



Tamil Information Centre

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PRESS RELEASE

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Canadian Supreme Court reaffirms the importance of international norms

The Tamil Information Center (TIC) welcomes the landmark decision of the Supreme Court of Canada in the deportation case of Tamil activist Manickavasagam Suresh. The judgment may have implications for other refugees not only in Canada but other nations as well. This comes at a time when Western governments are attempting, in the face of the 11 September attacks in New York, to justify erosion of the rights of refugees and other rights guaranteed in international law.

Suresh was granted refugees status in Canada in 1991 under the UN Convention on Refugees, but in 1995, the Canadian government detained him and began deportation proceedings on national security grounds, based on the reports of the Canadian intelligence services, alleging that *'he was raising funds for the LTTE which is an organization engaged in terrorism'*.

The Federal Court of Canada upheld as reasonable the Deportation Certificate issued by the government. The Minister of Citizenship and Immigration declared him as a danger to Canada, based on an immigration officer's memorandum, but a copy of this memorandum was not provided to Suresh to challenge the issues raised therein. The Federal Court dismissed an application for Judicial Review on this matter.

Allowing the appeal by Suresh, the Supreme Court, pointed out that Canadian law and international norms reject deportation to a country where torture is prevalent.

In early January 2002, Amnesty International had expressed fear that Suresh would face grave risk of torture in Sri Lanka. The Court said that although the Refugee Convention, on its face, does not categorically reject deportation to torture, it should not be used to deny rights that other legal instruments make available to everyone.

The Supreme Court also criticized the Canadian government for failing to provide all information to Suresh. The Court said that refugees must be provided with an opportunity to respond in writing to the case presented by the Minister and to challenge the Minister's information. The refugee is entitled to present evidence on whether his/her presence will not be detrimental to Canada, on the risk of torture upon return and on the value of assurances of foreign governments that the deportee will not face torture. The Court further held that the Minister must provide written reasons for her decision on all relevant issues.

The Court further pointed out that international law generally rejects deportation to face torture even where national security interests are at stake. The Court noted that the House of Lords had rejected torture as a legitimate tool to use in combating terrorism and protecting national security. The Court ordered that Suresh is entitled to a new deportation hearing and remanded the case to the Immigration Minister for reconsideration.

The Supreme Court has reaffirmed important principles relating to the rights of refugees and others and the TIC hopes that the decision will introduce sobriety in the charged atmosphere since 11 September. TIC believes that although national security is important, long established international principles and rights guaranteed under international law should not be sacrificed. Governments need to review their current thinking and approaches to the refugee problem by concentrating on the root causes of refugee flights.

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