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Sweden: Refugee rights undermined in War on Terror

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In the afternoon of December 18, 2001, Amnesty International (AI) in Sweden received a call from a highly distressed woman. Her name was Hanan Attia and she told AI that her husband, Ahmad Agiza, had called to inform her that the police had arrested him and that they were going to send him and a fellow countryman, Mohammad El-Zari, to Egypt.

Sweden, normally a bastion of human rights, expelled the two men to a country where there was a clear risk of them being tortured. In order to justify the deportation, the two men were branded as "terrorists". These accusations were made without presenting any evidence to substantiate them. It is worth noting that neither of the men was charged with a crime in Sweden.

In Egypt, Ahmad Agiza was sentenced to 15 years imprisonment, charged with membership of an illegal organization. This "crime" is not even punishable in Sweden, since a person can only be charged if she or he has actively taken part in a terrorist offence. Furthermore, Agiza was tried and sentenced by a military tribunal, in a process that fell short of meeting international standards of fair trial. He was not allowed to meet his lawyer before the trial, was denied the right to call witnesses and denied the right to appeal against the sentence. The charges against Mohammad El-Zari were dropped and he was not even brought to trial.

Both men had been seeking asylum in Sweden. However, the government had turned down their applications for asylum, without informing their lawyers about this decision or the decision to return them to Egypt. The asylum procedure provided Agiza and El-Zari with no right to appeal against the government's decision to deny them protection and return them to Egypt or an effective opportunity to contact their lawyers or invoke the complaints jurisdiction of the UN Committee against Torture.

In the months following the forced return of the two men to Egypt, AI in Sweden repeatedly asked for a meeting with officials at the Ministry of Foreign Affairs and clarifications regarding the procedures about the deportation, the whereabouts of the two men and their legal status. AI also requested an independent investigation into the allegations that the two men had been ill-treated before and during the transport to Egypt and tortured under Egyptian custody.

The Swedish Government remained silent for a long time, but the media interest remained unabated. Reports leaked to the press revealed that Agiza and El-Zari had been transported to Bromma Airport, just outside the capital Stockholm, where a group of US agents took command. The two men were reported to have been treated brutally and, a few hours later, handed over to the Egyptian security police in Cairo. According to reports, both men were also subjected to torture and other ill-treatment in custody in Egypt.

On 20 May this year, the UN Committee against Torture found that Sweden was in breach of its obligations under the Convention against Torture by expelling Ahmad Agiza to Egypt, where he was at risk of torture. In its ruling, the committee said that the "fight against terrorism" has to be fought within international human rights law and standards.

The case of these two men shows clearly how governments, including those who have previously placed such a strong emphasis on human rights and the importance of international agreements, have been willing to bend and break the rules in the context of the "war on terror". The "security excuse", used by governments in various parts of the world, including in Europe and North America, to curtail protection of fundamental human rights in the name of the "war on terror" has even led to the adoption of measures which have had the effect of undermining the absolute prohibition against torture and other cruel, inhuman, or degrading treatment or punishment.

One such measure being the acceptance of diplomatic assurances to justify sending alleged terrorist suspects and others to states with poor human rights' records. Countries offering such assurances include those where torture and other ill-treatment are often practised, as

well as those where members of particular groups are routinely singled out for the worst forms of abuse.

The Swedish government's line of response to persistent challenges from NGOs and the media was, and continues to be, very defensive. Government spokespersons referred to diplomatic assurances given by the Egyptian Government that the two men would not be tortured, and made sweeping accusations about Agiza and El-Zari posing a high security threat to Sweden.

AI considers that diplomatic assurances are not an effective safeguard against torture and other ill-treatment. Indeed, evidence is mounting that regardless of diplomatic assurances, there have been cases where people who were returned to states with poor human rights' records were in fact tortured.

The use of diplomatic assurances in the face of risk of torture and other ill-treatment violates the absolute prohibition in international law against torture and other ill-treatment and the *non-refoulement* obligation. No matter what their crime or suspected activity, no person should be sent to a place where he or she would be at risk of torture and other cruel, inhuman or degrading ill-treatment.