



# **E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS**

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## AFRICA & MIDDLE EAST

### Uganda: Challenge to constitutionality of Anti-Terrorism Act

On 14 May, a Kampala-based lawyer filed a petition in the Court of Appeal of Uganda challenging the constitutionality of the Anti-Terrorism Act 2002. It argues that the terrorist offences as defined in the act were overbroad, in breach of the principle of legality, that the power of the Minister to declare an organisation to be a terrorist organisation violates the presumption of innocence, and that a number of other provisions may impede freedom of expression and assembly, and the right to privacy.

Petition

Anti-Terrorism Act

Press Article

### Swaziland: Lawyer arrested under anti-terrorism law for speech

On 2 June, Thulani Maseko, a lawyer representing detained opposition leader Mario Masuku, was arrested under the *Suppression of Terrorism Act*, and later charged under the *Sedition and Subversive Activities Act*, for having allegedly spoken favourably of two persons who died in the preparation of an alleged terrorist attack. The legislation has been the subject of criticism for its use to silence civil society organisations and the political opposition. Several African NGOs have pressed for his release and considered the charges to constitute a violation of his freedom of expression.

NGO Statement 1

NGO Statement 2

Press Article

### United Arab Emirates: US citizen denies terror charges and alleges torture in UAE court

On 14 June, Naji Hamdan, a US citizen of Lebanese origin denied all terrorism charges against him before the Supreme Court of the UAE and reported that he had been subjected to torture and other ill-treatment during detention. Naji Hamdan was arrested in August 2008 and has been administratively detained ever since. He filed a *habeas corpus* petition against the US government in federal court, alleging that his detention in the UAE was undertaken pursuant to a request by the United States. The UAE authorities thereafter formulated the criminal charges against him.

Petition

NGO Statement

Press Article 1

Press Article 2

## AMERICAS

### USA: Civil lawsuit against torture memoranda author can continue, Court says

On 12 June, the US District Court for Northern California allowed to proceed a civil lawsuit, brought by former CIA detainee, Jose Padilla, for violation of constitutional rights against John Yoo, a former official in the United States Justice Department. The complaint asserts that Padilla suffered torture and cruel, inhuman and degrading treatment during CIA interrogations, undertaken pursuant to a policy advised to be lawful by John Yoo. The Court found that Yoo did not qualify for immunity as a public officer as the events constituted deprivation of Padilla's constitutional rights.

Ruling

Press Article

### USA: UN independent expert criticises military commissions

On 28 May, the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, Philip Alston, published a report on his visit to the USA in June 2008. In the report, the Special Rapporteur criticizes the system of military commission of Guantánamo and expresses the view that any sentence of death issued by the Commissions would violate the human rights obligations of the US. The Special Rapporteur also questioned an alleged targeted killing policy of the US Government outside the USA and expressed concern at the lack of information provided by the US on the deaths of five detainees in

Guantánamo. On 2 June, a sixth detainee, Mohammad Ahmed Abdullah Saleh al Hanashi, was found dead in his cell following an alleged suicide.

[Report](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

### **USA: Combatant Tribunals partially disclosed files reveal more claims of torture**

In response to federal court orders, the US administration on 15 June partially disclosed files, with substantial redactions, on the interrogations for the Combatant Review Status Tribunal of four Guantánamo detainees, Khalid Sheikh Muhammad, Abd Al Rahim Hussein Mohammed Al Nashiri, Abu Zubaydah and Majid Khan. The records contain information on detainees' allegations of torture practiced against them while in CIA custody. The files were published following a 1 June judgment of the US District Court of the District of Columbia which gave the administration until 29 July to disclose the files and to justify any word to be classified.

[Released Documents](#)

[Ruling](#)

[Press Article 1](#)

[Press Article 2](#)

### **USA: Four Uighur Guantánamo detainees released and transferred to Bermuda; Thirteen Uighurs remain detained**

On 11 June, the Department of Justice announced the resettlement in Bermuda of four of the 17 Guantánamo detainees of Uighur origin. It was also revealed that the administration was contemplating transferring some of the Uighur detainees, reportedly following agreement with the government of Palau. The US administration is opposing a petition to the Supreme Court to hear the case of the remaining Uighur detainees. The petition challenges a Federal Court of Appeals judgment which reversed a District Court order to release and admit the detainees to the territory of the United States.

[Petition](#)

[Government Reply](#)

[Justice Department Statement](#)

[NGO Statement](#)

[Press Article](#)

### **Canada: Supreme Court upholds non-applicability of Human Rights Charter to detainees in Afghanistan**

By rejecting leave to appeal on 21 May, the Supreme Court of Canada upheld the decision of the Federal Court of Appeal ruling that the *Canadian Charter of Rights and Freedoms* does not apply to people detained by the Canadian armed forces in Afghanistan. The Court had decided that the detainees are subject to Afghan law only.

[SC Statement](#)

[Federal Court of Appeal Judgment](#)

[Press Article](#)

### **Canada: Right of terrorism suspect to return to his country violated, Federal Court rules**

On 4 June, the Federal Court ruled that Abousfian Abdelrazik's right to leave and return his country under the *Canadian Charter of Rights and Freedoms* was violated after he was refused an emergency passport to return to Canada from Sudan. He had been living in the Canadian Embassy for 14 months, following alleged torture in Sudanese prison. Abdelrazik, a Canadian-Sudanese citizen, is included in the UN terrorism list, under *Security Council resolution 1267*, and subject to travel ban. The Court, after considering the lack of due process guarantees in the UN listing procedure, ruled that resolution 1267 presented no impediment to Mr. Abdelrazik's right to return. The Court ordered Canada to issue a passport and return him at government expense within 30 days.

[Judgment](#)

[Press Article](#)

### **Canada: Government announces Bill allowing civil suits against perpetrators of terrorism**

On 2 June, the Government announced the tabling in the Federal Parliament of the *Justice for Victims of Terrorism Act*. The Bill would allow for victims of terrorist acts committed after 1 January 1985 to sue individuals, organizations and states for or support for acts of

terrorism. The legislation will override immunity previously enjoyed by some of these subjects from civil lawsuits.

[Draft Law](#)

[Government Statement](#)

[Press Article](#)

### **Colombia: Human rights defender challenging conviction as aider of *guerrilla***

On 2 June, Príncipe Gabriel González Arango, a human rights defender, filed a petition to the Supreme Court challenging his conviction by the Superior Tribunal of Bucaramanga last March for charges of rebellion and leading an urban militia force linked to the FARC. González Arango had been acquitted in 2007 on the same charges at first instance for lack of evidence. Human Rights First criticized the March conviction as having resulted from an unfair trial.

[NGO Statement](#)

[NGO Statement \(S\)](#)

[Case History](#)

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

### **Colombia: UN independent expert concerned at extrajudicial executions in countering terrorism**

On 18 June, the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, Philip Alston, concluded his visit to Colombia. The Special Rapporteur expressed deep concern at the phenomenon of extrajudicial executions of civilians by armed forces. The victims, civilians usually kidnapped by the army, are typically found dead in regions other than where they have been apprehended and are disguised as *guerrilleros (falsos positivos)*. This phenomenon is alleged to be enhanced by a secret Defence directive, which grants monetary awards to military personnel killing *guerrilleros*, and was enacted in the framework of the Government's "counter-terrorism" campaign.

[Special Rapporteur Statement](#)

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

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

## **ASIA - PACIFIC**

### **India: Human rights defender freed after two years detention under terrorism laws**

On 26 May, Dr. Binayak Sen was released from detention after having been granted bail by the Supreme Court. Dr. Sen is a well-known human rights defender active in the State of Chhattisgarh. He had been in detention since 14 May 2007 under the counter-terrorism laws, *Chhattisgarh Special Public Security Act 2006* and the *Unlawful Activities (Prevention) Act 2004*, for alleged links with the Maoist guerrilla. His release was welcomed by many international and national NGOs.

[Bail Order](#)

[NGO Statement](#)

[Press Article](#)

### **Sri Lanka: Emergency terrorism laws extended despite end of hostilities**

Despite the declaration of end of the hostilities on 16 May, the Sri Lankan Parliament on 9 July renewed the *Public Security Ordinance (Ch. 40)* for a further year. The Ordinance enhances emergency regulations which give sweeping powers to military forces, including in relation to search and arrest, and allow for administrative detention of up to one year. The extension was requested purportedly to combat remaining members of the Liberation Tigers of Tamil Eelam (LTTE).

[Renewal Order](#)

[Parliament Statement](#)

[ICJ Document](#)

[Press Article](#)

## **EUROPE & COMMONWEALTH OF INDEPENDENT STATES**

### **UK: House of Lords rules use of secret evidence to be unfair**

On 10 June, the House of Lords (Law Lords), sitting as a nine-judge panel, held that the use of secret evidence against suspects subject to control orders gives rise to an unfair trial where the defendant is unable to give effective instructions to the special advocate because



the defendants are not aware of the case against them. The ruling relied in part on the recent decision of the European Court of Human Rights, *A and Others v. United Kingdom*.

Judgment

ECtHR Judgment

NGO Report

NGO Statement

#### **UK: Counter-terrorism stop and searches powers used to counterfeit statistical data**

On 17 June, the Home Office published a report of the Counter-Terrorism Legislation Independent Reviewer, Lord Carlile. Among the counter-terrorism measures criticised by the report is the power of the police to stop and search under section 44 of the *Terrorism Act 2000*. According to Lord Carlile, such powers have sometimes been used for mere statistical purposes, whereby white people would be stopped so that the stop and searches would not appear biased against racial minorities.

Report

Terrorism Act 2000

Press Article

#### **France: UN Committee on the Rights of the Child concerned at police custody for minors in counter-terrorism**

On 11 June, the UN Committee on the Rights of the Child expressed in its Concluding Observations its concern at provisions of 2004 legislation which extends to minors, between 16 and 18 years of age, allowing for 96-hours police custody (*garde à vue*) for suspects of organised crime or terrorism.

Concluding Observations

#### **Belgium: European Commissioner finds terrorism laws not in line with human rights**

On 17 June, Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, published a report on his visit to Belgium in December 2008. The Commissioner highlights concerns with the vague definition of terrorism in Belgian criminal law and recommends that Belgian Government take into account the rights of the defence and privacy rights in the consideration of new draft legislation on data gathering.

Report

#### **Spain: Mayor convicted for glorification of terrorism**

On 5 June, the *Audiencia Nacional* convicted the mayor of Hernani, Marian Beitalarrangoitia Lizarralde, on charges of glorification of terrorism. On the occasion of the presentation of electoral lists of the political party *Accion Nacionalista Vasca (ANV)*, the then-candidate sent public greetings to two Basque detainees accused of terrorism offences, Igor Porto and Martin Sarasola, and to all “political detainees” in Spain and France. The investigations and prosecution regarding alleged ill-treatment of the two detainees are still ongoing.

Judgment (S)

Press Article 1 (S)

Press Article 2 (S)

#### **Russian Federation: Government announces law on compensation to victims of war in Chechnya**

On 27 May, Minister of Justice, Alexandr Kononov, reportedly announced the preparation of a draft law on compensation to the victims of the war in Chechnya. Residents of other parts of Russia would be eligible for compensation in cases of damages during counter-terrorist operations. However no payments will be made to “terrorists” and their relatives. According to a source of the newspaper “Vedomosti”, the draft law was prompted by the growing number of applications to the European Court of Human Rights.

Press Article (R)

## UNITED NATIONS & REGIONAL ORGANISATIONS

### UN: Office on Drugs and Crimes launches counter-terrorism laws database

On 10 June, the UN Office on Drugs and Crimes opened a new database which contains world-wide legislation on counter-terrorism, both at the national and international level, including important case-law. This tool has been accompanied by the publication of a *Handbook on Criminal Justice Response to Terrorism*, which highlights many objectives and challenges of the criminal justice system in the prevention, investigation, prosecution and detention of alleged or convicted perpetrators of terrorist crimes.

Database

Handbook

UNODC Statement

### EU: Court of First Instance finds again terrorism lists in violation of fair trial

On 11 June, the Court of First Instance ruled that the inclusion of Omar Mohammed Othman (also known as Abu Qatada) on the EU Terrorism List, based on *UN Security Council resolution 1267*, constitutes an unjustified restriction of his right to property and was therefore in violation of his right to a fair trial. Following the precedent in the earlier case of *Kadi*, the Court found that the lack of communication and the impossibility of challenging the measure violate the claimant's right.

Judgment

Kadi Judgment

### EU: European Council approves plan for resettlement of Guantánamo detainees

On 4 June, the European Council approved an EU policy allowing for the resettlement of Guantánamo detainees, which will be limited to those cleared for release by US authorities, who are not under criminal charge and who cannot be sent to their countries of origin because of the risk that they will be subjected to torture or other serious human rights violations. The policy also provides for a mechanism of exchange of information on the detainees among certain EU countries. The decision was welcomed by the US and the EU in a joint statement on 15 July, in which the two pledged further cooperation in counter-terrorism and in the exchange of information on Guantánamo detainees including after their resettlement.

European Council Conclusions

US-EU Joint Statement

NGO Statement

### EU: European Commission outlines next five-years counter-terrorism strategy

On 10 June the European Commission published a proposal for a programme for EU policy on Justice and Home Affairs for the next five years, "the Stockholm Programme". The plan contemplates prevention mechanisms, initiatives to counter radicalisation, surveillance of internet use, and better enforced instruments to combat financing of terrorism, as top priorities in the EU counter-terrorism strategy.

European Commission Programme

### Council of Europe: Conference of Communications Ministers tackles issue of counter-terrorism and freedom of expression

On 29 May, the Council of Europe Ministers responsible for Media and New Communication Services adopted at their first conference a resolution on counter-terrorism and freedom of expression. The Ministers took note of the negative impact that some counter-terrorism measures have on the exercise of freedom of expression and resolved to review regularly national legislation and practices for their compliance with the case-law of the European Court of Human Rights.

Resolution

Council Statement

### Council of Europe: Report addresses impunity in "War on Terror"

On 3 June, a report was published on impunity in Europe, by Herta Däubler-Gmelin of the Committee on Legal Affairs and Human Rights of the Council of Europe. The report refers to the "war on terror" as a situation in which States justify their participation in human

rights violations as necessary in pursuit of the “higher goal of stamping out terrorism.” The report observes that such policies and practices facilitate impunity for human rights violations.

Report

### **Organisation of American States: General Assembly passes resolutions on counter-terrorism and human rights**

On 4 June, the General Assembly of the Organisation of American States adopted resolution 2512(2009) concerning counter-terrorism and human rights. In the resolution, the Members States called for the precise formulation of laws criminalising terrorist conduct or activities in compliance with international law; urged that States not resort to profiling based on discrimination; reaffirmed the absolute nature of the obligation of *non-refoulement*; and called for respect for the safeguards concerning the liberty, security, and dignity of the person. In resolution 2517(2009), the Assembly expressed its concern that counter-terrorism legislation and measures have been abused to incriminate human rights defenders.

Resolutions

### **G-8: Summit of Justice and Home Affairs Ministers stresses importance of respect of human rights in countering terrorism**

On 28-30 May, the G-8 Meeting of Ministers of Justice and Home Affairs issued a Final Declaration in which they stressed the importance of ensuring that counter-terrorism measures are compatible with fundamental human rights and the rule of law. The resolution also underlines the paramount role of the criminal justice system in the response to the challenge of terrorism activities.

Declaration

## **IN BRIEF**

### **Reprieve presents report on detainees at US Diego Garcia Base**

On 20 May, the UK-based organisation Reprieve published a report on the situation of detainees apprehended in the framework of the “War on Terror” and subject to military custody in the US-leased Airbase at Diego Garcia, an island that is part of UK territory. The report identifies two victims of the CIA rendition programme, allegedly sent to Diego Garcia and held in secret detention.

Report

### **ACLU publishes report on effect of counter-terrorism measures on Muslim charities**

On 15 June, the American Civil Liberties Union published a report on the impact that counter-terrorism measures have on American Muslim charities and their financing.

Report

Press Article

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