

STATEMENT OF WITNESS

(Criminal Justice Act 1967, ss 2,9/M.C. Rules, 1968, r.58)

Statement of: Ian Mark Cobain

Age of witness: Over 18

Occupation of witness: Journalist

Address:



This statement, consisting of **10** pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 17th day of July 2020

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I, IAN MARK COBAIN, will say as follows:

1. I am an investigative journalist and have worked as a journalist for around 38 years, since 1982.
2. I currently work as a senior investigative journalist for "Middle East Eye". Prior to this, between 2005 and 2018, I worked as an investigative journalist at the Guardian. Before this, I was the Chief Reporter and Home Editor of The Times,

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another leading UK newspaper. In this latter role I was effectively the senior UK news editor.

3. My work has been recognised with a number of awards. I received the Martha Gellhorn Prize for Journalism in 2009, the Paul Foot Award in 2009, and two Amnesty International Media Awards in 1993 and 2009. I have also received the Human Rights Campaign of the Year Award from Liberty in 2010 for my investigation into Britain's complicity in renditions and the use of torture after the September 11 attacks of 2001. I was awarded the TotalPolitics Debut Political Book of the Year Award for my book Cruel Britannia published by Portobello Books in 2012.
4. I have reported from the field on six wars: the 1991 Gulf War, Bosnia and Croatia in the mid-90s, Iraq for Operation Desert Fox in 1998, the Israeli Incursion into the West Bank in 2002, the war in Afghanistan and the second Iraq war in 2003.
5. Since the early years of the 2000s, a key focus has been on uncovering evidence of British state collusion and involvement in US counterterrorism operations around the world. In particular, in recent years I have devoted a great deal of time to the investigation of allegations of rendition and the mistreatment of detainees during counterterrorism operations involving the US and the UK.
6. I have investigated and reported on cases in which people were detained in Pakistan, Bangladesh, Afghanistan, Iraq, Egypt, Morocco, the UAE, Uganda, Poland and Guantanamo Bay. On each occasion there were accounts of ill-treatment and good reason to believe that the individuals had been detained by, or at the suggestion or request of the UK and / or the US, and interrogated on the basis of questions supplied by the UK and / or the US. In some cases there

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appeared to be direct involvement of the US and / or the UK in further ill-treatment of the prisoners. I attach a selection of relevant reports as exhibit IC1.

7. I would like to point out that whilst my focus, as a British journalist, has always been on UK actions, the overarching scenario as regards War on Terror related abuses is of course that the UK has been complicit in, and sometimes a partner in, US activities.
8. I do not know Mr Assange, and whilst I was at the Guardian in 2010 and 2011, I was not engaged in the joint publication of any of the material listed above. I did a small amount of reporting on the contents of the Guantanamo files, for the Guardian, after they had been placed in the public domain. I attach these as exhibit IC2.
9. I have been asked to comment, on the basis of my own experience as an investigative journalist, on matters relating to the content and the significance of publications in 2010 and 2011 by Wikileaks and other media partners - the Afghan/Iraq war logs, the Guantanamo files, and the US diplomatic cables.
10. In particular, I have been asked to comment on the following matters:
 - a. The near impossibility of ever uncovering evidence of such criminality.
 - b. The importance of reliable, documentary information relating to state criminality in respect of torture/crimes against humanity/war crimes/rendition.
 - c. The ways in which investigators, having uncovered even strong clues or evidence, find that the state shuts down further public exploration.

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The near impossibility of ever uncovering evidence of such criminality, especially via human sources with direct knowledge.

11. There is always the understanding - one that is so clear that it needs not be spoken - that anyone who has knowledge of state crimes, and who comes forward to corroborate allegations about those crimes, may face prosecution.
12. Evidence that would support such allegations is extraordinarily difficult to obtain from within governments with disciplined intelligence agencies and civil services, and where the penalties for unauthorised disclosure can include intrusion into family life, prosecution and imprisonment, loss of livelihood and loss of pension rights.
13. A culture of secrecy might be said to exist within some states' intelligence agencies and civil services, which results in the disclosure of information from inside government, about even the most serious human rights abuses, being extremely rare.
14. Normally, the investigation process for my stories into counterterrorism related war crimes and international human rights violations was painstaking and slow. For many years after September 2001, the only information that would emerge came as hints disclosed through litigation, or through a small number of journalists using flight databases to track the movements of aircraft that could be shown to be part of the rendition programme, or establishing patterns of behaviour that provided some circumstantial evidence of state involvement in human rights abuses (which I shall describe later), and which supported detainees' allegations.

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15. I worked primarily by piecing together fragments of information, drawing together details suggestive of a pattern, indicating state involvement in human rights abuses. Pakistani and Bangladeshi intelligence officers, for example, may give accounts of their interactions with US and UK intelligence officers, in different places and different times, that suggest the same form of words is used when a request is made that a particular individual be detained and questioned.

16. Similarly, former detainees who have been detained and alleging mistreatment in different countries often gave strikingly similar accounts of the form of words that they say were used, by way of introduction, by the British intelligence officers whom they allege visited and questioned them, in between periods when they say they were being tortured.

17. These elements suggested that some aspects of the former detainees' accounts were accurate. But routinely, little or no further proof to support what they were saying would be forthcoming, in particular from the side of the alleged perpetrators.

18. A whistle-blower, or leaker, would have assisted greatly, allowing me to report definitively on these abuses, earlier, in a way that would fully inform the public. This might perhaps have resulted in a different course being taken during counter-terrorism liaison operations and, ultimately, result in less people being mistreated and hurt.

19. In late 2001 or early 2002, a senior ICRC official whom I met in Kabul informed me that the US military was torturing detainees in Kandahar, and that so incendiary did that allegation seem at that time, that I felt I needed a second, independent source before reporting on this for the Times - and that I couldn't find that second source at that time.

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The importance of reliable, documentary information relating to state criminality in respect of torture/crimes against humanity/war crimes/rendition.

20. A particularly significant case that I reported on, that turned on documentary evidence, showed that a senior official at the Secret Intelligence Service, MI6, took credit for providing the intelligence that led to a man and his pregnant wife being kidnapped and rendered by the CIA, to one of Muammar Gaddafi's prisons in Libya in 2004.
21. There is documentary evidence that MI6 also assisted in the kidnap by the CIA of an entire family - husband, wife and four children aged between six and 12 - who were rendered to Libya the same year. I attach a report as exhibit IC4.
22. Both men say they suffered years of torture. There is documentary evidence that the UK submitted long lists of questions to be put to the two detained men, and the answers that returned were allegedly used to justify the detention of others in the UK and elsewhere.
23. Almost certainly, nothing of this case would have emerged into the public sphere were it not for the unique emergence of hundreds of documents relating to the Libyan security state. The documentary evidence emerged during a serendipitous moment in Tripoli during the 2011 Libyan revolution when filing cabinets full of documents belonging to the Libyan security apparatus fell into the hands of NGO workers and journalists.
24. Until the emergence of these documents, state investigatory mechanisms were demonstrably inadequate. Nothing other than a passing report on the disappearance of the men in question, was publicly known about this important case. For example, the UK parliamentary body supposed to oversee security

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matters, the Intelligence and Security Committee (ISC) reports at the time of the renditions (and for 14 years afterwards) were silent on this matter.

25. Had the documents not emerged in the way in which they did, the British government would no doubt have continued to maintain that “the UK does not participate in, solicit, encourage or condone the use of torture for any purpose”, a claim that is completely undermined by the documentary evidence now available in respect of this case. In the event the government apologised to the couple and made a payment to the wife. A case brought by the family was settled out of court. I attach the relevant article as exhibit IC3.

The ways in which investigators, having uncovered even strong clues or evidence, find that the state shuts down further public exploration

26. It is my experience however that states tend to meet questions about their alleged involvement in human rights abuses and other crimes with blanket denials. They will rarely address the particulars of an allegation.

27. There were matters that I was attempting to investigate for a decade or more, before the ISC published its Rendition and Detainee Mistreatment report in June 2018 (in other words at the time of my research, the ISC appeared determined to look the other way).

28. The allegations would always be met with the same blanket denial by government – “the UK does not participate in, solicit, encourage or condone the use of torture for any purpose” – no witnesses would come forward from within government, there were no leaks, and no honest briefings. Instead, government officials, including civil servants supposedly bound by the Civil Service Code, would attempt to mislead me, both through half-truths and untruths.

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29. People within government would contact senior colleagues to warn that I would make a fool of our news organisation, were I continue making such inquiries; an attempt was made to recruit me as “an accredited media contact” of the Security Service, and I was informed that I would be asked not to publish certain news reports; and a senior counter-terrorism detective rang me and warned that he would “come back at me” in some unspecified way if I did not report on one matter in the way in which he was instructing me.
30. But nobody ever denied the accuracy of my reporting.
31. This may give some idea of how difficult it can be to investigate human rights about by states.
32. Under such circumstances, there is also an understanding that journalists and news organisations revealing information embarrassing to States, may also face attacks such as attempted prosecutions or in some cases actual military attacks. For example, threat to prosecute journalists after the Daily Mirror reported in 2005 on a US plan to launch a military attack against the Arabic news organisation al-Jazeera.¹
33. Another would be the 2018 raids on the homes of two Belfast journalists who were arrested on suspicion of breaches of the Officials Secrets Act after they had assisted an Oscar-winning documentary maker with his film about collusion between police officers and gunmen who had shot dead six civilians and wounded five more in a bar, in 1994. The two journalists were also accused of the theft of a document that had been leaked to them – not of the contents of the document, but of the paper that it was printed on.
34. The collusion between police and gunmen had already been confirmed by the Police Ombudsman for Northern Ireland. The journalists and their families were

¹ - <https://www.theguardian.com/politics/2005/nov/23/uk.topstories3>

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very upset by the raids on their homes, by armed police. After ten months on bail, the two journalists were told that no further action would be taken against them.²

35. For many years, the UK Parliament's Intelligence and Security Committee (ISC) either refused to investigate allegations of UK complicity in torture and involvement in the US rendition programme, or did so in an inadequate fashion, allowing the UK's intelligence agency to say publicly that the ISC had given them "a clean bill of health".

36. Only in June 2018 did the ISC publish a report that made clear that the UK had been deeply involved in the so-called rendition programme and the mistreatment of many hundreds of detainees.³

37. By this time, it could be argued that the evidence that had emerged during litigation, and media reporting such as mine over many years, had made a thorough ISC investigation irresistible.

38. Nevertheless, the committee complained that it had not been able satisfactorily to complete its investigation, as formal records for some periods of concern were lacking, and because the executive had prevented it from interviewing some key witnesses.

39. A report on the long-running inadequacies of ISC investigations was published by Gordon Corera, the BBC's Security Correspondent, on 2 July 2020.⁴

² - <https://www.theguardian.com/uk-news/2019/jun/04/loughinisland-journalists-police-investigation-dropped-redacted-document-no-stone-unturned>

³ - https://b1cba9b3-a-5e6631fd-sites.googlegroups.com/a/independent.gov.uk/isc/files/20180628_HC1113_Report_Detainee_Mistreatment_and_Rendition_2001_10.pdf?attachauth=ANoY7cobZW7IaQFVKyzPGJ6UvT3AR_rXeZZ90oNLpkMDvwbBSCaET7f6EE5ygnPa5rQ3n3kvlQBJqAP_Pgghn2crn2Rc7HhvGZzNTL-69sqrhAC8C8zhQuFs2Zm9btzqM0z9V7ldDycyekSUBwLwMbkN1lQleTNiG4OUYHfclq6PEN8H7XzZJxWYg4jTs-UfCuC-hNDWhqt4GdX2nqVi331_UU0Wy-W74nublevEI7KfIMs-GKINaXbj4eIC5EQqwQAIzMtEaCDVTa8khyMuf2P7Cf67QecaAxmrXhqkVbYXtP8o-YMzaj4%3D&attredirects=0

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40. More recently, in July last year, the UK government said that it would not be reopening the judge-led inquiry that Prime Minister David Cameron had established within weeks of his election in 2010. Mr Cameron had told the House of Commons that a judge-led inquiry was required, adding: "I do not think for a moment that we should believe that the ISC should be doing this piece of work."⁵
41. The judge-led inquiry, the Gibson Inquiry, was suspended in 2012 while the Metropolitan Police investigated the Libyan renditions.
42. The suspension was announced by the then Justice Secretary, Ken Clarke, who believes that it needs to be resumed.⁶
43. As matters stand, the ISC has not been reconvened, one of its Special Reports remain unpublished, and it is unclear whether the Committee, when it does reconvene, will attempt to provide oversight with the rigour that was seen under its previous chairman.
44. Under these circumstances, it could be argued that media scrutiny is more important than ever, and that leaks and whistle-blowers remain a vital means by which state crimes can be exposed.

I believe that the facts stated in this witness statement are true.

⁴ - <https://www.bbc.co.uk/news/uk-53233572>

⁵ - <https://hansard.parliament.uk/commons/2010-07-06/debates/10070631000002/TreatmentOfDetainees>

⁶ - <https://www.extraordinaryrendition.org/news/237-ken-clarke-calls-for-judge-led-inquiry-into-uk-complicity-rendition-torture.html>

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