

Institution: University of Westminster		
Unit of Assessment: 19 Politics and International Studies		
Title of case study: Torture Unredacted: uncovering the practice of secret detention, rendition and torture in the War on Terror and beyond		
Period when the underpinning research was undertaken:		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Sam Raphael	Role(s) (e.g. job title): Reader	Period(s) employed by submitting HEI: Sep 2015 ongoing
Period when the claimed impact occurred: Sep 2015 – Dec 2020		
Is this case study continued from a case study submitted in 2014? Y/N		
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>The United States and United Kingdom have, since 2001, been systematically involved in the secret detention, rendition and torture of individuals suspected of involvement in terrorism, in clear violation of domestic and international law. These practices have been exceptionally difficult to research: data are fragmentary, globally distributed, and buried under multiple layers of state secrecy and denial. As a consequence, accountability and oversight remains a significant challenge.</p> <p>Dr Sam Raphael's research provides the most detailed public account of the use of torture, rendition and secret detention in the War on Terror. In turn, his work has had significant impact on attempts by the United Nations and other intergovernmental organisations, parliamentarians and non-governmental organisations to: (1) strengthen global accountability for crimes committed as part of the CIA's torture programme; (2) strengthen accountability for UK torture during the War on Terror; and (3) strengthen safeguards against future UK involvement in torture.</p> <p>Overall, Raphael's work has led directly to more effective oversight, transparency and accountability of US and UK intelligence programmes, the development of a more robust policy framework in the UK and, in several cases, a measure of justice for individual victims of US and UK secret detention and torture.</p>		
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>Raphael is Co-Director of The Rendition Project, an academic research project established with Professor Ruth Blakeley (University of Sheffield) in 2013 [R1]. He has built a large network of non-academic partners from legal, human rights and parliamentary sectors, which in turn has enabled him to develop detailed accounts of the use of torture and disappearance by US and UK intelligence agencies.</p> <p>Central to Raphael's research has been the development of innovative data collection and analysis methods. In particular, Raphael has developed the capacity to systematically collect a wide range of exceptionally hard-to-reach primary materials in relation to the illegal practices of the US and UK intelligence agencies. He has directed fieldwork across four continents, built a collaborative, strategic approach towards using Freedom of Information legislation in the US and across Europe, and engaged directly with numerous sources who have privileged access to intelligence material. As a result, Raphael has secured thousands of flight records relating to CIA secret "torture flights" (from 40 global sources), thousands of declassified and leaked documents from within intelligence programmes (many of which have been made public as a direct result of his research), and first-hand testimony from scores of individuals involved in operating the programmes, or else subjected to secret detention, rendition and torture by the US and UK. These data were necessarily fragmentary, and Raphael's findings have been dependent upon the development of a number of unique and powerful datasets to allow for systematic triangulation and the progressive "unredacting" of crucial official documents which had been only partially declassified [R2]. These datasets contain thousands of records and are openly available on the project's website, alongside the original documents [R1].</p> <p>As a result of these methods, Raphael's research has enabled an unprecedented level of detail to emerge regarding the inner workings of the CIA's torture programme – a covert national security programme which operated globally between 2001-2009, involving the kidnapping, disappearance and torture of scores of terror suspects, often for years on end. His academic outputs provide the</p>		

most detailed account to date of the historical evolution of the CIA's activities, including the shifting geographies, the geopolitical turning points and the transnational networks which underpinned and shaped the global torture programme [R2, R3].

Raphael's research has also resulted in pathbreaking accounts of British torture in the War on Terror (2001-2010). Careful analysis of large tranches of declassified documents, court proceedings, victim testimonies and flight data has allowed Raphael to establish beyond reasonable doubt that Britain has been deeply and directly involved in post-9/11 prisoner abuse, and to provide the first detailed academic analysis of this [R2, R4, R5, R6]. It has further enabled Raphael to establish that successive UK governments have operated a "machinery of denial", acting consistently in ways which constrain investigation and deny a full accounting of the abuses which took place [R4, R5].

In addition, Raphael has investigated the contemporary (post-2010) policy framework and practices in relation to UK intelligence sharing and detainee abuse. His analysis of the "Consolidated Guidance" framework in place from 2010-2019, and "The Principles" framework from January 2020, has provided the only academic account of how the policy framework has been designed and implemented [R4, R5]. His findings are significant, with Raphael establishing that – despite Ministers and senior intelligence officials claiming to have "learned the lessons" from mistakes made after 2001 – current policy is framed deliberately to allow involvement in torturous practices to continue. The research has shown that British officials, up to and including Ministers, continue to routinely authorise operations where torture is a serious risk, in explicit defiance of possible legal consequences [R4].

3. References to the research (indicative maximum of six references)

[R1] The Rendition Project. n.d. Website, document archive and datasets [\[link\]](#).

[R2] Raphael, S., Black, C. and Blakeley, R. 2019. *CIA Torture Unredacted*. London: The Bureau of Investigative Journalism and The Rendition Project. ISBN: 978-1-5272-4390-3. Also available as interactive PDF [\[link\]](#).

[R3] Raphael, S. *et al* [2016](#). Tracking rendition aircraft as a way to understand CIA secret detention and torture in Europe. *The International Journal of Human Rights*, 20 (1), pp. 78-103. DOI: 10.1080/13642987.2015.1044772. Peer reviewed.

[R4] Blakeley, R. and, Raphael, S. [2020](#). Accountability, denial and the future-proofing of British torture. *International Affairs*, 96 (3), May, 691-709. DOI: 10.1093/ia/iiaa017. Peer reviewed.

[R5] Blakeley, R. and, Raphael, S. [2019](#). The prohibition against torture: why the UK government is falling short and the risks that remain. *The Political Quarterly*, 90 (3), July, pp. 408-415. DOI: 10.1111/1467-923X.12688. Peer reviewed.

[R6] Blakeley, R. and Raphael, S. [2016](#). British torture in the 'war on terror'. *European Journal of International Relations*, 23 (2), p. 243–266. DOI: 10.1177/1354066116653455. Peer reviewed.

4. Details of the impact (indicative maximum 750 words)

(1) Strengthening global accountability for the CIA's torture programme (2001-2009)

Raphael's findings relating to the CIA's torture programme have been central to global efforts to ensure political and legal accountability for the systematic human rights abuses that took place, in the face of sustained obstruction and denial by the states involved. Without his research, attempts to hold states accountable for the human rights abuses they commit in the context of countering terrorism would be significantly weaker. As Professor Margaret Satterthwaite, Director of the Center for Human Rights and Global Justice and former member of the Advisory Panel of Experts to the UN Special Rapporteur on Human Rights and Counter-Terrorism, testifies: "Our efforts have been hugely strengthened by Dr. Raphael's work, which is considered **a central reference point within the global human rights community for understanding the scale and scope of the program... The rigor of his research methods has had real, demonstrative impact on legal cases brought on behalf of victims of CIA torture**" [1a].

The work of key United Nations human rights bodies has been shaped by Raphael's research. Findings relating to the location of secret prisons across Asia, Africa and Europe, the involvement of intelligence agencies from more than 20 countries, and the fate and whereabouts of individuals caught up in the programme have all underpinned the UN's efforts to hold the US and other

countries accountable, including through high-level reports and resolutions [1b]. As Ben Emmerson QC – former UN Special Rapporteur on Counterterrorism and Human Rights, and former Special Advisor at the International Criminal Court – has testified, **Raphael’s “meticulous research has provided an invaluable tool for the UN’s efforts** to uncover the scale of the international criminal conspiracy that was orchestrated by the Bush-era CIA, as well as its collaborators such as the UK... In the face of this affront to the values of civilised nations, we all owe a debt of gratitude to Raphael [and his team] for their indefatigable commitment to the truth” [1c, p.iii].

Raphael’s research findings, often translated into expert testimony for legal teams, have been **central to numerous legal cases against states complicit in the CIA torture programme**. State authorities have often argued that such cases are non-judiciable, given the national security context, and in parallel have routinely denied the use of secret detention and torture as an element of counterterrorism policy and practice. The sheer weight of Raphael’s findings has been crucial to persuading courts to allow such cases to proceed, and to find in the victims’ favour. Some of these legal victories have been landmark. For example, Raphael’s findings were cited in judgments at the European Court of Human Rights (ECtHR) against Romania and Lithuania, which found that both states were involved in the construction and operation of CIA secret prisons on their territory [1d]. These judgments, the compensation to the victims as a result, and the precedent set for holding states accountable in this context, have been unmatched elsewhere, with Amnesty International calling them “a key milestone in holding European governments accountable for their involvement in illegal CIA activities” [1e].

Further cases are in progress at the ECtHR, with Raphael’s research forming the central evidential basis for multiple claims regarding European state complicity in CIA torture, each relating to men who continue to be detained without charge at Guantanamo Bay. Raphael’s findings establish, definitively, that the prisoners were rendered on board CIA aircraft to secret prisons operated in several European countries, where they were held in secret and subjected to interrogation under torture [1f]. Without his research, these cases would not be possible, given the degree of state denial and the lack of public data elsewhere. Maya Foa, Executive Director of Reprieve, which “represents victims of CIA torture ... and on their behalf have brought or intervened in cases in US courts, UK courts, the European Court of Human Rights, and the International Criminal Court”, confirms that Raphael has **“provided us [with] irrefutable evidence relating to the internal workings of the CIA torture programme, and Britain’s role within it**. This has strengthened our work representing individuals, as we are able to use their research findings to demonstrate in court the facts relating to our clients, including where they were held, how they were treated, and which countries were complicit in their mistreatment” [1g].

Raphael’s research is **central to the International Criminal Court (ICC) investigation relating to alleged crimes against humanity and war crimes committed in Afghanistan since 2003**. The ICC is the only permanent international court with jurisdiction over the most serious international crimes, and this is the first international criminal investigation into the US-UK War on Terror. Raphael’s findings provide the fullest account of the systematic use of torture and disappearance by US and allied forces in Afghanistan, locating the prisons, identifying the prisoners, mapping the government personnel and contractors involved in the abuses, and situating these activities within a broader context of the CIA’s global torture programme. As such, the research findings are playing a central role in the ICC’s investigation, including persuading the Court in March 2020 to overturn its earlier decision that a lack of US cooperation would make it impossible to proceed [1h, 1i].

As Satterthwaite testifies: Raphael’s work “**is at the center of these accountability efforts. His research findings are having clear, direct and significant impact upon current work by lawyers and NGOs in the field**, and I am convinced that without his research our chances of meaningful accountability and justice would be far weaker. ... Uncovering the facts, and presenting them in a robust, rigorous and objective manner, lies at the heart of any attempt to achieve global accountability and justice, and Dr. Raphael is one of a small number of experts who have been able to peel back the layers of secrecy and establish the truth” [1a].

(2) Strengthening accountability for UK torture during the War on Terror (2001-2010)

Comprehensive findings on the scope and depth of UK torture in the War on Terror have **influenced parliamentary and civil society efforts to investigate the widespread abuse of state power and to push for full public accountability**. As Dan Jarvis MBE MP, a leading opponent in parliament of torture, testifies: “Professor Blakeley’s and Dr Raphael’s research findings have provided key evidence for my work in this field. They are two of the world’s leading academics on human rights abuses. Their efforts have underpinned international advocacy and legal campaigns, as well as influencing parliament, and exposed the extent of UK complicity and failures of accountability” [2a].

For example, Raphael and Blakeley were the only academics called to testify to the Intelligence and Security Committee’s (ISC) high-profile inquiry on detainee mistreatment, and their findings were heavily cited in the resulting reports [2b]. The findings of these reports received widespread media and parliamentary coverage, and act as the most comprehensive official account to date of British involvement in torture [2c].

Despite the documentary evidence provided by Raphael and Blakeley, the Government refused access by the ISC to witnesses from within the intelligence agencies. As a result, the Committee determined that its findings were provisional, and that its inquiry could not be considered authoritative [2b]. This has led parliamentarians and human rights NGOs to push for a full judge-led inquiry, and to prevent the Government from limiting accountability for historic involvement in torture through the Overseas Operations Bill in 2020. Raphael’s research has been central to such efforts, as Dan Jarvis MP makes clear: “the robustness and accessibility of Professor Blakeley and Dr Raphael’s research means both politicians and human rights NGOs can use the findings to continue holding the government to account. Without their work, our job revealing this illegal activity would be much harder... [Their] research findings are of **critical importance in helping ensure our efforts to stop torture and maintain public awareness are grounded in academic evidence**. Their work is fundamental to our fight for justice” [2a]. This fight has included a full-scale legal challenge to the Government’s refusal to hold a public inquiry, with the High Court granting permission to proceed in November 2019 [2d]. This challenge is shaped largely by Raphael’s findings, and he has provided detailed consultation to the MPs and NGOs involved [1g].

(3) Strengthening safeguards against future UK involvement in torture

Through engagement with formal oversight bodies, Raphael’s research has **directly resulted in the development of a more robust set of government guidelines on intelligence sharing and treatment of detainees**.

Raphael’s work on the post-2010 “Consolidated Guidance” policy framework [3a], designed to ensure that intelligence personnel comply with the UK’s international legal commitments, and his findings regarding the systemic weaknesses therein, shaped the ISC’s conclusions in 2018 [2b]. Further findings published by Raphael in May 2019 demonstrated that application of the framework by British officials, up to and including Ministers, has ensured routine authorisation for operations where torture is a serious risk, in explicit defiance of possible legal consequences. Publication of these findings, and his associated release of hitherto-secret policy documents, led directly to high-profile media attention (including front page of *The Times* and a segment on Radio 4’s *Today Programme*) [3b]. Engagement with a number of MPs led directly to Urgent Questions and debate in Parliament (including ministerial statements to the House) [3c], as well as a concerted effort by NGOs and parliamentarians (including Kenneth Clarke MP and 20 others) to pressure the government to amend its policy [3d].

As a result of significant parliamentary and civil society criticism of the policy framework, Prime Minister May announced a review of the Consolidated Guidance by the Investigatory Powers Commissioner (IPC). Raphael and Blakeley were the only academics to submit to the subsequent consultation and played a key role in persuading a number of NGOs to make parallel submissions [3e]. The Director of Reprieve confirms that Raphael’s research “provided us with an objective and robust account of what took place on the ground, which ... directly shaped a number of civil society submissions to the Investigatory Powers Commissioner’s review” [1g]. Similar joint submissions were made by NGOs to the UN Committee Against Torture (CAT) for its periodic UK review in 2019, with Raphael and Blakeley acting as academic consultants to the UK’s leading human rights

organisations during a closed roundtable at Chatham House. Their research findings underpin many of the recommendations made by the group [3f], which were in turn reflected within the CAT review, applying further pressure to the UK Government to ensure accountability for historic abuses and a contemporary policy fully aligned with international law [3g, para 34-37].

Raphael's invitation to an IPC roundtable in December 2018 ensured that his findings were communicated directly to the Commissioner. In turn, they were largely integrated into the formal recommendations to Government and led directly to policy change [3h]. As the Secretary of Defence made clear in a Ministerial Statement: "On 20 May 2019, in response to an urgent question" – which came about directly from Raphael's findings [3c] – "I made a statement to Parliament on Ministry of Defence internal policy with regard to the receipt and sharing of intelligence related to detainees overseas. ... The Ministry of Defence, along with other Government Departments, has considered these principles [the Investigatory Powers Commissioner's recommendations], accepts them in full, and has begun work to update its internal guidance accordingly. The principles and revised supporting internal guidance will be fully implemented by the end of the year" [3i]. The amended policy framework ("The Principles" [3j]) is significantly more robust as a direct result of Raphael's research, with a **much closer alignment to the UK's stated legal and ethical commitments**.

5. Sources to corroborate the impact (indicative maximum of 10 references)

1. [a] Letter from Margaret Satterthwaite to REF Panel, 4 Feb 2021; [b] UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, 21 Feb 2017; [c] Raphael, S., Black, C., and Blakely, R. *CIA Torture Unredacted*, 2019; [d] European Court of Human Rights, Abu Zubaydah v. Lithuania, 31 May 2018; [e] Amnesty International, Landmark rulings expose Romanian and Lithuanian complicity in CIA secret detention programme, 31 May 2018; *BBC News*, Lithuania and Romania complicit in CIA torture – European Court, 31 May 2018; [f] e.g., Sam Raphael, Second Witness Statement, Mustafa Ahmed Adam al-Hawsawi v. Lithuania, European Court of Human Rights, 6383/17, 28 Jan 2020; [g] Letter from Maya Foa of Reprieve to REF Panel, 4 Feb 2021; [h] *The Guardian*, Senior ICC judges authorise Afghanistan war crimes inquiry, 5 Mar 2020. [i] e.g., ICC Submission: further information supplementing representation of victim r/60009/17, 3 Dec 2019.
2. [a] Letter from Dan Jarvis MP to REF Panel, 13 Nov 2020; [b] UK Parliament's Intelligence and Security Committee, Detainee mistreatment and rendition: 2001-2010, 28 Jun 2018; [c] Hansard, Detainee mistreatment and rendition, vol. 644, 2 Jul 2018; *The Guardian*, True scale of UK role in torture and rendition after 9/11 revealed, 28 Jun 2018; *The New York Times*, Britain abetted US torture of terrorism suspects, parliament finds, 28 Jun 2018; [d] *The Guardian*, Rendition: refusal to hold UK public inquiry to face judicial review, 2 Dec 2019.
3. [a] HM Gov. Consolidated Guidance, July 2010 [b] Media portfolio: *The Times*, Torture: Britain breaks law in Ministry of Defence secret policy, 20 May 2019; *The Times*, Spy watchdog kept in the dark over torture policy quits early, 31 May 2019; *The Guardian*, Mordaunt pledges to review internal MoD torture guidance, 20 May 2019; *Financial Times*, MoD's "contradictory" guidance on torture to be reviewed: Mordaunt promises action after advice is shown to "ride roughshod" over law, 20 May 2019; *The Telegraph*, MoD denies creating secret torture policy in breach of laws, 20 May 2019; *The Independent*, Secret policy "allowing government to sidestep its own rules on torture" to be reviewed urgently, 20 May 2019; [c] Hansard, Use of Torture Overseas, vol. 660, 20 May 2019; [d] Kenneth Clarke MP and 20 other parliamentarians, Letter to Prime Minister, 28 Jun 2019; Reprieve, Letter to Investigatory Powers Commissioner, 9 Apr 2019; Liberty, Letter to Investigatory Powers Commissioner, 20 May 2019; [e] Ruth Blakeley and Sam Raphael, Recommendations for reform of the Consolidated Guidance, 25 Oct 2018; [f] REDRESS and others, The UK's implementation of the UN Convention Against Torture: civil society alternative report, Mar 2019; [g] United Nations Committee Against Torture, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, 7 Jun 2019; [h] Investigatory Powers Commissioner, Letter to Prime Minister, 12 Jun 2019; [i] Hansard, Overseas Detainees: detention and interviewing, vol. 663, 18 Jul 2019; [j] Cabinet Office, The Principles relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees, 18 Jul 2019.