



Torture victims were wrongly imprisoned in UK, high court rules

Home Office expected to face dozens of claims for unlawful detention after legal challenge by survivors of serious abuse

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Hundreds of victims of torture have been wrongly locked up in immigration detention centres, a high court judge has ruled, following a challenge by seven survivors of serious abuse.

Mr Justice Ouseley ruled that aspects of a Home Office policy introduced in September 2016 known as “Adults At Risk” wrongly allowed many who had been tortured overseas to be imprisoned.

The policy redefined torture to refer to violence carried out by official state agents only. As a result, those tortured by traffickers, terrorists or other non-government forces could be held in detention even if expert medical evidence found the scars on their bodies to be consistent with their accounts of torture.

Ouseley found that the narrowing of the definition of torture by the Home Office in its flagship policy lacked “rational or evidence base”.

Tuesday’s judgment states: “The chief problem with the narrowed definition is that it excludes certain individuals whose experiences of the infliction of severe pain and suffering may indeed make them

particularly vulnerable to harm in detention.”

The judge added that the definition of torture intended for use in the policy would require medical practitioners to “reach conclusions on political issues which they cannot rationally be asked to reach”.

The judgment follows a challenge brought by seven victims of torture in conjunction with Medical Justice, which works to improve the health of immigration detainees. The seven include victims of trafficking, a man kidnapped by the Taliban, and two men tortured because of their sexuality.

One of them, a 39-year-old bisexual Nigerian asylum seeker, who was detained in Harmondsworth immigration removal centre near Heathrow airport between 21 September and 2 November 2016, said that although he had won the case he would not be able to erase the damaging effects of his time in detention.

He was beaten, knifed and flogged in Nigeria because of his sexuality. He was granted refugee status in August of this year.

“What happened to me in detention is in my life every day, he said. “I’m having nightmares about the trauma I experienced in that place and have been diagnosed with PTSD. I felt very bad because of the torture I experienced in Nigeria but doctors confirmed that my mental state deteriorated as a result of being detained here. In detention we are not regarded as human beings but as waste products.”

The judgment is expected to lead to dozens of claims for unlawful detention against the Home Office. Following the ruling, lawyers and human rights campaigners have called for all victims of torture to be released from immigration detention.

The Home Office’s own sampling of cases revealed 226 cases between September and December 2016 who as survivors of torture should not have been detained. However, lawyers acting for the seven say that more victims are likely to have been wrongly detained.

Ouseley’s decision is a further blow to the Home Office after a series of negative court rulings in relation to its immigration policies, three deaths in immigration detention over the last few weeks and a recent undercover BBC Panorama programme that revealed abuse of immigration detainees by G4S guards at Brook House immigration removal centre near Gatwick airport.

Emma Ginn, the coordinator of Medical Justice, said: “Narrowing the definition of torture by the Home Office demonstrates its sheer contempt for vulnerable detainees whose lives it is responsible for. There is ample justification for immediately releasing all detained adults at risk so they can access the care and support they need in the community.”

Toufique Hossain of solicitors Duncan Lewis, who represented five of the torture survivors who brought the legal challenge, said: “What is particularly shocking in this case, is that the secretary of state developed a policy, completely at odds with responsible medical opinion and established legal standards, that treated people who suffered abhorrent torture differently, simply on the basis of who their torturer was.”

Jed Pennington of Bhatt Murphy solicitors, who represented two of the claimants and Medical justice, said: “The Adults At Risk policy is fundamentally flawed and should be replaced with a framework that genuinely protects the vulnerable with, as a minimum, a prohibition on the detention of all victims of torture or trauma.”

The Equality and Human Rights Commission intervened in the case. Its chair, David Isaac, said: “People who have been subjected to torture should not be kept in immigration detention. This

unlawful policy has been scrapped, but the government should now go further and strengthen the human rights protections for people in immigration detention.”

The Nigerian torture survivor added: “Being put in detention made me feel that there’s no safe place in the world for me. All of my body is covered in torture scars. I’m still haunted by the sound of the key locking me up in my room in detention and the banging of the doors there. There’s nothing that the Home Office can give me that can ever take away what they have done to me.”

The shadow home secretary Diane Abbott said, “The idea that this country would lock up people who were victims of torture is truly shocking. The court’s verdict must be accepted by government and they need to act. There must be no attempt to work around or simply ignore the ruling, as happened in previous cases. No victims of torture should be held in detention.”

Liberal Democrat home affairs spokesperson Ed Davey said: “It’s sad that government ministers required a judge to tell them it was wrong to lock up the victims of torture. Now we need a proper apology.

“The way the Conservatives have used immigration detention centres has been disgraceful. Theresa May fought tooth and nail to try and stop Liberal Democrat ministers ending child detention in these places. The UK is the only European country with no time limit on immigration detention.

“The Conservative government must show it is serious about adhering to principles of human dignity and radically overhaul how immigration detention works.”

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