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UK: Court of Appeal puts an end to M's persecution

Today the Court of Appeal of England and Wales refused the UK authorities permission to appeal against last week's decision by the Special Immigration Appeals Commission (SIAC) which had held that the case for detaining a Libyan man, known as M, as a "suspected international terrorist" was "not established".

However, in a disconcerting passage of today's judgment, the Court of Appeal held that while SIAC procedures are not ideal "it is possible to ensure that those detained can achieve justice".

Amnesty International refutes this conclusion categorically. Proceedings arising from the internment provisions of the Anti-terrorism, Crime and Security Act 2001 (ATCSA) represent a fundamental departure from the rule of law.

Under the ATCSA the UK government has effectively created a shadow criminal justice system for non-UK nationals which fails to meet international standards for a fair trial. The system permits potentially indefinite detention on the basis of secret "evidence" and allows the use of "evidence" extracted under torture.

"It effectively allows non-nationals to be treated as if they have been "charged" with a criminal offence, "convicted" without a trial and "sentenced" to an open-ended term of imprisonment. In no respect can this be considered just.

"Today, the Court of Appeal has put an end to M's persecution. Nevertheless, the Court has made remarks which effectively endorse and legitimize internment and the SIAC proceedings set up under the ATCSA.

"We should not forget that 13 people continue to be interned, without charge or trial, principally on the basis of secret evidence under the ATCSA," Amnesty International said.

Background

In the aftermath of the SIAC ruling last week, Amnesty International expressed concern that the UK authorities' decision to challenge it amounted to persecution. The organization called on the UK government and the judiciary to allow the SIAC judgment to stand. The organization considered that by seeking permission from the Court of Appeal to appeal against the SIAC judgment the UK government had effectively moved the goalposts. "Appealing against the SIAC decision was tantamount to appealing against an acquittal verdict."

In December 2003, the Committee of Privy Counsellors, who had been charged with reviewing the

ATCSA, recommended the urgent repeal of ATCSA powers allowing non-UK nationals to be detained potentially indefinitely.

Amnesty International opposes detention under Part 4 of the ATCSA. It is detention ordered by the executive, without charge or trial, for an unspecified and potentially unlimited period of time, principally on the basis of secret evidence which the people concerned have never heard or seen, and which they were therefore unable to effectively challenge.

The organization calls on the UK government to release all persons detained under the ATCSA unless they are charged with a recognizably criminal offence and tried by an independent and impartial court in proceedings which meet international standards of fairness.

Public Document

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