

are entitled to, because the trip takes 48 hours by public transport and they have no car. Furthermore, such transfers make face to face visits between the suspects and clients impossible and often are intended to obstruct the defense.

Extradition & The Danger of Deportation

There are further concerns for the safety of the Foreign Nationals if they were to be extradited to the Continent. There is a strong possibility if they were handed over to France or Spain, they could be deported to a third country such as Algeria, Morocco or Tunisia. Such a move would have grave consequences for the lives and well being of these men. Algeria, for example, has a notorious record on human rights, and its abuses have been documented for a number of years by Human Rights organisations.

The Department of State's report of February 2005 noted a continuation of "excessive use of force by the security forces" as well as "new allegations of incidents and severity of torture."

The men could face further danger as, as Amnesty noted that there is "a predisposition to assume that persons returned from abroad on travel documents are linked to Islamists" and as such "if a detainee is suspected of this, the ill-treatment is likely to be severe".

Despite Government attempts to get diplomatic assurances that any returning suspects will not be harmed, these are just "empty promises", as is maintained in a recent Human Rights Watch Report, which cites many cases of such guarantees not being met. One such case is that of Mohammad Chalabi, who was deported to Algeria from France, with formal guarantees given to the latter. He was re-arrested on his return and was never heard of since.

For the Foreign Nationals who languish in the concrete coffins of Belmarsh and Woodhill, extradition to Europe is not just a simple transfer. It could mean a further diminishing of their human rights, worsening conditions of detention, or, most disturbingly, a threat to their very lives.

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No to Extradition to Europe

Extradition of Detainees

Eight Foreign Nationals remain in Belmarsh and Woodhill prisons, and five are under threat of extradition to France and Spain.

In April of this year, the Home Office decided to extradite Rachid Ramda to France, an Algerian national who has spent almost a decade in detention in Belmarsh prison. Similarly Mustapha Labsi has also been requested.

Yet their extradition to these countries puts their human rights in grave danger...

French Law Enforcement

Beyond the Law

In two reports of 1994 and 2005 respectively, Amnesty International brought to light an increase in excessive and unlawful force on the part of French law enforcement officers, towards detainees who for the most part are either Foreign Nationals or French Nationals of foreign origin.

A vast proportion of these were Muslims of North African

descent. The reports cited a number of cases in which the respective authorities used excessive force in dealing with suspects in initial identity checks, in police custody and also when incarcerated.

A 1999 study cited 24 defendants who were kept in provisional detention for a period of four years before the opening trial, a number of these being kept in isolation. There was also note of negligent medical care and a failure to allow immediate access to legal counsel. Although investigations into these allegations of mistreatment did take place, they were often conducted after considerable delay and lapse in time.

"...There was also note of negligent medical care and a failure to allow immediate access to legal counsel..."

Furthermore, when the perpetrators had been identified and brought to trial, often the sentences they received failed to reflect the gravity of the crime

"...These factors have lead to a climate of what Amnesty International describes as "effective impunity", on the part of the police force and other law enforcement agencies..."

committed. For example, a police officer convicted for the fatal shooting of an unarmed man, Riad Hamlaoui, in April 2000 was given a three-year suspended sentence and therefore remained at liberty at the end of the year.

As such, these factors have lead to a climate of what Amnesty International describes as "effective impunity", on the part of the police force and other law enforcement agencies.

CASE STUDY Torture in Police Detention : The Case of Ahmed Selmouni

In March 1998, the European Commission on Human Rights published a report which concluded that Ahmed Selmouni, a dual Dutch and Moroccan National was tortured by French police officers while being held in incommunicado detention in 1991.

During this period, Ahmed alleged that he had been kicked and punched, beaten with a truncheon and baseball bat; forced to kneel and then lifted to his feet by his hair; forced to run along a corridor while police officers tripped him; humiliated in front of a young woman; exposed to a police officer's penis and told to suck it before being urinated on; threatened with a blow torch and a syringe, and finally raped by one officer with a small black truncheon. A medical examination during this four-day period found injuries consistent with the suspect's claims of torture.

The case only came to court several years after the violations had taken place and the attempt to sentence one of the officers to a prison term failed, when police unions protested. Others convicted appealed their decisions and as a result the perpetrators were allowed to continue their police careers. The prison confirmed the existence of injuries, but none of the perpetrators were identified.

CASE STUDY: Conditions of Incommunicado Detention – the 11-M Suspects

All of the suspects alleged to have participated in the Madrid bombings were taken to the central Cannillas police station on their arrest.

They were kept in underground cells with no natural light for the period of their detention. When seen by their legal representatives they were described as being disorientated and confused.

They were not allowed to brush their teeth, nor bathe whilst in police custody and were clothed in white jumpsuits. Although prison officials maintain suspects are allowed out of their cell for two hours a day, three of the 11-M suspects were not allowed out at all.

incriminating questions from being asked. Access to all family members and third parties are denied, as is access to an independent physician. These conditions of detention leave the detainee susceptible to unlawful pressure. For example, one of the Madrid 11 defendants claimed that he was illegally

Spain's Anti Terrorism Regime *Undermining Human Rights*

Spain's current anti terrorism laws have been shaped by years of grappling with ETA violence along with a recent targeting of Islamic militancy, following the Madrid bombings of 2004.

▪ Incommunicado Detention

Of great concern are the incommunicado detentions which can last up to 13 days, and the pre trial detentions which extend to a further four years.

Detainees in incommunicado detention are kept in isolation and do not have access to a lawyer of their choosing; rather they are assigned a legal representative by the authorities. This representative cannot confer with the client privately, nor can he/she offer the detainee legal advice or prevent

questioned nightly without a lawyer present, sometimes two or three times a night, for the four nights he spent in police custody. Shortcomings in the right to medical examination have also opened the door to mistreatment.

One defendant complained that that he had been made to stand with his arms outstretched for long periods of time and that he had been hit in the stomach. The Judge did not believe this claim because the doctor's reports contained no evidence about this.

▪ Secret Legal Proceedings

Of further concern is the use of secret legal proceedings which undermine the right to an effective defense.

Defense attorneys are denied access to detailed information regarding the charges and evidence related to their clients. In contrast, the prosecution is entitled to all such evidence.

Furthermore, pre-trial detention, which could last a period up to four years, can be based upon secret evidence and the state is not compelled to divulge the grounds that warrant the detention.

One case of conditions in pre-trial detention is that of *Taysir Allouni*, an Al Jazeera journalist accused of Al Qaeda links. Allouni was held in a 2.5m x1.6m cell.

His conditions resembled almost complete solitary confinement and he was denied medical treatment for both heart complications and back problems.

Some detainees in pre-trial detention have been relocated so that they were hundreds of kilometres away from their families. Osama Darra, one of the 11-S was relocated from Navalcarnero prison near Madrid to Pontevedra prison in the town of A Lama. His wife and three children live in Madrid and are now unable to visit him on a weekly basis, as they

CASE STUDY: Defendant J

Human Rights Watch learned of one particularly disturbing instance of abusive treatment of a defendant just prior to his release on provisional liberty.

Defendant J was remanded into pre-trial detention on September 18, 2003, and remained in pre-trial detention until late April 2004. He was placed under a restrictive closed regime after the March 11 bombings and was allowed outside his cell for just fifteen minutes a day on his own.

On April 19, 2004, Judge Garzón ordered his release on provisional liberty, but when his lawyers went to the prison the next day, they were told he was no longer there. For the next five days, J. disappeared. As his lawyers frantically tried to locate him, J. was taken to five different prisons. During this time, he was not allowed to shower or clean himself in any way. He was not told of the order for his release, but rather that he was being transferred to the worst prison in Spain where he would surely be killed by other inmates.

His lawyers were finally able to locate him and when one of his lawyers arrived at the prison to secure his client's release, a prison guard told J.: "you're not getting out of here because you're a shitty terrorist" and threatened him that he would have to clean his cell with his tongue before going anywhere.

He was eventually released. He and his lawyers have decided to postpone legal action against the prison system until after the trial. On November 19, 2004, defendant J was remanded back in pre-trial detention.