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AFRICA & MIDDLE EAST

Nigeria: USA conditions de-listing of Nigeria on approval of Anti-Terrorism Law

On 11 February, Nigerian Foreign Minister Ojo Maduekwe announced that the USA would remove Nigeria from its watch-list of countries concerning terrorism if the state enacts an anti-terrorism law pending in the Parliament and boosts its airport security. The Anti-terrorism draft legislation includes a provision to criminalise omissions to prevent a terrorist act; authorises 48-hours detention without access to a lawyer; confers search powers without warrant and sweeping powers to the federal President to proscribe "international terrorist organisations".

[Draft Law](#)

[Press Article 1](#)

[Press Article 2](#)

Israel: Supreme Court holds terrorism suspects must be present at detention hearings

On 12 February, a nine-judge panel of the Supreme Court declared unconstitutional a law allowing remand hearings to take place without the presence of the detainee. The law applied to persons suspected of security offences. The Court held that the provision contained in Article 5 of the 2006 Penal Code constitutes a disproportional harm to the suspect's right to be present as guaranteed under the *Basic Law on Human Dignity and Liberty*.

[Judgment \(Hebrew\)](#)

[Basic Law \(E\)](#)

[Press Article 1 \(E\)](#)

[Press Article 2 \(E\)](#)

Israel: UN Committee on the Rights of the Child concerned at practices during conflict and counter-terrorism

On 29 January, the UN Committee on the Rights of the Child issued its Concluding Observations on the compliance of Israel with its obligations under the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*. The Committee expressed grave concern about practices adversely impacting children in Gaza during the Operation Cast Lead and their use by Israel as human shields and as informants for intelligence purposes. It also raised concerns that more than 2,000 children have been charged with security offences between 2005 and 2009, subject to prolonged periods of solitary confinement, to administrative detention without legal representation and without the possibility of family visits, as relatives are denied entry to Israel.

[Concluding Observations](#)

AMERICAS

USA: Justice Department memorandum clears torture memos lawyers of misconduct

A decision by Associate Deputy Attorney General David Margolis released on 19 February reversed the findings of the Office of Professional Conduct (OPR) that Bush administration legal advisers John Yoo and Jay Bybee had engaged in professional misconduct and should be subject to disciplinary action by approving as lawful the program of "enhanced interrogation", which included practices amounting to torture. The memorandum affirms that the lawyers had "poor judgment", but that it could not be established that they had intended to give misleading advice.

[Report](#)

[ICJ Statement](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Legislative proposals seek to block transfers of trials to federal courts

On 2 February, Representative Frank Wolf and Senator Lindsay Graham introduced in the House of Representatives and in the Senate two by-partisan bills which, if approved, would prohibit the Government from using Justice Department funds in connection with trials in civilian courts of Guantánamo detainees or other persons considered "enemy combatants."

[Draft Law \(Wolf\)](#)

[Draft Law \(Graham\)](#)

[Letter](#)

[NGO Statement](#)

USA: Proposed legislation requiring consultation with intelligence officers after arrest of terrorism suspects introduced in Congress

On 21 and 26 January, bills were introduced in the Senate and the House of Representatives, by Representative Smith and Senator Susan Collins which, if approved, would require the Attorney General to consult with high officers in intelligence agencies before deciding whether to prosecute or interrogate a terrorism suspect. The position has been criticised as an initiative to create further obstacles to the prosecution of terrorism suspects in civilian courts. Reportedly, a plan under review in the White House would require the Justice Department and the FBI to consult with the intelligence community about terrorism suspects before deciding whether to inform them of certain constitutional rights (“Miranda rights”), including the right to remain silent.

[Draft Law \(Smith\)](#)

[Draft Law \(Collins\)](#)

[NGO Statement](#)

[Press Article](#)

USA: Federal Court dismisses complaint for wrongful deaths in Guantánamo

On 16 February, the Federal District Court for the District of Columbia dismissed a civil damages complaint against former Defense Secretary Donald Rumsfeld and several other unnamed officials, brought by the families of Yasser Al-Zahrani and Salah Ali Abdullah Ahmed Al-Salami, Guantánamo detainees who had been found dead while in detention in 2006. The Court held that the claims were barred by a provision of the *2006 Military Commission Act* barring challenges by detainees in civil courts related to their treatment or conditions of detention. The Court also dismissed other bases for the suit, including under the *Alien Tort Claims Act* (immunity attached to the officials because the “enhanced interrogation”, to which the detainees were allegedly subject, was within their scope of employment) and the *Federal Tort Claims Act* (which does not extend to claims arising from acts in a foreign country including, according to the Court, those in Guantánamo Bay).

[Ruling](#)

[NGO Statement](#)

USA: Supreme Court dismisses Uighurs’ appeal for change of circumstances

On 1 March, the Supreme Court refused to hear the case *Kiyemba v. Bush*, involving Guantánamo detainees of Uighur origin who were judged by the District Court to be detained without basis and are seeking release into the United States. The Supreme Court considered that because all of the petitioners had either been resettled or been offered a place of resettlement, the factual situation had changed from when *certiorari* was granted. The Court vacated the earlier judgment of the intermediate Court of Appeals which had determined that the lower District Court lacked the power to order the detainees released into the United States.

[Supreme Court Statement](#)

[AI, HRW and ICJ Amicus Curiae](#)

[Press Article](#)

Canada: Government requests US to exclude evidence in military trial of Omar Khadr

On 16 February, the federal Justice Department announced that it will not seek the release of Omar Khadr to Canada. Omar Khadr, a Canadian national, was 15 years old at the time of his detention by US forces in Afghanistan in 2002 and has been held in Guantánamo for nearly eight years. Canada announced that it would limit its intervention to seeking assurances that information shared with US authorities resulting from unlawful interrogations by Canadian agents with Mr Khadr would not be used in the Military Commission proceedings against him. The announcement followed a Supreme Court decision affirming that Omar Khadr’s rights to life, liberty and security had been violated by the Canadian Government, but that it was for the Government to determine the remedy for the violations.

[Justice Dep. Statement](#)

[SC Ruling](#)

[Press Article 1](#)

[Press Article 2](#)

Colombia: Constitutional Court upholds absence of prison benefits for terrorism detainees

On 10 February, the Constitutional Court of Colombia held that the prohibition by law of any penitentiary and sentencing benefit for people suspected or convicted of terrorism did not violate the constitutional principle of equality. The Court found that such restrictions answer to legitimate aims, are part of the implementation of Colombia's international obligations and are reasonable, given the legislature has imposed similar restrictions for other crimes qualified as international offences.

[Court Statement \(Sent. no. C-073/10 - S\)](#)

[Legislation \(S\)](#)

[Press Article \(S\)](#)

ASIA - PACIFIC

Pakistan: Anti-Terrorism Court denies bail to US terrorism suspects

On 17 February, an anti-terrorism court in Pakistan denied bail to five US citizens who have been accused of contacting militant groups over the internet and planning terrorist attacks inside Pakistan. The five had been arrested in Pakistan in December 2009, detained without charge, and have reportedly told the court that they had been tortured, including through the administration of electric shocks, and threatened with death while in custody.

[Press Article 1](#)

[Press Article 2](#)

Pakistan: Courts order Government to shed light on post-9/11 enforced disappearances

On 2 and 5 February, the Peshawar High Court and the Supreme Court issued separate orders enjoining the Government to address the cases of a number of persons who were allegedly subjected to enforced disappearance by the Pakistani secret service (ISI) between 2001 and 2008 in the framework of US-Pakistani counter-terrorism policy. According to the Government, during this period around 1,600 people have "disappeared", but some civil organisations place the number much higher.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Malaysia: Ten people detained without charge under Internal Security Act

On 27 January, Malaysian authorities arrested ten persons, including nine non-Malaysian nationals, from Jordan, Nigeria, Syria and Yemen, on suspicion of having links with Umar Farouk Abdulmutallab, who is alleged to have attempted to set off explosives on a plane bound from Amsterdam to Detroit on 25 December 2009. The ten persons have been detained under the *Internal Security Act*, which allows for detention without charge. On 18 February, the Malaysian authorities announced that the nine non-Malaysian nationals would be transferred to their home countries.

[Press Article 1](#)

[Press Article 2](#)

India: Shahid Azmi, lawyer for Mumbai attack suspect Faheem Ansari, assassinated by hit squad

On 11 February, Shahid Azmi, the lawyer for Faheem Ansari, the accused in the November 2008 Mumbai attacks which killed 164 persons, was executed by an alleged three-person commando near his home. Some days later, the police arrested three men linked to local organised crime on murder charges. Reportedly, Mr Azmi had previously alerted the police to threats to his person. Mr. Azmi represented clients in several cases under the Prevention of Terrorism Act.

[Press Article 1](#)

[Press Article 2](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Court of Appeal discloses classified paragraphs in Binyam Mohamed judgment

On 10 February, the Court of Appeal disclosed seven redacted paragraphs of the High Court's first judgment in the case relating to the alleged torture of former Guantánamo detainee Binyam Mohammed. The Court found that a US District Court ruling (*Farhi Saeed Bin Mohammed v Barack*) had already revealed the content of the paragraphs. The further disclosure of the information could therefore no longer affect the intelligence relations between the UK and the USA. Binyam Mohammed, an Ethiopian citizen currently residing in the UK, was detained by the US from 2004 to February 2009 at Guantánamo, following his 2002 arrest and detention in other countries including Pakistan and Morocco. The Equality and Human Rights Commission has called for investigations into UK complicity in torture practices abroad.

[Ruling](#)

[Commission Statement](#)

[Press Article 1](#)

[Press Article 2](#)

UK: Independent Reviewer supports continued but more limited use of control orders

On 1 February, the UK Independent Reviewer of terrorism legislation, Lord Carlile QC, issued his fifth report on the use of control orders pursuant to the *Prevention of Terrorism Act 2005*. Control orders, which involve a curtailment of persons' rights, such as through imposed curfews, aim to monitor persons suspected of connection with terrorism. He concluded that abolition of the use of control orders could have a damaging effect on national security. In his report, Lord Carlile suggests that a lighter form of Travel Restriction Orders could substitute for control orders where their sole purpose is to prevent an individual from leaving UK territory.

[Report](#)

[Press Article](#)

UK: Government introduces emergency bill to continue assets freezing orders following Supreme Court ruling

On 5 February, the UK Treasury introduced temporary legislation to maintain the very same asset freezing orders issued by the Government that had been quashed by the Supreme Court on 27 January. The Court had held that orders, that infringe individual rights, require specific parliamentary legislation and could not be based on executive orders under the existing *United Nations Act 1946*. The Treasury aims to maintain these Orders as valid until 31 December 2010, while waiting for assets freezing legislation to be approved by Parliament.

[Temporary Draft Law](#)

[Draft Law](#)

[Temporary Draft Law Explanatory Report](#)

[Treasury Statement](#)

[NGO Statement](#)

[Press Article](#)

UK: Concerns about human rights impact of body scanners

On 16 February, the Equality and Human Rights Commission, the UK National Human Rights Commission, in a letter addressed to the Secretary of State for Transport, expressed its concern at the introduction of body scanners in the airports of Heathrow in London and Manchester. The Commission is concerned that the selection of people to be subject to this procedure might be unfair and discriminatory and in the absence of publicly assessable guidelines the right to privacy of certain individuals might be violated.

[Commission Statement](#)

Italy: Abu Omar trial judge finds Italian Secret Service knew of rendition

On 1 February, Judge Oscar Magi released the written decision and reasoning relating to the convictions of 23 CIA agents for the kidnapping of the Muslim cleric Abu Omar in Milan in 2003 as part of the CIA rendition program. Abu Omar was allegedly subjected to

enforced disappearance and torture, including during 14 months subsequent detention in Egypt. Among the findings, the judgement reveals that, without the invocation of the state secret to shield information from admissibility in the court proceedings, it could have been ascertained that the Italian secret service at least knew and acquiesced with the rendition operation. The judge also criticised the use of the secret of state doctrine by the Berlusconi and Prodi Governments and stated that as a consequence of the judgment of the Constitutional Court a “black curtain” had fallen on the discovery of the truth.

[Judgment \(Cover – Italian\)](#)

[Judgment \(Part I – Italian\)](#)

[Judgment \(Part II – Italian\)](#)

Spain: Examining Magistrate begins investigations on torture in Guantánamo

On 27 January, Examining Magistrate Baltasar Garzón Real issued a decision affirming that Spain has jurisdiction to investigate alleged crimes against humanity and torture suffered by Guantánamo detainees Hamed Abderraman Ahmed, Lahcen Ikassrien, Jamiel Abdulatif Al Banna, and Omar Deghayes. Judge Garzón found that jurisdiction could be invoked by Spain as one of the victims was a Spanish national and all of them have been either investigated or acquitted in trials in Spain on the bases of evidence obtained at Guantánamo.

[Ruling \(S\)](#)

[Press Article \(S\)](#)

Spain: Supreme Court finds that negotiations with Batasuna do not constitute a crime

On 20 January, the Supreme Court confirmed in a judicial opinion its 13 January decision to close the criminal proceedings against a number of Basque politicians charged with the offence of “disobedience” by public officers to orders of the authorities for having held talks with the outlawed political party Batasuna during the truce between the Spanish Government and ETA in 2006. The Court held that the offence of disobedience could not be used to criminalise actions of a democratically elected regional Government seeking peaceful coexistence.

[Judgment \(S\)](#)

[Criminal Code \(Art. 410 – S\)](#)

[Press Article \(S\)](#)

Poland: Disclosed flight records corroborate allegations of Polish complicity in CIA renditions

The Polish Air Navigation Services Agency’s (PANSa) flight records published 22 February by the Open Society Justice Initiative and the Polish Helsinki Foundation for Human Rights reveal that six separate flights associated with the CIA rendition programme landed at Szymany airport in Poland between February and September 2003. The records, released as a result of a freedom of information request, show that for at least four of these flights PANSa actively disguised relevant flight plans and destinations. This information is consistent with allegations of Poland’s complicity in the CIA rendition programme contained in the 2007 report by Council of Europe’s Rapporteur Dick Marty.

[Records](#)

[Report](#)

[NGO Statement](#)

Russian Federation: European Court of Human Rights finds serious violations in counter-terrorism operations

On 11 February, the European Court of Human Rights held that Islam Dubayev and Roman Bersnukayev, who went missing in March 1999 after having been held in unacknowledged detention in the framework of a counter-terrorism operation in the Caucasus, were subjected to an enforced disappearance. The Court found that Russia had violated the right to life of the victims, including by conducting ineffective investigations, the right to liberty and the right to an effective remedy. The Court affirmed that the situation of enforced disappearance violated the family members’ right not to be subject to cruel, inhuman or degrading treatment.

[Judgment](#)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Special Rapporteur on Torture report reaffirms erosion of torture prohibition in countering terrorism

On 5 February, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, published a study on the phenomenon of torture, including an assessment on the conditions of detention. In the study, the Special Rapporteur highlights the challenges in preventing and combating torture in the “war against terror”.

Report

EU: European Parliament blocks agreement with USA on banking data transfer

On 11 February, the European Parliament blocked the ratification of a Society for Worldwide Interbank Financial Telecommunication (SWIFT) agreement of the European Union with the USA. The agreement would have allowed the US Treasury Department to obtain without judicial oversight data on financial transaction in the European Union for the purpose of investigating terrorism financing. The agreement had prompted concerns that the use of personal information subject to such transfers of information could lead to violations of the right to privacy. The European Parliament recommended that the European Council and the Commission renegotiate the Agreement in light of the obligations contained in the Treaty of Lisbon and the provisions of the Charter of Fundamental Rights of the European Union.

EP Resolution (2010)

EP Resolution (2009)

EU - USA SWIFT Agreement

EDPS Opinion

Press Article

IN BRIEF

FIDH issues reports on Russia’s human rights violations in counter-terrorism

On 26 January, the International Federation for Human Rights (FIDH) published a report documenting human rights violations by the Russian Federation entitled “Russian Society Under Control: Abuses in the fight against extremism and terrorism.”

Report

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