

The treatment of deportees from the UK Reporting evidence of ill treatment

QCAT Briefings recommence with this briefing, which deals mainly with the mistreatment of people being deported from the UK, focussing on reports from the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) and the UK Border Agency. It makes suggestions for how Friends might respond. It also highlights the CPT's recommendations for improved documentation of medical evidence of ill treatment.

We propose to issue briefings approximately every three months in the future, alternating with our newsletter. We aim to deal with issues in reasonable depth, but also to provide links and suggestions for further action by concerned Friends. We have a number of ideas about some of the issues we might cover in the near future, but we'd really like to hear from you, Friends, on what you'd like us to consider, and on the successes (and tribulations) you experience.

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The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visits the UK in 2013

In July 2013 the Council of Europe published the report of the visit to the UK carried out by its Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The visit took place in October 2012 but it is the nature of these institutions that there is often a time-lapse between an investigation and the results being made public. The full report can be seen at http://www.cpt.coe.int/documents/qbr/2013-14-inf-eng.htm#_Toc343007389

What is the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)?

- The CPT was set up under the Council of Europe's "European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment", which came into force in 1989.
- It builds on Article 3 of the European Convention on Human Rights which provides that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment".
- The CPT is not an investigative body, but provides a non-judicial preventive mechanism to protect persons deprived of their liberty against torture and other forms of ill-treatment. It thus complements the judicial work of the European Court of Human Rights.

What was the purpose of this visit?

The purpose of the visit was to examine the treatment of foreign nationals during a removal operation by air and the conditions under which the removal operation took place. The monitoring concerned a charter flight organised by the United Kingdom Border Agency (UKBA) between London and Colombo (Sri Lanka), scheduled for departure on 23 October 2012.

Who did the CPT delegation meet?

The delegation met with the Home Office Immigration Enforcement (then UKBA) Returns Director and the Country Returns Operations and Strategy Team Manager, the Managing Director of Reliance Secure Task Management Ltd, and the Reliance Contract Director for (then UKBA) Immigration Enforcement escorting operations. The delegation also met Hindpal SINGH BHUI, the Team Leader in charge of immigration issues at Her Majesty's Inspectorate of Prisons (HMIP).

Both the British authorities and Reliance management provided the CPT with extensive documentation concerning removal operations by air and, in particular, previous removal operations to Sri Lanka (carried out respectively on 31 May 2012 and 19 September 2012). The CPT also requested - and obtained - several other important internal documents, such as the UKBA "Service Improvement Plans" established after previous monitoring operations carried out by HM Inspectorate of Prisons. Furthermore, it received updated information on the action taken by the UKBA after the death of Mr Jimmy Mubenga on a removal flight to Angola on 12 October 2010. This enabled the delegation to obtain a clear picture of the whole removal process from the point of collection at the Immigration Removal Centres (IRCs) to the point of final destination.

Despite the efforts made by the UKBA and a local Foreign and Commonwealth Office representative, the CPT delegation was forbidden to leave the aircraft on arrival in Colombo and to observe the hand-over of the returned detainees to the Sri Lankan immigration authorities (see paragraph 30). This is most unfortunate as such an authorisation could have enabled information to be gathered that would have been of benefit to all concerned.

What were the recommendations?

The practice of the deportation of foreign nationals by air ("return flights") is becoming ever more frequent and widespread throughout Europe and in the CPT's opinion, such operations entail a manifest risk of inhuman and degrading treatment (during preparations for the deportation, during the actual flight or when the deportation is aborted). A State's fundamental obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or inhuman or degrading treatment or punishment must be kept in mind in this context.

As a result of its monitoring of the removal operation in October 2012 CPT made a number of specific recommendations, which are summarised below:

- national or international monitoring bodies such as itself should be able to observe removal operations through to the country of destination, including the hand-over procedure to local immigration authorities. Explicit reference to this should be made in future whenever a readmission agreement is negotiated.
- more appropriate arrangements, including more privacy, should be made searching detainees at Brook House IRC (from where the removal operation in question took place).
- more psychological support and counselling for detainees being prepared for removal; an interpreter to be present throughout the process, including on board aircraft.

- a fit to fly certificate to be issued by a medical doctor in all cases.
 - systematically organised debriefing sessions at both team and senior levels should take place after all removal operations.
- There were also a number of recommendations relating to the recruitment, training and psychological assessment of overseas escort staff.

What can Friends do?

These are cogent and reasonable recommendations. That they have to be made is a matter of concern in itself. Unfortunately, reports such as this tend to attract less attention than the seriousness of the matter merits, so Friends might wish to seek to engage in dialogue with their MPs as to the government's response to this report. Bear in mind that this is a long list of fairly specific recommendations. However much we might wish for HMG to implement them all without further ado, we know this is not a realistic expectation. Berating the government won't help much either – *engage in dialogue*, bearing in mind that you are speaking as an individual, or on behalf of a specific group; this after all, is the basis on which your MP will respond to you, so don't go beyond this.

QCAT would of course be interested to hear of any responses you get – so let us know.

CPT Annual report 2013

What does CPT say on reporting of evidence of ill-treatment?

CPT's Annual Report for 2013 was published on 6 November 2013. It can easily be found on the cpt's own website at www.cpt.coe.int.

It gives details of 21 visits by the Committee to member states between August 2012 and July 2013. The Committee has access to places of detention in all 47 member states of the Council of Europe, giving it a wider reach than most other concerned bodies.

The report particularly urges the documenting and reporting of medical evidence of ill-treatment, which, it points out, is the strongest deterrent against future abuse. Such reporting is often not happening in practice. Unfortunately, the report does not specify individual countries or cases, but if we take the view that these matters are of general concern anyway, it is worth familiarising ourselves with what the report has to say, and asking where appropriate whether the recommendations are being followed. As suggested in the previous article, this may lead to dialogue – let us know.

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In July 2013 *Freedom from Torture* published the most comprehensive study so far undertaken of poverty amongst torture survivors in the UK.

We hope to look more fully at this in a future briefing. If have been looked at their research findings, or have been exercised on this issue, please get in touch.

If there is another issue you would like us to deal with, let us know.

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UK Border Agency and deportation from the UK – “inhuman and degrading treatment” and sometimes, death.

In 2008, the UK Border Agency claimed that it ‘removed’ one person from the UK every eight minutes. In 2011, 41,482 people were removed from the UK or departed voluntarily after a removal process was begun.

The majority of those who are deported or removed are not asylum seekers. In 2011, 10,077 asylum seekers were removed, indicating a decrease when compared to the year before.

(<http://www.irr.org.uk/research/statistics/asylum/>)

The deportation of asylum seekers usually takes place without a great deal of attention from the public. It is only when something goes wrong that it makes headlines, for example when **Jimmy Mubenga** died in October 2010 on a BA flight to Angola. This case was the subject of an inquest which found that he had been “unlawfully killed”. When the death occurs after deportation, however, it is barely taken note of. In March 2013 **Jackie Nanyonjo**, a lesbian activist deported back to Uganda, died two months after her arrival there, probably as a result of the treatment she had received during her deportation. And in December 2013, **Isa Muazu** was finally deported to Nigeria after a failed first attempt. His case caused an outcry because 100 days of hunger strike had damaged his health to such an extent that he was assumed to be close to death; the deportation went ahead nevertheless, and a psychiatric report has been issued stating that his “disturbed beliefs” formed part of a severe mental illness which caused him to refuse food. Gavin Barwell, MP for Croydon, told a constituent that “a refusal to eat or drink will not automatically mean that a person should be released from immigration detention and this position has been upheld by the courts” and that “the welfare of detainees is the highest priority” – while at the same time supporting the deportation of a man close to death.

What can Friends do?

If you feel in unity with the concern about the treatment of asylum-seekers during deportation, a first step is to become informed about current deportations. The National Coalition of Anti-Deportation Campaigns provides up-to-date information on the “Right to Remain” section of its website <http://ncadc.org.uk/index.html> and also provides comprehensive advice on how to get involved in campaigning.

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