

Press release issued by the Commonwealth Lawyers Association

8th December 2005

Today 8th December 2005 the House of Lords gave judgment in the first case relating to the Government's anti-terrorist legislation to reach the United Kingdom's highest court since the London bombings of 7th July.

The issue in the case was whether evidence obtained by the torture of a third party in a foreign state could be admitted in proceedings relating to those alleged to be suspected international terrorists before the Special Immigration Appeals Commission.

In August 2004 the Court of Appeal had held by a majority of 2:1 that such evidence was admissible and that concerns as to the manner in which evidence had been obtained could be addressed at the stage of assessing the weight.

The Commonwealth Lawyers Association, together with the International Bar Association and the International Commission of Jurists, intervened in the House of Lords hearing to support the Appellants' case and to argue that an analysis of comparative law was strongly in favour of an absolute exclusionary rule in relation to such evidence.

In a unanimous decision a specially convened panel of 7 Law Lords overturned the Court of Appeal decision and ruled against the Government.

Giving one of the principal judgments in the case Lord Bingham of Cornhill said the following:

"The principles of the common law, standing alone, compel the exclusion of third party torture evidence as unreliable, unfair, offensive to ordinary standards of humanity and decency and incompatible with the principles which should animate a tribunal seeking to administer justice."

Graeme Mew – the President of the Commonwealth Lawyers' Association welcomed their Lordships' decision:

"The House of Lords' decision to allow this appeal and hold that there is an absolute exclusionary rule in relation to evidence obtained by torture represents a fundamental vindication of the rule of law and the essential values which underpin democratic societies. Torture is abhorrent and should be countenanced under no circumstances. The CLA strongly welcomes the House of Lords' seminal decision in this case. As President Barak of the Israeli Supreme Court has previously said: while democracies sometimes have to fight with one hand tied behind their back they always have the upper hand by virtue of the laudable values which define them."

For further information please contact:

Graeme Mew (President CLA) on [00-1-416-822-0020](tel:00-1-416-822-0020)

Claire Martin on 0207 862 8824