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NEWS FROM THE AMERICAS

ICJ mission to Colombia: anti-terrorism policy aggravates human rights situation

In January 2005, the ICJ conducted a mission to Colombia to assess the impact of the “democratic security” policy on human rights, the administration of justice and the rule of law. The ICJ concluded that the implementation of this anti-terrorism policy has resulted in increasing cases of torture and forced disappearances and the systematic use of arbitrary detentions. In the framework of this policy, the Government has worked to undermine the independence and impartiality of the judiciary, in particular the Constitutional Court. In the department of Arauca, where security and armed forces have a strong presence, the ICJ witnessed the constant harassment and stigmatization of human rights defenders and the various attempts to silence any political opposition.

[ICJ Press \(Spanish\)](#)

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US court: review process of indefinite detention of enemy combatants unconstitutional

A US Court held that the “Combatant Status Review Tribunals”, set up by Military Order to determine whether a detainee can be held in detention indefinitely as “enemy combatant”, violate due process rights under the US Constitution. The Court held that the Tribunals deprive detainees of sufficient notice and basis to challenge the detention by relying on classified information, the inability to review that information, the prohibition of assistance by counsel and the reliance of statements possibly obtained through torture. The Court also considered that the absence of a competent tribunal determining the prisoner of war status of some of the claimants contravenes the Geneva Convention.

Earlier a judge of the same Court ruled that foreign nationals captured and detained outside the US had no constitutional rights and dismissed similar motions. The legal battle over administrative detention is now expected to move to the DC Court of Appeals.

[Court decision 1](#)

[Court decision 2](#)

US: New Attorney General raises concerns among human rights groups and legal experts

On 3 February the United States Senate voted 60-36 to confirm Alberto Gonzales as Attorney General of the United States. The new Attorney General has been embroiled in controversy over his role in developing policy which has effectively undermined the prohibition against torture. Gonzalez approved a Justice Department memo which defined torture narrowly so as to encompass only such acts causing pain “equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function or even death.” He has also stated that the president has absolute authority to decide in a time of war the definition and scope of applicability of fundamental human rights law, such as the prohibition against torture. Prominent NGOs and a number of leading opposition Senators spoke out forcefully against the confirmation of Gonzalez based on his position regarding torture and the rule of law.

[Statement Senator Kennedy](#)

[Human Rights First](#)

US Department of Justice releases new torture opinion

On 30 December the United States Acting Assistant Attorney General issued a memo on behalf of the Office of the Legal Counsel of the Department of Justice overturning part of the previous memo and approved by then counsel to the President, newly appointed Attorney General Alberto Gonzalez. While some of the definitional deficiencies of that earlier document were reversed, the new memo failed to address those aspects of the memo concerning the power of the President to define and delimit the prohibition against torture.

Memo

NEWS FROM EUROPE

Russian Federation: Counter-terrorism law passes first reading

On 18 December 2004, the State Duma approved in the first reading the Draft Law on Countering Terrorism. The draft, which has also been reviewed by the Legal Expert Council, a group of leading Russian human rights lawyers, contains broad definitions of “terrorism” and “terrorist threat” and a range of special competencies, which are not clearly defined. The law foresees special legal regimes for terrorist threats and operations, under which the executive would have far-reaching powers affecting the right to privacy, freedom of expression, association, assembly and movement.

Expert Analysis (Russian)

Expert Analysis (Russian)

Draft law (Russian)

United Kingdom: Control orders to replace detention without trial

On 26 January, the Government announced plans to replace administrative detention of foreign terror suspects with a regime of control orders. The orders would apply equally to UK and foreign citizens and range from restrictions of movement and communication to house arrest. The UK intends to seek diplomatic assurances from foreign countries in order to expel terror suspects. Until the adoption of new legislation, the detainees will remain in custody. The announcement comes after the House of Lords ruled indefinite administrative detention to be in violation of the ECHR. Human rights lawyers are highly concerned by the use of diplomatic assurances from countries with systematic torture, the continued holding of detainees in custody under a law in violation of the ECHR and the introduction of house arrest orders. JUSTICE, the UK Section of the ICJ, also raised serious concerns about the special advocates system presently in operation under the UK anti-terrorism law.

Govt. announcement

ICJ/Justice Press

Justice submission

European Union introduces biometric data in passports

In December 2004, the Council of the European Union adopted a regulation requiring the inclusion of personal data such as facial images and fingerprints in travel documents. Similar proposals to include biometric data for visa and residence permits for non-EU citizens have been delayed due to technical problems.

Regulation

Council of Europe experts elaborate draft convention on the prevention of terrorism

The Council of Europe Committee of Experts on Terrorism (CODEXTER) adopted in first reading a new draft Convention on the Prevention of Terrorism. The Convention would criminalise forms of direct and indirect public provocation to commit terrorist acts and the recruitment and training of terrorists. Some delegations have suggested inclusion of a reporting obligation of citizens about terrorist threats. The Parliamentary Assembly of the Council of Europe, its Commissioner for Human Rights and Amnesty International made recommendations to amend the text so as to ensure compliance with human rights standards.

Amnesty's comments

Commissioner's opinion

PACE opinion

Spain: Report criticises criminal justice system in counter-terrorism cases

In a report on counter-terrorism measures in Spain, Human Rights Watch criticised the use of incommunicado detention, secret legal proceedings, the limitation of defence rights during pre-trial detention and the length of pre-trial detention in terrorism cases in that country.

Report

NEWS FROM AFRICA AND THE MIDDLE EAST

Saudi Crown Prince calls for the establishment of counter-terrorism centre

At the international conference on counter-terrorism held in Riyadh, Saudi Arabia from 5 to 8 February, Crown Prince Abdullah of Saudi Arabia emphasized that terrorism does not belong to any particular religion or system and called for the establishment of an international centre to combat and pre-empt terrorism. The centre would exchange information speedily to prevent terror attacks before they occur. The Secretary-General of the Arab League supported this idea.

Conference Press

Crown Prince speech

Egypt: Taba bombing followed by mass arrests and torture

The Egyptian Organisation for Human Rights, ICJ affiliate in Egypt, undertook a fact-finding mission to Arish and documented the arrest of 3,000 people since the Taba bombings that took place last October. The report also documents serious allegations of torture carried out by the security forces.

EOHR Report

Israel: Terrorism-related Supreme Court decisions available online

The Ministry of Foreign Affairs of Israel has posted all Supreme Court rulings related to terrorism on its website. The decisions are systematised according to the different topics dealt with by the Court.

MFA website

NEWS FROM ASIA AND THE PACIFIC

India reviews decades old counter-terrorism measures

On 8 December the Indian Government established a Committee to Review the Armed Forces Special Powers Act (AFSPA), which was passed to address insurgency in North East India. The Act empowers the armed forces to arrest individuals without warrant, to destroy any structure that may be hiding absconders without verification, to search and seizure without warrant and to shoot even to the causing of death. No legal proceeding against abuse of such arbitrary powers can be initiated without prior permission of the central government. This review follows the repeal of the Prevention of Terrorism Act (POTA).

Review of the Act

NEWS FROM THE UNITED NATIONS

Working Group on Arbitrary Detention concerned about human rights in the fight against terror

In its report to the Commission on Human Rights, the UN Working Group on Arbitrary Detention expressed its concern at the use of administrative detention and the recourse to emergency legislation diluting the right of habeas corpus or amparo and limiting the fundamental rights of persons detained in the context of the fight against terrorism. The Working Group reminded States that measures that restrict resort to judicial control of detainees suspected of terrorism-related activities should be strictly proportionate to the legitimate need to fight against terrorism. The group of experts stressed that States may not derogate from the right not to be detained incommunicado over prolonged periods of time, even where a threat to the life of the nation exists.

Report

UN human rights experts reiterate concern at Guantánamo Bay detainees

In a press release dated 4 February, several UN human rights experts expressed their serious concern at the continuing situation of the persons detained at the US Naval Base in Guantánamo Bay, Cuba. The experts questioned the legal basis for holding these individuals in detention, the independence of the tribunals in charge of reviewing the status of the detainees, the fairness of the proceedings and the detainees' lack of access to counsel and evidence. The experts expressed their concern at the allegations of torture at the Base, the conditions of detention in solitary confinement and the uncertainty as to whether criminal charges will be brought against the detainees.

Press release

Special Rapporteur on Freedom of Religion denounces link between terrorism and religion

In her report to the UN Commission on Human Rights, Asma Jahangir, Special Rapporteur on Freedom of Religion or Belief, stated that some anti-terrorism legislation produces a simplistic link between terrorism and religion which, in turn, may have contributed to provoking acts of religious intolerance.

Report

Counter-Terrorism Committee holds meeting in Kazakhstan

As part of its revitalisation process, the UN Counter-Terrorism Committee held a meeting in Almaty, Kazakhstan, where it discussed issues such financing of terrorism, money laundering, arms trafficking, illicit fund transfers, and fake charities.

Press briefing

UN Secretary General: human rights and the rule of law essential in fight against terror

In a message delivered through the Executive Director of the CTC Executive Directorate at a Terrorism Conference in Saudi Arabia, UN Secretary General Kofi Annan emphasised the importance of human rights and the rule of law in the fight against terror.

SG message

ICJ NEWS

World Social Forum: “War on terror threatens Global Justice”

The ICJ, jointly with the International Federation for Human Rights (FIDH) and Human Rights Watch (HRW), held debates on the impact of the global “war on terror” on human rights and the rule of law at the World Social Forum in Porto Alegre, Brazil. Participants from around the world reported on counter-terrorism laws and policies used to discredit or silence social and political dissent. The discussions highlighted the need for a comprehensive approach to terrorism beyond a military and law enforcement oriented response. Participants also agreed on the need for a broader civil society campaign to uphold human rights in the fight against terrorism.

ICJ Press (English)

ICJ Press (Spanish)

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