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Report: Leading Jurists Call for Urgent Steps to Restore Human Rights in efforts to counter terrorism

Prominent Judges and Lawyers Release Findings of Three-Year Investigation

In one of the most extensive studies of counter-terrorism and human rights yet undertaken, an independent panel of eminent judges and lawyers today presents alarming findings about the impact of counter-terrorism policies worldwide and calls for remedial action. The Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights, established by the International Commission of Jurists (ICJ), has based its report "**Assessing Damage, Urging Action**" on sixteen hearings covering more than forty countries in all regions of the world.

"In the course of this inquiry, we have been shocked by the extent of the damage done over the past seven years by excessive or abusive counter-terrorism measures in a wide range of countries around the world. Many governments, ignoring the lessons of history, have allowed themselves to be rushed into hasty responses to terrorism that have undermined cherished values and violated human rights. The result is a serious threat to the integrity of the international human rights legal framework," said Justice **Arthur Chaskalson**, the Chair of the Panel, former Chief Justice of South Africa and first President of the South African Constitutional Court.

The report illustrates the consequences of notorious counter-terrorism practices such as torture, disappearances, arbitrary and secret detention, unfair trials, and persistent impunity for gross human rights violations in many parts of the world. The Panel warns of the danger that exceptional "temporary" counter-terrorism measures are becoming permanent features of law and practice, including in democratic societies. The Panel urges that the present political climate may provide one of the last chances for a concerted international effort to take remedial measures and restore long-standing international norms. The change in US administration provides a unique opportunity for change.

"Seven years after 9/11 it is time to take stock and to repeal abusive laws and policies enacted in recent years. Human rights and international humanitarian law provide a strong and flexible framework to address terrorist threats," said **Mary Robinson**, former United Nations High Commissioner for Human Rights, former President of Ireland and current President of the ICJ. "It is now absolutely essential that all states restore their commitment to human rights and that the United Nations takes on a leadership role in this process. If we fail to act now, the damage to international law risks becoming permanent", she added.

The report calls for the rejection of the "war on terror" paradigm and for a full repudiation of the policies grounded in it. It emphasises that criminal justice systems, not secret intelligence, should be at the heart of the legal response to terrorism. "We have seen intelligence services around the world acting with insufficient accountability and intelligence cooperation being undertaken outside the rule of law," said **Hina Jilani**, lawyer of the Supreme Court of Pakistan and former UN Special Representative on Human Rights Defenders. "This intelligence is then used in various legal proceedings and cannot be contested. Secrecy is becoming a pervasive feature in our legal systems."

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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Though evidence of the deleterious effects of security measures has been well-documented in recent years, this is the first investigation to piece together a picture that draws on public and private hearings covering forty countries over a period of three years. As panellists listened to testimonies from government officials, victims of terrorism, rendition survivors and civil society groups in dozens of countries around the world, a consistent theme emerged: legal systems put in place after World War II were well-equipped to handle current terror threats. The Panel calls on policymakers to rely on civilian legal systems, utilize criminal courts and not resort to *ad-hoc* tribunals or military courts to try terror suspects. The report repeatedly remarks upon the extent to which undemocratic regimes with deplorable human rights records have referred to counter-terror practices of countries like the US to justify their own abusive policies. Welcoming the report of this independent group, **Wilder Tayler**, Acting Secretary General of the ICJ called on States to seek guidance from the recommendations of this authoritative report and to urgently move from rhetorical to real acceptance of human rights.

The Panel holds the global launch of the report in Geneva on 16 February. The reports findings are also presented in Bangkok on 16 February. Subsequent presentations will be held in London on 17 February, and Washington D.C. on 27 February 2009.

Background information

The members of the Eminent Jurists Panel:

- **Justice Arthur Chaskalson** (South Africa), former Chief Justice of South Africa, first President of South Africa's Constitutional Court and Chair of the Eminent Jurists Panel;
- **Professor Georges Abi-Saab** (Egypt), Emeritus Professor of International Law at Graduate Institute of International and Development Studies, Geneva, former judge at the International Criminal Tribunals for the Former Yugoslavia and Rwanda, and member of the World Trade Organization's Appellate Body;
- **Professor Robert K. Goldman** (USA), Professor of Law at the American University in Washington D.C. former President of the Inter-American Commission on Human Rights and former Independent Expert of the United National Commission on Human Rights on counter-terrorism and human rights;
- **Ms. Hina Jilani** (Pakistan), lawyer of the Supreme Court of Pakistan and former UN Special Representative of the Secretary General on the situation of human rights defenders;
- **Professor Vitit Muntarbhorn** (Thailand), Professor of Law at Chulalongkorn University, Bangkok and UN Human Rights Council's Special Rapporteur on the situation of human rights in North Korea;
- **Ms. Mary Robinson** (Ireland), former President of Ireland, former UN High Commissioner for Human Rights, and ICJ President;
- **Professor Stefan Trechsel** (Switzerland), judge *ad litem* at the International Criminal Tribunal for the former Yugoslavia, former President of the European Commission on Human Rights and Emeritus Professor of Law at University of Zurich;
- **Justice Raúl Zaffaroni** (Argentina), Judge of the Supreme Court of Argentina, Emeritus Professor at the University of Buenos Aires and former Director of the UN's Latin American Institute for the Protection of Crime and the Treatment of Offenders.

Countries and regions covered by the investigation:

Australia, Canada, Colombia, East Africa (Kenya, Tanzania and Uganda), the European Union and its member states, Israel and the Occupied Palestinian Territory, the Middle East (Egypt, Jordan, Syria and Yemen), North Africa (Algeria, Morocco and Tunisia), Pakistan, the Russian Federation, South Asia (Bangladesh, India, Maldives, Nepal and Sri Lanka), South-East Asia (Indonesia, Malaysia, the Philippines and Thailand), the Southern Cone countries of Latin America (Argentina, Brazil, Chile, Paraguay and Uruguay) on lessons from the past, the UK (London and Belfast) and the United States.

A copy of the executive summary and of the report can be viewed at www.icj.org.

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