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United Kingdom: Court of Appeal hears key case in the global fight against torture

Today (18 June) the Court of Appeal of England and Wales starts hearing an important test case concerning the appeal of three Algerians against their deportation to Algeria on “national security” grounds. Amnesty International reiterates that forcibly returning these men would expose them to a real risk of serious human rights violations, including torture or other ill-treatment; that the purported assurances given by the Algerian authorities that the human rights of the three men will be protected are intrinsically unreliable; and that the judicial process has so far denied these men an effective opportunity to challenge the UK authorities’ assertion that they are a risk to the UK’s “national security”.

The three are Mustapha Taleb, formerly known as “Y” for legal reasons; a man known only as “U”; and another man known only by his initials, “RB”, formerly known as “BB”. They have all consistently denied undertaking any activities that are a risk to “national security”.

Amnesty International considers that this case is about more than just the safety of these three men, and of others currently facing the same threat. It has repercussions for the global ban on torture. Returning people to countries where they would face a real risk of torture or other ill-treatment is clearly and absolutely banned under domestic and international law. If the UK government succeeds in deporting these individuals to Algeria, it will have succeeded not just in circumventing the protection against torture given by the law in the UK, but in diluting that protection the world over.

Amnesty International has consistently expressed concern that the Algerian security services routinely detain and abuse people accused of any involvement in terrorism. Even the UK government now recognizes that, if deported to Algeria, it is almost certain that these men would be held in incommunicado detention by Algeria’s intelligence agency, known as the Department for Information and Security (*Département du renseignement et de la sécurité*, DRS). The DRS specializes in interrogating people thought to possess information about terrorist activities. It is widely known to practise torture and other ill-treatment.

Reports produced by Amnesty International that extensively document the risk of torture faced by individuals who are arrested by the DRS were put before the Special Immigration Appeals Commission (SIAC) during each man’s initial appeal against deportation. This evidence was disregarded.

Nonetheless the UK government’s position is that, but for the assurances given by the Algerian authorities, these three men could not safely be returned to Algeria, because they would indeed face a real risk of torture there. Yet, in a number of similar cases, Amnesty International has documented how the purported assurances received from the Algerian authorities were breached, giving rise to grave concern that those deported were ill-treated while in the custody of the DRS.

Two men (Reda Dendani, formerly known as “Q”, and a man known only as “H”) who have been deported to Algeria already, and who had been given promises before their return that they were not wanted for any crime, and would not be prosecuted when they got back to Algeria, were in fact detained, virtually incommunicado, and then charged. Allegations that they may have been ill-treated have since emerged. This should show the court that such promises -- which are unenforceable in any court in the UK or Algeria -- offer no protection at all. They are little more than a discreditable attempt to get round the protection that domestic and international law gives to individuals who are at risk

of torture.

Amnesty International considers that it will be a travesty if the unfair SIAC hearings, which admit secret intelligence that the defendant can neither see nor challenge, result in people being deported to face a real risk of torture.

Background

The case of Mustapha Taleb

Mustapha Taleb survived torture in Algeria and came to the UK, where he was recognized as a refugee.

Mustapha Taleb, formerly known as “Y”, was among those who, in 2005, in the UK, were charged, tried and eventually acquitted of all charges in connection with an alleged conspiracy to produce poisons and/or explosives. After his acquittal, in April 2005, he was released from custody where he had been since January 2003. He was later re-arrested and held pending deportation to Algeria on “national security” grounds.

Along with others Mustapha Taleb appealed to SIAC against being deported to Algeria, contesting that he was a risk to the UK’s “national security”, and arguing that he would face a real risk of torture if returned to Algeria. Amnesty International monitored the open hearings before SIAC in his case. Despite his previous acquittal, the case against him in the open hearings consisted mostly of the same allegations made at the criminal trial, which the jury in that trial had clearly disbelieved.

In reaching its decision in Mustapha Taleb’s case, SIAC relied on secret intelligence provided by the UK authorities that was withheld from him, his lawyers of choice and the public. The SIAC proceedings were profoundly unfair, denying Mustapha Taleb the right to a fair hearing and making it impossible for him to effectively refute the UK authorities’ case that he was a “national security” risk.

Three of the jurors who acquitted Mustapha Taleb in the criminal proceedings expressed their shock that, despite that acquittal, the same evidence was being used in the open hearings before SIAC to “justify his deportation”. The jurors wrote to Amnesty International:

As three ordinary members of the public we have had our eyes opened to such an unfair and unjust sequence of events orchestrated by the authorities that we feel compelled to speak out. This is contrary to anything we thought could be possible in a democratic, free society. Since January 2003, “Y” [Mustapha Taleb] has been persecuted by our government beyond all realms of imagination. We were three jurors on “Y”’s criminal trial (the ‘no-ricin trial’) and after seven months listening carefully to the evidence and arguments from the prosecution and defence, we, as a jury, acquitted him of all charges and expected that, on his release, he could begin to rebuild his life in this country.

The cases of “U” and “RB” (note: “RB” was referred to as “BB” in earlier hearings)

Both “RB” and “U” are Algerian nationals. “RB” has been found by the SIAC to be a “risk to national security”, almost entirely on the basis of evidence presented in secret hearings, which he has been unable to know or challenge. “U” has also been found by the SIAC to be a “risk to national security”. Although he does not accept this finding, he has, in earlier hearings, waived his right to challenge it, since he lacks confidence in the SIAC’s ability to give him a fair hearing.

For more information on Amnesty International’s concerns about the UK authorities’ deportation attempts to Algeria, see

United Kingdom: Deportations to Algeria at all costs, published on 26 February 2007, AI Index: EUR 45/001/2007, <http://web.amnesty.org/library/Index/ENGEUR450012007>

