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REDRESS intervenes in colonial torture case, says no limitation period on torture claims

For Immediate Release

16 July 2012, London - Crucial hearings began today in the High Court on time limitation periods applicable in the landmark case brought by Kenyan victims of alleged torture during the Kenya Emergency in the 1950s and 1960s.

The British Government is arguing that the claims are time-barred and should be struck out, but the victims contend that this is a case in which the Judge should exercise his discretion and allow the claims to proceed. REDRESS, a London-based human rights organisation that helps torture survivors obtain justice and reparation, has made submissions in support of the victims' claims. Under international law there is no limitation period for the prosecution of war crimes and crimes against humanity, while English law allows the Court to extend limitation periods at its discretion.

The Kenyan victims have brought a claim for damages for personal injuries and torture caused by employees and agents of the British and Colonial Administration in Kenya during the Mau Mau uprising between 1952 and 1961. The violations were allegedly committed during the State of Emergency declared by the Colonial Administration during resistance to colonial rule. Grave violations including castrations, severe sexual assaults and systematic beatings were committed when individuals were detained in screening centres, prisons, and detention camps under a programme known as "villigisation".

The Defendant in the case, the Foreign and Commonwealth Office, applied to strike out the claims in advance of a full trial on the basis that Kenya is legally responsible for any abuses and also that the claims are time-barred by the provisions of the Limitation Act of 1980. Last year, the High Court rejected the British Government's argument that all liabilities were transferred to the Kenyan Republic upon independence in 1963 and that the British Government could not be held liable today.

REDRESS, as interveners in the case, has made written submissions to the High Court on the issue of limitation periods under English and international law. English courts have described the courts' discretion to extend or remove limitation periods as "unfettered," and related to the strength of a claimant's case. REDRESS argues that there is no statute of limitations on war crimes and other gross or serious violations of international law, including torture.

"Some international crimes are so hideous that there is no time limitation on seeking justice," said REDRESS' Director Carla Ferstman. "The victims are coming to the end of their lives - they deserve compensation from the British Government for what they suffered."

The hearings will be in London from 16 - 27 July 2012. REDRESS' submissions will be considered on Thursday 19 July.

The victims are represented by Leigh Day & Co. REDRESS instructed leading silk Elizabeth-Anne Gumbel QC to draft its submission in the case *Mutua and Others v. The Foreign and Commonwealth Office*.

Full submissions in the case are available on our website.

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Note: REDRESS was founded by a British torture survivor in 1992. Since then, it has consistently fought for the rights of torture survivors and their families in the UK and abroad. It takes legal challenges on behalf of survivors, works to ensure that torturers are punished and that survivors and their families obtain remedies for their suffering. REDRESS cooperates with civil society groups around the world to eradicate the practice of torture once and for all and to ensure that survivors can move forward with their lives in dignity. It has intervened in a range of leading torture cases. More information on our work is available on our website: www.redress.org.