

13th October 2005

Nick Walker
Clerk of the Joint Committee on Human Rights
Committee Office
House of Commons
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To the Joint Committee on Human Rights:

Counter-terrorism policy and human rights

The Medical Foundation for the Care of Victims of Torture (the “Medical Foundation”) is a human rights organisation that works exclusively with survivors of torture and organised violence, both adults and children. It has received more than 40,000 referrals since it began in 1985. The Foundation offers its patients medical and psychological treatment and documentation of the signs and symptoms of torture – providing some 700 to 1,000 forensic medical reports each year – as well as a range of therapeutic services.

The Medical Foundation is concerned about the UK Government’s proposal to rely on diplomatic assurances from receiving states that returned individuals will not be subjected to treatment contrary to the standards of Article 3 ECHR. In its judgment in the case of *Chahal v. United Kingdom*, the European Court of Human Rights (the “Court”) concluded that assurances obtained in that case from the Indian Government did not provide the Appellant an adequate guarantee of safety. While, in that case, the Court did not doubt the good faith of the Indian Government in providing assurances, and despite the efforts of the National Human Rights Commission of India and the Indian courts to bring about reform, the violation of human rights by members of the country’s security forces remained a “recalcitrant and enduring problem”.

A similar conclusion was reached by the United Nations Committee Against Torture in the case of *Agiza v. Sweden*, the applicant in that case being removed to Egypt, where he was abused in detention. Again, the returning state had obtained diplomatic assurances prior to the applicant's removal that he would not be subjected to torture or other forms of abuse. The Committee, noting the "consistent and widespread use of torture against detainees" and the particular susceptibility of those held for political or security reasons (such as the applicant) to such abuse, concluded that the Swedish Government was in breach of its obligations under article 3 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in returning the applicant to Egypt, and that this liability was not displaced by the diplomatic assurances obtained.

The Medical Foundation is concerned about the ability of those states providing assurances to the UK Government to protect individuals and to guarantee the conduct of security personnel at a grassroots level. We therefore fear that such assurances cannot provide the requisite security to a returning individual.

The Medical Foundation is also concerned about the negative mental health consequences of returning a torture survivor to a country solely on the basis of such assurances. In obtaining express assurances that an individual will not be mistreated by the agents of the receiving state, the UK Government is effectively acknowledging the risk of abuse. In such circumstances it is disingenuous to return an individual, particularly where return is likely to be highly anxiety-provoking to individuals who have suffered torture or other severe abuse in the past.

Yours sincerely,

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Director of Public Affairs