



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

Uganda: Terrorism Task Force prevents visits by National Human Rights Institution

On 23 February, the Ugandan newspaper *Daily Monitor* revealed that the Ugandan Human Rights Commission, the country's National Human Rights Institution, was on three occasions prevented from inspecting without notice 'safe houses' (unacknowledged detention facilities) under the control of the Joint Anti-Terrorism Force (JATT). There have been repeated reports of torture and cruel, inhuman or degrading treatment, extrajudicial killings and enforced disappearances by JATT agents.

NGO Report

Press Article 1

Press Article 2

Mauritania: Provisions of Anti-Terrorism Law found unconstitutional

On 4 March, the Constitutional Council declared ten articles of the recently approved Anti-terrorism Law unconstitutional and void. Reportedly, the provisions would have allowed for wiretapping of telephone calls and mail, and home searches and night raids with the authorisation of the Public Prosecutor. It would have also extended the period of police custody (*garde à vue*) to a maximum of 45 days without judicial authorisation.

Draft Law (F)

Council Statement (F)

Press Article (E)

Press Article (F)

Morocco: UN reports serious human rights violations in counter-terrorism

On 8 March, the UN Working Group on Enforced or Involuntary Disappearances presented the report of its visit to Morocco from 22 to 25 June 2009. The report documents allegations of enforced disappearances committed by the secret services since 1999 in the counter-terrorism framework. The report also criticises counter-terrorism legislation that provides for police detention (*garde à vue*) of a maximum of 12 days without access to a lawyer for the first 96 hours. The Working Group also reported allegations of Morocco's complicity in the CIA secret detention and renditions programme.

Report (F)

Egypt: Detentions under emergency law are arbitrary, UN experts say

In three individual communications, the UN Working Group on Arbitrary Detention found the administrative detention of Djema'a al Seyed Suleyman Ramadan, Islam Subhy Abd al-Latif Atiyah al-Maziny, Mohamed Khirat Al-Shatar and 25 other persons under the *Emergency Act No. 162 of 1958* to be arbitrary since judicial orders for release had been disregarded in the cases. The Working Group further held, in one of these cases, that detention on the basis of a subsequent conviction by a military court was arbitrary, as these courts lacked independence necessary to ensure a fair trial. The Working Group reiterated its position that, as a general matter, military tribunals should not exercise jurisdiction over civilians.

Report (Opinions No. 18, 20 & 27/2008)

Saudi Arabia: Anti-terrorism detention used to curb political opinions, UN experts say

The UN Working Group on Arbitrary Detention found the detention by Saudi authorities of Suleyman b. Nasser b. Abdullah Al-Alouane and Said b. Mubarek b. Zair to be arbitrary, as the main charges against them were related to the expression of their political opinions perceived by the authorities to be "of an inflammatory nature to terrorist groups". The Working Group also held that the detainees had not been properly informed of the reasons for detention, nor provided with access to a lawyer or with independent judicial review of their detention.

Report (Opinions No. 22 & 36/2008)

Syria: State Security Courts failed to respect the right to a fair trial of 12 detainees, UN Working Group finds

The UN Working Group on Arbitrary Detention considered the detention of 12 persons on the basis of convictions by the Syrian State Security Courts to be arbitrary. It held that these proceedings violated the right to be tried in a fair and public hearing before a competent, independent and impartial tribunal; to be informed promptly and in detail of the charges; to challenge the lawfulness of their detention; to adequately prepare one's defence; to legal assistance; to be tried without undue delay; the obligation not to use coerced confessions as evidence; and the right to have conviction and sentence reviewed by a higher tribunal. The detainees were convicted of membership of Al Taffkir wa al-Hijra, an organisation allegedly linked to Al-Qaeda, and of training for purposes of terrorism.

Report (Opinion No. 28/2008)

AMERICAS

USA: Supreme Court denies appeal of Guantánamo detainees on *non-refoulement*

On 22 March, the Supreme Court denied *certiorari* in the case *Kiyemba and Others vs. Obama and Others (No. 2)*. The case challenged a Court of Appeals ruling which overturned judicial orders preventing the transfer of a group of Guantánamo detainees to countries where they would have been likely to be tortured or subject to further prosecution or detention. The Court of Appeals had ruled that US courts may not 'second-guess' the Government's assessment on the likelihood of the risk of torture.

Supreme Court Order

Court of Appeals Judgment

USA: One-year extension of USA PATRIOT Act becomes law

On 27 February, President Obama signed into law a bill extending three expiring USA PATRIOT Act provisions for one year. These provisions have raised concerns regarding respect of the right to privacy, as they authorise roving wiretaps and seizure of records and property for counter-terrorism purposes, and permit surveillance of so-called "lone wolf", suspects of foreign origin not affiliated with an organisation or country.

Draft Law

White House Statement

NGO Statement

Press Article

USA: Draft Law on indefinite detention introduced in Senate

On 4 March, Senators John McCain and Joseph Lieberman introduced in the Senate a bill that, if approved, would give the Government power to detain "unprivileged enemy belligerents" indefinitely without charge or trial. The bill, the *Enemy Belligerent Interrogation, Detention and Prosecution Act 2010*, would also create interrogation teams, made up by members of intelligence agencies, which would be able preliminarily to determine whether an alleged terrorist suspect is an "unprivileged enemy belligerent". The bill would prohibit the use of funds by the Department of Justice to try persons designated as "unprivileged enemy belligerents" in federal civilian courts.

Draft Law

NGO Statement

USA: Federal Judge grants *habeas* petition to "high value" Guantánamo detainee

On 22 March, Judge James Robertson of the District Court for the District of Columbia ordered the release of Mohamedou Ould Slahi, a Mauritanian national detained in Guantánamo since 2002. His *habeas corpus* petition alleged that he had been tortured while in detention and had made confessions under duress. In 2004 the military prosecutor, Lt. Col. Stuart Couch, withdrew from a military trial against him claiming that evidence against Mr Slahi was obtained under torture. Judge Robertson's opinion is still classified,

but may be soon made public. Mohamedou Ould Slahi had been considered by the Government to be a “high value” detainee, mentioned in the report of the US 9/11 Commission as playing a role in the recruitment of persons who attacked the Twin Towers.

[Press Article](#)

USA: Declassified documents show that Congress was briefed on CIA interrogation programme

On 23 February, the organisation Judicial Watch published documents, released following a *Freedom Of Information Act* action, which demonstrate that between 2001 and 2007 the CIA briefed at least 68 members of Congress on the CIA interrogation programme, including on the “enhanced interrogation techniques.”

[Documents](#)

[JW Statement](#)

Canada: Canadian cooperation with Egyptian secret services likely to have contributed to ill-treatment of terrorism suspect

On 23 February, Judge Frank Iacobucci released classified paragraphs of his inquiry into actions of Canadian officials in relation to Mr. Almalki, Mr. Elmaati and Mr. Nureddin, who were detained and mistreated in Syria and in Egypt during the period 2001 to 2004. In the disclosed paragraphs of the 2008 report, Judge Iacobucci finds that the correspondence of Canadian Secret Service (CSIS) agents with their Egyptian counterparts was likely to have contributed to the alleged torture of Mr Elmaati in Egypt. The paragraphs have now been disclosed as they are not deemed to jeopardise national security.

[Released Paragraphs](#)

[Inquiry Statement](#)

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

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

Jamaica: Parliament passes law allowing for executive-issued punishments in counter-terrorism

On 10 March, the National Assembly passed amendments to the *Terrorism Prevention Act 2005* which allow for the Government to introduce greater penalties than those provided under primary legislation. No limits have been set for the penalties to be decided by the Government.

[Law \(Amendments\)](#)

[TPA 2005](#)

[Interpretation Act](#)

[Parliament Statement](#)

ASIA - PACIFIC

Sri Lanka: “Emergency” Parliament extends state of emergency before elections

On 9 March, the Sri Lankan Parliament renewed for a further month the state of emergency that has been in place since 2005. President Mahinda Rajapaksa had reconvened the Parliament, which he previously dissolved, with the purpose of approving this extension of the state of emergency under the *Public Security Ordinance*. The President justified the renewal by referring to reports that the Liberation Tigers of Tamil Eelam (LTTE) intended to “carry out activities threatening public security”. Elections for a new Parliament will be held in April.

[President Statement](#)

[Parliament Statement](#)

[Press Article 1](#)

[Press Article 2](#)

Sri Lanka: UN Working Group finds detention under emergency law arbitrary

The UN Working Group on Arbitrary Detention found the arrest and detention of Gunasundaram Jayasundaram to be arbitrary. A dual Sri Lankan-Irish citizen resident in Singapore, Gunasundaram Jayasundaram was detained on suspicion of providing monetary and material support to the Liberation Tigers of Tamil Eelam (LTTE). The Working Group found that suspicion unsubstantiated and noted that Gunasundaram

Jayasundaram had been detained without charge, and without prompt access to a lawyer and consular representation, and that he had not been brought before a court for a *habeas corpus* hearing.

Report (Opinion No. 30/2008)

Malaysia: Six years detention under Anti-terrorism Law arbitrary, UN experts say

The UN Working Group on Arbitrary Detention found that Mat Sah bin Mat Satray was arbitrarily detained for six-and-one-half years under the *Internal Security Act*. He had been arrested in April 2002 under suspicion of being a member of the Jemaah Islamiyyah and detained ever since without being charged or brought before a judge to be tried. The Working Group considered that Mat Sah bin Mat Satray must be given a fair trial with full legal representation.

Report (Opinion No. 32/2008)

Internal Security Act

Australia: Court says act of state doctrine cannot stop lawsuit on complicity in torture

On 25 February, the Federal Court dismissed arguments that the act of state doctrine could prevent a civil damage lawsuit brought by Mamdouh Habib against the Australian Government for complicity in torture. Mr Habib is suing for damages for the alleged aiding and abetting in torture by Australian secret service and law enforcement officers, together with US officers, while he was in detention in Pakistan, Egypt, Afghanistan (Bagram) and Guantánamo.

Judgment

Press Article

Australia: Parliament creates independent monitor for counter-terrorism laws

On 18 March, the Australian Parliament passed the *Independent National Security Legislation Monitor Bill 2010*. The bill creates an independent monitor, to be appointed by the Governor-General after the consultation by the Prime Minister with the opposition parties. The monitor's task will be to assist Ministers in ensuring that Australia's counter-terrorism and national security legislation is effective in fulfilling its counter-terrorism objective and consistent with its legal obligations to ensure respect for human rights law.

Draft Law

Government Statement

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: High Court Judge expresses doubts on Secret Service's frankness in disclosed judgment paragraph

On 26 February, the High Court issued a further judgment in the case of *Binyam Mohamed*. The judgement publishes the final version of Lord Neuberger MR's judgment of 10 February, wherein he determined that "some Security Service officials appear to have a dubious record relating to actual involvement, and frankness about any such involvement, with the mistreatment of Mr Mohamed when he was held at the behest of US officials". Binyam Mohammed, an Ethiopian citizen currently residing in the UK, was held by the US from 2004 to February 2009 at Guantánamo, following his 2002 arrest and detention in other countries including Afghanistan, Pakistan and Morocco, where he was allegedly subjected to torture.

Ruling

Press Article

UK: Parliament renews control orders regime

On 2 March, the House of Commons renewed for a further year the control order system provided for by the *Prevention of Terrorism Act 2005*. The renewal took place despite an opinion by the Parliamentary Joint Committee on Human Rights, which had considered the current control order regime to be no longer sustainable. In particular, the Committee

concluded that the special advocate system was not capable of ensuring the substantial measure of procedural justice required by UK law. It noted concern about the devastating impact of control orders on the subjects, their families and communities, and about their alleged disproportionate cost.

[PTA 2005](#)

[JCHR Report](#)

[Parliament Statement](#)

[NGO Statement](#)

[Press Article](#)

UK: Parliamentary report criticises UK counter-terrorism policies

On 25 March, the Parliamentary Joint Committee on Human Rights published its 17th report on counter-terrorism and human rights. The report questions whether there remains a real terrorist threat to the UK sufficient to justify continuous emergency powers, and criticises the narrow definition of complicity in torture presented by the Government and the increased use of secret evidence in the UK courts. The Committee concludes that a fundamental parliamentary review of the necessity and proportionality of all counter-terrorism laws passed since 2001 is an urgent priority for the Parliament to avoid the normalisation of the exceptional.

[Report](#)

[Press Article 1](#)

[Press Article 2](#)

France: Court asks for constitutional review of extended police custody in counter-terrorism

On 1 March, the Criminal Court of Paris asked the Court of Cassation to allow a constitutional challenge before the Constitutional Council (*Conseil Constitutionnel*) to the provisions governing police custody (*garde à vue*) which are alleged to conflict with the right to a fair trial, including the right to a defence, and to individual liberty. Under a new constitutional procedure, which entered into force on 1 March, the Court of Cassation will have three months to decide whether to submit the case for review by the *Conseil Constitutionnel*. The Government also released a first draft (*avant-projet*) of the reform of the code of criminal procedure, which would maintain the exclusion, subject to certain conditions, of the right of terrorism suspects to access a lawyer in police custody for the first 96 or 120 hours from the moment of arrest.

[Court of Cassation Docket \(F\)](#)

[Avant-Projet \(F\)](#)

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

Germany: Constitutional Court annuls parts of data retention law

On 2 March, the Constitutional Court declared void certain provisions of the *Telecommunications Act* and of the *Code of Criminal Procedure*, which allowed for storage and retention of internet information for criminal prosecution and intelligence purposes. The provisions were introduced in 2007 to implement the *European Union Directive on Data Retention*. The Court found that the German implementation of the Directive went beyond requirements of EU law and constituted a disproportionate interference with the right to privacy. It noted in particular that the law failed to list specific crimes for which storage was required and that there were overbroad powers regarding the subsequent use of information by the authorities.

[Judgment \(German\)](#)

[Judgment Summary \(E\)](#)

[EU Directive \(E\)](#)

[Law \(German\)](#)

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

Spain: Mayor's conviction for glorification of terrorism overturned by Supreme Court

On 3 March, the Supreme Court overturned a judgment of the *Audiencia Nacional* and acquitted the mayor of Hernani, Marian Beitialarrangoitia Lizarralde, of charges of glorification of terrorism. In 2008, on the occasion of the presentation of electoral lists of the political party *Acción Nacionalista Vasca (ANV)*, the then-candidate sent public greetings to two Basque detainees accused of terrorism offences and allegedly ill-treated by law enforcement officers, Igor Porto and Martin Sarasola, and to all "political

detainees” in Spain and France. The Supreme Court found that these acts did not constitute a glorification of terrorism.

Judgment (S)

Press Article (S)

Switzerland: Parliament requests withdrawal from UN terrorism sanctions regime

On 4 March, the Federal Assembly approved a resolution inviting the Federal Government to communicate to the UN Security Council that the Swiss Confederation will not implement UN terrorism sanctions if the person concerned had been on the UN list for more than three years without having been brought to justice; had no possibility to access a remedy before an independent authority; had not been charged by any judicial authority; and had no new evidence produced against him or her since being included on the list. The resolution also recommends that the Government make clear that a democratic country based on the rule of law cannot implement a sanctions regime which suspends the most elementary fundamental rights for years and without democratic legitimacy.

Resolution (F)

Debate Transcripts (French and German)

Montenegro: European Committee on Torture finds investigations in torture allegations insufficient

On 9 March, the European Committee on the Prevention of Torture published the report of its visit to Montenegro from 15 to 22 September 2008. The Committee reported the alleged ill-treatment of several people during an “anti-terrorist” raid carried out on 9 September 2006. The Committee concluded that the investigations into these allegations had not been effective, prompt or independent and did not sufficiently involve the victims and their representatives. The Committee also expressed concern at the fact that the policemen involved in the operation were wearing masks without alternative means of identification.

Report

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: High Commissioner presents report on accountability and remedies for counter-terrorism abuses

On 5 March, the Office of the UN High Commissioner for Human Rights presented to the Human Rights Council its report on counter-terrorism and human rights. The report analyses the issues of accountability, remedy and reparation for human rights violations committed while countering terrorism. In particular, the report calls for independent oversight of intelligence agencies, rejects the use of secret of state or immunity doctrines in investigations or prosecutions for serious human rights violations, and calls for accountability of those responsible, including in the context of the CIA-led renditions programme.

Report

UN: UN Working Group concerned at human rights impact of terrorism measures

On 8 March, the UN Working Group on Enforced or Involuntary Disappearances presented its annual report to the UN Human Rights Council. In the report, the Working Group expressed its concern at measures undertaken while addressing terrorism, such as enactment of legislation that restricts personal freedoms and weakens due process, random arrests committed during military operations, arbitrary detention and extraordinary renditions, which amount to enforced disappearances.

Report

Corrigendum

UN: UN expert finds counter-terrorism measures undermine torture prohibition

On 8 March, the UN Special Rapporteur on Torture, Manfred Nowak, presented his annual report to the UN Human Rights Council. The report, which draws conclusions from his 6 years' activity as an independent expert, analyses the undermining and weakening of the absolute prohibition of torture due to counter terrorism laws, policies and practices. The Special Rapporteur underscored that the need to gather intelligence information is a reason most often put forward to justify the use of torture and ill-treatment.

[Report](#)

UN: Secret detention report discussion deferred by Human Rights Council

On 4 March, the UN Human Rights Council decided to defer the discussion of the joint study on secret detention prepared by the UN Special Rapporteur on Torture, the UN Special Rapporteur on promotion and protection of human rights while countering terrorism, the UN Working Group on Arbitrary Detention and the UN Working Group on Enforced or Involuntary Disappearances. The deferral decision was subject to criticism, including by a number of human rights organizations, as being politically motivated. The global study documents secret detention, torture and enforced disappearances in the name of counter-terrorism in some 80 countries around the world.

[Joint Study](#)

[ICJ Statement](#)

[Interview \(SR Torture\)](#)

UN: General Assembly invites UN to cooperate with Collective Security Treaty Organisation

On 17 February, the General Assembly adopted a resolution without a vote in which it invited UN organs, including the Counter-Terrorism Committee and its Executive Directorate, to cooperate with the Collective Security Treaty Organisation (CSTO) and to develop direct contacts with it for the joint implementation of programmes. The CSTO is a regional security organisation, among whose aims is to counter terrorism and separatism, and is composed by the Russian Federation, Belarus, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan.

[Resolution](#)

[CSTO Charter](#)

[GA Transcript](#)

EU: Internal Security Strategy stresses need for prevention of terrorism

On 25 February, the Council of the European Union approved the *EU Internal Security Strategy*, a plan to enhance a European security system for tackling serious crime, including acts of terrorism. The strategy emphasises the need for prevention based on a proactive and intelligence-led approach as well as procuring evidence required for prosecutions. The approved document also proposes the creation of a European Passenger Names Record (PNR) for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and other serious crime.

[Strategy](#)

[Council Statement](#)

OAS: Committee against Terrorism Member States act to promote public-private partnership in counter-terrorism

The Member States of the Inter-American Committee against Terrorism (CICTE) approved on 19 March a *Declaration on Public-Private Partnerships in the Fight against Terrorism*. The Member States declared their commitment to promote public-private partnerships in the fight against terrorism, including in port, maritime and civil aviation security. They also called for Member States to develop close ties with the private sector and civil society in order to develop capacity to prevent and protect against threats to critical infrastructure.

[Declaration](#)

[OAS Statement](#)

Sahel Summit: Sahel States Ministers seek cooperation in countering terrorism

On 16 March, the Foreign Ministers of Algeria, Burkina Faso, Libya, Mali, Mauritania, Niger and Chad held a summit in Algiers to discuss security and counter-terrorism in the region of Sahel. The Ministers declared international cooperation to be a key aspect of countering terrorism and reaffirmed their commitment to the implementation of the UN sanctions system.

[Summit Statement \(F\)](#)

IN BRIEF

FIDH publishes report on Egypt's human rights violations in counter-terrorism

On 14 March, the International Federation for Human Rights (FIDH) published a report, *Counter-terrorism against the background of an endless state of emergency*, based on the findings of a research mission to Egypt conducted in May 2009. The report concludes that the current legal regime and practices continue to involve systematic use of torture against persons suspected of terrorism and other detainees, other violations of the rights of detainees and of the rights to freedom of expression, assembly and association.

[Report](#)

Experts meet to discuss promotion of human rights in UN counter-terrorism

On 5 February, the Center on Global Counterterrorism Cooperation and Human Rights First hosted a meeting in New York on *Counterterrorism and Human Rights: Opportunities to Improve US and UN Policy* in order to discuss ways to promote a more integrated approach to human rights and counter-terrorism before the UN Security Council and the Human Rights Council.

[Meeting Summary](#)

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