

IN THE HIGH COURT OF JUSTICE

Claim Numbers: HQ08X01180,  
HQ08X01413  
HQ08X01416  
HQ08X03220  
HQ08X01686

QUEEN'S BENCH DIVISION

BETWEEN:

- (1) BISHAR AL RAWI
- (2) JAMIL EL BANNA
- (3) RICHARD BELMAR
- (4) OMAR DEGHAYES
- (5) BINYAM MOHAMMED
- (6) MARTIN MUBANGA

Claimants

and

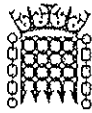
- (1) THE SECURITY SERVICE
- (2) THE SECRET INTELLIGENCE SERVICE
- (3) THE ATTORNEY GENERAL
- (4) THE FOREIGN AND COMMONWEALTH OFFICE
- (5) THE HOME OFFICE

Defendants

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EXHIBIT LC11

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House of Lords  
House of Commons  
Joint Committee on Human  
Rights

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# Allegations of UK Complicity in Torture

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Twenty-third Report of Session  
2008–09

*Report, together with formal minutes and oral  
and written evidence*

*Ordered by the House of Lords  
to be printed 21 July 2009*

*Ordered by the House of Commons  
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## Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

### Current membership

#### HOUSE OF LORDS

Lord Bowness  
Lord Dubs  
Lord Lester of Herne Hill  
Lord Morris of Handsworth OJ  
The Earl of Onslow  
Baroness Prashar

#### HOUSE OF COMMONS

John Austin MP (Labour, *Erith & Thamesmead*)  
Mr Andrew Dismore MP (Labour, *Hendon*) (Chairman)  
Dr Evan Harris MP (Liberal Democrat, *Oxford West & Abingdon*)  
Mr Virendra Sharma MP (Labour, *Ealing, Southall*)  
Mr Richard Shepherd MP (Conservative, *Aldridge-Brownhills*)  
Mr Edward Timpson MP (Conservative, *Crewe & Nantwich*)

### Powers

The Committee has the power to require the submission of written evidence and documents, to examine witnesses, to meet at any time (except when Parliament is prorogued or dissolved), to adjourn from place to place, to appoint specialist advisers, and to make Reports to both Houses. The Lords Committee has power to agree with the Commons in the appointment of a Chairman.

### Publications

The Reports and evidence of the Joint Committee are published by The Stationery Office by Order of the two Houses. All publications of the Committee (including press notices) are on the internet at [www.parliament.uk/commons/se/com/hrhome.htm](http://www.parliament.uk/commons/se/com/hrhome.htm).

### Current Staff

The current staff of the Committee are: Mark Egan (Commons Clerk), Rebecca Neal (Lords Clerk), Murray Hunt (Legal Adviser), Angela Patrick and Joanne Sawyer (Assistant Legal Advisers), James Clarke (Senior Committee Assistant), Emily Gregory and John Porter (Committee Assistants), Joanna Griffin (Lords Committee Assistant) and Keith Pryke (Office Support Assistant).

### Contacts

All correspondence should be addressed to The Clerk of the Joint Committee on Human Rights, Committee Office, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general inquiries is: 020 7219 2467; the Committee's e-mail address is [jchr@parliament.uk](mailto:jchr@parliament.uk)

## Conclusions and Recommendations

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1. There is [...] no room for doubt, in our view, that complicity in torture would be a direct breach of the UK's international human rights obligations, under UNCAT, under customary international law, and according to the general principles of State Responsibility for internationally wrongful acts. (Paragraph 27)
2. We [...] conclude that complicity has different meanings depending on whether the context is individual criminal responsibility or State responsibility:
  - for the purposes of individual criminal responsibility for complicity in torture, "complicity" requires proof of three elements: (1) knowledge that torture is taking place, (2) a direct contribution by way of assistance that (3) has a substantial effect on the perpetration of the crime;
  - for the purposes of State responsibility for complicity in torture, however, "complicity" means simply one State giving assistance to another State in the commission of torture, or acquiescing in such torture, in the knowledge, including constructive knowledge, of the circumstances of the torture which is or has been taking place. (Paragraph 35)
3. We agree with Professor Sands's view, that if the Government engaged in an arrangement with a country that was known to torture in a widespread way and turned a blind eye to what was going on, systematically receiving and/or relying on the information but not physically participating in the torture, that might well cross the line into complicity. (Paragraph 41)
4. Systematic, regular receipt of information obtained under torture is in our view capable of amounting to "aid or assistance" in maintaining the situation created by other States' serious breaches of the peremptory norm prohibiting torture. We therefore consider that, if the UK is demonstrated to have a general practice of passively receiving intelligence information which has or may have been obtained under torture, that practice is likely to be in breach of the UK's international law obligation not to render aid or assistance to other States which are in serious breach of their obligation not to torture. (Paragraph 42)
5. It follows from the above that, in our view, the following situations would all amount to complicity in torture, for which the State would be responsible, if the relevant facts were proved:
  - A request to a foreign intelligence service, known for its systemic use of torture, to detain and question a terrorism suspect.
  - The provision of information to such a foreign intelligence service enabling them to apprehend a terrorism suspect.
  - The provision of questions to such a foreign intelligence service to be put to a detainee who has been, is being, or is likely to be tortured.