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UK: Authorities must act immediately on Law Lords ruling

Amnesty International is relieved at today's ruling of a panel Law Lords that legislation, adopted in the United Kingdom (UK) in the aftermath of the attacks in the USA on 11 September 2001, was in breach of the human rights of the people detained under it.

Today's case concerned the powers of the Home Secretary to certify -- and subsequently indefinitely detain without charge or trial -- non-deportable foreign nationals as "suspected international terrorists" and a "national security risk". The Law Lords declared that these powers were discriminatory and disproportionate, and therefore incompatible with human rights law

Under this legislation, 12 people continue to be deprived of their liberty (11 in state institutions and one under house arrest). Most of them have been detained for three years. The Law Lords' ruling will not lead to their immediate release.

"The UK Government must now act urgently to repeal this legislation following the Law Lords' declaration that this part of the Anti-Terrorism, Crime and Security Act (ATCSA) 2001 is incompatible with human rights law," Amnesty International said.

"All detainees must be released immediately unless they are charged with a recognizably criminal offence."

The UK remains the only country that has derogated from the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in the aftermath of 11 September 2001. In particular, the UK has derogated from Article 5(1) of the ECHR and Article 9 of the International Convention on Civil and Political Rights. The Law Lords ordered the derogation to be withdrawn. One of the Law Lords, Senior Lord Bingham stressed the discriminatory effects:

"The measures unjustifiably discriminate against foreign nationals on the ground of their nationality or immigration status and are not strictly required since they provide for the detention of some but not all of those who present the same risk."

Lord Hoffmann held that there was no emergency threatening the life of the nation, and thereby that:

"There are no adequate grounds for abolishing or suspending the right not to be imprisoned without trial which all inhabitants of this country have enjoyed more than three centuries."

Amnesty International notes that the Law Lords did not come to any conclusion as to the admissibility of evidence obtained through torture in Special Immigration Appeals Commission proceedings.

"We continue to urge the UK authorities to comply fully with the international prohibition of torture, including the use of 'evidence' obtained through torture or other ill-treatment, in any proceedings, including judicial ones, except against a person accused of torture. Such a ban must apply irrespective of the location at which the torture or other ill-treatment treatment took place and regardless of who was responsible for such acts," Amnesty International said.

Background

The nine Law Lords found that Section 23 of the ATCSA 2001, which allows for the indefinite detention without charge or trial of non-British nationals, violated the detainees' human rights because the provisions were disproportionate and discriminatory. The detainees under this legislation have been held under severely restrictive regimes in high security prisons and in a high security psychiatric hospital, one of them is under house arrest. Concern about their mental and physical health was heightened by the findings of a report -- published on 13 October 2004 -- prepared by 11 Consultant Psychiatrists and one Consultant Clinical Psychologist about the serious damage to the health of eight of the detainees. Amnesty International has repeatedly called for the government to withdraw this legislation, as it is discriminatory and inconsistent with international human rights law and standards.

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