

From: [REDACTED]
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Subject: Justice and Security Green Paper
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My Response to the Green Paper on Justice and Security Cm 8194

My objection to this Green Paper is that the proposals allow the government to claim yet more secrecy in court proceedings. Past events have shown that their claim for secrecy was not in the interests of national security, but rather to protect themselves from political embarrassment, especially that of complicity in torture and rendition. The 'problem' arises because of the wrongdoing by the intelligence services of the US and UK, some of which is only now coming to light.

The case of Binyam Mohamed illustrates this perfectly. The Norwich Pharmacal application was crucial in the legal route by which the torture of Binyam Mohamed was brought to light, and it led to the disclosure of key information that persuaded the US government to release him.

The Norwich Pharmacal application did not endanger national security and much of the discussion was heard, with the consent of both parties, in closed session and the documents remain secret. The Green Paper would abolish the right of the Court to order such disclosure, even to security-cleared counsel.

I object to the use of 'Special Advocates'. This procedure is unjust since once a Special Advocate has seen closed material, they may not talk to their client, so that the client has no idea of the charges against them and therefore no way of defending themselves. They are, in effect, in a legal limbo that can last for years.

Both parties in government have expressed their concern about complicity in torture and rendition and the need for accountability. The Binyam Mohamed case demonstrates that judges must be allowed to hold the government to account on legal matters even in relation to national security. It shows too that the Public Interest Immunity system works effectively.

It is worth mentioning that the UK government has been ordered by the Court of Appeal judges Neuberger, Kay and Sullivan to secure the release of Yunus Rahmatullah who has spent eight years in the notorious US military prison at Bagram Airbase, Afghanistan. There is also the case of the Sami al-Saadi family of six who were rendered back to Libya by MI6 and the US intelligence services. The father was imprisoned and tortured by the Gaddafi regime over several years, during which he was questioned by UK and US intelligence officers. These and other cases like them require judges to be impartial and not subject to interference from any sources which would inhibit the legal process.

Yours sincerely,
Mr G A Gerrard

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