



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

Human Rights Council

4th session, 26 March 2007

*Report of the Special Rapporteur on the Promotion and Protection of Human Rights while
Countering Terrorism*

Interactive Dialogue

Check against delivery

Oral Intervention of the International Commission of Jurists

Mr President,

The International Commission of Jurists (ICJ) welcomes the work of the Special Rapporteur on the Promotion and Protection of Human Rights while countering terrorism. We encourage States to follow his guidance on profiling, a practice that is increasingly expanding from 'terrorist profiles' into even more problematic profiles on 'radicalisation' and 'extremism'.

We continue to receive persistent accounts of an erosion of human rights and the most fundamental rule of law principles in the fight against terrorism in various parts of the world. This is clearly emerging from the twelve hearings held so far by the ICJ Eminent Jurists Panel on Terrorism and Human Rights in various regions of the world. These violations, with the frequent implication of intelligence services, are shrouded in a culture of secrecy that ensures impunity.

Mr President,

The ICJ welcomes the invitation of the Special Rapporteur to the United States of America. We urge its government to provide unhindered access to persons under detention and to terrorism related legal proceedings if requested.

The acknowledgment of secret detention by the United States of America and evidence on extraordinary renditions are a serious concern requiring the Council's urgent attention. The US bears full legal responsibility for this system, but there is credible evidence that it relies on the assistance of other states in Europe and elsewhere.

Mr President,

Persons have been kidnapped or they have been arrested and then transferred from one place to another outside any legal processes, primarily for the purpose of interrogations without the restraints of law. Their detention is not acknowledged and they have no means to contact any relative, lawyer or consulate or anybody else. They have no means to exercise any legal remedy to challenge their detention or their treatment. They are effectively placed outside the protection of the law.

Their human rights are violated, including the right to liberty and security of the person, the freedom from torture and cruel, inhuman or degrading treatment or punishment. This practice amounts to an enforced disappearance as defined under customary international law. These are not isolated cases, but the result of a planned government policy.

We are concerned at the continuous impunity for those violations. National security must not be claimed to prevent disclosure of international crimes and gross human rights violations, such as secret detention, torture or disappearances.

Some of those held in secret detention have been transferred to Guantanamo Bay, where they are held in disregard of international humanitarian and international human rights law, and may face unfair trials under the Military Commissions Act 2006. The Council should send a clear message that Guantanamo Bay detention centre should be closed, and should offer its assistance to the US in achieving this in compliance with its human rights obligations.

Mr President,

Secret detention, enforced disappearances and torture are morally and legally unacceptable. All states including those present in this Council, are under a clear obligation to prevent such violations and to bring them collectively to an end.

This Council has set an important signal in adopting a new Convention Against Enforced Disappearances in its first session. We urge the Council not to be complacent when such practices are exercised with impunity and justified in the name of fighting terrorism.