

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: EUR 45/030/2003 (Public)
News Service No: 278
11 December 2003

Embargo Date: 11 December 2003 00:01 GMT

United Kingdom: A shadow criminal justice system

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 a new report by Amnesty International says. The system permits potentially indefinite detention on the basis of secret "evidence" and allows the use of "evidence" extracted under torture.

UK: Justice Perverted under the Anti-terrorism, Crime and Security Act 2001 examines Part 4 of the Anti-terrorism Crime and Security Act, 2001 (the Act) which permits the potentially indefinite detention of non-UK citizens without charge or trial. There are currently 14 people held under this legislation, six of whom will have been in detention for two years on 19 December.

"The Act is discriminatory - there is one set of rules for British citizens and another for nationals of other countries. 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," Amnesty International said.

Amnesty International has monitored the open sessions of the proceedings brought by a number of detainees to appeal against their certification by the Home Secretary as "suspected international terrorists". During the course of the hearings - some parts of which were closed - the Special Immigration Appeals Commission (SIAC) made a number of disconcerting rulings. In particular it effectively denied the detainees the presumption of innocence. The burden of proof used to detain these individuals is lower than that even of a civil case.

"These individuals face indefinite detention on the basis of a lower standard of proof than would be necessary in a civil court case to recover damages following a car accident."

"What is more, they can be held indefinitely on the basis of secret 'evidence'. Evidence that neither they nor their legal representatives can access and challenge."

Amnesty International is deeply concerned that SIAC also ruled, during the appeal hearings, that "evidence" extracted by torturing a third party is not only admissible, but may also be relied upon by the SIAC in reaching its judgments.

"By indicating that they are prepared to rely on evidence extracted under torture, the UK legal process has effectively given a green light to torturers. Using evidence tainted by allegations of torture is

contrary to any notion of justice and respect for the law," Amnesty International stated.

"The UK government should repeal Part 4 of this legislation and ensure the same legal safeguards for all individuals regardless of their origin."

"If there is sufficient evidence to warrant holding these individuals indefinitely they should be charged and tried in proceedings which meet international fair trial standards. Otherwise they should be released."

Public Document

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