

AI INDEX: EUR 45/17/96
15 NOVEMBER 1996

UNITED KINGDOM: AMNESTY INTERNATIONAL WELCOMES EUROPEAN COURT'S
DECISION ON KARAMJIT SINGH CHAHAL AND URGES GOVERNMENT TO REVIEW
SIMILAR CASES

Amnesty International welcomes today's landmark decision of the European Court of Human Rights which found that the Government of the United Kingdom's attempt to deport Karamjit Singh Chahal to India was in violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

"The European Court confirms what we have long been saying -- that Karamjit Singh Chahal was detained in violation of international law," Amnesty International said.

"Amnesty International is pleased that the government has seen fit to release Karamjit Singh Chahal immediately," the human rights organization said. "We urge the government to bring its laws and procedures concerning people detained pending deportation on 'national security' grounds into line with its treaty obligations."

Karamjit Singh Chahal, a Sikh of Indian nationality, was arrested on 16 August 1990 and detained under the provisions of the UK's Immigration Act 1971. Following his arrest, he was served notice of the British authorities' decision to deport him to India on undisclosed "national security" grounds. He has been challenging that decision ever since, through the domestic courts and then through the European Commission on Human Rights and the European Court of Human Rights in Strasbourg.

According to the summary by the Registrar, the European Court of Human Rights decided that the government was in violation of Articles 3, 5(4) and 13 (in conjunction with 3) of the Convention. The Court reaffirmed that Article 3 enshrined one of the most fundamental values in democratic societies and prohibited "in absolute terms" torture or inhuman or degrading treatment or punishment.¹ The Court insisted that the government had to determine whether the person would risk torture regardless of any alleged or perceived threat to national security.

The Court held that "given the fundamental importance of the prohibition of torture ... an effective remedy for Mr Chahal's Article 3 complaint required independent scrutiny of his claim that he would be ill-treated if deported to India."

¹ In November 1995, the United Nations (UN) Committee against Torture in its concluding observations following its examination of the UK second periodic report pursuant to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment expressed concern about the "the practice of refouling asylum seekers in circumstances that may breach Article 3 of the Convention [against Torture]" and recommended that the government review its practices in this regard.

The Court also stated that the UK was in violation of Article 5(4), which guarantees court review of the lawfulness of detention, because the advisory panel, consisting of three people appointed by the Home Secretary, was not an effective judicial control over the deprivation of liberty.

Amnesty International had submitted written comments to the European Court on Karamjit Singh Chahal's case. Amnesty International said his *refoulement* to India would be in violation of Article 3 because he was at serious risk of torture or other serious human rights violations. Amnesty International also argued that the domestic remedies to review the Home Secretary's decision were ineffective and thus denied him his rights under Article 13 of the Convention.

"The government will need to review its procedures and legislation in the light of the Court's judgment," Amnesty International said.

The primary consideration will have to be a determination of whether that person will face a risk of serious human rights violations if deported, irrespective of the allegations against that person. Secondly, there will have to be independent judicial scrutiny of the reasons for detention pending deportation. And thirdly, it would appear that the government will have to provide more detailed reasons for considering someone to be a threat to "national security".

Amnesty International is concerned that the Home Secretary has ordered the detention and deportation of a number of other foreign nationals on grounds of "national security".

"These people have not been charged with recognizably criminal offences and have not been detained according to provisions in the European Convention," Amnesty International said. "In the light of today's judgment, the government should review these cases immediately."

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