

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

30 October 2014

AI Index: EUR 45/010/2014

UK: Court of Appeal allows lawsuit to proceed in case of illegal rendition to torture in Libya

Amnesty International welcomed the decision today from the Court of Appeal in London in the case of Abdul-Hakim Belhaj and Fatima Boudchar v Straw and Ors in which the Court permitted the Belhaj lawsuit to proceed. Amnesty International had intervened in the case, jointly with the International Commission of Jurists, JUSTICE, and REDRESS.

Abdul Hakim Belhaj and Fatima Boudchar, a married couple, have alleged that they were victims of rendition, torture and ill-treatment in 2004 at the hands of the US and Libyan governments, with the knowledge and cooperation of UK officials. In its decision, the Court rejected the UK government's arguments that UK courts had no role to play in the couple's attempt to secure justice for the harms they allege that they suffered.

Belhaj had brought a case for damages against senior British politicians and officials, including former Foreign Secretary Jack Straw and former MI6 senior intelligence officer Mark Allen, alleging their complicity in his 2004 abduction, illegal transfer to Libya and torture and other ill-treatment there. During his six-year detention in Libya, he was allegedly beaten, hung from walls, cut-off from human contact and daylight, and sentenced to death. Meanwhile, his wife – Fatima Boudchar – was also allegedly rendered to Libya, detained, and denied proper medical care, despite being pregnant at the time. The couple has alleged that a number of foreign government actors were involved in their rendition, including officials from China, Malaysia, Thailand and the United States. The UK government argued that the “act of state” doctrine should prevent the case from going ahead, because UK courts should not judge the conduct of foreign states (who were involved in the alleged rendition) in their respective jurisdictions.

A High Court judge had previously and hesitantly accepted this argument. In the appeal of that decision, Amnesty International and others intervened to warn that the “act of state” doctrine must not be used to shield UK officials from accountability. This would have the effect of denying the claimants access to a remedy for serious human rights violations, including torture.

In contrast to the lower Court judgment, the Court of Appeal today concluded that there were compelling reasons requiring it to exercise jurisdiction over the Belhaj allegations. As the Court affirmed, “the stark reality is that unless the English courts are able to exercise jurisdiction in this case, these very grave allegations against the executive will never be subjected to judicial investigation,” and Belhaj and Boudchar “would be left without any legal recourse or remedy” for serious violations of their human rights.

Amnesty International has advocated for accountability for all states implicated in the US Central Intelligence Agency's rendition and secret detention programmes, which operated in the aftermath of the 11 September 2001 attacks in the US and were characterized by illegal rendition, torture and other ill-treatment, and enforced disappearance. To date, Amnesty has called on the governments of

Denmark, Finland, Lithuania, Macedonia, Poland, Romania, and the UK, among others, to conduct independent, impartial, thorough, and effective investigations into their alleged complicity in the CIA operations.

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