

EXTERNAL (for general distribution)

AI Index: ASA 20/42/91

Distr: UA/SC

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EXTRA 71/91

Forcible Repatriation and Fear of
Torture/Execution

14 October 1991

INDIA:

Mr Assadullah Sarwari

Mr Assadullah Sarwari, a former Deputy Prime Minister of the Republic of Afghanistan was convicted in India under the Foreigners Act for failing to possess a passport and valid travel documents. He was reportedly taken from Tihar Jail, Delhi on 14 October 1991 to an unknown destination in circumstances which indicated that he may have been taken for deportation. Amnesty International is concerned that Assadullah Sarwari may be or may have already been deported to Yemen from where he may be repatriated to Afghanistan. Amnesty International believes that Mr Sarwari faces an imminent risk of torture or execution should he be returned to Afghanistan.

According to reports received by Amnesty International, a friend of Mr Sarwari's went to Tihar Jail on the morning of 14 October and was informed by prison officers that he had been taken by police officials to the airport.

Amnesty International is urging the Indian Government to clarify whether Mr Sarwari has been deported. Amnesty International opposes his deportation to Yemen or any other third country where he may not have effective and durable protection from being forcibly returned to Afghanistan.

BACKGROUND INFORMATION

Amnesty International wrote to the Minister of External Affairs on 19 August 1991 concerning the case of Mr Sarwari. Mr Sarwari entered India legally from Yemen on 16 January 1990 with a valid diplomatic passport. He claims that his passport was taken from him by an official of the Afghanistan Embassy on 2 February 1990 when he was about to board a plane to Kabul at New Delhi International Airport. Despite the apparent validity of his travel documents, he was arrested on 11 June 1990 and charged with violating India's immigration laws. He was convicted on 11 April 1991 and on 15 July 1991 sentenced to a period of imprisonment equivalent to the time he had already spent in detention, and fined Rs. 5,000 in default of which he served another three months in custody and remained under order of deportation to Yemen.

Mr Sarwari's arrest followed an attempted coup which took place in Afghanistan on 6 March 1990, after Mr Sarwari had entered India. He claims that the Afghanistan Government believes he was involved in this coup attempt and has sentenced him to death *in absentia*. The Embassy of the Republic of Afghanistan in New Delhi wrote to the Indian Government on 9 March 1990 requesting that Mr Sarwari be arrested and sent to Kabul to stand trial because he "is very much involved in killing of innocent people in Afghanistan". Mr Sarwari requested asylum in India but never received any response to his request. On 14 October 1991 Mr Sarwari was reportedly taken from Tihar Jail, Delhi by police officials. According to prison officers, he was taken to an airport. He was not in possession of his passport.

Hundreds of people have been arrested and dozens have been executed in Afghanistan for their alleged involvement in the abortive March 1990 coup attempt. Amnesty International believes that if Mr Sarwari is forcibly returned to Afghanistan he will face an imminent risk of torture and execution and therefore Amnesty International opposes his return to Afghanistan. A return in such circumstances may be a violation of the principle of *non-refoulement* which prohibits the return of persons, in any manner whatsoever, to any country where their life

or freedom is threatened. Although the judge at his trial ordered Mr Sarwari be deported to Yemen, should the Yemeni Government in turn forcibly return him to Afghanistan, the deportation from India may be a violation of the *non-refoulement* principle.

Amnesty International is aware of the serious charges against Mr Sarwari alleging his involvement in the killings of innocent people in Afghanistan. Many such killings took place in the late seventies under successive administrations when the People's Democratic Party was in power. In opposing the forcible return of Mr Sarwari to Afghanistan, or to any third country where he will not receive effective and durable protection against forcible return to Afghanistan, Amnesty International is not in any

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way suggesting that an inquiry into these allegations is precluded and, indeed, international standards provide that persons who have participated in committing serious human rights violations may be investigated in any country regardless of where the acts are alleged to have been committed.

Amnesty International opposes the sending of persons from one country to another where they can reasonably be expected to be subjected to torture, "disappearance", politically motivated extrajudicial execution or imposition or execution of the judicial death penalty. Amnesty International also opposes the forcible return to a third country where there is a risk that the refugee may ultimately be compelled to return to a country of persecution.

RECOMMENDED ACTION: Telegrams/telexes/airmail letters:

- expressing concern at reports that Mr Assadullah Sarwari was taken on 14 October from Tihar Jail to an unknown destination in circumstances which indicated that he have been taken for deportation;

- also expressing concern that he may be deported to Yemen or any other third country where he may not have effective and durable protection from being forcibly returned to Afghanistan, stressing that should Mr Sarwari be forcibly returned to Afghanistan, Amnesty International believes he will face an imminent risk of torture and execution;

- saying that Amnesty International is aware that hundreds of people have been arrested and dozens executed in Afghanistan for their alleged involvement in the abortive March 1990 coup attempt

- saying also that there are allegations that the Afghanistan Government has sentenced Mr Sarwari to death *in absentia* for his alleged involvement in the coup attempt;

- asking the government to clarify whether Mr Sarwari has been deported;

- urging that, should he be in the process of being deported, that his deportation be stopped immediately unless the Indian Government has received reliable guarantees from the Yemeni Government that Mr Sarwari will have effective and durable protection in Yemen from being forcibly returned to Afghanistan;

- recognising the serious charges against Mr Sarwari alleging his involvement in the killings of innocent people in Afghanistan, and saying that in opposing the forcible return of Mr Sarwari to Afghanistan, or to any other third country where he will not receive effective and durable protection against forcible return to Afghanistan, Amnesty International is not suggesting that an inquiry into these allegations is precluded.

APPEALS TO:

1. Mr S. B. Chavan

Salutation: Dear Minister

Minister of Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001, India

Telegrams: Minister of Home Affairs Chavan, New Delhi, India

Telexes: 3161879 FRGN IN) via Ministry of
3161880 FRGN IN) Foreign Affairs

2. Mr Madhavsinh Solanki

Salutation: Dear Minister

Minister of External Affairs
Ministry of External Affairs
South Block
New Delhi 110 001, India

Telegrams: Minister of External Affairs Solanki, New Delhi, India

COPIES TO: diplomatic representatives of India in your country.

PLEASE SEND APPEALS IMMEDIATELY.