

EXTERNAL (for general distribution)

AI Index: EUR 45/09/93

Distr: UA/SC

Please draw this action to the attention of the refugee coordinator in your section.

UA 251/93

Fear of refoulement

30 July 1993

UNITED KINGDOM:

Karamjit Singh Chahal

Amnesty International is concerned that Karamjit Singh Chahal is at imminent risk of being forcibly returned to India, where he would be at risk of torture, "disappearance" or extrajudicial execution.

Karamjit Singh Chahal, a Sikh from India, has lived in the United Kingdom for the past 22 years and has been a prominent political and religious figure in the Sikh community since 1984. In particular, he has been an active supporter of demands for the creation of a separate Sikh state ("Khalistan") in Punjab. Karamjit Singh Chahal claims that two of his close relatives have been shot dead by the Indian security forces and that he was himself detained and tortured during a visit to India in 1984.

On 16 August 1990 Karamjit Singh Chahal was arrested and detained under provisions of the United Kingdom's 1971 Immigration Act, and was served notice of the British authorities' decision to deport him to India "for reasons of national security and other reasons of a political nature, namely the international fight against terrorism". He immediately applied for asylum in the United Kingdom but this was refused in March 1991.

Karamjit Singh Chahal has repeatedly denied any involvement in "terrorist" activity, and has expressed a strong conviction that his detention and proposed deportation is based on unfounded allegations made by political opponents within the Sikh community. The deportation procedure being followed in his case does not require the authorities to give specific reasons for the decision to deport, and Karamjit Singh Chahal has therefore been unable to challenge effectively possible untruths, inaccuracies or distortions in the information which the authorities are using as a basis for their decision. Karamjit Singh Chahal has remained in administrative detention since August 1990.

In December 1991 a legal challenge against the deportation order resulted in the High Court ordering the authorities to re-examine Karamjit Singh Chahal's case. The judge expressed "enormous anxiety" about the case, stressing the risk of torture should Karamjit Singh Chahal be returned to India and questioning whether the authorities had taken full account of Amnesty International's May 1991 report of human rights violations against Sikhs in India (India: Human Rights Violations in Punjab, AI Index: ASA 20/11/91).

As a result of this ruling the authorities reconsidered Karamjit Singh Chahal's application for asylum, but in June 1992 refused the application for a second time.

In February 1993 a further legal challenge to this decision was rejected by the High Court, which ruled that the authorities had acted within their powers when ordering Karamjit Singh Chahal's deportation on grounds of national security.

An appeal against this ruling was heard by the Court of Appeal on 28-29 July 1993; the decision is pending. Amnesty International fears that, in the event that this appeal is unsuccessful, then Karamjit Singh Chahal could be forcibly returned to India immediately.

Since 1983 thousands of suspected members and supporters of Sikh opposition groups advocating the creation of a separate Sikh state ("Khalistan") in Punjab have been arrested by the Indian security forces and detained under special legislation suspending normal legal safeguards. In many cases the arrest of the detainee has remained unacknowledged for weeks or months, and there have been numerous reports of torture during interrogation. Scores of those so arrested have been tortured to death or have otherwise been deliberately and unlawfully killed in custody (although official reports sometimes say they died in "encounters" with the police or while "trying to escape"), while others have simply "disappeared", the security forces refusing to acknowledge that they had ever been arrested.

Under the international principle of *non-refoulement*, which is set out in Article 33 of the 1951 United Nations Convention relating to the Status of Refugees and reflected in several subsequent Human Rights instruments such as Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) governments are obliged not to return any person to a country where he or she would be at risk of serious human rights violations. In particular, Article 3 of the CAT states:

"No State Party shall expel, return ('*refouler*') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

Amnesty International is concerned that, by returning Karamjit Singh Chahal to India, the British authorities would act in breach of this obligation.

RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters in English or your own language:

- urging the British authorities not to forcibly return Karamjit Singh Chahal to India, where Amnesty International believes that he would be at risk of torture, "disappearance" or extrajudicial execution on account of his political views and activities;
- reminding the British authorities of their obligation under international law not to forcibly return anyone to a country where he or she would risk serious human rights violations;
- expressing concern that Karamjit Singh Chahal has now been held in administrative detention for almost three years, even though he has not been charged with any criminal offence;
- calling on the British authorities to release Karamjit Singh Chahal if he is not to be charged with a recognizably criminal offence and brought to trial in accordance with international standards of fair trial.

APPEALS TO:

1) The Rt Hon John Major, MP
Prime Minister
10 Downing Street
London SW1
United Kingdom

Salutation: Dear Prime Minister

Telegrams: Prime Minister Major, London, United Kingdom

Faxes: + 44 71 270 3000 (this is not a dedicated fax line and so you will need to ask for the fax machine to be switched on)

2) The Rt Hon Michael Howard, QC, MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London SW1H 9AT
United Kingdom

Salutation: Dear Secretary of State

Telegrams: Home Secretary Howard, London, United Kingdom

Faxes: + 44 71 273 3596

COPIES OF YOUR APPEALS TO: diplomatic representatives of the United Kingdom accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 September 1993.