

Government attempts to avoid court hearing into UK complicity in rendition

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British government lawyers are seeking to suppress claims that former Labour Foreign Secretary Jack Straw and the then director of MI6 counterterrorism, Sir Mark Allen, conspired with the CIA in the abduction and subsequent torture of Libyan Abdel Hakim Belhaj and others.

Lawyers acting for Belhaj, his wife Fatima Bouchar and a Pakistani man who was also tortured, Yunus Rahmatullah, are pursuing a civil claim for damages, as well as a declaration of illegality from the Supreme Court, the highest in the UK.

Belhaj was Colonel Muammar Gaddafi regime's most wanted man. He was kidnapped by CIA agents in March 2004 together with his pregnant wife at Kuala Lumpur airport in Malaysia.

Rahmatullah was abducted by British special forces in Iraq in 2004 and alleges that he was tortured before being handed over to the US. He was then taken to Bagram prison, a notorious torture chamber in Afghanistan, under the US's illegal "extraordinary rendition" system.

The appellants seeking to prevent the case from going to trial include Straw, Sir Mark Allen, as well as the Secret Intelligence Service [MI6], the attorney general, the Foreign and Commonwealth Office and the Home Office.

Straw and Allen's lawyers assert that both are powerless to respond to the criminal allegations against them, as they are bound by the restrictions of the Official Secrets Act.

Straw and Allen are seeking to use the "foreign act of state" doctrine to avoid prosecution. Under this doctrine, an English court will not inquire into the legality of the acts of a foreign government within the territory of the foreign state. Under the anti-democratic Section 7 of the Intelligence Services Act, UK

government agents committing illegal acts anywhere in the world are protected under British law as long as their actions have been authorised in writing by the secretary of state.

In December 2013, the High Court ruled that the case fell outside the jurisdiction of the English courts. The courts, it said, could not hear evidence or rule on the case because of the Foreign Act of State doctrine, as the rendition in question had allegedly taken place with the assistance of other states including the US.

The High Court ruling was overturned by the Court of Appeal in October last year. It stated that the case should be heard by English courts as they involved "very grave allegations" and concerned people who "are either current or former officers or officials of state in the United Kingdom government departments or agencies."

The Supreme Court, after hearing the case for four days this month, is to make a ruling on an unspecified later date.

The CIA, MI6 and Gaddafi's External Security Organisation (ESO) conspired to abduct Belhaj and his wife and have them rendered back to Libya. Intelligence of their whereabouts leading to their abduction was provided by MI6, of which Straw as foreign secretary held overall responsibility. The act of one nation abducting the citizens of another is recognised by the United Nations as a crime against humanity.

From their initial internment in Malaysia, Belhaj and his wife claim they were transported to a secret CIA "black site" at Bangkok's former Don Muang International Airport, which was attached to a Thai air force base. It is highly likely the site at Don Muang was the Thai CIA site code-named Cat's Eye.

Belhaj alleges he was interrogated in Libya at least

twice by British agents. Speaking of the conditions of his treatment in Thailand to the *Guardian*, he said, “I was injected with something, hung from a wall by my arms and legs and put in a container surrounded by ice. ... They did not let me sleep and there was noise all the time.”

During the 1990s Belhaj assumed the role of military commander of the Libyan Islamic Fighting Group (LIFG). The objective of the LIFG from 1994 onwards was the removal of the Gaddafi regime in an armed insurgency. Throughout the mid- to late 1990s the LIFG carried out three unsuccessful assassination attempts on Gaddafi’s life, one of which, according to former MI5 officer David Shayler, was partly funded by MI6 to the tune of £100,000. The LIFG was severely weakened by Libyan forces in 1998, at which time Belhaj fled the country. US authorities rendered the couple to Libya three weeks prior to former Labour Prime Minister Tony Blair and Gaddafi’s famous 2004 meeting and embrace in a Bedouin tent.

During the 2004 visit between Blair and Gaddafi, Anglo-Dutch oil giant Shell revealed that it had signed a £110 million deal with the Libyan regime for gas exploration rights off the Libyan coast.

Secret documents discovered in the office of Moussa Koussa, the former head of Libya’s ESO, after the downfall of the regime, revealed the full extent of British involvement in the Belhaj case.

One of the documents dated March 18, 2004 read: “Most importantly, I congratulate you on the safe arrival of Abu Abd Allah Sadiq [Abdul-Hakim Belhaj].” The document was signed by MI6’s Sir Mark Allen.

Belhaj was incarcerated for six years in some of Libya’s most brutal jails, including the Abu Salim prison, which was mainly used for political opponents of the regime. He was savagely beaten, hung from walls and cut off from human contact and daylight. He was sentenced to death after a 15-minute court hearing. He was later released in 2010 under a “de-radicalisation programme” championed by Gaddafi’s son, Saif al-Islam.

Straw, questioned by Parliament’s Foreign Affairs Select Committee in 2005, flatly denied Britain’s participation in the US renditions and said there was no need for any inquiry into the issue.

Despite Straw’s denial, the evidence against him and

Allen is damning.

Having resigned his role at MI6 in the summer of 2004, Allen went on to join British oil company BP as an adviser on a yearly salary of £200,000. Allen and Lord Browne, former BP chairman, visited Gaddafi regularly in secret to negotiate lucrative oil contracts for which the Blair government had lobbied hard on BP’s behalf. Britain, together with the US, pushed for the lifting of international sanctions against Libya in 2003, making the deals with both Shell and BP possible.

In May 2007, Blair returned to Libya accompanied by representatives of BP. The oil firm signed a £500 million agreement, with the prospect of 17 wells being drilled. The *Daily Telegraph* noted that if “all this exploration reached its full potential the deal could be worth £13 billion.”

Five months later Libya began to back out on the deal, to the alarm of BP. Allen met with Straw a few months later, on October 15 and again on November 9, to push for a solution in an attempt to finalise the deal.

The agreed release and repatriation on medical grounds of Abdelbaset al-Megrahi to Libya solved BP’s dilemma. Megrahi was head of security for Libyan Arab Airlines and a Libyan intelligence officer. He was convicted of 270 counts of murder for the 1988 bombing of Pan Am Flight 103 over Lockerbie and imprisoned in Scotland. When asked if BP’s business interests were a factor in the government decision to release al-Megrahi, Straw responded to the *Telegraph* in 2009 saying, “Yes, [it was] a very big part of that. I’m unapologetic about that ...”

Having turned over Belhaj to Libyan torture chambers, only a few years later the British government welcomed his role as the commander of the Tripoli Military Council. During the overthrow of the regime, individuals such as Belhaj and the resurgent LIFG were recast by Western governments, including Britain’s, as “freedom fighters”.



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