



DIVISIONAL COURT RULING RECOGNISES IMMUNITY FROM CRIMINAL JURISDICTION FOR “SPECIAL MISSIONS” VISITING UK

5 August 2016 – Today, in the first English case in which a Court has been asked to make a specific finding on the role of customary international law with respect to a “special mission” visit to the UK, the Divisional Court ruled that customary international law requires States to secure, for the duration of a “special mission” visit, personal inviolability and immunity from criminal jurisdiction for the members of the “special mission”. The Divisional Court also found that this rule of customary international law is given effect by English common law.

The case arose from an official visit by Egyptian General Mahmoud Hegazy to the UK in September 2015. General Hegazy is alleged to be responsible for torture and other atrocities in Egypt, including the Rabaa Square massacre of 2013. The Claimants in this case had notified the Metropolitan Police of Hegazy’s likely presence in the UK last year and requested that immediate steps be taken to arrest him on torture allegations.

Ordinarily, UK police can investigate and arrest foreign torture suspects under the principles of universal jurisdiction, embodied in section 134 of the Criminal Justice Act 1988. However, in this case, the Metropolitan Police responded that they had been advised by the Foreign Office and the Crown Prosecution Service that General Hegazy had “special mission immunity” and therefore could not be arrested and prosecuted.

“We are concerned that this decision could open the door to alleged torturers coming here under the cloak of a special mission granted by the UK Government. This would be a step backwards for making the UK a torturer-free zone,” said REDRESS director Carla Ferstman. **“Torture suspects must be investigated and where there is sufficient evidence, prosecuted –that is what the law requires, but special mission status may block this process.”**

“The argument that customary international law allows those suspected of torture to escape investigation and prosecution because the government has called their visit to the UK ‘a special mission’ is unconscionable. It allows the UK to grant immunity to, and ensure impunity for, people who face serious allegations of torture,” said Dr Tawanda Hondora, Amnesty International’s Head of Strategic Litigation.

The UK Government grants “special mission status” to foreign official visitors on an ad hoc basis, and claims that immunity from criminal jurisdiction flows from “special mission status”. Special mission immunity has no legislative basis in the UK but instead was said by the UK Government to have its basis in customary international law.

Human rights organisation REDRESS, together with Amnesty International, intervened in this case. They submitted that there is insufficient State practice accompanied by the recognition of a legal obligation to show a clear rule of customary international law that obliges States to afford visiting foreign officials who have special mission status, including torturers and other war criminals, absolute personal inviolability and complete immunity from criminal jurisdiction.

Even if there were such a rule, they submitted it should not be received into common law because it is for Parliament to consider the extent to which such an immunity should be a part of English law, and such a rule is difficult to reconcile with the UK's obligations under the UN Convention Against Torture.

REDRESS and Amnesty International made written submissions on the law only and did not take a position on the facts of this particular case.

Notes to editors

REDRESS and Amnesty International were represented pro bono by Shaheed Fatima QC, Rachel Barnes, and Hickman and Rose solicitors. A copy of our submissions in the case can be found [here](#).

The Court's judgment can be read [here](#).

About REDRESS: REDRESS is a human rights organisation that helps torture survivors obtain justice and reparation. REDRESS works with survivors to help restore their dignity, and to hold accountable the governments and individuals who perpetrate torture. To achieve this mission, our key strategies are: casework (providing legal assistance to individuals and communities in securing their rights); advocacy (with governments, parliaments and international organisations) and capacity building (working in partnership with like-minded organisations around the world).

About Amnesty International: Amnesty International is a worldwide movement of over seven million members, activists, and supporters in more than 150 countries and territories, working to promote respect for and protection of internationally recognised human rights principles. Amnesty International was awarded the Nobel Peace Prize in 1977. To achieve its mission, Amnesty International engages in campaigns and advocacy activities globally, including through the use of strategic litigation.

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