



International Commission of Jurists

E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights holds hearings in South Asia

In February, the Panel held a sub-regional hearing in New Delhi on counter-terrorism laws, policies and practices in India, Bangladesh, Sri Lanka, Nepal and the Maldives. Following the hearing in New Delhi, the Panel visited Pakistan to hold a hearing on the country's counter-terrorism measures. Justice Arthur Chaskalson (South Africa) and Professor Vitit Muntarbhorn (Thailand) represented the Panel in India and Pakistan.

On 24-25 April, the Panel will visit Canada to continue its global inquiry. Justice Arthur Chaskalson (South Africa) and Professor Robert K. Goldman (United States) will represent the Panel in Canada.

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AFRICA & MIDDLE EAST

Egypt: Constitutional amendments approved in referendum

On 26 March, 34 constitutional amendments were approved in a popular referendum following their adoption by Parliament. The amendments give the President the power to refer people suspected of a terrorist offence to be tried by military or special courts. Concerns have been raised that the amendments will lead to the replacement of the emergency legislation by a permanent and far-reaching new anti-terrorism law.

[AI Press Release](#)

[FIDH Press Release](#)

[ACIJLP Commentary](#)

Egypt: Muslim Brotherhood members to be tried by military court

On 6 February, President Mubarak ordered, under the 1981 emergency law, the trial by a military tribunal of 40 members of the Muslim Brotherhood, Egypt's largest Islamic political group. The members are charged with money laundering and financing of a terrorist group. The Government has reportedly arrested hundreds of members of the Muslim Brotherhood under the emergency law since December 2006.

[HRW Press Release](#)

[Press Article](#)

Kenya: Wave of arrests and detention of Muslims suspected of terrorism

Over the last two months, hundreds of Muslims suspected of engaging in terrorism have been arrested after having crossed the Somalian border following the defeat of the Islamic Courts Union (ICU). At least 80 Kenyans and non-Kenyans have reportedly been secretly deported to Somalia and Ethiopia after they were held in Kenyan prisons for weeks without access to lawyers or family members. The US government was allegedly involved in the interrogation of several detainees while they were held incommunicado in Nairobi.

[HRW Press Release](#)

[Nat. Comm. HR Press Release](#)

[Press Article](#)

Saudi Arabia: Human rights defenders and lawyers detained on grounds of financing terrorism

On 2 February, 10 Saudi human rights defenders and lawyers were arrested in Jeddah and Madinah and have been held incommunicado since then. Although no charges have been brought against them, an Interior Ministry official told local newspapers that the men arrested have been involved in collecting money to finance terrorism.

[ICJ Press Release](#)

AMERICAS

USA: District court dismisses lawsuit against Rumsfeld

On 27 March the District Court for the District of Columbia dismissed a lawsuit against former Defence Secretary Donald Rumsfeld and other US military officers. The case was brought on behalf of nine Iraqi and Afghan former detainees. The lawsuit alleged that Donald Rumsfeld is responsible for policies of torture. Judge Thomas F. Hogan dismissed the case on grounds that U.S officials can not be personally held liable for actions taken in the scope of their official duties. The Court further concluded that constitutional protections do not apply to aliens detained abroad.

[Press Release HRF and ACLU](#)

[Judgment](#)

USA: Military commission convicts David Hicks to 9 months

On 30 March, a military judge convicted David Hicks, an Australian citizen detained at the Guantánamo Bay detention centre, to 9 months imprisonment. During his first appearance on 26 March, David Hicks pleaded guilty. Two of David Hicks' defence lawyers were disqualified at the hearing and barred from representing their client. David Hicks had been charged by the Department of Defence with providing material support for terrorism.

[Charge Sheet](#)

[Background](#)

[D. Hick's Guilty Plea](#)

[Stipulation of Fact](#)

USA: ICRC's reportedly documents abuse of detainees in CIA secret prisons

According to media statements, a new confidential report by the International Committee of the Red Cross (ICRC) documents how 14 "high value" CIA detainees were held and questioned under highly abusive conditions. Earlier this month, the Department of Defence's Combatant Status Review Tribunals (CSRTs) started hearings to determine whether the 14 detainees qualify as "enemy combatants". Two US Senators who attended the hearing, called for allegations of torture or ill-treatment of the detainees to be investigated.

[Press Article](#)

[Press Article](#)

[HRW Press Release](#)

[Joint Statement](#)

USA: Court upholds *habeas corpus* stripping provisions of Military Commissions Act

On 20 February, the Court of Appeals for the District of Columbia Circuit upheld the provisions in the Military Commissions Act (MCA), which strip foreign nationals designated as "enemy combatants" of the statutory right to file *habeas corpus* petitions to challenge the legality of their detention. The Court held that individuals detained outside the US territory had no constitutional right to file *habeas corpus* petitions before US courts. The ruling came in the consolidated cases of hundreds of detainees held at Guantánamo Bay.

[Judgment](#)

[MCA](#)

[UNHCHR Press Release](#)

USA: Court upholds dismissal of El-Masri case on grounds of "state secrets privilege"

On 2 March, a Court of Appeals dismissed a lawsuit by Khaled El-Masri, a German citizen, against former CIA Director George Tenet. El-Masri claims to have been abducted by the CIA in Macedonia and transferred to a secret prison in Afghanistan, where he was allegedly tortured. The Court upheld the lower court decision that the case could not be continued because it related to state secrets.

[Judgment](#)

[Complaint](#)

Canada: Supreme Court rules indefinite detention under security certificates unconstitutional

On 23 February, the Supreme Court ruled that the government's use of "security certificates" under the Immigration and Refugee Protection Act (IRPA) to indefinitely detain and deport foreigners with suspected links to terrorism violates the Canadian Charter of Rights and Freedoms.

[Judgment](#)

[IRPA](#)

Canada: House of Commons votes against extension of controversial anti-terror provisions

On 27 February, the Canadian House of Commons voted not to continue two provisions of the Anti-Terrorism Act (ATA). The provisions allowed the police to make preventive arrests without warrant and gave judges the power to compel witnesses to testify in terrorism cases. On 27 March, the House of Commons' Standing Committee on Public Safety and National Security also published a new report with recommendations on the Anti-Terrorism Act as part of its mandate to review the legislation.

[House of Commons Report](#)

[ATA](#)

[Press Article](#)

Canada: UN experts concerned about increased risk of racial profiling and discrimination

After considering Canada's report on the implementation of the Convention on the Elimination of all Forms of Racial Discrimination, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concerns about the heightened risks of racial profiling and racial or ethnic discrimination in the context of increased national security measures. The Committee also expressed concerns about the use of "security certificates" under the Immigration and Refugee Protection Act, which provides for indefinite detention without charge or trial of non-nationals suspected of terrorism-related activities.

[Concluding Observations](#)

[Canada's Report](#)

ASIA-PACIFIC

Philippines: President signs anti-terrorism bill into law

On 6 March, President Arroyo signed into law the Human Security Act of 2007, a new anti-terrorism law passed by Congress at a special session in February. On 13 March, Martin Scheinin, UN Human Rights Council expert on counter-terrorism and human rights, expressed concern about the Act for, among other reasons, its broad definition of terrorist acts, insufficient procedural guarantees regarding pre-charge detention and the low evidentiary threshold for the imposition of house arrest on terrorist suspects. Martin Scheinin encouraged the Parliament to amend the legislation at its next regular session.

[Human Security Act](#)

[M. Scheinin's Statement](#)

[Forum-Asia Press Release](#)

India: UN experts call on Government to repeal Armed Forces (Special Powers) Act

In its concluding observations on India's report on the implementation of the Convention on the Elimination of all Forms of Racial Discrimination, the UN Committee on the Elimination of Racial Discrimination urged the Indian Government to repeal the Armed Forces (Special Powers) Act enacted in 1958 and to replace it "by a more humane Act". Under the Act, members of the armed forces are granted broad powers, including the authority to kill, to search and arrest suspects without a warrant. These concerns were also raised in February at a hearing held by the ICJ Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights.

[Concluding Observations](#)

[EJP Hearing](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

United Kingdom: House of Lords approves extension of control orders system

On 5 March, the House of Lords approved the extension of the control orders system under the Prevention of Terrorism Act 2005. A day earlier, the Parliamentary Joint Committee on Human Rights issued a report concluding that the use of control orders by the UK violated the European Convention on Human Rights. In a report released in February, Lord Carlile, the independent reviewer of terrorism legislation, had justified control orders in light of the terrorist threats.

[JCHR Report](#)

[Lord Carlile's Report](#)

[Home Office Press Release](#)

United Kingdom: Lord Carlile releases report on the definition of terrorism

In March, Lord Carlile, the independent reviewer of terrorism legislation, presented a report on the definition of terrorism. In his report, he concluded that a definition of terrorism is necessary and that the definition contained in the UK Terrorism Act 2000 is consistent with other national law definitions and international standards on terrorism.

[Lord Carlile's Report](#)

United Kingdom: SIAC allows deportation based on diplomatic assurances

On 26 February, the Special Immigration Appeals Commission (SIAC) dismissed an appeal by a Muslim cleric, Abu Qatada against his deportation to Jordan. Abu Qatada argued that he was at risk of being tortured if deported to Jordan. The Commission rejected his claim on the ground that the Memorandum of Understanding signed between the UK and Jordan in 2005 provided adequate and sufficient protection against torture.

[SIAC Decision](#)

[MOU Jordan](#)

[HRW Expert Opinion](#)

United Kingdom: Court rejects “freedom fighters” defence

On 16 February, the Court of Appeal rejected the argument that the Terrorism Act 2000 provided for an exemption from criminal liability for “freedom fighters” who engage in terrorist activities against non-democratic regimes. The case concerned a Libyan charged under the Act for the possession of documents “likely to be useful to a person committing or preparing an act of terrorism”.

[Judgment](#)

[JUSTICE Submission](#)

[Terrorism Act 2000](#)

United Kingdom: Police Commission releases report on anti-terrorism raid in June 2006

On 13 February, the Independent Police Complaints Commission (IPCC) released a report on its inquiry into claims of assault, unlawful arrest and detention in the anti-terrorism operation in East London in June 2006. The IPCC concluded that Scotland Yard should apologise to the families caught up in the raid.

[IPCC Report](#)

United Kingdom: Court rules on social security benefits for family members of listed persons

The Court of Appeal ruled on licencing procedures imposed by the Treasury on the social security benefits of women married to men included on UN terrorist lists. The Court ruled that the licencing arrangements were justified, since the benefits could indirectly make funds available to listed persons.

[Judgment](#)

Sweden: Government introduces bill to grant surveillance powers to intelligence agency

A new bill presented by the Government would give the Swedish intelligence agency the power to monitor, without a court order, any email traffic and phone calls crossing the borders. Civil liberties groups have criticised the law for its intrusion on human rights.

[Bill \(Swedish\)](#)

[Press Article](#)

The Netherlands: Government introduces bill on terrorist training camps

On 7 March, the Dutch Minister of Justice introduced a bill, which would criminalise participation in terrorist training camps, regardless of the location of the camp. According to the Minister, the bill seeks to bring Dutch law in line with Article 7 of the Council of Europe Convention on the Prevention of Terrorism, which requires States parties to criminalize training for terrorism.

[MoJ Press Release](#)

[Explanatory Memorandum \(Dutch\)](#)

Switzerland: Military tribunal to try journalists for publishing a fax on CIA secret prisons

On 6 February, a military tribunal indicted three journalists from the Swiss weekly newspaper *SonntagsBlick* for publishing a document allegedly proving the existence of secret CIA prisons in Europe. Last year, the three journalists published a fax from the Egyptian Ministry of Foreign Affairs to its London embassy intercepted by a Swiss military intelligence agency. They could face up to five years in prison for violating “defence secrecy”. The hearings are expected to start in April.

[RSF Press Release](#)

[Press Article](#)

Spain/Portugal: Investigations start into CIA rendition flights

On 5 February, a Portuguese Prosecutor announced the start of investigations into stopovers made in Portugal by suspected CIA rendition flights. Another investigation into CIA rendition flights is taking place in Spain. Following an order by a high court judge, the Government agreed to declassify and deliver documents held by its intelligence agency on secret CIA rendition flights. The documents reportedly include details of stopovers by CIA flights transporting terrorist suspects through the Islands of Mallorca and Tenerife.

[Press Article](#)

[Press Article](#)

Spain: Trial of 29 suspects starts three years after Madrid bombing

On 17 February, the trial of 29 suspects involved in the Madrid bombings in March 2004 started. The seven lead suspects face 191 counts of murder. The other suspects face charges of collaborating with a terrorist group and handling explosives.

[Press Article](#)

UNITED NATIONS & REGIONAL ORGANIZATIONS

UN: New reports address human rights issues in counter-terrorism

Martin Scheinin, the UN expert on counter-terrorism and human rights, presented a new report before the Human Rights Council on racial profiling and suicide attacks. In another report to the Human Rights Council, the Working Group on arbitrary detention raised concerns about international transfers of detainees in the context of countering terrorism, including the practices of renditions, diplomatic assurances and the return of persons under assurance of continued detention without charge or legal basis for detention.

[M. Sheinin's Report](#)

[WGAD Report](#)

EU: Parliament adopts final report on secret detentions and renditions

On 14 February, the European Parliament adopted the final report of the “Temporary Committee on the alleged transportation and illegal detention of terrorist suspects by the CIA” (TDIP) in Europe. The report concluded that temporary secret detention facilities might have been located at US military bases in Europe. It also called on the Committee on Civil Liberties, Justice and Home Affairs to follow up and, if necessary, recommend sanctions under the EU Treaty against member states found to be in breach of the fundamental principles and values of the EU.

[TDIP Report](#)

[EP Resolution](#)

[EP Press Release](#)

EU: Parliament demands greater transparency in data exchange with the US

The European Parliament adopted a resolution demanding more transparency on the transfer of financial data to the US authorities through the Society for Worldwide Interbank Financial Telecommunication (SWIFT). The resolution followed the release of an opinion by the European Data Protection Supervisor on the role of the European Central Bank in the case. The Parliament also called for its greater involvement in the negotiation of a final agreement between the EU and the US on the exchange of airline passenger data. The Article 29 Data Protection Working Party also released a new opinion on this issue.

[EP Resolution](#)

[EP Press Release](#)

[EDPS Opinion](#)

[Art. 29 DPWP Opinion](#)

OAS: American States adopt declaration on counter-terrorism

On 2 March, the 34 members of the Organization of American States (OAS) adopted the “Declaration of Panama on the Protection of Critical Infrastructure in the Hemisphere in the Face of Terrorism”. The declaration underscores the need to improve the coordination and exchange of information between the member states with a view to preventing, mitigating and deterring threats to critical infrastructure and harmonizing, as appropriate, national and regional efforts.

[Declaration](#)

[Press Release](#)

IN BRIEF

Amnesty International has published a new report on trials under the Military Commissions Act, which raises concerns regarding the compatibility of these trials with fair trial standards.

[Report](#)

The **Office for Democratic Institutions and Human Rights (ODIHR)** of the **Organization for Security and Co-operation in Europe (OSCE)** and the **UN High Commissioner for Human Rights** have released a joint report on “Human Rights and International Cooperation in Counter-Terrorism”.

[Report](#)

In a new report, the **UN High Commissioner for Human Rights** gives an overview of recent activities of the Office of the High Commissioner for Human Rights on the protection and promotion of human rights while countering terrorism.

[Report](#)