Westminster Hall debate

UK policy on torture and the treatment of asylum claims involving allegations of torture

2 March 2017
3-4.30pm

Introduction

The War on Terror saw the US administration excuse torture as necessary in the defence of national security. Since then there has been a general recognition of the damage that this policy inflicted - including to the very thing the US government was trying to strengthen. President Trump’s recent rhetoric suggests that he wants to reopen the debate on whether enhanced interrogation is torture and whether torture is justified to protect a country. This is a debate that has echoes in UK discussions about the future relationship of the UK with the European Convention on Human Rights and a British Bill of Rights. Attempts to qualify or define at a national level the absolute prohibition on torture can only weaken it.

The impact of this rhetoric domestically can also not be underestimated. These potential legal and policy changes are being signalled at a time when Europe is in the midst of the largest refugee crisis in history. With ever escalating political pressure to reduce immigration numbers and a desire for government to pre-emptively address security threats, there is a risk that refugees, including those who have survived torture fail to receive protection. This debate will focus on the need to maintain the absolute ban on torture, not just in rhetoric but in practice, and to ensure that survivors of torture are treated fairly in the UK asylum system.

International torture ban under threat

On the world stage these messages from the UK and US, both members of the UN Security Council, are a significant concern, given the widespread moral objections to torture and its purported ineffectiveness as an interrogation method. Survivors often describe how they would have said anything to make the pain and fear end. Torture destroys lives and communities and makes the UK less safe by turning people against us and undermining our moral authority as a country that plays by the rules and protects human rights.

The European Convention on Human Rights is one of the most effective torture prevention tools in history and a crucial source of redress and protection for torture survivors. Over hundreds of years the UK forged anti-torture laws that paved the way for the absolute prohibition in the European Convention on Human Rights, largely penned by British lawyers. Ending the UK’s membership of the European Convention on Human Rights risks sending a message to torturing states like Russia and Turkey that international human rights obligations are optional for all. It also undermines the government’s foreign policy objective to champion the “rules based international system”.

‘Proving Torture’ for survivors in the UK asylum system

The UK’s position on the absolute ban on torture as well as the government’s commitment to providing protection for the most vulnerable is paramount in ensuring the protection of survivors of torture who reach the UK and apply for asylum. Research indicates that as many as 27% of adult forced migrants living in high income countries like the UK have survived torture in their country of origin. Nevertheless, survivors of torture are finding it increasingly difficult to secure protection though the UK asylum system.

Many torture survivors have little else other than medical evidence to prove the fact of their torture. But for many survivors of torture in the asylum system, proving what has been done to them is becoming near impossible, even when they present extensive expert medical evidence of torture. When their claims fail, torture survivors could be forced to return to further torture.

A new report by Freedom from Torture called “Proving Torture” was recently launched in Parliament, supported by MPs from across the House. It analyses the mistreatment by asylum caseworkers of 50 expert medico-legal reports. These medico-legal reports are commissioned by legal representatives on behalf of asylum claimants to assist decision-makers in establishing key factual elements of a claim. ‘Proving Torture’ reveals that existing Home Office policy guidance on handling expert medical evidence of torture is poorly implemented. The research showed that for cases where the outcome was known, the overturn rate was 76% compared to a 30% average for asylum appeals. This unusually high ‘overturn rate’ indicates a serious problem with the Home Office’s handling of asylum claims by torture survivors requiring correction via a judge in a specialist immigration tribunal, at considerable cost to UK taxpayers.

More scrutiny is needed of how the Home Office is planning to improve the recurring and systematic errors in decision-making in these cases. Since the launch of ‘Proving Torture’ Home Office officials have indicated an intention to address some of these issues in decision-making by strengthening training and mechanisms for quality control and auditing. Now further political and parliamentary activity is needed to make sure the department and the government more broadly recognises the vulnerabilities of torture survivors within the asylum system and takes concrete steps to address weaknesses in the system to make sure they are not forgotten.

Questions to the Minister

- Will the minister reaffirm the UK’s position as a champion for the absolute ban on torture?
- As a start to addressing the issues identified in Proving Torture, will the minister commit to the immediate strengthening of training as well as mechanisms for quality control and auditing to improve decision-making in asylum claims made by survivors of torture?

Find online versions of the summary and full report of Proving Torture at: www.freedomfromtorture.org/provingtorture

To discuss any of the matters in this briefing please contact Lucy Gregg, Senior Policy Advisor at lgregg@freedomfromtorture.org or on 020 7697 7839