

Kidnapped on Diego Garcia

Reprieve

Reprieve submitted a report to Parliament's Foreign Affairs Committee on 20 May 2009 (which was subsequently updated) from which these excerpts are taken. Reprieve uses the law to try to enforce the human rights of prisoners (www.reprieve.org.uk).

The question of renditions and detentions involving Diego Garcia is not new: the matter was first publicly raised in an open letter to then Prime Minister Tony Blair on 28 December 2002 when Human Rights Watch wrote:

'We ... urge you to take steps to ensure that torture does not take place on British soil, including the islands that are part of British Indian Ocean Territory. According to press reports in the United States, US forces are holding and interrogating suspected Al Qaeda detainees at a US operated facility on the island of Diego Garcia ... The allegations ... if true, would place the United States in violation of some of the most fundamental prohibitions of international human rights and humanitarian law ... The treatment of detainees on Diego Garcia also implicates the legal obligations of the British government ... We also urge you to request a commitment in writing from the US government as a condition of continued use of the island that it will comply with international law governing the treatment of detainees.'

In a subsequent series of questions and answers in Parliament from 2003 until 2008, the UK Government consistently denied that any detainees were on Diego Garcia, saying that the US would have to ask for UK permission to bring any detainees to the island, that the US had not done this, and that nobody was being held on or near the island. In October 2003, *Time Magazine* published a report citing interrogation records from the US prisoner Hambali that had reportedly been taken on the island, and in November 2003 the UK Bar Human Rights Committee wrote to Foreign Secretary Jack Straw raising concerns about the use of the island as well as US ships off-shore (both within

and outside the 3-mile territorial limit), and specifically included a reference to ‘the transit of any detainees across UK territory, for example, by landing by air on the island of Diego Garcia before being transported [off-shore]’. Over the following years further revelations would appear in the international media citing various high-level sources in the US administration concerning detentions on the island, and US officials would make public statements at best non-committal, and sometimes confirming the use of Diego Garcia for secret detentions. This would be re-iterated by well-respected international investigators at the Council of Europe and the United Nations.

In response to all of these concerns, the UK Government has consistently referred to US assurances, suggesting that there is limited British presence on, and responsibility for, the island. For example, in June 2004 the Foreign Secretary Straw stated: ‘The United States authorities have repeatedly assured us that no detainees have at any time passed in transit through Diego Garcia or its territorial waters or have disembarked there and that the allegations to that effect are totally without foundation. The Government [is] satisfied that their assurances are correct.’ And in its inquiry into UK involvement in renditions of July 2007, the UK Intelligence and Security Committee relied on assurances by the US government, simply stating:

‘... the US has given firm assurances that at no time have there been any detainees on Diego Garcia. Neither have they transited through the territorial seas or airspace surrounding Diego Garcia. These assurances were last given during talks between US and UK officials in October 2006.’

UK presence on Diego Garcia

Why the UK should feel able to rely on US assurances alone is hard to understand, since the UK has a significant presence on Diego Garcia, and has clear civil and criminal legal jurisdiction – and obligations – when it comes to activities on the island. Diego Garcia is part of the British Indian Ocean Territory (BIOT), and is a British Overseas Territory. The UK has a significant military and administrative presence on Diego Garcia. BIOT was created by the BIOT Order of 1965. Section 4 of this Order creates a Commissioner, who has the power to make laws under Section 11. BIOT Ordinance No.3 for 1983 establishes an appellate structure, and creates a Supreme Court at Section 6. This court ‘shall be a superior court of record with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with all the powers, privileges and authority which is vested in or capable of being exercised by the High Court of Justice in England.’ The BIOT Supreme Court

may sit in Diego Garcia or London, and appeal lies to the BIOT Court of Appeal and from there to the Privy Council.

Diego Garcia has its own independent administration, run by the East Africa Desk of the Foreign and Commonwealth Office in London. The Senior UK official on the island is called the British Representative, and he is there under the authority of the Foreign and Commonwealth Office. The British Representative is the Commanding Officer of Diego Garcia's civil administration, known as 'Naval Party 1002' (NP 1002). The administrative office of Diego Garcia showing US and UK flags

The British Representative is also Commander of the Royal Navy, as well as the Magistrate, the Coroner, and the Registrar of Marriages. Approximately fifty further British Royal Navy and Marines personnel work for NP 1002, carrying out policing and customs duties. A detachment of Royal Marines carries out security for the entire Chagos Archipelago ...

Suspicious flights confirmed by David Miliband

Finally, in February and July 2008, Foreign Secretary Miliband stated that two prisoners had been rendered through Diego Garcia, despite previous US assurances that this had never happened.

On 21 February 2008, UK foreign secretary David Miliband conceded by statement to Parliament and by letter to Clive Stafford Smith [of Reprieve] that two rendition flights carrying US prisoners had stopped on Diego Garcia, in January and September 2002. By statement to Parliament, Mr Miliband said,

'Contrary to earlier assurances that Diego Garcia had not been used for rendition flights, recent US investigations have now revealed two occasions, both in 2002, when this had in fact occurred. An error in the earlier US records search meant that these cases did not come to light. In both cases a plane with a single detainee on board refuelled at the US facility in Diego Garcia. The detainees did not leave the plane, and the US government has assured us that no US detainees have ever been held on Diego Garcia or any other Overseas Territory or through the UK itself since then.'

In an email message obtained by ABC News and the Associated Press, CIA Director-General Michael Hayden made a statement limited only to 'refuelling' on Diego Garcia:

'The refuelling, conducted more than five years ago, lasted just a short time. But it happened. That we found this mistake ourselves, and that we brought it to the attention of the British government, in no way changes or excuses the reality that we were in the wrong. An important part of intelligence work, inherently urgent, complex, and uncertain, is to take responsibility for errors and to learn from them ... Our government had told the British that there had

been no rendition flights involving their soil or airspace since 9/11. That information, supplied in good faith, turned out to be wrong.’

In respect of the individuals on board, David Miliband said on 21 February 2008:

‘The House will want to know what has become of the two individuals in question. There is a limit to what I can say, but I can tell the House the following. The US government has told us that neither of the men was a British national or a British resident. One is currently in Guantanamo Bay. The other has been released.’

Since then, despite pledging to ‘work through the details and implications of this information,’ the UK has done nothing further to clarify the situation, except that, on 12 February 2009, the Foreign Minister responded to a parliamentary question from Andrew Tyrie MP, saying that the prisoner who was previously stated to have been in Guantanamo Bay had since been released:

Mr. Tyrie: To ask the Secretary of State for Foreign and Commonwealth Affairs whether one of the detainees rendered through Diego Garcia is still being held in the Guantanamo Bay detention centre.

Bill Rammell: Both of the individuals rendered through Diego Garcia in 2002 have been returned to their countries of nationality.

However, the UK government declined to conduct a proper investigation into these revelations, and merely invited non-governmental organisations and MPs to submit questions regarding further suspicious flights. The result was inevitable: Mr Miliband announced in July 2008 that the US had assured Britain that no further instances of rendition had been found.

The UK Foreign and Commonwealth Office must urgently clarify:

- *What is the scope and terms of the FCO’s ‘inquiry’ into renditions, and is the inquiry ongoing?*
- *How long has it known the identities, rendition history and current situation of the people concerned;*
- *Why has it not released this information?*
- *What assurances, if any, have been sought by the British and/or granted by the Americans in relation to these individuals, and when?*

Identifying the prisoners

In identifying the two prisoners referred to, we have been given limited information by the British government ... It should be noted by the Committee that there have been many more credible allegations of specific prisoners being held on the island, including ‘High Value Prisoners’

Hambali, Abu Zubaydah and Khaled Sheikh Mohammed, all now being held in Guantanamo Bay. The United States government has admitted that ‘advanced interrogations techniques’ – essentially a euphemism for torture – were used on this category of prisoners, and it has also been admitted that Abu Zubaydah and Khaled Sheikh Mohammed were ‘waterboarded’ on numerous occasions whilst they were held in US custody. Because of limited resources, for the purposes of this submission we have limited ourselves to an investigation of just one of the prisoners on the rendition flights conceded by David Miliband in February 2008 [who was identified by a process of elimination]. We hope that an examination of this case will also serve to highlight the very many questions that have been left unanswered by the Foreign Secretary in the matter of Diego Garcia.

Muhammed Saad Iqbal Madni

Mohammed Saad Iqbal Madni was detained in Jakarta on 9 January 2002, reportedly at the request of the CIA. According to the *Washington Post*, US authorities urged the Indonesians to apprehend him after they claimed to have discovered a link to Richard Reid, the so-called British ‘shoe bomber’. On 11 January 2002, with no judicial oversight of his transfer, Madni describes being pushed aboard an unmarked, US-registered Gulfstream V jet at a military airport in Jakarta, and taken to Cairo. Madni spent 92 torturous days in Cairo before being taken to Bagram Airforce Base and then Guantanamo Bay, where he remained until his release in August 2008. The London *Guardian* reported on Madni’s case as early as March 2002, when Madni was still being tortured in Egypt:

‘Madni was taken from Indonesia to Egypt on a US-registered Gulfstream jet without a court hearing after his name appeared on al-Qaida documents. He remains in custody in Egypt and has been subjected to interrogation by intelligence agents.’

Regarding the apparent reason for his apprehension, Madni has persistently denied any connection with Richard Reid. In his Combatant Status Review Tribunal he maintained that he was betrayed by one of four radical Islamists whom he met by accident on a trip to Indonesia in November 2001 to deal with family business after his father’s death:

‘After I went to Indonesia, I got introduced to some people who were not good. They were bad people. Maybe I can say they were terrorists. When someone gets introduced to someone, it is not written on their foreheads that they are bad or good.’

This account is corroborated by a *Washington Post* investigation, which found that during his time in Jakarta, Madni had spent ‘hours on end watching television at a friend’s house,’ and when he was not doing that, handing out business cards ‘identifying him as a Koran reader for an Islamic radio station’. The *New York Times* reported that the entire, embarrassing basis for Madni’s capture, rendition and torture was that Madni was, in the words of one of his uncles, a young man who ‘had a childish habit of trying to portray himself as important’, and had simply made something up, that bombs could be hidden in his shoes, to impress his new friends in Jakarta. The comment was picked up by Indonesian intelligence agents, who were monitoring the men, and relayed to the CIA, who decided to pick Madni up after Richard Reid’s failed shoe bomb attack a few weeks later. A US intelligence official speaking to the *New York Times* confirmed Madni’s uncle’s account, calling Madni a ‘blowhard’ who ‘wanted us to believe he was more important than he was’. Thus, Madni’s seven-year journey through the secret prison system was based on a single ill-advised comment.

Mohammed Saad Iqbal Madni was seized at 4am on 9 January 2002, in Jakarta, Indonesia. During the evening of 10 January 2002, Madni says that he was bundled aboard a plane at an airport in Jakarta, which took off around 10pm. A *Washington Post* report of March 2002 speaks of eye-witnesses at that time seeing a man being bundled aboard an unmarked, US-registered Gulfstream V jet at a military airport in Jakarta, which took him to Cairo. This is further corroborated by Eurocontrol flight-logs, which were not released until many years after the first reports of Madni’s rendition, showing the movements of a well known rendition plane Gulfstream V with tail-number N379P, which has been dubbed ‘the torture taxi’ by journalists and plane spotters around the world. The logs show that N379P left Washington at 16:47 on 9 January 2002, arriving in Cairo at 03:32 in the morning of 10 January 2002. According to *The Sunday Times*, N379P collected some Egyptian security personnel and flew them to Cairo to assist with the rendition of Madni.

The *New York Times*, which published an interview with Madni soon after his release in August 2008, reports that ‘during the flight to Cairo, Mr. Iqbal said, he was bleeding from his nose, mouth and ears, and was unable to move because shackles wound tightly around his body.’

Madni has since told Reprieve that the plane stopped over once en-route to Egypt, and that people took photographs of him at that point: ‘the plane did stop for thirty minutes en route to Cairo’. He was hooded and some cameramen came into the plane and took pictures of him. He remembers

the camera flashes. He was never taken out of the plane. Madni's recollection of being photographed during his rendition is consistent with the accounts of other rendition victims.

The time taken from Jakarta to this place was about 5 to 7 hours and then it was another 3 or 4 hours to Cairo. The distance from Jakarta to Diego Garcia is 3,797 km (2,359 miles or 2,050 nautical miles). N379P had an average range of 5,800 nautical miles, cruising at between 459 and 585 knots. At 470 knots, then, the flight duration is consistent with Madni's estimate that the first leg of the flight took 5-7 hours. The distance from Diego Garcia to Cairo is 6,032 km (3,748 miles or 3,257 nautical miles). Again, Madni's recollection of the flight duration of 3-4 hours for this second leg, including a stop-over of around 30 minutes, is consistent with the above average cruising speed of N379P. And, in the long flight across the Indian Ocean from Jakarta to Cairo, a stop-over on Diego Garcia would be eminently logical: as the grandfather of the unsuccessful 2008 presidential candidate, US Admiral John S McCain (1884–1945,) once put it, 'as Malta is to the Mediterranean, Diego Garcia is to the Indian Ocean – equidistant from all points'.

The UK Foreign and Commonwealth Office must urgently clarify:

- *When did the UK government become aware of the apprehension of Mohammed Saad Iqbal Madni, or of an individual believed at the time to be a close associate of Richard Reid;*
- *If they knew about Mr Madni's apprehension at the time that he was transferred through Diego Garcia;*
- *If and when any British personnel saw or spoke to Mr Madni whilst he was being transferred through Diego Garcia or at any time between his apprehension in January 2002 and his release in August 2009.*

Imprisonment and torture in Egypt

Madni says he arrived in Egypt on 11 January 2002, at 11:30am. When the plane landed, he was told he was in Cairo. He was assigned a basement room like 'a grave', about 6 feet by 4 feet, he said, and was kept there for 92 torturous days. In an interview with the *New York Times*, Madni said that on January 11, 12 and 20, 2002, he was interrogated for 12 to 15 hours on each occasion. He described his interrogators as Egyptians, but also noted that there were other men in the room whose faces were covered and who did not speak, but who passed notes with questions to the Egyptians.

Eurocontrol flight logs show that Madni's rendition plane stopped over in Cairo for six days after dropping him, before returning to Washington via Prestwick, again utilizing UK territory. It is possible therefore that some of the US rendition crew were the masked men Madni describes

being present at the interrogations on 11 and 12 January 2002, before flying home.

Madni told the *New York Times* that his Egyptian captors tried to torture a confession out of him, and that when he told them that he had never been to Afghanistan nor had he met Usama Bin Laden, they responded by giving him electric shocks and forcing him to take drugs: 'I cry and I yell,' he said. 'Also they gave me brain electric shocks.' He said he was forced to consume liquids that were laced with drugs 'so you don't know what you are talking about'...

The UK Foreign and Commonwealth Office must urgently:

- Clarify if and when the British government sought assurances from the US or Egyptian government as to Mr Madni's treatment whilst he was in Egypt;
- Reveal all records and communications, including flight-logs, flight manifests and any other records, corroborating Madni's account of his illegal detention and torture in Egypt;
- Request from the US government any records and communications, including photographs, corroborating Madni's account of his illegal detention and torture in Egypt.

Afghanistan

Madni told Reprieve that in April of 2002, the Americans flew him to Bagram, the American air base outside the Afghan capital, Kabul. Again, Eurocontrol flight-logs exactly match Madni's recollection. This time, Madni was flown via a joint US/German airbase near Tashkent, where he changed planes before being taken on to Bagram.

In an interview with the *New York Times*, Madni describes being held in Bagram for almost a year for further interrogation. Madni said that in Bagram he was shackled and handcuffed in a small cage with other detainees, and for a period of six months, shifted from cell to cell every few hours so that he was deprived of sleep. In Bagram, his interrogators were still intent in extracting a confession: 'A CIA person said, "We forgive you; just accept you met Osama bin Laden." I said, "No, I'm not going to say that"'. ...

The UK Foreign and Commonwealth Office must urgently:

- Clarify if and when the British government sought assurances from the US government as to Mr Madni's treatment whilst he was in Afghanistan;
- Reveal all records and communications, including flight-logs, flight manifests and any other records, corroborating Madni's account of his

illegal detention and torture in Afghanistan;

- *Request from the US government any records and communications, including photographs, corroborating Madni's account of his illegal detention and torture in Afghanistan.*

Guantánamo

Madni arrived at Guantánamo on March 23, 2003. It is evident from accounts of fellow prisoners that Madni was in a particularly bad mental and physical state in Guantánamo. Rustam Akhmyarov [a Russian detainee] recalled that he 'was passing blood in his faeces,' and recalled that he overheard US officials telling him, 'we will let you go if you tell the world everything was fine here'. Mamdouh Habib has confirmed Akhmyarov's analysis, recalling how Madni had 'pleaded for human interaction'. He said that he overheard him saying, 'Talk to me, please talk to me ... I feel depressed ... I want to talk to somebody ... Nobody trusts me.' On the 191st day of his incarceration, according to Madni's own account, he attempted to commit suicide. Habib remembers that at Guantánamo Madni became so depressed he tried to hang himself twice, and went on three hunger strikes.

British citizens released in 2004, Rhuheh Ahmed, Asif Iqbal and Shafiq Rasul, also recalled Madni in Guantánamo, saying that 'he had had electrodes put on his knees', and 'something had happened to his bladder and he had problems going to the toilet,' but explained that he had been told by interrogators that he would not receive treatment unless he cooperated with them, in which case he would be 'first in line for medical treatment'. In a 2007 court filing to Washington Court of Appeals, Dr. Ronald L. Sollock, the commander of the Naval Hospital at Guantánamo Bay, reveals that from 2003 Madni was prescribed antibiotics, and that in April 2007 he was diagnosed with a perforated left eardrum, inflammation of the left external ear canal and inflammation of the left middle ear.

The UK Foreign and Commonwealth Office must urgently:

- *Clarify if and when the British government sought assurances from the US government as to Mr Madni's treatment whilst he was in Guantánamo;*
- *Reveal all records and communications, including flight-logs, flight manifests and any other records, corroborating Madni's account of his illegal detention and torture in Guantánamo;*
- *Request from the US government any records and communications, including photographs, corroborating Madni's account of his illegal detention and torture in Guantánamo.*

Mr Madni's release

Madni finally returned home to Pakistan in August 2009. After Guantánamo, Madni was flown on an American military aircraft to Islamabad airport, where two American Embassy officers, First Lt. Brian Strait and Keith Easter, witnessed his release, according to a United States government document he displayed. He was admitted to a hospital in Islamabad for treatment, and then questioned for three weeks at a safe house by Pakistani intelligence officers ... Pakistani security officers then drove him back to Lahore and his extended family. 'It was like a new life for me,' he said. 'I was born again. There is no word to explain.'

As a result of his experience in US secret prisons, Mr Madni is now unable to walk unaided ...

UK knowledge of the rendition programme

Mohammed Saad Iqbal Madni is an Egyptian national, and this fact may go some way to explaining the speed of his transfer – one of the first reported – as well as the apparently seamless co-operation between the US, Egyptian and UK authorities in his abduction in the otherwise chaotic months after 9/11.

'Post 9/11' transfer to torture and US military and CIA detention has its roots in the early 1990s when, under President Clinton, express policies were formulated allowing for the extra-legal apprehension and transfer of terrorist suspects. In practice, in the early years this programme largely but not exclusively involved US-assisted delivery of Egyptian Islamists back to Egypt, where they routinely faced incommunicado detention, torture and often death. At its inception, when he was rendered from Jakarta via Diego Garcia to Cairo, Mohammed Saad Iqbal Madni's transfer resembled one of these earlier Egyptian renditions, and it was therefore a procedure that the British would have been familiar with.

Indeed, Madni's case is demonstrative of the way that the US secret prison system grew out of existing practices and arrangements with partner-states such as Egypt, with the help of co-operating states such as the UK. Whilst the rendition programme would expand in the years following the invasion of Afghanistan to involve many new partners, the US's strong relationships with Egypt would remain, as demonstrated by the large number of prisoners of many nationalities sent to Egypt for torture in the years following the invasion of Afghanistan. It is inconceivable that the UK was not aware of the 'pre-9/11' rendition programme that was operating throughout the 1990s, involving transfers

indistinguishable from Madni's rendition: there were numerous public statements by US officials about the programme at the time, and in 2006 Jack Straw conceded to the UK Parliament that permission had been sought by the US for five renditions in 1998 alone, through UK territory.

And it is inconceivable that the UK was not aware that, in the months following 9/11, the rendition programme accelerated, and broadened in scope. According to media reports, a few days after the 9/11 attacks, the White House issued a new directive – still classified – giving the CIA wide powers to carry out renditions without White House approval for each individual case. Like earlier cases, renditions post 9/11 have involved both US and foreign state territory and the transfer of foreign nationals to third countries by 'host' states, facilitated by US aircraft and/or personnel. Excluding renditions from Afghanistan to Guantánamo Bay, of which there were hundreds by the end of 2002 that routinely crossed European airspace, according to US security sources, at least 150-200 renditions occurred between 9/11 and 2004. Cases that have come to light since 2001 reveal that since 9/11, individuals have been rendered by the US to a wide list of states including Syria, Egypt, Morocco, Saudi Arabia, Jordan, Pakistan and Uzbekistan.

During the months between September 2001 and January 2002 when Madni was apprehended, at least five high-profile rendition cases were reported in the international media. These cases included: on 12 and 14 December 2001, Abu Faisal and Abdul Aziz were reportedly arrested in Pakistan by the US; on 11 November 2001, Ibn Al-Shaykh al-Libi was reportedly arrested in Pakistan; and in January 2002, suspected commander of Al Qaeda training camp Abd al-Hadi al-Iraqi was reportedly arrested. In January of 2002, the US was cranking itself into full swing with preparations for a series of mass renditions from Afghanistan to Guantanamo Bay, as well as renditions far from the 'theater of war' to the Cuban prison. The first military cargo plane to Guantánamo Bay, carrying at least two UK nationals, arrived in Guantánamo from Afghanistan on 20 January 2002, and on 19 January 2002, six Algerian men had been rendered by US agents from Bosnia to Guantánamo Bay despite being released by the Bosnian Supreme Court for lack of evidence, and despite an injunction from the Bosnian human rights chamber that four of them be allowed to remain in the country pending further proceedings. By January 2002 when Mr Madni was rendered through Diego Garcia, the UK was already actively involved in what would become an accelerating pattern over the next three-four years, with a strong presence on the ground in Afghanistan, and evident involvement

from the latter months of 2001 in the illegal detention process of their own nationals.

UK knowledge and possible cover-up of Mr Madni's rendition flight

The 1976 Exchange of Notes between the UK and US Governments in relation to Diego Garcia clearly requires that the UK must be informed of all intended movements of US ships and aircraft on or through BIOT territory, stating at paragraph 3: 'The US Commanding Officer and the Officer in Charge of the United Kingdom Service element shall inform each other of intended movements of ships and aircraft'. In addition, the UK Foreign Office has stated that the United States would need to ask the permission of the UK should it bring any 'unlawful combatants' onto the island. Despite this, it has been extremely difficult to obtain any flight records involving Diego Garcia. In response to questions about why the two flights conceded by David Miliband in February 2008 had taken so long to come to light, former Foreign Secretary Margaret Beckett has said, 'It was very difficult for the government to go back and look at what had happened on previous occasions. There was not a clear, simple trace of record keeping. That may, I don't know, have been the case in the United States also.' Why, we might well ask, is there not a simple trace of record keeping? It cannot be that complicated to keep records on aircraft coming through the base – indeed, it is required, and done routinely by air traffic controllers. Worryingly, more than one independent source has since suggested that there had been logs of flights through Diego Garcia but the logs had since been destroyed.

An examination of detailed records available for four other rendition flights conducted by N379P reveal that the plane routinely operated under various 'special status designators' (STS indicators) that might go some way towards explaining the difficulties in tracing records referred to by Margaret Beckett. If it were found that these STS indicators had been used for Mr Madni's flight, this might explain in part why conventional records do not appear to have been easily available. Further, and more importantly, if found to have been used in the course of Madni's rendition flight (and if they were not, this would have been a departure from the norm), these STS indicators would indicate both knowledge of and authorisation for the rendition at the highest echelons of both the US and the UK governments, since by their very nature the special status designators in question would indicate that the flights were being planned and executed with the full collaboration of the operating state (in this case

the United States), and the ‘host’ states through which the aircraft travelled (in this case, the United Kingdom).

An examination of available ‘data-string’ flight records for the renditions on N379P of Bisher Al-Rawi, Jamil El-Banna, Binyam Mohamed and Mohamedou Ould Slahi reveals that in the course of all four rendition operations, N379P at various times declared itself to have the special status ‘STS/STATE’. The prerequisite for this designation is clear: ‘Only those flights ... that are specifically required by the State Authorities, e.g. military or civil registered aircraft used in military, customs and police services, shall use the sub-field STS/STATE indicator’. For these flights, in other words, the operators were claiming an official status for N379P as an aircraft on state duty, only one category below the aircraft that carry Heads of State [STS/HEAD].

In addition, in the course of all four renditions, the operators of N379P also declared the plane to have the special status ‘ATFMEXEMPT’. This STS designator is even more strictly limited, because once granted it allows deviations from planned routes and other important exemptions. In invoking this status, the aircraft was thereby exempted from adhering to the normal rules of air traffic flow management (ATFM), and did not, for example, have to wait at airports for approved departure slots. Invoking this designation effectively allowed N379P to fly wherever it liked, whenever it liked, without having to file new flight-plans. Crucially though, flights can only be granted this special status when they are ‘specifically authorised by the relevant national authority’ – a requirement that appears to be taken very seriously – since such exemptions are only granted when ‘specifically authorised by the relevant national authority’. The demonstrably complete ease of movement and lack of any evident record trail as N379P delivered Madni to torture in Cairo indicates that this designation may well have been wrongfully used to facilitate this rendition. Wrongful use of this designation in the course of Madni’s rendition flight would point to a significant degree of British complicity in the operation: as put by the investigator for Council of Europe Senator Dick Marty,

‘Both of these “special status” designations invoked for the aircraft N379P ... vouch for the prior knowledge and collaborative planning input of the states whose territory or airspace was being traversed, because such exemptions “shall only be used with the proper authority”. Indeed, such is the strictness with which these designations are invoked and approved, every flight operator’s manual accessed by the consultant emphasizes the limitations on their use.’

In addition to any wrongful usage of ‘STS designators’, N379P may have

also been operating under a military travel order, categorised as the sort of military flight governed by the unpublished NATO agreements of 4 October 2001, in which NATO allies ‘agreed today – at the request of the United States – to take eight measures, individually and collectively, to expand the options available in the campaign against terrorism’. Only two of the eight measures set out in the agreement have been made public:

(1) Blanket overflight clearances for the United States’ and other Allies’ aircraft for military flights related to operations against terrorism,

(2) Blanket access to ports and airfields on NATO territory, including for refuelling, for United States and other Allies for operations against terrorism.

If N379P were operating under such an order, it is not clear that specific permission would be sought for any particular flight, rather some form of procedural notification may have sufficed. In keeping with the secrecy of most of the agreement, the nature of any records that may or may not have been created is similarly opaque. In addition, given the above agreement, it is also possible that, after 4 October 2001, such operations could have come to be regarded as ‘routine’ by the US and the UK. It may be the case that under the law in Diego Garcia, ‘routine’ military operations may be exempted from relatively burdensome procedure, merely requiring some form of notification rather than a request for permission. This could again possibly affect the nature of any records that may or may not have been created.

Finally, Jeppesen [the aircraft operator] may also have filed false flight logs for N379P, in the course of Madni’s rendition circuit. The Council of Europe has found that Jeppesen did so for the same plane in its numerous clandestine trips in and out of Poland:

‘The aviation services provider customarily used by the CIA, Jeppesen International Trip Planning, filed multiple ‘dummy’ flight plans for many of these flights. The ‘dummy’ plans filed by Jeppesen – specifically, for the N379P aircraft – often featured an airport of departure (ADEP) and/or an airport of destination (ADES) that the aircraft never actually intended to visit. If Poland was mentioned at all in these plans, it was usually only by mention of Warsaw as an alternate, or back-up airport, on a route involving Prague or Budapest, for example. Thus the eventual flight paths for N379P registered in Eurocontrol’s records were inaccurate and often incoherent, bearing little relation to the actual routes flown, and almost never mentioning the name of the Polish airport where the aircraft actually landed – Szymany.’

Again, this unconventional behaviour from N379P involved not only the private company Jeppesen Trip-planning, but also a State party, in this case

Poland, in the practical form of the Polish Aviation Authority (PANSA). Given the almost total absence of available flight logs for suspicious flights through Diego Garcia, as well as its obvious strategic significance for both the US and the UK, it is not beyond the realm of possibility that something similar has happened in the case of flights through Diego Garcia.

The UK Foreign and Commonwealth office must urgently reveal:

- *All internal UK government, military and other communications and records relating in any way to flights through or transfers of prisoners through Diego Garcia;*
- *All communications and records between the UK government or military, and any foreign government or military, relating in any way to flights through or transfers of prisoners through Diego Garcia;*
- *How many flight logs were destroyed, and what was their content;*
- *What is the routine practice for destruction of such records;*
- *When were these particular records destroyed;*
- *Why were these particular logs destroyed;*
- *When were the first questions posed about the rendition flights;*
- *Had they been destroyed by the time that questions were regularly being asked about rendition flights;*
- *Who authorised the destruction of these logs, and who was aware of the decision either at the time or later.*

As Mr Madni's case unfolds, many more questions are raised than answered about Diego Garcia and Britain's role in US detentions. Against the backdrop of emerging evidence of UK knowledge and involvement in all corners of the global US secret prison system, UK claims to ignorance appear increasingly difficult to accept. It is time for the UK government to finally come clean about its role in Mr Madni's detention, and to reveal precisely who else has been held on and rendered through Diego Garcia, what happened to them there, and where they are now.