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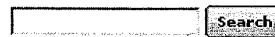


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Rendition and the rights of the individual

By Paul Reynolds
World Affairs Correspondent, BBC News website

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The outrage evident in the Council of Europe report on the secret CIA rendition programme emerges from a clash between the methods used by the United States to break up al-Qaeda networks and the sensitivities of human rights mechanisms introduced into post-war Europe and designed not to permit the unhindered use of government power.

The report's author, Swiss Senator Dick Marty, following up his earlier draft findings, identified what he felt was the difference between the responses to terrorism by Europe and the US:



Suspected CIA rendition flight - part of a new legal framework?

"While the states of the Old World have dealt with these threats primarily by means of existing institutions and legal systems, the United States appears to have made a fundamentally different choice: considering that neither conventional judicial instruments nor those established under the framework of the laws of war could effectively counter the new forms of international terrorism, it decided to develop new legal concepts.

"This legal approach is utterly alien to the European tradition and sensibility, and is clearly contrary to the European Convention on Human Rights and the Universal Declaration of Human Rights."

It is important to stress here that the argument is not about the origins of the human rights mechanisms, the inspiration for which came as much from the US as from Europe. It is about their application today.

American attitudes

The American decision to engage in counterterrorism beyond the reach of national or international law arose from a desire - a need as Washington saw the matter - to avoid the restrictions of the US law and constitution, which protect individual rights.

It therefore built not only Guantanamo Bay, but a series of "black sites", or secret prisons around the world. In these black sites, senior al-Qaeda suspects were held and interrogated, sometimes by so-called "enhanced" methods.

For the Bush administration, authority for this came from a congressional resolution passed on 14 September 2001.

Under this resolution "the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that

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occurred on September 11, 2001... in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."

Specific authority for the CIA to act as it saw best against al-Qaeda was then given by President Bush in a "presidential finding" on 17 September 2001.

Clash

It was therefore perhaps inevitable that one day, there would be a clash between the operational requirements of the CIA and the legal concerns of European human rights organisations, led by the Council of Europe, which administers the European Convention on Human Rights.

This clash is but one element of the wider legal struggle that has seen efforts to get rights for the Guantanamo Bay prisoners and pressure on the US to abide by a strict interpretation of the international convention against torture.

The US Secretary of State Condoleezza Rice has stated that her country does not engage in torture or hand over prisoners to those who do.

Poland and Romania

The most serious charge Mr Marty makes in his report is against Poland and Romania, both of which he all but accuses of having allowed the CIA to run black sites.

These suspected secret prisons were in fact exposed by the Washington Post in an article in November 2005.

Poland and Romania were not named in that article - the reference was to "several democracies in Eastern Europe" - at the request of the White House, but they were soon revealed.

It is believed that the sites were rapidly closed and the prisoners transferred, perhaps to somewhere in North Africa.

Mr Marty has now collated flight data from rendition flights and has pointed a finger of suspicion at both countries, which continue to deny they did anything wrong. In this, he goes beyond his earlier, preliminary report.

Other intriguing circumstantial information has come from Muhammad Bashmila, a former secret prisoner now free in Yemen.

In a rare interview with the BBC Newsnight programme, he spoke of being transferred from Afghanistan to a secret prison where it was cold, where the food appeared European and where evening prayers were held at the late hour of 2045. Somewhere in Eastern Europe is suspected.

Balance of liberties

It is argued, by the British government among others, that the phenomenon of Islamic terrorism is so grave that there has to be a reconsideration of the balance of liberties.

Previously, according to this view, the individual had to be protected against governments. But now the individual ability to wage war on societies is so great that individuals have to be restricted.

Mr Marty does not accept this.

In his report, he states: "The compilation of so-called "black lists" of individuals and companies suspected of maintaining connections with organisations considered terrorist and the application of the associated sanctions clearly breach every principle of the fundamental right to a fair trial: no specific charges, no right to be heard, no right of appeal, no established procedure for removing one's name from the list."

But he also quotes within his report a defence from Dan Fried, the US Assistant Secretary of State for European Affairs:

"We are attempting to keep our people safe; we are attempting to fight dangerous terrorist groups who are active and who mean what they say about destroying us. We are trying to do so in a way consistent with our values and our international legal obligations.

"Doing all of those things in practice is not easy, partly because - as we've discovered as we've gotten into it - the struggle we are in does not fit neatly either into the criminal legal framework, or neatly into the law of war framework."

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'Terror flight' inquiry uncovers collusion

By Our Foreign Staff

EUROPEAN governments collaborated with the United States in the "extraordinary rendition" of terror suspects, a report by Europe's top human rights body is expected to claim today.

According to an advance copy of the report by the Council of Europe, obtained by the BBC, Britain and 13 other countries are implicated in the practice of transferring terror suspects to a third country for questioning. Human rights groups have criticised the process, saying that it exposes detainees to the risk of torture.

Dick Marty, a Swiss Senator who has been conducting the seven-month inquiry, is reported to have concluded that rendition is based on an "utterly alien legal approach" and that a "spider's web" of rendition flights had criss-crossed Europe.

Countries including Spain, Turkey, Germany and Cyprus provided "staging posts" for rendition operations, while Portugal, Ireland, Greece and Britain were stop-off points for flights operated by the CIA, the report added. Britain was also accused of passing on information to the CIA about its citizens or residents, who then face rendition and/or torture. Prisoners have also been captured for rendition in Italy, Sweden, Bosnia-Herzegovina and Macedonia, according to the report.

Mr Marty's most serious charges are levelled against Poland and Romania, where he is said to have unearthed "new evidence to strengthen suspicions that CIA secret prisons were or are established on their soil". Both governments have strenuously denied the existence of such "black sites".

"It is only through the intentional or grossly negligent collusion of the European partners that this 'web' was able to spread also over Europe," the report is said to state.

The BBC said Mr Marty's evidence was based on flight plans filed with European air traffic controllers. The data reportedly showed a "clear pattern" of "rendition circuits", or specific missions for the transfer of prisoners. Trips were logged not only to Romania but from Afghanistan to Poland, it added.

The BBC interviewed Muhammad Bashmilah, a Yemeni who claimed to have been one of those subjected to rendition. He said that he was captured in Jordan in October 2003, flown to US custody in Afghanistan and then to a secret prison in an unknown location.

There he was held in a 10ft by 13ft (3m by 4m) cell, shackled to the floor and kept in solitary confinement for 19 months before being released, it was alleged.

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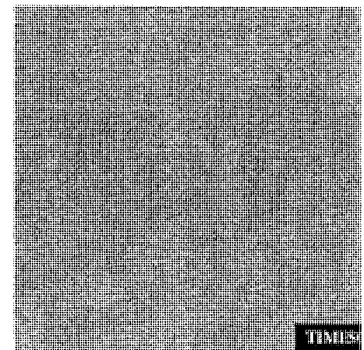
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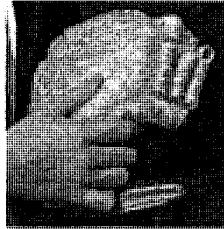
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Agence France Presse -- English
European governments collaborated with US on rendition: report
June 6, 2006

European governments collaborated with the United States in the "extraordinary rendition" of security suspects while two secret prisons were or are located in eastern Europe, the BBC claimed Tuesday.

The corporation's flagship political programme "Newsnight" based its claims on an advanced copy of the Council of Europe's report into the matter, which it said it had seen.

The report by Swiss lawmaker Dick Marty, to be published Wednesday, is said to implicate 14 European governments in the practice, which involves the transfer of security suspects to a third country for questioning.

Human rights groups have criticised the process for exposing detainees to the risk of torture.

According to the BBC, Marty is said to have concluded that rendition is, for Europe, based on an "utterly alien legal approach" and that a "spider's web" of rendition flights had criss-crossed Europe.

Countries including Spain, Turkey, Germany and Cyprus provided "staging posts" for rendition operations, while Portugal, Ireland, Greece and Britain were stop-off points for US Central Intelligence Agency flights, the report added.

Britain was also accused of passing on information to the CIA about its citizens or residents, who then face rendition and/or torture.

Prisoners have also been captured for rendition in Italy, Sweden, Bosnia-Herzegovina and Macedonia, according to the report.

But the BBC said Marty's most serious charges are levelled against Poland and Romania, where he has reportedly unearthed "new evidence to strengthen suspicions that CIA secret prisons were or are established on their soil".

Both governments have strenuously denied the existence of such "black sites".

"It is only through the intentional or grossly negligent collusion of the European partners that this 'web' was able to spread also over Europe," the report is said to state.

The BBC said Marty's evidence was based on flight plans filed with European air traffic controllers. The data reportedly showed a "clear pattern" of "rendition circuits", or specific missions for the transfer of prisoners.

Trips were logged not only to Romania but from Afghanistan to Poland, it added.

The BBC illustrated its item on the subject with an interview with Muhammad Bashmilah, a Yemeni who believes he was one of those subjected to rendition.

He told the broadcaster he was captured in Jordan in October 2003, flown to US custody in Afghanistan and then to a secret prison in an unknown location.

He was said to have been held in a 10-foot by 13-foot (three-metre by four-metre) cell, shackled to the floor by a 110-link chain and kept in solitary confinement for 19 months before being released.

Bashmilah was likely to have been held in northeastern Europe after putting his recollections, particularly of temperatures, evening prayer and sunset times, to a scientist from the Britain's Royal Observatory, the BBC said.

European governments collaborated with US on rendition: report, AGENCE FRANCE PRESSE, June 6, 2006