



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

Zimbabwe: Supreme Court clears human rights defender from terrorism charges

On 28 September, the Supreme Court of Zimbabwe ordered a permanent stay in the prosecution on terrorism charges of leading human rights defender Jestina Mungarewa Mukoko. The Court held that the Government violated Mukoko's constitutional rights to liberty, freedom from torture and to full protection of the law. Jestina Mukoko, who had been held in secret and *incommunicado* detention from 3 to 24 December 2008, is now suing the Government for unlawful detention.

[Court Order](#)

[Press Article 1](#)

[Press Article 2](#)

Zimbabwe: Designated Minister accused of terrorism released on bail

On 16 October, High Court Judge Justice Charles Hungwe ordered the release on bail of Deputy Agriculture Minister-Designate and Movement of Democratic Change (MDC) Treasury-General Roy Bennett. Roy Bennett is on trial for possession of weapons with intent to commit terrorist acts. Mr Bennett was remanded in detention on 14 October, after revocation of his bail. The charges are alleged by the MDC and other observers to be politically motivated.

[NGO Statement](#)

[Press Article](#)

Libya: Government releases terrorism suspects convicted in unfair trials

On 15 October, Libyan authorities released 45 members of the Libyan Islamic Fighting Group (LIFG), a group listed by the UN Al-Qaeda and Taliban Sanctions Committee as associated with Al-Qaeda. Most of those released had been imprisoned since 1996 as a result of allegedly unfair trials relating to an attempted coup against the Mu'ammar Gaddafi.

[UN listed persons and groups](#)

[NGO Statement](#)

[Press Article](#)

United Arab Emirates: Conviction of US citizen allegedly based on torture evidence

On 12 October, the Federal Supreme Court of the United Arab Emirates (UAE) convicted Naji Hamdan, a US citizen of Lebanese origin, to 18 months of imprisonment for terrorism charges. Naji Hamdan and his lawyer have repeatedly claimed that he had been subjected to torture and other ill-treatment while in detention. Naji Hamdan was initially arrested and detained without charge in August 2008. A *habeas corpus* petition against the US government alleging that his detention in the UAE was undertaken pursuant to a request by the United States was said to have prompted the UAE authorities to formulate criminal charges against him.

[Press Article 1](#)

[Press Article 2](#)

AMERICAS

USA: No transfer of Guantánamo detainees to US soil beyond criminal prosecutions

On 21 October, the Senate approved legislation allowing transfers of Guantánamo detainees on US soil only for purposes of prosecution in federal courts. The House of Representatives had approved the legislation the previous week and it will become law if it receives the signature of President Obama. The legislation would forbid Guantánamo detainees, other than those designated for trial in federal courts, onto US soil. It would allow for detainees, who have been cleared of charges, to be resettled overseas, and does not affect the power of the Government to try Guantánamo detainees by military commissions. The legislation would also allow the Secretary of Defence to block the release of photos of detainees, including those showing their abuse.

[Appropriations Bill 2010](#)

[NGO Statement](#)

[Press Article](#)

USA: Senate Committee approves re-authorization of expiring Patriot Act provisions

On 8 October, the Senate Judiciary Committee voted to re-authorize until 2013 three expiring provisions in the *USA Patriot Act*. The provisions allow for "roving" wiretaps of telephones; compulsion of the production of business, medical and library records; and designate suspects as "lone wolf" agents of a foreign power. The Senate Committee inserted additional requirements for the FBI's issuing of "national security letters", which allow the bureau to obtain phone, credit and other personal records. The Department of Justice, under the legislation, would have to notify suspects of covert searches within seven days and would have to discard any illegally obtained information.

[Draft Law](#)

[Committee Statement](#)

[NGO Statement](#)

[Press Article](#)

USA: House of Representatives approves amendments to Military Commissions Act 2006

On 8 October, the House of Representatives approved amendments to the *Military Commission Act 2006*. The amendments seek to introduce new limitations on the use of hearsay evidence and coerced testimony, and greater access to evidence for defendants who are tried before the military commissions at Guantánamo Bay. The Bill would also provide for additional resources for defence counsels. The amendments, however, fail to address many of the flaws in the system identified by legal experts and human rights advocates including the use of coerced testimony, the trials of children and discrimination in treatment of non-citizens. Finally, no "sunset clause" has been provided for in the legislation, leaving open the possibility that the military commissions may become permanent.

[Draft Law](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

Canada: Federal Court upholds overseas "eavesdropping" of Canadian terrorism suspects

On 5 October, the Federal Court confirmed that the Canadian Security Intelligence Service (CSIS) may lawfully place under surveillance Canadian terrorism suspects overseas. An earlier ruling had prevented the CSIS surveillance of two unnamed suspects without the approval of the country where the wire-tapping would take place. The Federal Court held that courts can issue warrants to monitor Canadians overseas, as the technology is based and controlled in Canada and the actual decoding would be done by CSIS within Canada.

[Judgment](#)

Canada: Federal Court annuls security certificate

On 14 October, the Federal Court annulled the security certificate issued against Adil Charkaoui. Security certificates are issued for the purpose of allowing for the deportation of non-Canadian nationals suspected of terrorism connections. He was detained in 2003 on the basis of a security certificate alleging that he constituted a threat to the security of Canada. He was released in 2005 under very strict conditions. The ruling followed the withdrawal by the authorities of part of the evidence for reasons of national security. In another security certificate case involving Mohamed Harkat, the Federal Court declined to give weight to polygraph declarations of an unknown human source. Information about the source matrix (e.g. information to judge the background and reliability of the source) had been only partially disclosed, omitting conflicting assessments on the sources' truthfulness. To restore the confidence into the integrity of the proceedings, the court ordered the production to the special advocate and the court of the files relating to another human intelligence source.

[Judgment \(Charkaoui\) \(French\)](#)

[Judgment \(Harkat\)](#)

[Press Article](#)

Argentina: Former President Menem indicted for interference in terrorism case

On 1 October, the prosecutor Alberto Nisman asked the Ad Hoc Court of the Federal Chamber (*Sala "Ad Hoc" de la Cámara Federal*) to proceed to try former Argentinean

President Carlos Menem, his brother Munir Menem, Jorge Palacios, Hugo Anzorreguy, former judge José Galeano, and Juan Carlos Anchezar for having covered up for the main suspect for the terrorist attack against the Jewish Community Centre AMIA in 1994. It is alleged that the investigation of the key suspect was blocked under the “determining influence” of former President Menem and his brother from 1994 to 1999.

Indictment (S)

Press Article (S)

Press Article (E)

Chile: Government announces use of anti-terrorism law against indigenous people

On 13 October, the Deputy Secretary of Interior, Patricio Rosende, announced the use of an Anti-terrorism Law to prosecute those involved in recent unrests involving the native Mapuche minority. The UN Committee for the Elimination of Racial Discrimination and the UN Special Rapporteur on Rights of Indigenous People urged the Government not to use the Pinochet-era Anti-terrorism Law against the members of the Mapuche population.

Anti-terrorism Law (S)

Ministry Statement (S)

CERD Concluding Observations (S)

SR Report (S)

Press Article (S)

Press Article (E)

Colombia: UN independent expert reports death threats to indigenous communities

On 18 September, the UN Special Rapporteur on rights of indigenous peoples reported to the UN Human Rights Council on the case of death threats directed against the indigenous NGOs *Consejo Regional Indígena del Cauca* and *Asociación de Cabildos Indígenas del Norte del Cauca* and other indigenous members by the paramilitary group *Campeños Embejucaos de Cauca*. The threats referred to these organisations as “terrorists” and important allies of the *Fuerzas Armadas Revolucionarias de Colombia* (FARC). Despite this case having been communicated to the Colombian Government no responses have been provided to the Special Rapporteur.

SR Report (paras. 66-71)

ASIA - PACIFIC

Pakistan: President issues Ordinance amending Anti-Terrorism Law

On 2 October, President Asif Ali Zardari issued the *Anti-Terrorism (Amendment) Ordinance 2009* modifying the provisions of the *Anti-Terrorism Act 1997*. The new Ordinance includes an extension of the limitation on administrative detention from 30 to 90 days without the possibility to challenge the detention order in court. It also contains provision for new terrorism-related offences, including involvement in armed resistance groups or in dissemination of information on radio stations without prior governmental approval. On the same day, the Punjab Government announced that it would make use of the Anti-Terrorism Act to prosecute violent crimes against women.

Ordinance

Press Article 1

Press Article 2

Pakistan: Supreme Court’s confirms unconstitutionality of 2007 state of emergency

On 2 October, the Supreme Court of Pakistan issued a detailed opinion of its 31 July 2009 decision that former President Pervez Musharraf had violated the Constitution when he enacted emergency regulations in November 2007 and dismissed the judges of the Supreme Court and the highest courts of Pakistan who did not make an oath on the new emergency rules. He had justified the emergency decrees by alleging that the judiciary had obstructed the government’s counter-terrorism efforts. The Supreme Court declared all acts issued by the President and the then-appointed Chief Justice to be null and void, and ordered the reinstatement of all dismissed judges.

Judgment

Proclamation of Emergency (2007)

Press Article

Pakistan: Committee on Rights of Child concerned by recruitment of children in groups carrying out terrorist activities

On 2 October, the UN Committee on the Rights of the Child issued its Concluding Observations on Pakistan. The Committee expressed concern at reports about the use of certain religious schools (*madrassahs*) for the recruitment of children to participate in armed conflict and alleged terrorist activities. The Committee was also concerned at the lack of preventive measures, including awareness-raising, and physical and psychological recovery for children affected by armed conflict, in particular those who were recruited, trained and took part in violent activities.

[Concluding Observations](#)

India: State of Tripura extends emergency anti-terrorism law for six months

On 13 October, the Tripura's Government announced the extension for an additional six months of the anti-terrorism law *Armed Forces (Special Powers) Act (AFSPA) 1958*, as a precautionary measure, despite the reduction of acts related to the "insurgency". The Act gives security forces unwarranted powers of the use of force, even lethal, for arrest, search and destruction of property.

[Legislation](#)

[Press Article](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: High Court discloses further information on Binyam Mohammed ruling

On 16 October, the High Court ordered disclosure of seven redacted paragraphs from their original judgment in the case involving the alleged torture of Binyam Mohammed. The Court asserted that "the suppression of reports of wrongdoing by officials in circumstances which cannot in any way affect national security is inimical to the rule of law." The paragraphs contain a summary of the knowledge of MI5 in regard to the condition of Binyam Mohammed before they interrogated him in Morocco. Binyam Mohammed, an Ethiopian citizen currently residing in the UK, was detained by the US from 2004 to February 2009 in Guantánamo, which followed his 2002 arrest and detention in other countries including Pakistan and Morocco. The paragraphs at issue were initially kept redacted following a direct threat from US officials not to share intelligence with the UK if the information was disclosed. The Government is appealing the decision.

[Judgment](#)

[Foreign Office Statement](#)

[NGO Statement](#)

[Press Article](#)

UK: MI6 officer under investigation for complicity in ill-treatment

On 11 September, the UK Secret Intelligence Service (MI6) referred one of its officers to the Attorney General for investigation for possible prosecution for collusion in ill-treatment of certain unidentified persons.

[Press Article](#)

UK: MI5 defends collaboration with intelligence services practicing torture

On 15 October, Charles Farr, the head of the Home Office's office of security and counter-terrorism, briefed MPs that the CIA had been working inside the UK with officials on counter-terrorism measures. The Director General of the UK Intelligence Service (MI5), Jonathan Evans, denied that the UK had colluded in torture, but defended the practice of working with agencies known to torture and the use of intelligence gathered from such agencies.

[Speech \(Evans\)](#)

[Press Article](#)

Spain: Congress limits universal jurisdiction law

On 15 October, Congress adopted a law limiting the scope of Spain's universal jurisdiction to prosecute certain crimes under international law, including genocide, crimes against humanity, and terrorism, when committed outside of Spanish territory. According to the new law, jurisdiction is limited to situations in which the suspected offender is present on Spanish territory, the victim is Spanish, or a similar connection with Spain can be demonstrated.

Legislation (S)

Press Article (S)

Press Article (E)

Spain: UN Working Group on Arbitrary Detention finds detention under anti-terrorism law arbitrary

On 4 September, the UN Working Group on Arbitrary Detention, a mandate of the UN Human Rights Council, issued an opinion declaring the 19 months detention of Karmelo Landa Mendibe to be arbitrary. Mr Landa Mendibe is a Basque university professor and former EU and Basque Member of the Parliament. He was arrested on 11 February 2008 on charges of membership of a terrorist organisation in connection with membership of the dissolved political party *Batasuna*. The Working Group found that Landa Mendibe had been repeatedly subject to *incommunicado* detention and not been properly informed of the reasons for his detention. The Working Group also found a violation of the presumption of innocence and of the right to be tried within reasonable time.

Working Group Decision (S)

Spain: Somali pirates charged with terrorism and kidnapping

On 5 October, Investigative Judge Baltasar Garzón Real ordered the detention and transfer to Spain of two Somalis, Abdu Willy and Raageggesey, on charges of terrorism association, unlawful detention and robbery. The two suspects are said to be part of a pirate commando engaged in the seizure of the fishing boat *Alakrana*, which has 36 members of the crew onboard, including 16 Spanish nationals. On 20 October, Investigative Judge Santiago Pedraz released Abdu Willy from prison because it was not possible to determine his age and therefore his status as an adult or child. Abdu Willy is currently held in a detention facility for juveniles.

Judge Order (S)

Press Article 1 (E)

Press Article 2 (S)

Press Article 3 (E)

Sweden: Parliament approves revised law on overseas eavesdropping

On 14 October, the Swedish Parliament approved amendments to a Law allowing Sweden's National Defence Radio Establishment to monitor all outgoing and incoming communication across Swedish borders. The Law, known as FRA Law, was previously approved by Parliament in June 2008, but had not yet entered into force. The amendments specify that only the government and the military can ask FRA to carry out surveillance; that a special court must grant an authorisation for each case of monitoring; and that all raw data must be destroyed after one year.

Legislation (Swedish)

Press Article (E)

Turkey: Committee on the Rights of the Child concerned at prosecution of juveniles in special terrorism courts

On 2 October, the UN Committee on the Rights of the Child expressed serious concern that amendments to the Anti-Terrorist Act (ATA) in 2006 allow for the prosecution of children above 15 years as adults in "Special Heavy Penal Courts". The Committee was concerned at reports about the frequent use of anti-terrorism legislation against children with the possibility of imposing life imprisonment as punishment.

Concluding Observations

Turkey: European Court of Human Rights finds expulsion of PMOI members to breach *non-refoulement*

On 22 September, the European Court of Human Rights ruled that the deportation of Mohsen Abdolkhani and Hamid Karimnia, Iranian nationals, to Iran or Iraq would, if carried out, subject them to a real risk of torture or other ill-treatment, in contravention of Turkey's obligations regarding *non-refoulement* under the European Convention on Human Rights. The two applicants were seeking asylum in Turkey, which was refused in light of their past membership in the People's Mujahedin of Iran (PMOI), which Turkey considers a terrorist organisation. The Court also found the detention to which they had been subject to be arbitrary.

Judgment

Uzbekistan: Secret trial for terrorist attacks

On 23 September, the *Eurasianet* news agency reported that the third session of trials of those charged for the 26 May attacks in an Uzbek town of Kahanabad and a suicide attack in the city of Andijan took place in Tashkent. However, no details could be confirmed, as details of the trial are kept secret. The names of defendants and charges against them are not revealed either by officials or by the defendants' relatives, who are reported to be too afraid to speak.

NGO Report

Press Article 1

Press Article 2

Uzbekistan: Parliament passes amendments to terrorism law restricting client-lawyer confidentiality

On 22 September, modifications have been introduced to the *Law on the Bar*. The amendments require lawyers when preparing or concluding transactions on behalf of natural and legal persons to provide information to a "specially authorized body" regarding legalization of funds received from criminal activity and financing of terrorism. Other amended laws are the *Law on Counteraction to Legalization of Funds Received from Criminal Activity and Financing Terrorism*, the *Law on Stock Exchange and Exchange Activity*, and the Criminal Code.

Amending Law (Russian)

Implementation Decree (Russian)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Human Rights Council urges States not to use counter-terrorism to limit freedom of expression

On 2 October, the UN Human Rights Council adopted a resolution urging States to refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that contravene their obligations under international law. The Council also called upon States to investigate effectively threats and acts of violence, including terrorist acts, against journalists.

Resolution

UN: Special Representative on Children in Armed Conflicts addresses violations of children rights in counter-terrorism

On 15 September, the Special Representative of the Secretary General for Children and Armed Conflict, Radhika Coomaraswamy, presented her annual report to the UN Human Rights Council. The report highlights human rights abuses inflicted on children, including their recruitment and use by non-state actors to carry out terrorist attacks. It also expresses concern at detention practices, torture and unfair trials within the context of counter-terrorism.

Report

EU: Court of First Instance finds terrorism listing in violation of EU law

On 30 September, the Court of First Instance ruled that the inclusion of Jose Maria Sison on the EU Terrorism List, based on *Common Position 2001/931/CFSP* and *Regulation (EC) No 2580/2001*, had been decided without complying with the EU legal requirements and was, therefore, null. The Court ascertained that the decision of the European Council was not grounded on a decision of a competent authority, as the decisions on which the Dutch Courts had relied regarded only Mr Sison's refugee application. They had not arisen from any criminal investigation or prosecution for terrorism-related offences, as required by the EU Common Position.

Judgment

EU: Swedish Presidency presents revised Justice and Home Affairs Programme

On 16 October, the Swedish Presidency of the European Union issued a revised multiannual programme on freedom, security and justice (the Stockholm Programme). In the revised version, the Presidency noted that respect for fundamental rights and freedoms is the basis of the EU counter-terrorism work and that all counter-terrorism measures must avoid infringement of human rights and stigmatisation of particular communities. The Programme also calls on the Union to play an active role in the United Nations also by ensuring that freezing of assets decisions are taken while safeguarding fundamental rights.

Programme

IN BRIEF

American Bar Association publishes report on Due Process and Terrorism

In September, the American Bar Association's Standing Committee on Law and National Security published a report of a 2 June 2009 workshop on Due Process and Terrorism which convened US experts in international and national law and counter-terrorism.

Report

Israeli NGOs release report on security administrative detention in Israel

In October, the Israeli human rights NGOs B'tselem and Hamoked published a detailed report analysing and criticizing the legal regime and practical use of administrative detention on security grounds in Israel. The report calls on the government of Israel to immediately cease using the *Internment of Unlawful Combatants Law* and to take action to repeal it.

Report

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