

AMNESTY INTERNATIONAL

Public Statement

AI Index: EUR 45/007/2007 (Public)

News Service No: 073

16 April 2007

ELEVEN ORGANISATIONS INTERVENE BEFORE HOUSE OF LORDS IN CASE CONSIDERING THE ROLE OF UK MILITARY IN TORTURE AND KILLINGS OF IRAQI CIVILIANS

Tomorrow, on 17th April, the Appellate Committee of the House of Lords (the Law Lords), the highest court in the UK, will begin its consideration of a case arising from the deaths of six Iraqi civilians by British troops stationed in south east Iraq.

All six deaths occurred at a time when, and in the areas where, the UK was an Occupying Power under international humanitarian law. Five of the six Iraqi civilians were shot and fatally wounded by members of UK armed forces in the course of "patrols" operations. They were: Hazim Jum'aa Gatteh Al-Skeini, aged 23, shot dead in the street by the commander of a British military patrol; Muhammad Abdul Ridha Salim, a teacher aged 45, shot and fatally wounded by a sergeant in a military unit who forcibly entered his brother-in-law's house; Hannan Mahaibas Sadde Shmailawi, aged 33, shot and fatally wounded by gunfire during an exchange involving a British military patrol whilst she was eating a family evening meal in her home; Waleed Sayay Muzban, aged 43, shot and fatally injured by a Lance Corporal during a military patrol whilst he was driving a mini-bus; and Raid Hadi Sabir Al Musawi, a police commissioner aged 29, shot and fatally wounded in the street by a corporal in a British military patrol. The sixth death, that of Baha Mousa, a hotel receptionist aged 26, occurred after he was tortured over a period of 36 hours while detained by British troops.

The Law Lords will consider whether the UK's obligations under the European Convention on Human Rights (ECHR) and Human Rights Act 1998 (HRA) were applicable to the conduct of British troops that resulted in these deaths. In particular, the Law Lords will decide whether, under the ECHR, the UK was obliged to conduct a prompt, independent and impartial investigation into the deaths of each of the above-mentioned Iraqi civilian to give full effect to the rights to life and to be protected from torture or other ill-treatment.

The Interveners - eleven national and international organisations – decided to intervene because of their grave concern about the practices of States during the occupation of foreign territory that have the potential impact of subverting the rule of law and State accountability. *It is crucial that domestic and international law are not undermined or circumvented and that fundamental human rights, and the attendant obligations that give them effect, are upheld.*

The Interveners are particularly concerned that ***the failure to hold States to the highest standards of accountability for violations of fundamental rights risks creating a practice and an expectation of impunity.*** No ECHR compliant investigation has so far occurred into any of the deaths currently before the House of Lords; nor is there any question of accountability under Iraqi law for the acts in question

because UK troops are immune from Iraqi legal process.

Background: The Law Lords' consideration of the case of **Al Skeini and Others v Secretary of State for Defence** is scheduled for 17-19 and 23-25 April. The Court of Appeal ruled unanimously in December 2005 in the present case that arrest and detention by British troops operating abroad, as in the case of Baha Mousa, met the jurisdictional requirements necessary to make the ECHR applicable to their conduct. Therefore, the UK was under an obligation to conduct a full and effective investigation into his torture and death. Echoing the decision of the Divisional Court at first instance, the Court of Appeal distinguished the circumstances of Baha Mousa's death from those of the other 5 Iraqis with which the case is concerned, holding that for the latter there was no jurisdiction for the purposes of the ECHR. On 13th March 2007, final Court Martial acquittals of soldiers in connection with Baha Mousa's death in custody were issued. No one has so far been held accountable for his death or that of the other five Iraqis on which this case is centred.

Interveners: The Organisations intervening before the Law Lords include: The Aire Centre, Amnesty International, The Association for the Prevention of Torture, The Bar Human Rights Committee, British Irish Rights Watch, Interights, Justice, Kurdish Human Rights Project, Liberty, and The Redress Trust. The organisations are represented, pro bono, by Keir Starmer QC, Richard Hermer, Charles Banner and Azeem Suterwalla, all of Doughty Street Chambers, and Raju Bhatt of Bhatt Murphy Solicitors.