

Q-CAT

QUAKER CONCERN FOR THE ABOLITION OF TORTURE

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The Religious Society of Friends declares itself to be utterly opposed to the use of torture and determined to spare no effort to bring it to an end...
Hamilton Declaration 1976

Update on current legislation

Overseas Operations (Service Personnel and Veterans) Bill

This Bill, which would in effect create immunity for any acts of torture undertaken by UK military personnel that took place more than five years ago, is now with the House of Lords, having passed the second reading in the House of Commons, by 332 to 77 votes. For some reason Labour MPs were told to abstain though 18 rebelled and voted against the Bill.

As reported in *the Friend* (13/11/20), in response to the chorus of criticism the defence secretary announced a judge-led review, to ensure the UK has the best framework, skills and processes in place to investigate complex and serious allegations of wrongdoing by members of the armed forces. This is welcome, but it is extremely disappointing that the Bill will not be paused while this review is undertaken.

A press release from the House of Lords Constitution Select Committee (3/12/20) on their consideration of the Bill, has, as two of its key findings: The Committee recommends that the House seek the reasons for including most war crimes and crime against humanity in the presumption against prosecution. The report also questions whether the restrictions on time limits in Part 2 of the Bill are compatible with the principle of access to justice.

Harriet Harman, chair of the Joint Committee on Human Rights, which has considered the matter, says

“Members of our Armed Forces are not above the law, nor should they be exempt from upholding human rights. There are some very troubling issues with this Bill.

This Bill creates unjustified barriers to the Service Prosecuting Authority’s ability to prosecute members of the Armed Forces who commit crimes. This breaches the UK’s human rights

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obligations and disregards the fact that there are many complexities and difficulties involved in bringing such claims to light. It is wrong that the Government should seek to use a presumption against prosecution to prevent prosecutions even for the most serious human rights violations, such as crimes against humanity, war crimes, murder, torture or genocide.

This Government seeks to use the problem of repeat investigations as a justification for the Bill, but ignores the fact we heard in evidence, which was that repeat investigations are largely a result of poor investigations that lack sufficient independence. Investigations into incidents arising from the UK's involvement in conflicts have exposed extremely serious wrong-doing, and it is therefore vital that future action to investigate and prosecute such crimes can continue unimpeded.

We object to the Ministers denigration of both of lawyers and claims. The repeated use of the term "lawfare" and "vexatious" claims in Parliament and public rhetoric shows a failure to respect the role of the independent legal profession in upholding the rule of law, the role of the courts in striking out vexatious claims and the independence of the Service Prosecuting Authority. We asked the MoD Minister to inform us of any cases where he believed the courts have failed or refused to use their powers to strike out unmeritorious claims. He was not able to do so.

Without amendment, the Bill as it stands will allow those in our armed forces who perpetrate serious crimes to escape justice and prevent victims with justified claims bringing wrongdoing before the courts. It is bad for the rule of law, bad for the victims of crime and bad for our Armed Forces. "

Related to this...Australian SAS troops' criminal behaviour in Afghanistan

As reported in the BBC online news website (19/11/20), after a 4-year inquiry the Brereton Report into misconduct by Australian forces in Afghanistan has been published. Among the findings are that 19 current or ex-special forces soldiers should be investigated by police over killings of "prisoners, farmers or civilians" in 2009-13. The Australian Defence Force blamed crimes on an unchecked "warrior culture" among some of their soldiers. There is also an implication that this was encouraged by the soldiers' immediate superiors. The website refers to not yet concluded investigations about similar behaviour by UK forces and that US, Taliban and Afghan forces were not immune either.

Covert Human Intelligence Sources (Criminal Conduct) Bill

This Bill, also currently before the House of Lords and similarly passed in the Commons with Labour abstentions, is another worrying development in the trend towards lack of accountability for criminal acts, including torture.

It allows confidential informants working for MI5 and the police to break the law, with no exemptions such as rape, murder and torture. The online Guardian (24/9/20) reported the government as saying that the Covert Human Intelligence Sources Bill does not amount to a "licence to kill" because it will be compliant with the European convention on human rights, which safeguards the right to life and prohibits torture. But a coalition of human rights groups led by Reprieve said they believed there should be clear limits to how far agents working undercover in a terrorist gang could be allowed to go by the security services or police forces.

News from other organisations working in torture prevention

Preventing the trade in tools of torture and execution – The Omega Research Foundation write about their work

website www.omegaresearchfoundation.org

Omega is an independent research organisation based in the UK dedicated to providing rigorous, objective, evidence-based research on the manufacture, trade in, and use of, military, security and police (MSP) technologies. The main focus of our current work is investigating the contemporary global trade in, and use of, law enforcement and security equipment.

We advocate for the prohibition of the trade in inherently abusive law enforcement equipment such as [spiked batons](#), [weighted leg cuffs](#), [direct contact electric shock weapons](#) and [body worn electric shock devices](#), and regulation of the trade in other law enforcement equipment that is misused to commit torture and ill-treatment such as [tear gas](#), [batons](#), [projectile electric shock weapons](#) and [leg cuffs](#). We monitor the implementation, and advocate for the continuing review, of the [EU Anti-Torture Regulation](#) which prohibits the trade in certain inherently abusive equipment and controls (through licensing) the export of other specified equipment that could be misused. The Regulation has been recommended as a model for other regions and States to follow; with the [Council of Europe](#) in the process of producing a draft recommendation to states to ban the trade in goods used for torture and the death penalty. We are also advocating for global regulation of this trade. In 2019 the UN General Assembly adopted Resolution [A/73/L.94](#), establishing a UN process to explore “the feasibility and scope of options to establish common international standards for the import, export, and transfer of goods used for capital punishment, torture, and other ill-treatment”.

The monitoring of the use of law enforcement and security weapons and equipment and pushing for stricter domestic and international regulation is another important part of our work. We advocate for stricter regulation and implementation of the [use of less lethal weapons during the policing of assemblies](#). Recently we have been examining the impact of covid-19 on policing and prisons and are [collating and publishing reports](#) of excessive use of force by law enforcement officers in the implementation of Covid-19 emergency. We also published a [position paper](#) setting out the increased risk of using chemical irritants during the pandemic. In addition we work with people who monitor conditions for those deprived of their liberty and have produced a [guide to monitoring weapons and equipment in places of detention](#) and a [manual on monitoring the use of restraints in custody hearings](#).

Redress

Website www.redress.org

Introducing their Annual Report for 2020 they write “Our work this year has been truly international, spanning five continents and over 40 countries. Amongst our many successes, we secured a landmark judgment at the Inter-American Court of Human Rights, which will help to protect LGBT+ persons in Latin America and beyond from discriminatory torture. We helped to build a new network of torture survivors of the conflict in Uganda, which advocated for the introduction of a new transitional justice law that will finally allow survivors to access effective reparations. We intervened in the UK Supreme Court to support the argument that non-state armed groups could also be prosecuted for torture under UK and international law where those groups exercised functions normally exercised by governments over their civilian populations, a point which was confirmed in a ruling by UK Supreme Court. We also held the UK government to account for failing to support a British citizen detained in Panama, and persuaded the Foreign, Commonwealth and Development Office to introduce changes in how they operate.

Atlas of Torture

website www.atlas-of-torture.org

The Atlas of Torture website was for a while out of commission while restructuring but is now fully operational again. It is a 'one-stop-shop' for information on torture and ill-treatment and how they can be prevented. It aims at raising awareness, empowering individuals and organizations as well as fostering cooperation through documentation, learning, and exchange. The team of experts behind the Atlas of Torture is based at the Ludwig Boltzmann Institute of Human Rights (BIM) in Vienna.

A major part of their database is a large collection of official documents on torture, which can be searched by country, year, theme (e.g. detention/procedural safeguards/accountability), source, document type. There are 13 documents relating to UK for 2020, some about the handling of coronavirus in places of detention. Earlier documents for UK include Committee against Torture Concluding Observations for various years.

There is a section titled Learning which has a number of short videos on related subjects. The two added on 27th November *Main challenges in the fight against torture and ill-treatment* and *Root causes of torture and ill-treatment* do not, unfortunately, have live videos yet but presumably these will come. Through the Exchange Platform one can get in touch with experts and professionals in the field of torture prevention.

Freedom from Torture

Commenting on 7/11/20 on the result of the US presidential election Freedom from Torture wrote "For 4 years Trump's words have emboldened torturers around the world. He has said "Torture absolutely works" and that he "loves" waterboarding. He promoted known torture advocates like Gina Hespell and Marshall Billingslea to top roles in government. So we hope that today's result signals a new US commitment to upholding the global torture ban."

In their newsletter Sanctuary Autumn 2020 Freedom from Torture reported the horrifying figure of 38% of Britons who don't think that torture is always wrong. The question asked in the YouGov poll was: Which of the following comes closest to your viewpoint?

:

Torture is wrong under any circumstances 62%
There are some circumstances in which torture is acceptable 25%
Don't know 13%

They conclude "If you refuse to be swayed from the belief that **torture is never justified and always wrong**, it has never been more important to make your voice heard".

Other news

Sally Beamish who is writing the music for our choral work "A Knock on the Door" has been awarded an OBE in the 2020 Queen's Birthday Honours for services to music. In an article for *the Friend* for 20th November about her Quaker faith and music she writes "A Knock on the Door, to a text written by my husband Peter Thomson, is one of the most challenging tasks I've taken on. We had many discussions with the Quaker team who initiated the commission, and talked about the aspects of the horror of torture, and the fact that it damages the perpetrators as well as the victims, by dehumanising them. I wanted this piece to be performable by non-professionals, and the writing will be simple and accessible. I want it to be, rather than a catalogue of unspeakable horror, music which reflects humanity and hope."

Video of Feeding the Darkness

The updated version of this (referred to in the September Newsletter) is now available, free to view at <https://vimeo.com/456483415> Each sketch has a title and sometimes an explanatory sentence, which makes it much clearer.

Next Briefing is due mid-January.
Next Newsletter is due March.