

AMNESTY INTERNATIONAL

Public Statement

AI Index: EUR 45/002/2007 (Public)
News Service No: 039
26 February 2007

United Kingdom/Jordan: 'National security suspect' facing prospect of torture in Jordan

Amnesty International today condemned the decision by the Special Immigration Appeals Commission (SIAC) to dismiss the appeal of Omar Mahmoud Mohammed Othman (also known as Abu Qatada) against his deportation to Jordan on "national security" grounds.

Amnesty International fears that the deportation of Abu Qatada to Jordan would expose him to a real risk of torture, other ill-treatment or other violations of his fundamental human rights, including his right to a fair trial.

In 2006, Amnesty International delegates observed most of the open hearings before SIAC during which Abu Qatada's lawyers challenged the Home Secretary's decision to order his deportation to Jordan. The proceedings were deeply unfair, denying Abu Qatada the right to a fair hearing, and making it impossible for him to effectively refute the UK authorities' secret information, including intelligence material, that he was a "national security risk". In addition, Amnesty International has noted with extreme concern that the proceedings have taken place for the most part in secret, even when SIAC is reportedly considering the safety upon return part of the appeal against deportation, rather than the "national security" grounds of the challenge.

Amnesty International is profoundly concerned that SIAC discounted ample evidence showing that Abu Qatada would face a real risk of torture if returned to Jordan. The evidence presented by his lawyers included material published by Amnesty International extensively documenting the routine infliction of torture on "security suspects" in Jordan, a practice which continues to occur with impunity.

Amnesty International fears that, if deported to Jordan, Abu Qatada, as a "security suspect", would be at a real risk of being tortured or otherwise ill-treated, including, for example, by being subjected to prolonged beatings; *falaqa* (repeated beating to soles of the feet with a stick); being burned with cigarettes; being threatened with extreme violence including rape; and sleep deprivation.

Up until the conclusion of a Memorandum of Understanding (MoU) with Jordan in 2005 -- which purported to provide a framework for diplomatic assurances that deportees' human rights would be respected -- the UK authorities recognized that Abu Qatada could not be returned there since he would be likely to face torture or other ill-treatment or other violations of his fundamental human rights.

SIAC has accepted this MoU as an effective mechanism to ensure that Abu Qatada would not be tortured or otherwise ill-treated upon being deported to Jordan. Amnesty International considers that, by resorting to this MoU, the UK authorities are attempting to circumvent their obligations under domestic and

international human rights law. The organization believes that SIAC's ruling today on the effectiveness of this MoU undermines human rights protection in the UK and the fight for the eradication of torture internationally.

The UK and the Jordanian authorities have agreed that the MoU will be monitored by a local non-governmental organization, the Adaleh Centre for Human Rights Studies, purportedly to ensure its "enforcement". It is said, that, among other things, the Centre would be permitted access to Abu Qatada in detention.

However, the MoU is unenforceable under international law and under UK and Jordanian law. Therefore it provides no effective remedy to Abu Qatada in the event that he be tortured or otherwise ill-treated. Amnesty International considers that the existence of a monitoring body is no safeguard against these practices.

Furthermore, the organization notes that international, independent monitoring bodies including the UN Special Rapporteur on Torture and the International Committee of the Red Cross, as well as detainees' lawyers, have all been denied prompt and private access to detainees held by the General Intelligence Department (GID), the security body with primary responsibility for detaining political and security suspects.

Concern about SIAC's decision is underlined by the January 2007 report of the UN Special Rapporteur on Torture, following his fact-finding visit to Jordan in June 2006, in which he concludes that "the practice of torture is routine at the GID" and there is "institutionalised impunity" for perpetrators, including even the head of the GID's anti-terrorist unit who had been "clearly identified by a number of detainees as being personally involved in torture practice". The UN Special Rapporteur called for criminal proceedings to be initiated against the head of the anti-terrorism unit -- as well as a number of other senior officials -- on account of their alleged involvement in torture practices in detention centres in Jordan.

Amnesty International considers, then, that in view of the overwhelming evidence indicating the widespread infliction of torture and other ill-treatment on political and security detainees in Jordan, the decision by SIAC is wrong and unjust and fails to respect the absolute prohibition on sending people to countries where they would face a real risk of torture or other ill-treatment or other violations, as enshrined in international and domestic human rights law in the UK.

In addition, Amnesty International is dismayed at SIAC's ruling in relation to the fairness of the trial that Abu Qatada will face if he is deported to Jordan. Abu Qatada was tried twice in Jordan *in absentia*. In 2000 Abu Qatada was convicted and sentenced *in absentia* by the Jordanian State Security Court (SSC) to 15 years' imprisonment for his alleged involvement -- together with a group of some 20 men -- in plotting to carry out attacks on "Jewish and American targets", and of manufacturing explosives. In 2001 Abu Qatada was sentenced *in absentia* to life imprisonment by the same court in connection with allegedly carrying out politically motivated bomb attacks and belonging to an illegal organization, Reform and Challenge Group (Jama'at al-Islah wa'l-Tahaddi). Among other concerns regarding the unfairness of the trials, Amnesty International received information that Abu Qatada's co-defendants in both trials had been subjected to prolonged torture during incommunicado detention at the GID headquarters in Amman. Furthermore, the organization is not aware of any adequate investigations being carried out into the allegations the men made before the SSC that their "confessions" had been extracted from them under torture.

SIAC accepted the overwhelming evidence that once in Jordan Abu Qatada would be retried by a military court which, as such, lacks any guarantee of independence. SIAC also accepted that the prosecutor before the court will also be a military official. Evidence previously extracted under torture would be used in the proceedings against Abu Qatada. In addition, Abu Qatada would not be able to call as witnesses those who made statements against him and later retracted them alleging that they had been made under torture. One of these complainants has since been executed.

In addition, SIAC itself found that "the MOU is of no direct relevance ... because although it requires the trial to be fair, the trial can only be before the SSCt [SSC] constituted as it is required to be. The MOU, it must be accepted therefore, treats in principle as 'fair' within its terminology a trial before such a Court".

Thus, notwithstanding the fact that SIAC accepted that this was the scenario which in all likelihood Abu Qatada would face, it ruled that a trial marred by such unfairness would not amount to a flagrant denial of justice, and that, therefore, Abu Qatada's deportation to Jordan should go ahead.

In addition to the organization's concerns over the likelihood that if Abu Qatada is deported to Jordan he would be retried unfairly by the SSC on the same set of charges for which he was convicted and sentenced *in absentia*, Amnesty International fears that additional charges could be brought against him, for which, if convicted, he could be sentenced to death.

In general, trials before the SSC fall short of international standards for fair trial. For example, the court is formally comprised of two military and one civilian judge, but in some cases trials are conducted before panels composed only of military judges. The SSC has jurisdiction to try civilians as well as members of the Jordanian military but, in practice, most of those tried before the SSC are civilians. Both the UN Human Rights Committee, in 1994, and the UN Committee against Torture, in 1995, called for the Jordanian authorities to consider abolishing the SSC. Over the past 10 years, more than 100 defendants have alleged before the SSC that they were tortured to make them "confess", usually while held incommunicado in pre-trial detention by the GID. Such allegations were made in at least 18 cases heard by the SSC during 2006, most of which involved more than one defendant. Yet the court failed adequately to investigate the defendants' claims and accepted their contested "confessions".

Background

Abu Qatada is a Jordanian national. In 1993, after arriving in the UK, he sought asylum for himself, his wife and three children. In 1994 he was granted refugee status by the UK authorities.

He has previously been interned without charge or trial in the UK under the now defunct Part 4 of the Anti-terrorism, Crime and Security Act 2001. In March 2005 he was "released" from detention under Part 4 and put under a "control order" under the Prevention of Terrorism Act 2005. He was then rearrested in August 2005 and held under immigration powers pending deportation on national security grounds to Jordan.

The appeals before SIAC in which people can attempt to challenge orders for deportation on "national security" grounds are inherently profoundly unfair because of heavy reliance on closed hearings in which secret information, including intelligence material, is considered in the absence of the individuals concerned and their lawyers of choice, and because of the application of a particularly low standard of proof.