

United States: Trade in Torture

Organising worldwide traffic in prisoners

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This is a story of private jets flying out of Germany, of kidnappings on European streets, and of torture. It has a cast of lawyers, spies, suspected terrorists, innocent bystanders and an ex-CIA boss who believes that 'human rights is a very flexible concept'.

A SWEDISH immigration lawyer, Kjell Jönsson, was on the phone to a client, asylum seeker Mohamed al-Zery from Egypt, on the afternoon of 18 December 2001. "Suddenly there was a voice coming in, saying to al-Zery to end the telephone conversation," Jönsson recalls. "It was the Swedish police, who had arrested him."

Jönsson had requested the Swedish government to promise that there would be no quick decision on Zery's application for refugee status: he feared that Zery would be tortured if sent back to Cairo. But Zery was expelled in the shortest time that Jönsson had encountered in 30 years of asylum work.

Five hours after the arrest of Zery and another Egyptian, Ahmed Agiza, both were deported from Stockholm's Brömma airport. It was not revealed for another two years that there had been a US plane at the airport, plus a team of US agents who, it has been claimed, picked up the suspects, manacled their wrists and ankles, dressed them in orange overalls, drugged them, and bundled them into the plane.

Jönsson said the US team "were wearing black hoods and they had no uniforms; they were wearing jeans. The Swedish security police described them as very professional." The whole operation took less than 10 minutes. "It was obvious that they have done things like this before."

The events, including the presence of the US agents, were kept quiet for months. But in response to concern in Sweden, its parliament has set up an inquiry and already released documents that confirm what happened. In one, the head of the deportation operation with the Swedish security agency, Arne Andersson, said they had problems obtaining a plane that night and turned to the CIA: "In the end we accepted an offer from our American friends . . . in getting access to a plane that had direct over-flight permits over all of Europe and could do the deportation in a very quick way."

When agreeing to the transfer of the prisoners to Egypt, the Swedish government had sought and obtained diplomatic assurances that both men would not be tortured and would receive regular consular visits from Swedish diplomats in Cairo. They received such visits in jail. The authorities told the Swedish parliament and a United Nations committee that the prisoners had made no complaints. But they had – right from the first visit, they protested

that they had been severely tortured. Jönsson says Zery was tortured repeatedly for almost two months. "He was kept in a very cold, very small cell and he was beaten; the most painful torture was . . . where electrodes were put to all sensitive parts of his body many times, under surveillance by a medical doctor."

Zery has now been freed, and has not been charged with any crime. But he is banned from leaving Egypt or from speaking openly about his time in prison. Agiza remains in an Egyptian prison. His mother, Hamida Shalibai, who has visited him many times, said in Cairo: "When he arrived in Egypt, they took him, hooded and handcuffed, to a building. He was led to an underground facility, going down a staircase. Then, they started interrogation, and torture. As soon as he was asked a question and he replied, 'I don't know', they would apply electric shocks to his body, and beat him . . . During the first month of interrogation, he was naked, and not given any clothes. He almost froze to death."

The confirmation that US agents were involved in the Swedish case provided the first concrete evidence that since 9/11 the US has been involved in organising a worldwide traffic in prisoners. Official and journalistic investigations show that the US has systematically organised the repatriation of Islamic militants to countries in the Arab world and East Asia where they can be imprisoned and interrogated using methods forbidden to US agents. Some call it torture by proxy. Prisoners have been captured and transported by the US not only from Afghanistan and Iraq, but from Bosnia, Croatia, Macedonia, Albania, Libya, Sudan, Kenya, Zambia, Gambia, Pakistan, Indonesia and Malaysia.

The official term, coined by the CIA, is "extraordinary rendition". No serving US official will discuss it in public. But a former senior official of the CIA, who left the agency last November, has provided a detailed and candid explanation. Michael Scheuer, who in the late 1990s headed the unit tasked with hunting down Osama bin Laden, was interviewed for a BBC Radio programme, File on Four. He confirmed the Swedish case was part of a much wider system.

Scheuer said the CIA invented rendition because it was ordered by the White House to deal with al-Qaida but had few options on what to do with terrorists it captured. "The practice of capturing people and taking them to third countries arose because the executive branch assigned to us the task of dismantling and disrupting and detaining terrorist cells and terrorist individuals," he said. "And basically, when the CIA came back and said to the policymaker, where do you want to take them, the answer was - that's your job. And so we developed this system of assisting countries to capture individuals overseas and bring them back to the particular country where they are wanted by the legal system."

Among those at the centre of investigations into rendition is a lawyer at the Centre for Constitutional Rights, Barbara Olshansky. She is examining modern cases and how rendition is being justified legally. She believes the US is not only using third countries to interrogate prisoners but also its own offshore jail facilities run and operated by the CIA. She says that for more than 100 years the US seized fugitives outside its jurisdiction to bring them back to the US to face justice. General Manuel Noriega, the former president of Panama, was one high-profile example (1). That was ordinary rendition.

After the CIA began to fight al-Qaida, and especially since 9/11, extraordinary rendition emerged; the prisoner was captured, not for return to the US, but for transfer elsewhere. "Rendition started in the 1880s," Olshansky says. "The US would always use any measure to get an individual back to be tried in front of a court here . . . Now this entire idea has been

turned on its head. We now have extraordinary rendition, which means the US is capturing people and sending them to countries for interrogation under torture: rendering people for the purpose of extracting information. There is no planned justice at the end.”

Surprisingly, the CIA and other US agencies often use private executive jets to transfer prisoners. I obtained the confidential flight logs of a long-range Gulfstream V jet at the centre of the traffic. Since 2001 the plane has been to 49 destinations outside the US and has criss-crossed the world. It made frequent visits to Jordan, Egypt, Saudi Arabia, Morocco and Uzbekistan, all destinations from where the US has been repatriating prisoners.

The white jet, which has been photographed by plane spotters, has no marking except its US civilian registration number, until recently N379P. I have seen documentary evidence that it was the plane used to fly the Egyptians from Sweden. In October 2001 witnesses saw it in Karachi, Pakistan, when a group of masked men deported a terrorist suspect to Jordan.

According to a former covert officer with the CIA, Robert Baer, who has seen the flight logs, the jet is definitely involved in renditions. “The ultimate destinations of these flights are places that are involved in torture,” he says. Baer, who worked for the CIA in the Middle East for 21 years until he left in the mid-1990s, said such civilian jets were useful to the CIA because there were no military markings. “You can run these things out of shelf companies. You can set them up quickly, dismantle them when they are exposed; you can do it overnight – change the airplane if you have to. It’s fairly standard practice.”

Baer says rendition is about more than sending terrorists to be locked up in prison. Each country has its own value. “If you send a prisoner to Jordan you get a better interrogation. If you send a prisoner to Egypt you will probably never see him again; the same with Syria.” Countries such as Syria might seem to be US enemies but remain allies in the secret war against Islamic militancy. Baer says: “The simple rule in the Middle East is my enemy’s enemy is my friend . . . that’s the way it works. All of these countries are suffering in one way or another from Islamic fundamentalism, militant Islam.” For years the Syrians have offered to work with the US against Islamic militancy. “So at least until 11 September these offers were turned down. We generally avoided the Egyptians and the Syrians because they were so brutal.”

Baer believes the CIA has been carrying out renditions for years, but they became bigger and more systematic after 9/11. He says hundreds of prisoners, more than were sent to Guantánamo, may have been sent by the US to Middle Eastern prisons and that 9/11 had “justified scrapping the Geneva Convention” and was the end of “our rule of law as we knew it in the West”.

Some defenders of rendition inside the US administration view its purpose as the removal of terrorists from the streets. After a terrorist suspect has been sent back to Egypt, the US takes no interest in what happens. But the case of an Australian suspect, Mamdouh Habib, indicates that renditions are also aimed at collecting intelligence, which can be extracted with torture, forbidden to US agents. Habib, a former coffee shop manager from Sydney, was arrested in Pakistan, close to the Afghan border, a month after 9/11.

He was handed over to US agents, who flew him to Cairo, where he was tortured for six months, according to his US lawyer, Professor Joe Margulies, of the MacArthur Justice Centre of the University of Chicago. Margulies says: “Mr Habib describes routine beatings. He was

taken into a room and handcuffed and the room was gradually filled with water until the water was just beneath his chin. Can you imagine the terror of knowing you can't escape?" On another occasion, he was suspended from a wall. "His feet rested on a drum with a metal bar through it. And when they passed an electric current on the drum he got a jolt of electricity and he had to move his feet, and he was left suspended by his hands. And it went on until he fainted."

Under this interrogation, Margulies, says, Habib confessed to his involvement with al-Qaida and readily signed "every document they put in front of him".

He was transferred back to US custody, sent to Afghanistan and then to Guantánamo. The confessions he signed in Egypt were used against him in military tribunals. According to Margulies: "Those combatant status review tribunals relied on the evidence secured in Egypt as a basis to detain Mr Habib."

After Margulies and others lodged public protests over his torture, Habib was freed from Guantánamo in January and flown to Australia, where the government said he would not be charged with any crime, although intelligence officials there continue to accuse him of involvement with al-Qaida.

Most prisoners sent by the US to jails in the Middle East are not free to reveal their treatment. But a Canadian citizen, Maher Arar, a mobile phone technician rendered to a Syrian jail by the US, is now free to speak. His story supports the assertion that prisoners are sent abroad to be questioned. In September 2002 Arar, returning home from a holiday in Tunisia, was changing planes at JFK airport in New York. He had often visited and worked in the US, so he expected no problems. But he was taken to an interrogation room and eventually an immigration holding centre, the Metropolitan Detention Centre in Brooklyn.

It became clear that the reason for his arrest was information passed from Canada to the US. Canada was secretly investigating a terrorist suspect in Ottawa, and Arar had used the suspect's name as an emergency contact when he signed a lease on a flat. Although he is a Syrian national by birth, Arar is a citizen of Canada and has lived there for 17 years. He was surprised to be asked questions in New York that could easily be dealt with in Ottawa.

Twelve days after his arrest, Arar was woken at 3am to be told he was being removed from the US. He was driven to New Jersey and, in chains, put aboard an executive jet. "I thought when they put me on this private jet with its leather seats, who am I for them to do that? What kind of information could I offer them? So when they fed me this nice dinner, I thought of the tradition in the Muslim world called Eid, where they slaughter an animal, and before they slaughter the animal they feed him. That's exactly what I thought when I was in the plane. I was always thinking how I could avoid torture, because at that point I realised that the only reason why they were sending me somewhere was to be tortured for them to get information. I was 100% sure about that."

After two stops for fuel, the plane arrived in Amman, Jordan, and Arar was taken by road to Damascus, to the headquarters of the Syrian secret police. He says he was placed in a cell little bigger than a coffin and was kept there for more than 10 months. His fears of torture were realised. "The interrogator said: 'Do you know what this is?'. I said: 'Yes, it's a cable' and he told me: 'Open your right hand.' I opened my right hand and he hit me like crazy. And the pain was so painful, and of course I started crying and then he told me to open my left hand, and I opened it and he missed, then hit my wrist. And then he asked me

questions. If he does not think you are telling the truth, then he hits again. An hour or two later he put me in this room where sometimes I could hear people being tortured.”

After three days short of a year in Syrian custody, Arar was released and flown home to Ottawa. No charges have ever been laid against him by Canada or Syria. In Canada his case has caused a political outcry and there is a public inquiry. Like many modern torture victims, Arar has no physical scars. Professional interrogators are too clever. His scars are psychological.

But the head of Amnesty International in Canada, Alex Neve, is convinced that Arar is telling the truth: “I believe it for a number of reasons. I interviewed him in considerable detail, and in the course of my many years of work with Amnesty International I have interviewed torture survivors here in Canada, in refugee camps, individuals who have just been released from jail cells; and I found his experience to be consistent and credible with what I have known and learned and experienced at other interviews.”

Who is responsible for this system of rendition, and who in Washington authorised it? At the Fall’s Church, Virginia, home of Michael Scheuer, we spoke about the tactics of the war on terror and about why, when he headed the Osama bin Laden unit at the CIA, they developed rendition as a tactic against al-Qaida. Scheuer is outspoken – while at the CIA he wrote two critical books (published anonymously) about anti-terror activities. But he has never before been so candid about such a sensitive matter.

Scheuer insists that every rendition operation was approved by lawyers: “There is a large legal department within the CIA, and there is a section of the department of justice that is involved in legal interpretations for intelligence work, and there is a team of lawyers at the national security council. And on all of these things those lawyers are involved in one way or another and have signed off on the procedure. The idea that somehow this is a rogue operation that someone has dreamed up is just absurd.” Scheuer recalls that when he organised such operations, the authority had to come from director of central intelligence or his assistant director. “So basically the number one and two men in the intelligence community are the ones who sign off.”

Scheuer says that with each rendition, he is convinced that “these people deserved to be off the street”. But mistakes would happen, as they always did, and innocents might be captured. “It is impossible not to have a mistake in the business of espionage and intelligence,” he says. “There was never anything flip or blasé about the way this was approached. It was a deadly serious business, and if we were wrong, we were wrong. But the evidence pointed us toward what we did.”

Scheuer has few qualms about the danger that such men might be tortured: “The bottom line is getting anyone off the street who you’re confident has been involved or is planning to be involved in operations that could kill Americans is a worthwhile activity.”

Even if he might be tortured? “It wouldn’t be us torturing them. And I also think that there is a lot of Hollywood involved in our portrayal of torture in Egypt and in Saudi Arabia. It’s rather hypocritical to worry about what the Egyptians do to people who are terrorists and not condemn the Israelis for what they do to people they deem terrorists. Human rights is a very flexible concept. It kind of depends on how hypocritical you want to be on a particular day.”

To be fair to Scheuer, he has concerns about rendition as a long-term tactic. He believes that dictatorial regimes such as Egypt and Jordan cause Islamic militancy, so it makes little strategic sense to be working closely with them. "Any kind of a detainee capture is a technical success, but in the strategic sense we are losing, and one of the main reasons is because of our support for dictatorships in the Muslim world."

But, he says, the US has little option about what to do with these prisoners. Politicians do not want terrorists brought back to US soil and dealt with in US courts. "We're in a lot of positions around the world where we don't have a lot of options, and sometimes you have to work with the devil." As long as US policymakers did not decide how to deal with prisoners under the US legal system, the CIA had no choice but "do what you can with what you have".

Scheuer estimates that there have been about 100 CIA renditions of Sunni terrorists. Others, including Robert Baer, think the figure is much higher and that in the post-9/11 world the US department of defence under Donald Rumsfeld is now in the business of moving prisoners around the world, while the US military has shifted hundreds of prisoners to jails in the Middle East.

The US department of defence and the CIA declined to speak about rendition and its justification. I did speak to a vice-president of the American Enterprise Institute, a think-tank linked to the Bush administration. Danielle Pletka was a former senior staffer on the Senate foreign relations committee. "I'm not a big fan of torture," she says. She does not endorse Syria or the way Egypt runs its prisons or security system. "Unfortunately, there are times in war when it is necessary to do things in a way that is absolutely and completely abhorrent to most good, decent people. While I don't want to say that the US has engaged routinely in such practices, because I don't think that it is routine by any standard . . . if it is absolutely imperative to find something out at that moment, then it is imperative to find something out at that moment, and Club Med is not the place to do it."

What is the legality of these operations? Pletka says that, as a non-lawyer, she cannot answer such questions. The United Nations convention against torture, ratified by the US and endorsed by President Bush, states that "no state shall expel, return or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture". Every year the US state department condemns and details human rights abuse and torture in countries such as Egypt, Syria and Saudi Arabia. Last year's report on Egypt described torture as "common and persistent".

So how can rendition be legal? No one at the justice department would comment. The US legal justification is a state secret. Official Washington's coyness about defending rendition may have something to do with the increased threat of being held to account in the courts. Apart from the danger of lawsuits in US courts, there are judicial investigations opening into alleged CIA abductions on European soil.

Germany has been a key base for the CIA jets. The flight logs I have seen show frequent stops of the Gulfstream jet, and a Boeing 737 jet used for rendition, at Frankfurt airport. There is a judicial inquiry under way in Germany into the case of Khaled al-Masri, a German citizen from Ulm who claimed he was kidnapped in Skopje, Macedonia, on 31 December 2003. He was flown three weeks later to Afghanistan and a US prison facility where, he has claimed, he was repeatedly beaten before being released four months later and dumped on a roadside in Albania.

At first his claims seemed unbelievable, but flight logs I obtained from aviation sources show clear evidence that the CIA's Boeing 737 transported him to Skopje on 23 January 2004. My documents show the plane flew in from Majorca and then took Masri to Kabul via Baghdad. Such evidence could put the CIA in a difficult position with its German counterparts, who may be forced to treat the case as an illegal kidnap.

In Italy there is now a judicial investigation into the kidnapping of a suspected al-Qaida activist in Milan. It is claimed that US agents, without legal permission, kidnapped a suspect from the streets of a close European ally. At noon on 16 February 2003 an Egyptian, Abu Omar, disappeared in Milan's Via Guercuzona during a 10-minute walk from his home to a local mosque. An eyewitness said he was stopped on the street by three white men, with a van drawn up on the pavement. He had been under surveillance by Italian authorities but they denied any role in his disappearance. The claim is that he was seized by US agents, taken to the US Aviano air base and flown to Egypt.

The deputy prosecutor of Milan, Armando Spataro, who is the magistrate investigating the case, refuses to accuse the US but is treating the case as involuntary kidnap and is certain that Omar is now in Egypt. If the US was involved, would it be a crime? "If it were true, it would be a serious breach of Italian law. It would be absolutely illegal," he says.

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