

The Detainee Inquiry
35 Great Smith Street
London
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16th February 2011

The AIRE Centre
Amnesty International
British Irish Rights Watch
Cageprisoners
Justice
Liberty
The Medical Foundation for the Care of Victims of Torture
Redress
Reprieve

Thank you for your letter of 8 February addressed to Sir Peter Gibson. The Inquiry Panel are grateful to you for taking the time to expand on the points that you raised at the meeting on 20 January. The contents of your letter, like the issues which you raised at that meeting, have been carefully considered by the Inquiry Panel.

I can assure you that the Panel will be putting the points you have made (including what you have said about the need for the Inquiry to have powers to compel the production of documents and the attendance of witnesses) to Government both before and when we met to finalise the Terms of Reference and Protocol. We would like the Inquiry's work to be as open and transparent as possible, but, as you know, we do have to agree these key documents with Government.

You say in your letter that "it is important to recognise that the Detainee Inquiry was established specifically to examine allegations of torture and other ill-treatment, which give rise to particular requirements under Article 3 ECHR."

That is not our understanding of the purpose for which the Inquiry was established and the Government has recently confirmed to us the correctness of our understanding. In the letter of 6 July 2010 to Sir Peter, the Prime Minister made clear that the Inquiry's purpose is,

"to examine whether, and if so to what extent, the UK Government and its intelligence agencies were involved in improper treatment of detainees.... or were aware of improper treatment of detainees..."

As we understand the allegations that have been made, it is not suggested that UK personnel were themselves doing the torturing or improper treatment alleged, but rather it is suggested that the UK was complicit in the torture or mistreatment. The Prime Minister specifically said in his letter of 6 July 2010 that the Inquiry was into the actions of the UK and not those of any other state and that the Inquiry can expect to take evidence from UK personnel and not the personnel of other countries.

In the letter of 28 July 2010 from the Treasury Solicitor (on behalf of Sir Peter) to Reprieve in response to Reprieve's letter of 19 July it was stated that:

"The Inquiry is not an inquiry under the Inquiries Act 2005 or indeed any other statutory scheme. It has not been set up in order to comply with any alleged investigative duty under the ECHR ... It is rather an inquiry by three members of the Privy Council that the Government has concluded would be desirable for the purposes set out in the Prime Minister's announcement having regard to the highly sensitive security context involved."

Sir Gus O'Donnell referred to that letter (and the website where the letter was publicly available) in his letter of 1 September 2010 to Amnesty when replying to Amnesty's letter of 2 August 2010 to the Prime Minister. Any questions about the Inquiry's remit should be addressed to the Government.

The Inquiry's task is to carry out the role assigned to us by the Prime Minister. However, I want to re-assure you that, in doing so, the Inquiry is determined to act fairly, openly and independently. It will be rigorous, carry out its work with minimum delay, and avoid damage to national security. Our intention is to make public as much evidence as possible consistent with national security. By respecting those principles we aim to maximise the fairness of the Inquiry to all those who participate in it and to fulfil our Terms of Reference.

We welcome and encourage the continued engagement of NGOs at all stages throughout the Inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alun Evans', with a long horizontal flourish underneath.

Alun Evans