

FOUR UK CITIZENS TORTURED IN SAUDI ARABIA SHOULD RECEIVE REDRESS

JOINT STATEMENT

THE REDRESS TRUST, AMNESTY INTERNATIONAL, INTERRIGHTS AND JUSTICE

ON THE OCCASION OF THE HEARING IN THE HOUSE OF LORDS
IN THE MATTER OF

**RONALD GRANT JONES V. THE MINISTRY OF THE INTERIOR (THE KINGDOM OF SAUDI ARABIA)
AND LT. COL. ABDUL AZIZ and ALEXANDER MITCHELL, WILLIAM SAMPSON, AND LESLIE
WALKER V. IBRAHIM AL DALI, KHALID AL SALAH, COL. MOHAMMED SAID, PRINCE NAIF AND
THE MINISTRY OF THE INTERIOR (THE KINGDOM OF SAUDI ARABIA)**

LONDON, 25 APRIL 2006

Today, the United Kingdom (UK) House of Lords begins a three-day hearing to examine whether four UK citizens who were falsely charged and repeatedly tortured and threatened with execution by Ministry of Interior officials in Saudi Arabia can seek redress against their torturers. **REDRESS TRUST, AMNESTY INTERNATIONAL, INTERRIGHTS AND JUSTICE (THE INTERVENORS)** have intervened in this case to underscore that torture survivors have the right under international law to an enforceable remedy in UK courts against the officials who tortured them and the state that made it possible.

It defies logic to exempt those that perpetrate outrages on human dignity from legal process, on the basis that the actions were official acts of the state; the principle of state immunity is designed to protect the lawful actions of states – not to create impunity for torture, one of the most serious crimes under international law.

THE FACTS

The four UK citizens were falsely accused of involvement in a bombing campaign in Riyadh in 2001 and 2002, a campaign now understood to have been launched by Saudi opposition groups. During their time in prison, all of the victims allege that they were repeatedly tortured and all continue to endure severe psychological and physical harm as a result. Scottish tax accountant **Ron Jones**, who was rushed to hospital after being injured by a bomb attack and taken away by the Saudi secret police still wearing his hospital gown, states that he was kept in solitary confinement, was shackled, repeatedly beaten on the soles of the feet and hung from a bracket. He was released 67 days later without any charge or any legitimate reason being given for his detention. Torture and solitary confinement during more than two and a half years in prison led **Alexander Mitchell**, an anaesthetic technician, **Dr. William Sampson**, a marketing consultant, and **Leslie Walker**, a housing and compound manager, to their televised false confessions to the bombings and to acting as spies under orders from the UK government, and ultimately to the closed court conviction without legal representation at first instance. After a secret trial, a Saudi court sentenced Mitchell and Sampson to death by *Al Haad* (partial-beheading and strained suspension on an X-frame) and sentenced Leslie Walker to serve 18 years in prison. Following worldwide protests and more than 900 days in captivity, they were eventually released on an order of clemency.

The claims are for damages including aggravated and exemplary damages for torture, assault and battery, trespass to the person, and unlawful imprisonment against the Saudi officials said to be responsible for these crimes, and the Saudi Ministry of the Interior, the principal government agency responsible for the treatment of prisoners and detainees.

THE RIGHT OF TORTURE VICTIMS TO OBTAIN REPARATIONS

The claims have been brought in the UK because torture is recognized as a crime under international law in which all states have a legal interest and, indeed, an obligation to ensure that justice is done. The UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, a treaty ratified by both the UK and Saudi Arabia, requires that victims of torture obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. The UN Committee against Torture, the expert body of the Convention against Torture, has confirmed that this requires states, such as the UK, that have ratified the Convention to ensure that victims of torture can recover reparations for torture even where the torture was committed abroad. Furthermore, it is impossible for the four UK nationals to obtain justice in Saudi Arabia; Indeed, Saudi Arabia continues to refuse even to open an investigation, despite the clear and convincing evidence of torture.

Saudi Arabia has asserted that it and its officials are completely immune from civil suit in the UK on the basis of the UK State Immunity Act, which exempts states from the jurisdiction of UK courts aside from enumerated exceptions, including for commercial acts and death or personal injury caused by an act or omission in the UK. The **UK Government (Secretary of State for Constitutional Affairs)** which has intervened in the case, argues that – despite the UK's clear obligation under Article 14 of the Convention against Torture to provide an effective civil remedy for torture committed abroad - that states and their officials are entitled to immunity for such torture.

THE LEGAL BASIS FOR VICTIMS TO RECOVER IN UK COURTS FOR TORTURE COMMITTED ABROAD

The intervenors have conveyed in their written submission to the House of Lords (available at: <http://www.redress.org/casework/Case%20for%20the%20Interveners.pdf>) the following key points:

- **International law recognises the fundamental prohibition of torture.** The House of Lords has already recognised the peremptory status of the prohibition in a series of cases starting with its judgement in the *Pinochet* case (where it recognised that a former head of state was not immune from UK courts). States are required under international law to take all possible steps to prevent, punish and afford effective remedies and reparation to victims.
- **Individuals accused of torture, a crime under international law, cannot escape responsibility on the basis that their acts were official state acts.** By definition, 'torture' is an act which is perpetrated by or at the behest of the State or its officials. To contend that officials are immune from civil suit because they are state officials is to say that there can never be a remedy for torture in another state, even when the state and the officials responsible deny a remedy at home, contrary to the obligations set out in the UN Convention against Torture.
- **For the same reasons, torture cannot be considered to be an act within the sphere of government or sovereign authority for the purpose of state immunity.** This case does not involve a serving head of state or a foreign minister, nor does this case involve any legitimate immunity which might appropriately be accorded to a State, which relates only to those acts that can properly be considered to be within the sphere of government or sovereign authority. Torture – a clear violation of international law – is not a legitimate exercise of authority.
- **Not only is the denial of immunity in the instant case consistent with obligations under international law, it is also highly appropriate.** If the four UK nationals are prevented from having their case heard by UK courts, there is no appropriate alternate forum in Saudi Arabia. The Saudi Government has failed to demonstrate that its courts are capable and willing to exercise jurisdiction.

- **The traditional bases for upholding immunity do not apply in the instant case.** It is inappropriate to rely on principles such as 'sovereignty' or 'non-interference in the internal affairs of a state' to uphold immunity when the very State asserting such principles is accused of violating the rights of the citizens of another State. The UK Government's steadfast support of the Saudi Government's claim of immunity in the instant case is a matter of serious concern, given the utter failure of the Saudi Government to respect the rights of UK citizens.

THE DECISION OF THE COURT OF APPEAL

In its judgment of 28 October 2004, the Court of Appeal held that there can be no blanket subject matter immunity (immunity *rationae materiae*) for State officials alleged to have committed systematic torture. To find otherwise would be to deprive the right of access to a court under Article 6 of the European Convention of Human Rights of real meaning in a case where the victims of torture have no prospect of recourse in the state whose officials committed the torture. The Court of Appeal found further that Article 14 of the UN Convention against Torture which provides for an enforceable civil remedy must at the very least be interpreted to mean a remedy against the offending officials acting in an official capacity. In respect of the State itself, the Court of Appeal held that Saudi Arabia was immune for torture from UK courts.

Keir Starmer, QC, Peter Morris and Laura Dubinsky of Doughty Street Chambers and Raju Bhatt of Bhatt Murphy Solicitors acted on a *pro bono* basis for the intervenors.

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