

AMNESTY INTERNATIONAL

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Current Concerns in the case of Mahmoud Abu Rideh

Amnesty International is concerned about Mahmoud Abu Rideh, a stateless Palestinian recognized as a refugee in the UK in 1997, who has been subject to a “control order” imposed by the United Kingdom authorities for over four years.

Mahmoud Abu Rideh was detained without trial under the Anti-Terrorism, Crime and Security Act 2001 (ATCSA) between December 2001 and March 2005 at HMP Belmarsh and Broadmoor Hospital. Since 11 March 2005 Mahmoud Abu Rideh has been the subject of control orders under the Prevention of Terrorism Act 2005 (PTA).

Amnesty International understands that Mahmoud Abu Rideh has made repeated requests to the Prime Minister and the Home Office for his control orders to be lifted or to be issued with the necessary internationally-recognized travel documentation and permission to leave the country, including a request in writing as recently as 26 May 2009.

The strict conditions and length of time that he has been subject to control orders have had a severe impact on Mahmoud Abu Rideh’s physical and mental health. Amnesty International has been informed that Mahmoud Abu Rideh has reached a high level of despair and that there is a real risk he would commit suicide if he remains under control orders in the UK and denied an internationally-recognized travel documentation which would allow him to leave the UK. Mahmoud Abu Rideh has previously attempted suicide on three occasions, most recently in May 2008.

In this context Amnesty International has been monitoring and raising its concerns with the UK authorities about the treatment of Mahmoud Abu Rideh and other individuals detained under control orders.

Prolonged imposition of control orders under the Prevention of Terrorism Act 2005 (PTA)

Amnesty International considers that the imposition of control orders under the PTA is tantamount to charging, trying and sentencing a person without the fair trial guarantees required in criminal cases. Amnesty International considers that the control order regime created by the PTA is intrinsically inimical to the rule of law, the independence of the judiciary and human rights protection in the UK. In particular, this regime runs counter to the principle of equality before the law and the right to a fair trial – including the presumption of innocence, equality of arms, access to counsel and the right to an effective defence – even more so when the conditions imposed on an individual are tantamount to deprivation of liberty. It allows a government minister, subject to limited judicial scrutiny, to impose severe restrictions on the right to freedom of movement, and in some cases liberty, of an individual who is suspected of involvement in terrorism-related activity but has not been charged with any criminal offence. The proceedings whereby a control order can be challenged in the courts are deeply unfair, including because of their heavy reliance on secret material considered in closed sessions of the court, and not disclosed to the individual concerned or to their lawyers of choice.

Mahmoud Abu Rideh was detained for over three years under Part IV of the Anti-Terrorism, Crime and Security Act 2001 (ACTSA), on suspicion of being involved in terrorism-related activity. The grounds for that suspicion were kept largely secret from him and from his lawyers. Immediately after his release from detention under ACTSA in March 2005, a control order was imposed upon him under the Prevention of Terrorism Act 2005. Subsequently, Mahmoud Abu Rideh has been continuously subject to control orders for over four years. Under the terms of his current control order, he is required to stay inside his home for 12 hours a day, and to phone a monitoring company three times a day. Any visitors to his home - while he is there - must be approved by the Home Office. He is not allowed to have any internet connection in his home. Any breach of these obligations is considered a criminal offence. To date, no charges for substantive terrorism-related offences have been made against Mahmoud Abu Rideh. None of the charges that have been laid on him for alleged breaches of his control order have yet come to trial.

Amnesty International notes the recommendations of the two most recent annual reports prepared by Lord Carlile, Independent Reviewer of counter-terrorism legislation. In particular, Amnesty International expresses serious concern that despite Lord Carlile's call for an exit strategy from the system of continued imposition of control orders, no such strategy appears to be in place in the case of Mahmoud Abu Rideh. Lord Carlile also states that control orders cannot be continued indefinitely and cannot normally be justified for more than two years. In the case of Mahmoud Abu Rideh, Amnesty International is deeply concerned that the control order has been continued for over four years. Furthermore, Mahmoud Abu Rideh has not been able to see, or to effectively challenge, much of the material on which the government bases the allegation that he is, or has been, involved in terrorism-related activity. The recent House of Lords ruling in *AF, AN & AE* unanimously concluded that, to protect the rule of law, suspects must be told enough about the allegations against them in order to effectively challenge them.

In short, Amnesty International considers that the continued and apparently indefinite imposition of a control order against Mahmoud Abu Rideh, based on allegations that he has not effectively been able to challenge, is unfair and disproportionate, and violates the UK's human rights treaty obligations. Amnesty International urges the UK authorities to immediately lift the control order against Mahmoud Abu Rideh, or to charge him with a recognizably criminal offence and try him in fair proceedings in which he is able effectively to challenge the allegations against him.

Health concerns

Mahmoud Abu Rideh, a stateless Palestinian, was recognized as a refugee in the UK in 1997. Mahmoud Abu Rideh is a survivor of torture and suffers from Post Traumatic Stress Disorder (as confirmed by the European Committee for the Prevention of Torture (CPT) in its 2004 report). Amnesty International understands that the control order against Mahmoud Abu Rideh has had a serious impact on his well-being, including to his mental and physical health. A consultant psychiatrist examining Mahmoud Abu Rideh in 2008 described the obligation to report daily to a police station, which was a condition of the control order until 8 August 2008, as "having the most deleterious effects on his mental health". Mahmoud Abu Rideh has attempted suicide on at least three occasions, most recently in May 2008.

The UK authorities have a duty to monitor effectively the impact of coercive measures (such as detention and control orders) on the psychological health of people subject to control orders, particularly where the authorities are aware of complex mental health histories of individuals. Amnesty International considers that the UK authorities have failed adequately to discharge this duty in the case of Mahmoud Abu Rideh. Amnesty International is particularly concerned at what we understand to be a deterioration in Mahmoud Abu Rideh's mental health and attendant increased risk of suicide as a result of the strict conditions of his control order and their impact on his family life. Mahmoud Abu Rideh's wife and six children, all British

nationals, left the UK for Jordan on 25 May 2009, to live with his wife's parents. Amnesty International is deeply concerned that the departure from the UK of his wife and children has increased Mahmoud Abu Rideh's risk of suicide as a result of what is said to be his despair at losing his family forever.

Provision of an internationally-recognized travel documentation in accordance with the provisions of the 1951 Convention relating to the Status of Refugees (the Refugee Convention)

Under article 28 of the Refugee Convention, the UK authorities have an obligation to provide Mahmoud Abu Rideh with travel documents

In General Comment 27 on freedom of movement (article 12 of the International Covenant on Civil and Political Rights), the UN Human Rights Committee stated that "[i]n order to enable the individual to enjoy the rights guaranteed by article 12, paragraph 2, obligations are imposed both on the State of residence and on the State of nationality. Since international travel usually requires appropriate documents, in particular a passport, the right to leave a country must include the right to obtain the necessary travel documents. The issuing of passports is normally incumbent on the State of nationality of the individual. The refusal by a State to issue a passport or prolong its validity for a national residing abroad may deprive this person of the right to leave the country of residence and to travel elsewhere."

Amnesty International understands that Mahmoud Abu Rideh is not able to obtain Palestinian travel documents and in practice cannot exercise his right to leave any country unless the UK government issues him with an appropriate travel document. Amnesty International has been informed of delays by the UK authorities in responding to Mahmoud Abu Rideh's requests for permission to leave the UK and for internationally-recognized travel documentation to permit him to leave the UK for a safe destination.

Amnesty International understands that Mahmoud Abu Rideh and his legal representatives approached the Home Office and the Crown Prosecution Service on various occasions in 2008 for permission for him to leave the UK. Amnesty International understands that Mahmoud Abu Rideh's UN Convention Travel Document expired in February 2009, and that his application to renew the travel document was refused. Amnesty International has also seen copies of letters written on 26 May 2009 by Mahmoud Abu Rideh to the Secretary of State for the Home Department and the Prime Minister, requesting internationally-recognized travel documentation in order to be able to leave the UK.

In short, it appears that in the period in which Mahmoud Abu Rideh had a valid UN Convention travel document he was not permitted to leave the UK, but once such permission was given, he was denied the ability to renew the necessary internationally-recognized travel documentation with which he can exercise his right to leave the UK in dignity and safety to a country of his choosing.

Amnesty International is concerned that the delays in responding to Mahmoud Abu Rideh's request for permission to leave the UK and in issuing internationally-recognized travel documentation that allows him to exercise his right to leave the UK appear to be inconsistent with his rights under article 12(2) of the International Covenant on Civil and Political Rights (ICCPR), as well as a barrier to him enjoying his rights to private and family life guaranteed by Article 17 of the ICCPR and Article 8 of the European Convention on Human Rights.

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