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News Flash

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United Kingdom: Judgements amount to a perversion of justice

The proceedings under the Anti-terrorism, Crime and Security Act 2001 (ATCSA) amount to a perversion of justice, Amnesty International said today.

The Special Immigration Appeal Commission (SIAC) today handed down judgments on ten foreign nationals, eight of whom have been detained under the Anti-terrorism, Crime and Security Act 2001 (ATCSA) for more than 20 months. Two have "voluntarily" left the United Kingdom (UK) since their initial arrest.

As a result of the SIAC judgments, the eight could remain in detention indefinitely, without charge or trial, principally on the basis of secret evidence which they have never heard or seen, and which they were therefore unable to challenge.

An Amnesty International delegate was in court today and heard the SIAC rule that the Secretary of State for the Home Department had reasonable grounds for forming his belief and suspicion that the ten men were "suspected international terrorists and national security risks".

Disconcertingly, the SIAC ruled that under the ATCSA the burden of proof that the Secretary of State has to meet to justify internment of the ten is not the criminal standard of "beyond reasonable doubt" but, instead, is even lower than that needed in a civil case.

"The shockingly low burden of proof, which the SIAC ruled that the Secretary of State had met, violates the right to the presumption of innocence to which anyone subject to criminal proceedings is entitled. Respect of the presumption of innocence is fundamental to fair criminal trials," said Amnesty International.

Furthermore, Amnesty International is alarmed that today's judgments by the SIAC may have relied on evidence extracted under torture. Some of the secret evidence relied upon by the Secretary of State reportedly includes statements which were obtained at Bagram airbase and elsewhere in American custody, where there have been serious allegations of torture. Under international law any statement that has been established to have been made as a result of torture is inadmissible.

"It would seriously undermine the rule of law if the SIAC had indeed relied on evidence extracted under torture," Amnesty International stated.

Amnesty International opposes indefinite detention without charge or trial. The organization continues to call on the UK government to release all persons detained under the ATCSA unless they are charged with a recognizably criminal offence and tried by an independent and impartial

court in proceedings which meet international standards of fairness.

Background

There are currently 16 people -- all non-UK nationals -- detained under the ATCSA in the UK.

Under the ACTSA, non-UK nationals, whom the government has deemed non-deportable and who are certified as "suspected international terrorists and national security risks" by the UK Secretary of State, can be immediately detained without charge or trial -- that is, interned -- for an unspecified and potentially unlimited period of time. The decision of the Secretary of State and the SIAC judgments, can be based on secret evidence -- which the detainee and their counsel of choice cannot see, or hear, or challenge.

Since internment in these circumstances is inconsistent with the right to liberty and security of person guaranteed under international human rights treaty provisions by which the UK is bound, the UK government has derogated from (i.e. temporarily suspended) its obligations under these provisions. In particular, the UK has derogated from Article 5(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 9 of the International Covenant on Civil and Political Rights.

In May, June and July 2003, the SIAC heard appeals brought by 10 individuals against their detention under ATCSA following their certification by the UK Secretary of State for the Home Department as "suspected international terrorists and national security risks".

An Amnesty International delegate attended a number of hearings of these appeals before the SIAC for the purpose of monitoring the open sessions of the judicial proceedings. Proceedings held *in camera*, which neither the detainee, his lawyer of choice or Amnesty International could attend, which considered secret evidence, as well as the public proceedings, culminated in the ten judgments today.

Amnesty International has repeatedly expressed concern that a number of provisions of the ATCSA , and the detentions resulting from application of this law are inconsistent with a number of international human rights and refugee law standards, including treaty provisions by which the UK is bound.

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