeared” in secret US custody. There is evidence to support this claim, although he is too frightened to make his name and the circumstances of his arrest and detention known. I would be surprised if there were not others like him, in other countries. Rendition, like disappearance, is designed to evade public and judicial scrutiny, to hide the identity of the perpetrators and the fate of the victims. It puts the victim beyond the protection of the law, and sets the perpetrator above it.
8. Those who have been rendered to other countries, and those who have been detained in black sites by the United States are reportedly subjected to torture and ill-treatment. Yet no one can investigate this, much less stop it, because none of these detainees has been registered, and the condition and

whereabouts of all such detainees in US custody remains concealed. For all practical purposes the US has created a law-free zone, in which the human rights of certain individuals have simply been erased.

9. Public information about US “disappearances” emerged relatively early and from official sources. In June 2004, for example, Secretary of Defense Donald Rumsfeld admitted that, acting on a request from the CIA he had ordered an Iraqi national to be kept off a prison register and not presented to the International Committee of the Red Cross. Such prisoners were referred to as ghost detainees.
10. The practice is not confined to US custody. A prisoner who was rendered to Jordan has described to me how he and about a dozen others were moved to cells in the sub-basement of the detention facility whenever the ICRC came to visit.
11. The secret nature of the practice means we have limited hard evidence about rendition. Where cases have become known, and the details and dates of the abductions or transfer can be pinpointed, we have sometimes been able to match a rendition with a flight record. Investigative journalists were the first to identify private planes leased by the CIA or their front companies which were being used in renditions after 2001. Given the exposure, I would be very surprised if the same routes and planes are still being used.
12. Amnesty International, with the help of the Transarms consultancy, has identified a number of flights that took place in European airspace. But the raw data on the flights themselves is of limited use without specific details of cases. For example, while we have records of some 800 flights we believe were operated by the CIA in European airspace, we know of only four that actually carried rendition victims, and six others that refuelled in European airports following rendition missions in southeast asia and the middle east.
13. But it’s not just the legal and technical details we should be concerned about, so I’d like to speak a bit about

rendition and secret detention from a less theoretical perspective. Last October, I interviewed three Yemeni men who had been disappeared by the US, and held in black site detention for about 18 months, before being returned to Yemen in May of last year. I saw them again last week. They are still in detention in Yemen, awaiting the results of a trial on charges that could be regarded as spurious.

14. Two of the men, Muhammad Bashmilah and Salah Ali, were arrested in Jordan before being turned over to the US in October 2003; the third man, Muhammad al-Assad, was arrested in Tanzania, also in 2003, and turned over to the US and flown out of the country within a matter of hours.
15. During the time they were “disappeared”, these three men were kept in at least four different secret facilities, which were likely to have been in different countries, judging by the length of their connecting flights. They spent 13 months in the last facility they were held in. The men did not have contact with one another or with any other detainee, although it is clear that the system they describe could not have been maintained solely for the purpose of interrogating three low-level suspects like themselves. One of the men calculated that some 20 people were being taken to the shower room in his section each week, although he does not know how many sections the facility contained.
16. Their description of the facility tallies with Washington Post and ABC News reports that came out last November and December, on the covert prison system run by the CIA. The Post said there have been CIA secret detention facilities, called “black sites” in eight countries, including in Eastern Europe.
17. ABC news in the US also reported on secret CIA prisons; their sources claim that only a few of these locations are in use at any time, and that the detainees are not usually scattered but travel together, so that they’re in one place, and the information extracted from one can be compared with others. This certainly seems to have happened with these three men, although they started out in very different

locations, they quickly ended up in the same facility, and appear to have been on some of the same flights. Although it's hard for the men to describe much about the flights, as routine preparations included being stripped and reclothed and blindfolded and hooded, and handcuffed and shackled and having foam stuffed into your ears and tape wrapped round your mouth and then around the eyes on top of the hood.... Mostly, they told me, they were preoccupied with being able to breathe.

18. But there was nothing makeshift or casual about the facility they were held in for more than a year; it had been carefully designed to facilitate interrogation and to induce dependency on the interrogators. The detainees were held completely incommunicado – their family and friends had no idea where they had been taken or whether they were even still alive, the men did not see the ICRC or any legal representatives, or anyone at all. They were not allowed see or talk to other detainees; they were held in complete isolation – they could talk to no one but their interrogators and no one talked to them.
19. The guards wore black masks and gloves, that one of the detainees described as “ninja” suits. Even the guards seldom spoke, but communicated in hand gestures. Inside the cells, the walls were blank, and the room was empty, save for a foam mattress and a blanket. Extreme sensory deprivation induces dependence; in this case, on the one source of stimulation that they had, which was the interrogators. However, these three men were obviously not high-value detainees, as they were seldom brought for interrogation, and thus almost never left their cells.
20. There was a slot in the door for food to be passed through, and the cells contained a toilet, but there were no windows and no natural light at all. There were speakers in each cell, and there was usually a constant white noise hum, apparently to prevent them from hearing others. Sometimes there was western music, and towards the end of their stay, they said that verses from the Quran were played once a week.

21. They had no control over the lighting in their cells, which as on 24 hours a day; days was marked by the kinds of meals served, or because it was time to pray.
22. For over a year the men did not know what continent they were on, whether it was night or day, whether it was raining or sunny. For the first six to eight months, they spent nearly every waking hour staring at the four blank walls of their cells, leaving only to go to interrogation and a weekly shower. Over time, the daily horror of their isolation took a profound toll, so much so that one of them began to believe that he was already dead.
23. After Al first reported on these cases, back in November 2005, we were contacted by a journalist who wanted to do a story on the three men, focusing on torture in custody. I explained that Muhammad al-Assad was snatched from his home, in front of his family of four children and a pregnant wife, he was stripped and hooded and handcuffed and tossed into the back of an airplane in the middle of the night, and flown who knows where; an experience that would be repeated three more times. He had no idea where he was, or what was happening to him, or why he was there. He was never told of any charges against him, never told if he would be tried, never told how long he might be kept or whether he would ever be released.
24. He was held in conditions that ensured that he could do nothing but sit around and torture himself with these thoughts. And if he wasn't thinking about whether he was ever going to see the light of day again, he could instead think about whether his wife had successfully given birth to their fifth child, and how she might be keeping these five children alive without any income.
25. That's rough, this journalist said to me, but was he actually tortured?
26. I was tempted to suggest that he go lock himself in an empty, airless room, with no furniture, no windows, and one buzzing

speaker. With no one to talk to, nothing to read, nothing to look at. No computer, no mobile phone. If he could endure more than a day or two in those conditions without going mad, I would be surprised, and the difference between him and al-Assad would always be that he would know he could leave whenever he wanted to, he would know that he was going to get out alive. Al-Assad didn't know this was even a possibility until his plane landed in Yemen last May. He still doesn't know whether he will be released from his cell in Yemen; he does know that the life and business he built up over 20 years in Tanzania is gone.

27. So is this torture? Yes it is. Torture and ill-treatment take many forms. Prolonged isolation has been shown to cause depression, paranoia, aggression, hallucinations and suicide. The psychological trauma can last a lifetime. Where the detainee has been "disappeared", the effects of enforced solitude are compounded by a pervasive sense of uncertainty and anxiety about the future, which can be similarly destructive.
28. Incommunicado detention has been condemned by human rights bodies, and by the United Nations Special Rapporteur on Torture, as a human rights violation that also facilitates other violations such as torture or ill-treatment. Related practices, such as hooding, cuffing and shackling, isolation and "white noise" impair the sight, the hearing and the sense of smell of the individual who is subjected to it, lead to disorientation and an increased sense of vulnerability, and cause mental and physical suffering.
29. The simple fact of being disappeared, being subjected to prolonged incommunicado detention in an unknown location, is enough to constitute torture. The violation of Article 7 (ICCPR) rights extends not just to Muhammad al-Assad, but to his family, who apart from the sudden loss of livelihood, had no idea where their husband and father had been taken, or whether he was dead or alive.

30. The same holds true for the families of all the other men – and probably women – who have been subjected to rendition and unacknowledged detention.
31. Salah 'Ali said that in Jordan he was suspended from the ceiling and had the soles of his feet beaten so badly that when they took him down from the hooks he had to crawl back to his cell. He was stripped and beaten by a ring of masked soldiers with sticks. "When one got too tired to hit me any more," he said, "they would replace him". "They tried to force me to walk like an animal, on my hands and knees, and I refused, so they stretched me out on the floor and walked on me and put their shoes in my mouth". Yet even this, he said, was preferable to the many months of solitary confinement, isolation and desperate uncertainty.
32. Although the three Yemenis are no longer disappeared, they still have no idea why they were rendered and secretly detained in the first place. They have not been charged with any terrorist-related offences; the Yemeni government has told us repeatedly that they are not suspected of any such involvement.
33. Muhammad Bashmilah is very clear: "If we were guilty of anything," he said simply, "the Americans would never have released us."
34. Senior Yemeni officials told Amnesty International that they first heard of the men on 4 May 2005, when the US Embassy in Yemen informed them that the three would be flown to Sana'a and transferred to Yemeni custody the following day. The US provided no further information about what the men might have done, or any evidence or charges against the men, but the Yemenis say they were instructed by the US to keep the men in custody until the US transferred their case files. No such files or evidence have been received.
35. After more than nine months in arbitrary detention in Yemen, and some two and a half years since they were first arrested, the three were brought to a courtroom in Sana'a

about 10 days ago. The only charges against them relate to irregularities in old travel documents; in al-Assad's case referring to a passport he obtained more than 20 years ago, which no longer exists. The only evidence against them is their own statements.

36. I suppose this is one of the key points about rendition and secret detention. Although some in the US try to justify it by saying it is a necessary means of capturing and holding the "worst of the worst", there is no legal or judicial mechanism to ensure that this is the case. The methodology is to grab first and to ask questions later; and who knows how many lives this has ruined.
37. Without a transparent process, based on the international law and standards that bind all states, the program of rendition and secret detention is eroding the human security and rule of law it claims to protect.

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23 February 2006