



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

## COMMUNIQUE DE PRESSE - COMUNICADO DE PRENSA

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### **UN Human Rights Sub-Commission: Achievements in the face of increasing marginalisation**

The International Commission of Jurists (ICJ) welcomes the significant achievements in a difficult political climate taken by the UN Sub-Commission on the Promotion and Protection of Human Rights during its 55th session, which concluded on Friday.

The ICJ is particularly heartened by the Sub-Commission's adoption of a set of Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to human rights; its defence of the International Criminal Court; and its engagement with the question of counterterrorism measures and human rights. At the same time the ICJ remains greatly concerned that a number of states are continuing in their efforts to marginalize and constrain the Sub-Commission as an effective vehicle for human rights protection.

The Sub-Commission, composed of 26 independent experts and subsidiary to the State-constituted Commission on Human Rights, evinced a clear willingness to confront the recent attacks made by certain States on international institutions and standards. This vigour was manifest in the resolutions it adopted on human rights and counter-terrorism, the International Criminal Court, the death penalty, the abuse of military tribunals and economic, social and cultural rights.

The Sub-Commission adopted 43 resolutions and decisions, all by consensus, and discussed a number of thematic studies produced by its members. The Chairperson, Madame Halima Warzazi, deftly performed an always difficult task. She did not hesitate to call to order interventions not relating to the items under discussion or which delivered the same interventions under various items. Some of these interventions were delivered by organizations purporting to be NGOs, but clearly associated with governments.

In 2000, the Commission on Human Rights decided to disallow adoption by the Sub-Commission of country-specific resolutions, decision or statements or to include references to specific countries in thematic resolutions. The negative impact of this decision resounded forcefully at this year's session. Debate on agenda item 2, which examines human rights situations around the world, was manifestly strained and muted and only a single resolution was adopted.

The Sub-Commission adopted a positive resolution on "*Effects of measures to combat terrorism on the enjoyment of human rights*", which emphasized that "that States must ensure that all measures adopted to combat terrorism comply with their obligations under international human rights law, international refugee law and international humanitarian law". It contains a

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decision by the Sub-Commission to study the compatibility of counter-terrorism measures, both legislation and other activities adopted at the national, regional and international levels with international human rights standards, with a view to elaborating guidelines. The ICJ considers that the conduct of such a study and the development of guidelines will constitute useful contribution by the Sub-Commission. However, this approach is no substitute to the establishment of a universal and integral mechanism to examine the compatibility of particular anti-terrorist measures undertaken with international human rights obligations of States. It is therefore imperative that the Commission on Human Rights, the only body with the competence to address the question fully, cease its stalling and establish such a mechanism at its next session in 2004.

The resolution on the International Criminal Court condemns immunity agreements signed between States and immunity to U.N forces granted by Security Council resolutions. The Sub Commission thereby took a stand on a matter of some alarm: that one organ in the UN System, the Security Council, is now working to dismantle and undermine the work to combat impunity that other organs of the UN have been struggling to achieve over the last 50 years.

Another notable gain was the adoption by the Sub-Commission of a resolution on military tribunals, an issue with which the ICJ has long been involved. The resolution reiterates the right of all detained persons to a fair and public hearing by a competent, independent and impartial tribunal and the need to “civilize” military courts.

The resolution on *Transfers of persons with particular reference to the death penalty* is of special importance in the light of recent deportations from Bosnia Herzegovina and Malawi to surrender suspects to the United States in defiance of judicial court orders and without any fundamental human rights guarantees.

The Sub-Commission’s unique status within the United Nations as an independent body with a universal mandate has put it among the vanguard of human rights institutions. By seeking to reduce its role to that of solely a “think tank”, some States are seeking to stifle the independent and expert voices within the UN system. An unfortunate result of these efforts is that States have reduced their engagement with the Sub-Commission, as evidenced by the number of empty seats among state delegations and the paltry number of state interventions.

The ICJ will continue to press for the Sub-Commission to be restored to its full capacity.

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