



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

No. 8, November 2005

ICJ launches Panel on terrorism, counter-terrorism and human rights

On 19 October, the ICJ launched the Eminent Jurists Panel on terrorism, counter-terrorism and human rights. Over 18 months, through hearings in all regions, this independent Panel will examine whether counter-terrorism laws and policies are violating human rights and whether these measures are justified. The Panel is chaired by Arthur Chaskalson, former President of the Constitutional Court of South Africa and ICJ President.

[More info](#)

AFRICA & MIDDLE EAST

Israel: Draft law extends incommunicado detention
Algeria: Amnesty granted for crimes of the past
Morocco: King grants pardon to convicts for Casablanca attacks
Swaziland: Government re-introduces counter-terrorism bill

AMERICAS

USA: Senate votes to strip Guantánamo detainees of right to *habeas corpus*
USA: Appeal Court rules terror suspects can be held indefinitely without charge
Canada: UN experts criticize terrorism laws
Peru: Terrorism re-trial of Shining Path leader opens

ASIA-PACIFIC

Australia: New detention powers in anti-terrorism bill
Indonesia: President says military to be given counter-terrorism powers
Maldives: Opposition party member convicted for terrorism

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: House of Commons allows 28-day detention without charge
UK: House of Lords hears torture case
UK: New agreement with Libya on deportation of terrorist suspects
France: New counter-terrorism bill introduced
Spain: Conviction for 9/11 conspiracy
Kyrgyzstan: "Extremism" outlawed
Uzbekistan: Alleged organizers of Andijan protest convicted for terrorism

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN experts refused proper access to Guantánamo detainees
UN: Security Council resolution on incitement to terrorism
Council of Europe to investigate reports of CIA secret detention centres
EU Court upholds terrorist lists
EU Parliament proposes changes to data retention Directive
Ibero-American leaders reaffirm human rights in fight against terrorism

AFRICA & MIDDLE EAST

Israel: Draft law extends incommunicado detention

A proposed law on the arrest, detention and interrogation of non-residents suspected of security offences in Israel would permit a delay of 96 hours before a detainee can be brought before a judge, no access to a lawyer for a period of up to 50 days and no right for the detainee to be present at the hearing to challenge the legality of his detention. In a letter to the Chair of the Knesset, the ICJ expressed concern that, if adopted, this law would open the door to prolonged incommunicado detention, and increase the risk of torture.

[Draft law](#)

[Israeli NGOs statement](#)

[ICJ press](#)

Algeria: Amnesty granted for crimes of the past

A referendum on 29 September approved the Charter for Peace and National Reconciliation proposed by President Bouteflika. The Charter grants a general amnesty for grave human rights abuses, grants pardons to members of armed groups convicted or detained for actively supporting terrorism and exempts from prosecutions those involved in networks supporting terrorism if they submit information on their activities to the authorities.

[Charter](#)

[NGO statement](#)

[AI statement](#)

Morocco: King grants pardon to convicts for Casablanca attacks

In August, King Mohammed VI pardoned seven individuals convicted after the terrorist attacks in Casablanca in May 2003. The King is said to have justified the measures for “excesses” committed during trials under Morocco’s anti-terrorism law.

[Press news](#)

Swaziland: Government re-introduces counter-terrorism bill

Following recent arson attacks that damaged property, the Government has reintroduced to Parliament its Internal Security Bill that had been withdrawn in 2002.

[Press news](#)

AMERICAS

USA: Senate votes to strip Guantánamo detainees of right to *habeas corpus*

On 15 November, the US Senate passed Senator Graham’s amendment to a Defence Bill, removing the right to *habeas corpus* from Guantánamo Bay detainees. Under the law, which has to be approved by the House of Representatives, the detainees would only be able to challenge in court their status as “enemy combatant”, but not the legality and conditions of their detention. In October, the Senate also adopted Senator McCain’s amendments, prohibiting cruel, inhuman, or degrading treatment of persons under custody or control of the United States Government.

[Graham amendments](#)

[McCain amendments](#)

[ICJ press release](#)

[More info](#)

USA: Appeal Court rules terror suspects can be held indefinitely without charge

On 10 September, a US Court of Appeals reversed the decision of a lower court in the case of José Padilla, a US citizen held in indefinite detention since 2002. The Court held that Congress clearly authorized President Bush to order such suspects to be detained by the military as an “enemy combatant”. José Padilla has appealed to the Supreme Court.

[Judgment](#)

[More info](#)

Canada: UN experts criticize terrorism laws

The UN Human Rights Committee has expressed concern about Canada's counter-terrorism laws and policies, in particular the broad definition of terrorism, a law preventing disclosure of certain security evidence, and the unlimited length of administrative detention of foreigners certified as security risks without effective judicial review. Other concerns related to respect for the principle of *non-refoulement* and allegations that Canada cooperated with agencies known to use torture with the aim of extracting information from individuals detained in foreign countries. Two official reviews of the counter-terrorism laws are underway.

HRC conclusions

Peru: Terrorism re-trial of Shining Path leader opens

The second re-trial on terrorism charges of leaders of the Peruvian guerrilla group Sendero Luminoso (Shining Path) opened in Lima on 26 September. In 2003, the Constitutional Tribunal ordered Abimael Guzmán, founder and leader of the guerrilla group, to be retried after it declared his original trial in 1992 to be unconstitutional. Guzmán denies charges of aggravated terrorism related to killings and bombings allegedly carried out by Sendero Luminoso.

Press News

ASIA-PACIFIC

Australia: New detention powers in anti-terrorism bill

In September, Prime Minister John Howard introduced in Parliament a bill to further amend Australia's counter-terrorism laws. The draft law would permit terrorist suspects to be subjected to control orders for up to 12 months and to be held in preventive detention for up to 14 days without charge, with judicial oversight.

Anti-terrorism Bill

Paper ICJ Australia

Indonesia: President says military to be given counter-terrorism powers

Following the October bombings in Bali, President Yudhoyono said he will give the military the power to carry out counter-terrorism operations. The Government has also proposed new legislation that would allow the police to detain a person without charge for more than seven days and would give greater powers to the intelligence services to prevent terrorist acts.

Speech of President

Maldives: Opposition party member convicted for terrorism

On 18 October, councilor of the Maldivian Democratic Party (MPD) Jennifer Latheef was sentenced to 10 years' imprisonment on terrorism charges for peacefully demonstrating against human rights violations in the Maldives. Meanwhile, the ICJ has been observing the trial of MPD Chairperson Mohamed Nasheed, also being tried on terrorism charges. The ICJ has expressed concern that Jennifer Latheef did not receive a fair trial and called for her immediate and unconditional release.

ICJ press releases

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: House of Commons allows 28-day detention without charge

The House of Commons has passed a law that would allow the police to detain terrorist suspects without charge for 28 days, after rejecting the 90-day period proposed by the Government. The draft Terrorism Bill, which must also be passed by the House of Lords, creates new criminal offences such as the glorification of terrorism and other direct or indirect encouragement of terrorism, dissemination of terrorist publications and preparation of terrorist acts.

[Terrorism Bill](#)

[Justice Briefing for House of Lords](#)

UK: House of Lords hears torture case

On 17 October, the House of Lords heard arguments in a case challenging the Government's policy that it could use as evidence in immigration cases information obtained by torture in a third country. The case is an appeal from the Court of Appeal decision in August 2004 that such evidence could be used as long as the UK authorities were not themselves involved in the torture. The ICJ and Justice have jointly submitted an *Amicus Curiae* brief.

[Applicants case](#)

[UK Gov. submission](#)

[ICJ & others submission](#)

[AI submission](#)

UK: New agreement with Libya on deportation of terrorist suspects

On 18 October, the UK signed an agreement with Libya that no one deported by the UK to Libya will be ill-treated. This follows a similar agreement with Jordan in August. Human rights groups have argued such "diplomatic assurances" violate the obligation of states not to send people back to countries where they may face torture or ill-treatment.

[Agreement](#)

[PR of UK Government](#)

[AI News](#)

France: New counter-terrorism bill introduced

On 25 October, the Interior Minister presented to the cabinet an anti-terrorism bill which would, among other matters, increase prison sentences for convicted terrorists, grant counter-terrorism officials greater access to airline passenger lists, drivers' licenses, passports and identity card information, broaden the use of surveillance cameras and require telephone operators to keep records for at least one year. The proposed law would also allow the authorities to withdraw French nationality from naturalized citizens who commit terrorist acts, acts "incompatible with the quality of being French" or acts that endanger the national interest.

[Draft law \(in French\)](#)

Spain: Conviction for 9/11 conspiracy

On 26 September, the High Court convicted 18 persons and acquitted 6, in a trial on terrorism-related offences. One of the accused, Imad Yarkas, found guilty of conspiracy with the 9/11 hijackers and of heading a terrorist organization, was sentenced to 27 years' imprisonment. Media groups expressed concern about the evidence used against another accused, Al-Jazeera journalist Taysir Allouni, sentenced to seven years for collaborating with a terrorist group.

[Judgment](#)

[RSF press release](#)

[IFJ press release](#)

Kyrgyzstan: “Extremism” outlawed

Concerns have been expressed that a law, signed by the President in August to outlaw “extremism”, adversely affects freedom of expression and in particular, freedom of the media. Several provisions of this law are said to be similar to legislation adopted in Russia, Moldova and Kazakhstan.

[Law \(in Russian\)](#)

[Statement on the law](#)

Uzbekistan: Alleged organizers of Andijan protest convicted for terrorism

On 14 November the Uzbek Supreme Court convicted 15 men for organizing protests in Andijan in May, during which government forces reportedly killed hundreds of civilians. The trial of the accused, who were described as Islamic terrorists, has been criticized for violating fair trial guarantees, including the reliance on confessions obtained through torture.

[UN mission report](#)

[UN Press release](#)

[High Commissioner’s statement](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN experts refused proper access to Guantánamo detainees

Three UN Special Rapporteurs, who had been seeking to visit the Guantánamo Bay detention facilities since November 2001, have rejected a US offer of access because it excluded private interviews with detainees.

[UN Press release](#)

[ICJ press release](#)

UN: Security Council resolution on incitement to terrorism

On 14 September, the UN Security Council unanimously adopted a resolution that calls on all states to prohibit incitement to commit terrorist acts, to prevent such conduct and deny safe haven to anyone involved in such a conduct.

[Resolution](#)

Council of Europe to investigate reports of CIA secret detention centres

On 7 November, the Parliamentary Assembly of the Council of Europe announced it would investigate allegations of CIA detention and interrogation centres in member countries, emphasizing the legal obligation of member states not to allow their territory or facilities to be used for secret detention.

[CoE statement](#)

EU Court upholds terrorist lists

On 21 September, in two cases, the EU Court of First Instance upheld EU regulations ordering assets of alleged al-Qaeda or Taliban associates to be frozen. The regulations were challenged for violating human rights law, including the right to property, remedy and fair trial.

[Judgment case 1](#)

[Judgment case 2](#)

[Court Press release](#)

EU Parliament proposes changes to data retention Directive

The EU Parliament has proposed changes to a draft Directive of the European Commission, which would allow details of phone calls and internet use to be stored for six months to a year. The text still has to be agreed upon by the Council, probably by the end of the year.

[Draft Directive](#)

[EU Press release](#)

[NGO letter to EU Parliamentarians](#)

Ibero-American leaders reaffirm human rights in fight against terrorism

At the Ibero-American summit in October, the Presidents of all Latin American countries, Spain and Portugal, reiterated their commitment to fight terrorism with strict adherence to international human rights law and international humanitarian law. The final communiqué urged all states to finalize a draft UN comprehensive convention against terrorism and stressed the need to bring to justice Luis Posada Carriles, alleged perpetrator of the attack against a Cuban commercial airplane in 1976.

[Communiqué](#)

[News on Posada Carriles](#)

NEW REPORTS

In a report launched in Brussels in September, the ICJ concluded that Colombia's anti-terrorist policy adversely impacts human rights, the administration of justice and the rule of law.

[Report](#)

The ICJ published in November a series of proposed recommendations on counter-terrorism and human rights for the Inter-American Commission on Human Rights.

[Recommendations](#)

The International Federation for Human Rights (FIDH) released in October a new report on the compatibility of counter-terrorism policies with human rights.

[Report](#)

Professor Martin Scheinin, newly appointed UN expert on counter-terrorism and human rights, presented his first report to the General Assembly.

[Report](#)

To subscribe free of charge to this E-Bulletin, please send an email to icjcounter-terrorism@icj.org with your details (name, organization) and "subscribe ICJ E-Bulletin" in the subject line. To unsubscribe from this list send an email to icjcounter-terrorism@icj.org with your details (name, organization) and "unsubscribe ICJ E-Bulletin" in the subject line.

Find this E-Bulletin and more information about the ICJ, the rule of law and human rights on our website: www.icj.org.

Please send feedback about the E-Bulletin to icjcounter-terrorism@icj.org.