

Handouts

Case card for use at step 2 of the instructions

The Case

Karamjit Singh Chahal is an Indian citizen, but currently lives in the UK. He is a Sikh, and he supports the campaign for an independent Sikh state in the Punjab area of India.

The British Government is trying to deport Mr Chahal back to India because it claims that his support for Sikh independence and his past activities mean that he is a threat to national security in the UK, particularly given the current concerns over terrorist activity.

Mr Chahal is fighting the deportation in the European Court of Human Rights, because he claims that he is certain to be tortured if he returns to India. He argues that this would be a violation of Article 3, and therefore that the Government is not entitled to deport him.

Role Card for Karamjit Singh Chahal

You are an Indian citizen, but currently live in the UK. You are a Sikh, and you support the campaign for an independent Sikh state in the Punjab area of India.

The British Government is trying to deport you back to India because it claims that your support for Sikh independence and your past activities mean that you are a threat to national security in the UK, particularly given the current concerns over terrorist activity.

You are certain that if you return to India, you will be tortured, as many of your friends and family have been – and as you were yourself the last time you were in India. This was only six years ago, and you were arrested and detained by the Punjab police for 21 days. During this time you were kept handcuffed in terrible conditions, beaten till you were unconscious, electrocuted on various parts of your body and subjected to a mock execution. Later on you were released without charge.

You claim:

1. You are not a threat to national security in the UK, because you support a peaceful resolution to the conflict in India.
2. You will certainly be tortured again if you go back to India, because things there have not changed substantially, and you are now even better known as a separatist.
3. If the UK Government lets that happen, it will be denying you your right to be free from torture. That would violate Article 3 of the ECHR.

Articles from the European Convention on Human Rights:

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 15: Derogation in time of emergency

1. In time of war or other public emergency, a government may limit some of the rights in this convention, but only when absolutely necessary.
2. The rights in Articles 3, 4(i) and 7 can never be limited. The right to life cannot be limited except in the case of deaths resulting from lawful acts of war.

Role Card for the UK Government**The Case**

Karamjit Singh Chahal is an Indian citizen, but currently lives in the UK. He is a Sikh, and he supports the campaign for an independent Sikh state in the Punjab area of India.

You act on behalf of the UK Government, which is trying to deport Mr Chahal back to India, because it claims that his support for Sikh independence and his past activities mean that he is a threat to national security in the UK, particularly given the current concerns over terrorist activity.

Mr Chahal is fighting the deportation in the European Court, because he claims that he is certain to be tortured if he returns to India. He argues that this would be a violation of Article 3, and therefore that the Government is not entitled to deport him.

You claim:

Mr Chahal is not at serious risk of being tortured because the situation in India has changed since he was there last, and you have a guarantee from the government there that he will be safe.

He is a threat to national security here in the UK because of his activities with the Sikh independence movement.

His right not to be tortured should therefore be limited and should not take precedence over the possible threats to national security.

Articles from the European Convention on Human Rights:**Article 3: Prohibition of torture**

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Article 15: Derogation in time of emergency

In time of war or other public emergency, a government may limit some of the rights in this convention, but only when absolutely necessary.

The rights in Articles 3, 4(i) and 7 can never be limited. The right to life cannot be limited except in the case of deaths resulting from lawful acts of war.

Role Card for the Judges

The Case

Karamjit Singh Chahal is an Indian citizen, but currently lives in the UK. He is a Sikh, and he supports the campaign for an independent Sikh state in the Punjab area of India.

The UK Government is trying to deport Mr Chahal back to India, because it claims that his support for Sikh independence and his past activities mean that he is a threat to national security in the UK, particularly given the current concerns over terrorist activity.

Mr Chahal is fighting the deportation in the European Court, because he claims that he is certain to be tortured if he returns to India. He argues that this would be a violation of Article 3, and therefore that the Government is not entitled to deport him.

The likelihood of torture: Information from different sources

In a 1995 report, the UN Special Rapporteur on torture commented on the practice of torture in police custody: "... few incidents, in what is credibly alleged to be a widespread, if not endemic, phenomenon are prosecuted and even fewer lead to conviction of the perpetrators."

A recent Amnesty International report lists a pattern of human rights violations committed by officers of the Punjab police acting in under-cover operations outside their home State. Amnesty claims that prominent Sikh separatists still face a serious risk of "disappearance", detention without charge or trial, torture and extrajudicial execution, often at the hands of the Punjab police.

Articles from the European Convention:

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Information card for use by the facilitator at point 8 of the instructions

Summary of the case *Chahal v. The U.K.*, (22414/93) [1996] ECHR 54 (15 November 1996)

Facts: The applicant is a Sikh who illegally entered the United Kingdom but his stay in the UK was later regularised under a general amnesty for illegal entrants. He had been politically active in the Sikh community in the UK and played an important role in the foundation and organisation of the International Sikh Youth Federation. He was arrested but not convicted for conspiracy to kill the then Indian Prime Minister, and was later convicted for assault and affray, but the conviction was set aside. A deportation order was issued because of his political activities and the criminal investigations taken against him, and he was detained until the ruling of the ECHR.

Complaint: The applicant claimed that his deportation to India would result in a real risk of torture, inhuman or degrading treatment which would violate article 3 of the European Convention. He also claimed a violation of his right to freedom of liberty guaranteed by article 5.

Holding: The ECHR found a violation of article 3 and article 5(4) and 13, but no violation of article 5(1).

Reasoning: Article 3 contained a guarantee which is absolute in expulsion cases, so the UK could not rely on its national security interest to justify the deportation of the applicant. The applicant would face a real risk of ill treatment if deported to India. No violation of article 5(1) was found since the decision was important and could not be taken hastily. The assertion of a national security interest should not free national authorities from effective control by national courts so the proceedings in the English courts did not meet the requirements of Article 5(4).

<http://www.hrcr.org/safrica/citizenship/Chahal.html>