

British Supreme Court rules claimants can pursue action against UK for torture

Jean Shaoul
21 January 2017

The Supreme Court issued a unanimous decision granting Libyan Abdel Hakim Belhaj and his wife Fatima Bouchar the right to sue British officials and institutions for their alleged roles in the couple's kidnapping, rendition and torture.

The government had sought to prevent the former Labour Foreign Secretary Jack Straw and Sir Mark Allen, a former senior officer in Britain's spy agency MI6, having to account for their actions.

The Supreme Court ruled that rights enshrined in the Magna Carta had to be put before an English court. Furthermore, the judges argued that ministers cannot claim "state immunity" or escape trial on the grounds of the legal doctrine of "foreign acts of state." They added, "The principle that there is no general defence of state necessity to a claim of wrongdoing by state officials has been established since the 18th century."

The judgement relates to one of three linked cases regarding legal issues involved in claiming damages for the British armed forces' actions in Iraq and Afghanistan, in which UK officials were said to be complicit, which could pave the way for hundreds of other victims to bring their cases against the Ministry of Defence before a court.

The court's decision is a blow for the British political establishment, which has fought for years to keep secret the torture and other foul operations of Britain's spy agencies and Special Forces that operate outside the law and without public scrutiny. The government is now likely to demand that any subsequent judicial proceedings are heard in secret.

The case is doubly politically damaging because it was brought by right-wing Islamist opponents of the regime of Colonel Muammar Gaddafi of Libya, whose fate between the years 2004 and 2011 exposes the filthy manoeuvres undertaken by successive Labour and Conservative/Liberal Democrat governments.

The government had sought to prevent the Belhajs from

pursuing a civil action for damages for the British government and its intelligence services' complicity in their abduction by the CIA in 2004 to the Indian Ocean island of Diego Garcia, a British dependency and one of the agency's global network of "dark sites."

Detainees at these sites were subject to internment for years under the most inhumane conditions, torture, water boarding, sexual assault, sleep deprivation, forcing inmates to stand on broken limbs, and murder, for which no officials have stood trial. The Belhajs were subsequently rendered to Libya where they were imprisoned and tortured at a time when the US and UK were cultivating more friendly relations with Gaddafi.

Belhaj claims that during his six years in a Libyan jail, he was in fact interrogated by US and British intelligence agents. His pregnant wife claims she was chained to a wall for five days, then taped to a stretcher for the 17-hour flight to Libya where she was detained in prison until just before the delivery of her son, who was born weighing just four pounds.

Belhaj had previously fought against Soviet forces in Afghanistan. With close relations with al-Qaeda and later the Taliban, he went on to set up the Libyan Islamic Fighting Group (LIFG) in the mid-1990s, with the aim of overthrowing the Gaddafi regime and establishing an Islamic state based upon Sharia law.

In the 1990s, the British government allowed numerous Islamist groups to operate in London, which became known as "Londonistan." The Libyan dissidents and the LIFG were allowed to develop a base of logistical support and fund raising because of Libya's alleged involvement in the Lockerbie bombing in 1988.

MI6 even used an LIFG agent in London to mastermind Gaddafi's assassination in an attack that killed or injured several civilians while leaving Gaddafi unhurt, according to a report by former British spy David Shayler that was subsequently confirmed by US intelligence.

All that changed in 2004, when the Labour government of Tony Blair brought Colonel Gaddafi in from the cold—ostensibly to help prosecute the so-called war on terror, but in reality to secure lucrative contracts for British oil companies.

As part of the deal, the authorities rounded up opponents of the Libyan regime in London and elsewhere, and sent them back to Libya. Belhaj and his wife were part of the deal as papers belonging to Libya's intelligence chief Moussa Koussa, discovered after the ouster of the Gaddafi regime by NATO-led forces in 2011, revealed.

Sir Mark Allen, who was head of MI6's counter-terrorism unit, had taken the credit for the kidnapping of the families in a letter to Koussa in which he wrote, "Most importantly, I congratulate you on the safe arrival of Abu Abd Allah Sadiq [Abdul-Hakim Belhaj]. This was the least we could do for you and for Libya to demonstrate the remarkable relationship we have built over the years. I am so glad. I was grateful to you for helping the officer we sent out last week."

After his abrupt resignation in 2004, Sir Mark Allen subsequently went on to work for as a special advisor to oil giant BP on Libyan oil contracts.

Jack Straw, the then Foreign Secretary, has repeatedly denied any knowledge of Britain's role in extraordinary rendition, calling it a "conspiracy theory." The intelligence services, however, flatly contradicted him, saying that it was a "ministerially-authorized government policy."

Sir Richard Dearlove, head of MI6 at the time, said, "It was a political decision, having very significantly disarmed Libya, for the government to cooperate with Libya on Islamist terrorism."

The Crown Prosecution Service (CPS), which has refused to press charges against anyone, has acknowledged that "the suspect," meaning Sir Mark Allen, knew about the renditions of the Belhaj and Saadi families, and had "sought political authority for some of his actions."

This was nothing short of an admission of Britain's illegal and secret involvement at the very highest level in the extraordinary rendition programme organised by Washington. It blew apart the government's mendacious attempts to keep its criminal role in renditions and torture under wraps via multi-million out-of-court settlements to its victims. Belhaj was determined to get an apology and admission of liability for what was done to him and his wife, which led to the government seeking to get the

Supreme Court to block his case—citing arguments of "state immunity" and the involvement of foreign intelligence agencies.

He was in a position to do so because, in a further switch in foreign policy, during the 2011 NATO-led invasion of Libya, the UK and US worked with Belhaj.

Belhaj was released from prison as one of 170 Islamists as part of an attempted deal between Gaddafi and the LIFG in 2009. During the NATO invasion, he worked as part of the LIFG together with al-Qaeda-linked forces as US proxies to topple Gaddafi—just seven years after the Blair government had befriended him.

The same Islamist militias, along with large quantities of Libyan arms, were then shipped off to take part in the next US-sponsored regime-change operation in Syria, before more recently being rebranded as "terrorists" when the growth of Islamic State became a threat to US interests in both Iraq and Syria.

The close ties between Britain and various Islamist groups is one of the reasons behind its determination to prevent any court hearings that might expose the extent of its collaboration, which exposes the lies surrounding official policy at home and abroad.

Furthermore, there is every indication that Britain intends to resume practices such as abduction and torture overseas, as it aligns yet more closely with Washington under President Donald Trump.

Foreign Secretary Boris Johnson has repeatedly refused to rule out helping the incoming Trump administration in future rendition programs despite Trump stating that he favoured "a hell of a lot worse than waterboarding." No official has publicly condemned Trump's approval of torture, while the 2016 Investigative Powers Act has abolished the Intelligence Services Commission that oversees its overseas agents' compliance with Britain's own vague rules on torture.



To contact the WSWS and the Socialist Equality Party visit:

[wsws.org/contact](https://www.wsws.org/contact)