

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

**No. 85, August 2014**

## **AFRICA & MIDDLE EAST**

**Ethiopia:** Government charges journalists and newspapers under anti-terrorism law

**Ethiopia/Yemen:** Opposition leader arbitrarily deported and detained under anti-terrorism law

**Kenya:** Human Rights Watch documents human rights violations of anti-terrorism unit

**Nigeria:** Amnesty International documents war crimes of Nigerian military

**Jordan:** Abu Qatada acquitted of terrorism charges in retrial after UK extradition

**Syria:** Human rights organizations call for release of civil society members not covered by general amnesty

**Morocco:** UN Committee finds human rights violations in anti-terrorism arrest and trial

**Tunisia:** Human Rights Watch calls for modification to anti-terrorism draft law

**Egypt:** UN experts express "outrage" at confirmation of death penalties after unfair trial

**United Arab Emirates:** President Scheikh enacts new anti-terrorism law

**Bahrain:** Anglo-German company Gamma Group International helped government spy on human rights defenders and international experts

## **AMERICAS**

**USA:** Report reveals adverse effect of surveillance practices on lawyers' and journalists' work

**USA:** New leaked documents reveal non-terrorism use of terrorism lists

**USA:** Senate report on CIA renditions withheld due to allegedly excessive CIA redaction

**USA:** Snowden documents reveal NSA and FBI monitoring of Muslim civil rights leaders

**USA:** Court of Appeals allows lawsuit against company for Abu Ghraib abuses

**USA:** District Court finds "no fly list" system unconstitutional

**USA:** Court of Appeal strikes down military commission charges under ex post facto clause

**USA:** Planned US disengagement in Afghanistan does not affect legal status of Guantánamo detainees, rules District Court

**Canada:** Court moves Omar Khadr to correctional facility

**Chile:** UN Committee concerned at use of anti-terrorism law against Mapuche people

## **ASIA - PACIFIC**

**China:** "Terrorist" knife attack followed by mass extrajudicial executions, according to Uighur organization

**Pakistan:** New anti-terrorism law introduces special powers and courts

**Sri Lanka:** UN human rights commissioner appoints investigative commission on Sri Lanka

**Australia:** Government tables anti-terrorism draft law before Parliament

**Australia/USA:** Former Guantánamo detainee to challenge plea agreement in the US

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

**UK:** Government tables draft surveillance law before Parliament

**UK:** Document leaked by Edward Snowden shows internet attack techniques of UK surveillance agency

**UK:** Court of Appeal upholds military Afghanistan interrogation policy

**UK:** News reports unveil Diego Garcia base hosted more rendition planes than thought  
**UK:** Terrorism Legislation Reviewer calls for new definition of terrorism  
**France:** Government tables anti-terrorism draft law before National Assembly  
**Italy:** Court of Cassation publishes reasoning for dismissal of terrorism charges against activists  
**Ireland:** UN Committee concerned at lack of definition of terrorism in domestic law  
**Poland:** European Courts finds government complicity in CIA rendition  
**Turkey:** European Court finds detention of journalists to be arbitrary  
**Ukraine:** Amendments to Criminal Code give “judicial powers” to prosecutors  
**Ukraine:** New law lifts warning before use of lethal force against “terrorists”  
**Belarus:** New “antiterrorist articles” to be introduced to the Criminal Code

## **UNITED NATIONS & REGIONAL ORGANIZATIONS**

**UN:** Security Council adopts resolution on anti-terrorism in Middle East  
**UN:** High Commissioner for Human Rights issues report on the right to privacy on the Internet  
**UN:** Human Rights Council adopts resolution on human rights and the Internet  
**EU:** European Council adopts strategic guidelines on counter-terrorism  
**OAS:** Special Rapporteur publishes report on freedom of expression and the internet  
**BRICS:** Declaration reaffirms support of UN anti-terrorism action

## AFRICA & MIDDLE EAST

### **Ethiopia: Government charges journalists and newspapers under anti-terrorism law**

On 21 August, a federal court in Addis Ababa denied bail, pursuant to article 3 of the 2009 *Anti-Terrorism Proclamation*, to three journalists - Tesfalem Waldyes, Edom Kasaye and Asmamaw Hailegiorgis – and six bloggers - Atnaf Berhane, Mahlet Fantahun, Befekadu Hailu, Abel Wabella, Natnail Feleke and Zelalem Kibret. These persons were detained and prosecuted on the charge of “organizing themselves into covert sub-groups to overthrow the government by contacting and receiving finance and training from two designated terrorist groups”, namely the opposition groups Ginbot 7 and the Oromo Liberation Front (OLF). If convicted, they risk imprisonment for up to fifteen years. On 5 August, the Ministry of Justice brought charges of “encouraging terrorism, endangering national security, repeated incitement of ethnic and religious hate, and smears against officials and public institutions” against five weekly magazines, *Lomi*, *Enqu*, *Fact*, *Jano*, *Addis Guday* and *Afro-Times*. Reporters Without Borders sharply criticized this violation of freedom of expression and called on the Government to dismiss these charges and release the journalists and bloggers.

[NGO Statement 1](#)

[NGO Statement 2](#)

[NGO Statement 3](#)

### **Ethiopia/Yemen: Opposition leader arbitrarily deported and detained under anti-terrorism law**

On 7 July, Human Rights Watch called on the Ethiopian authorities to ensure the personal security and the guarantee of the right to a fair trial of Andargachew Tsige, founding member of the opposition group Ginbot 7, after he was deported without proper process by Yemen back to Ethiopia. Ginbot 7 is a banned opposition group, considered by the Ethiopian Government a “terrorist” organization and Andargachew Tsige has been convicted *in absentia* of terrorism-related charges in 2009 and 2012 and sentenced both times to the death penalty. Human Rights Watch alleges that he is at risk of torture while detained in Ethiopian prisons. According to the human rights organization, Andargachew Tsige was arrested on 23 or 24 June in Sanaa (Yemen), while in transit from Dubai to Eritrea. Yemeni authorities “did not permit him consular access to UK embassy officials and summarily deported him to Ethiopia.”

[NGO Statement](#)

### **Kenya: Human Rights Watch documents human rights violations of anti-terrorism unit**

On 18 August, Human Rights Watch published a report documenting the practice by the Anti-Terrorism Police Unit of extrajudicial killings, enforced disappearances, arbitrary arrest and ill-treatment of detained terrorism suspects. The research was carried out between November 2013 and June 2014 and “documented at least 10 cases of killings, 10 cases of enforced disappearances, and 11 cases of mistreatment or harassment of terrorism suspects in which there is strong evidence of the counterterrorism unit’s involvement.” According to the human rights organizations, in some cases “members of the anti-riot forces known as the General Service Unit (GSU), military intelligence, and National Intelligence Service (NIS) were also implicated in abuses by the counterterrorism unit.” Human Rights Watch urged authorities to investigate these gross human rights violations and shift from impunity to accountability. It further called on international donors to “suspend support to the unit and other security forces responsible for human rights violations.”

[Report](#)

[Press Article 1](#)

[Press Article 2](#)

### **Nigeria: Amnesty International documents war crimes of Nigerian military**

On 5 August, Amnesty International revealed, after the analysis of a series of video-footage gathered in a recent research mission, "fresh evidence of war crimes, including extrajudicial executions, and other serious human rights violations being carried out in north-eastern Nigeria." Amnesty International asserts that the crimes documented in the video were committed by "men who appear to be members of the Nigerian military and the "Civilian Joint Task Force" (CJTF), state-sponsored militias." According to the human rights organization, more than 4,000 persons have been killed in 2014 in the conflict between Governmental forces and Boko Haram, a group considered by the Government to be a "terrorist" organization. Amnesty International called "on the Nigerian authorities to ensure that the military stops committing human rights and humanitarian law violations" and to investigate these alleged violations "promptly, thoroughly, independently and impartially, with those responsible – up the entire chain of command – brought to justice." The Defence Department, while promising to set up an internal inquiry, have suggested that the persons included in the video might be armed group members pretending to be military officers.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

### **Jordan: Abu Qatada acquitted of terrorism charges in retrial after UK extradition**

On 26 June, a military court acquitted, for lack of sufficient evidence, Omar Mahmoud Mohammed Othman, also known as Abu Qatada, of terrorism charges in his retrial for alleged complicity in a 1998 plot to attack a United States school in Amman. He had been previously convicted and sentenced *in absentia* to the death penalty, later commuted to life imprisonment with hard labour. He remains in detention for his retrial in a case relating to a plot to launch a bombing attack directed at Israeli, United States and other Western tourists at millennium celebrations in 2000. Omar Othman was extradited on 7 July 2013 pursuant to a recently ratified *Treaty on Mutual Legal Assistance in Criminal Matters* between the UK and Jordan, after the cleric himself had voluntarily accepted the extradition. His transfer to Jordan had previously been blocked by the European Court of Human Rights on the grounds that he would risk exposure to flagrant denial of a fair trial.

[Press Article 1](#)

[Press Article 2](#)

### **Syria: Human rights organizations call for release of civil society members not covered by general amnesty**

On 18 July, twelve human rights organizations called on the Syrian government to immediately release all civil society activists, human rights defenders, media and humanitarian workers that remained in detention after the implementation of a general amnesty declared by President Assad and enacted by Legislative Decree no. 22 of 9 June 2014, the first amnesty extended to some offences on freedom of expression under the Anti-Terrorism Law. According to information from local NGOs and lawyers, of a group of 34 monitored activists only one was released following the amnesty. The organizations provided testimony from the ground contesting the numbers of persons released given by the government, 2,445, and saying that real total was not more than 1,300 individuals. Reportedly, a lawyer stated that "judges sent the files of some detainees who ought to be released under the amnesty back to the public prosecutor to change the charges to ones that would fall outside the scope of the general amnesty."

[NGOs Statement](#)

### **Morocco: UN Committee finds human rights violations in anti-terrorism arrest and trial**

On 25 June, the UN Committee against Torture held that Moroccan authorities had violated their obligations under articles 2.1, 11, 12, 14 and 15 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to provide guarantees of protection from torture and ill-treatment in detention, to investigate and redress acts of torture and not to use torture evidence in trials. The case concerned

Ali Aarrass, a Belgian-Moroccan national, who had been extradited by Spain to Morocco in compliance with an international arrest warrant for the charge of membership of a terrorist organization. The Committee against Torture determined that, while in police custody, he had no access to legal assistance, he was deprived of all contacts with his family, the family had not been informed of his detention, he did not have access to a physician and was forced to sign a "confession" in a language he did not understand. Furthermore, the Committee held that the authorities did not investigate his allegation of torture while detained, nor provided any means of redress and even used evidence in his trial, notably the "confession" without assessing whether it was the fruit of torture, despite Ali Aarrass' allegations.

**Decision (F)**

### **Tunisia: Human Rights Watch calls for modification to anti-terrorism draft law**

On 7 July, Human Rights Watch called on Tunisian lawmakers to modify a current draft law before Parliament that would replace anti-terrorism legislation adopted under the regime of former President Zine al-Abidine Ben Ali. The human rights organization, while noting a series of improvements, stressed that the text includes "provisions that would open the way to prosecuting political dissent as terrorism, give judges overly broad powers, and curtail lawyers' ability to provide an effective defense. In addition, the draft does not offer sufficient judicial oversight over police authority to interfere with privacy in counterterrorism operations." Meanwhile, after a terrorist attack killed 15 soldiers on 16 July, the Government has reportedly begun to close at least "157 civil associations in the country ... for alleged links to terrorism. Twenty mosques were shuttered for allegedly preaching extremism and calling for jihad. A TV channel, a radio station and some websites were accused of promoting violence and shut down. Hundreds of people accused of having ties with radical groups were rounded up and arrested in the past few weeks." The government asserted that these measures were temporary, taken in the run up to elections to be held in the autumn.

**Report**

**NGO Statement 1**

**NGO Statement 2**

**Press Article**

### **Egypt: UN experts express "outrage" at confirmation of death penalties after unfair trial**

On 30 June, Christof Heyns, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions; Gabriela Knaul, the UN Special Rapporteur on the independence of judges and lawyers; Juan Méndez, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Mads Andenas, Chair-Rapporteur of the UN Working Group on Arbitrary Detention; Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association; Frank La Rue, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Pablo de Greiff, UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Heiner Bielefeldt, UN Special Rapporteur on freedom of religion or belief; and Ben Emmerson, UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, expressed outrage at the confirmation by a Criminal Court in Minya of 183 of the 683 provisional sentences to the death penalty. They also declared that they were "shocked by the repeated and deliberate use of mass death sentences." On 28 April, the Minya Criminal Court convicted and sentenced to death 683 individuals on charges involving the killing of a police officer, attacking the Adawa police station, destroying public property, and seizing weapons. Of the 683 sentenced, only 80 individuals were in detention. The UN experts stressed that the trial was "laden with procedural flaws. There was a lack of precision in the charges, limited access to lawyers, trials in absentia, and mass sentencing."

**UN SRs Statement**

### **United Arab Emirates: President Schekh enacts new anti-terrorism law**

On 20 August, President Sheikh Khalifa Bin Zayed Al-Nahayan, after approval of the Federal National Council, an advisory body, enacted "federal law number seven of 2014 on terrorist crimes", that amends the country's 2004 anti-terrorism legislation. Reportedly, the new law defines terrorists as "people committing any act considered illegal that would lead to results of terror, whether directly or indirectly" and defines "terrorist offence" as "any action or inaction made a crime by this law and every action or inaction made a crime by any other law if they are carried out for a terrorist cause." This cause or result reportedly includes "inciting fear among a group of people, killing them, or causing them serious physical injury, or inflicting substantial damage to property or the environment, or disrupting security of the international community, or opposing the country, or influencing the public authorities of the country or another country or international organisation while discharging its duties, or receiving a privilege from the country or another country or an international organization." The law also creates rehabilitation centres for persons considered to be "prone to terrorism" and extends the number of offences for which it is foreseen the death penalty.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### **Bahrain: Anglo-German company Gamma Group International helped government spy on human rights defenders and international experts**

On 6 August, a group of human rights organizations and journalists revealed that an Anglo-German informatics company, Gamma Group International, had assisted the government of Bahrain in placing under surveillance the communications of several human rights defenders and opposition members and at least two members of the Bahrain Independent Commission of Investigation (BICI) appointed by the same government. Reportedly, the company commercialized a spyware that can be "used to access target systems, giving full access to stored information with the ability to take control of the target system's functions to the point of capturing encrypted data and communications." On 23 November 2011, the Bahrain Independent Commission of Inquiry published a report finding that security forces engaged in massive arrests without warrant and without informing arrested persons of the grounds for arrest, made use of torture and ill-treatment to extract "confessions", interrogate or inflict punishment, and resorted to the use of unnecessary and excessive force, and arbitrary detention. The Commission found that the systematic pattern of behaviour of the security forces indicated that they were trained and expected to behave in this way, and that lack of accountability of officials within the security system in Bahrain has led to a culture of impunity. Furthermore, the Commission also found that both the special courts and the ordinary courts used forced "confessions" in criminal proceedings.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Report BICI](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

## **AMERICAS**

### **USA: Report reveals adverse effect of surveillance practices on lawyers' and journalists' work**

On 28 July, Human Rights Watch and the American Civil Liberties Union published a report that documents the impact of the US secret surveillance programmes on the work of US-based journalists and lawyers. The report, entitled "With Liberty to Monitor All: How Large-Scale U.S. Surveillance is Harming Journalism, Law, and American Democracy," concludes that surveillance "is undermining media freedom and the right to counsel, and ultimately obstructing the American people's ability to hold their government to account." It is based on several interviews with "with dozens of journalists, lawyers, and senior U.S. government officials." Specifically, the report unveils "how national security journalists and

lawyers are adopting elaborate steps or otherwise modifying their practices to keep communications, sources, and other confidential information secure in light of revelations of unprecedented U.S. government surveillance of electronic communications and transactions.”

[Report](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

### **USA: New leaked documents reveal non-terrorism use of terrorism lists**

On 5 August, *The Intercept* revealed that, out of the 680,000 persons listed in the US Terrorism Screening Database “watchlist of ‘known or suspected terrorists’ that is shared with local law enforcement agencies, private contractors, and foreign governments—more than 40 percent are described by the government as having ‘no recognized terrorist group affiliation.’” Furthermore, the leaked documents, prepared by the National Counterterrorism Center and provided by a source within the intelligence services that is apparently not Edward Snowden, reveal that, since 2009, the Obama administration “has boosted the number of people on the no fly list more than ten-fold, to an all-time high of 47,000.” On 23 July, *The Intercept* also revealed that the Obama administration had approved a “March 2013 Watchlisting Guidance” by the National Counterterrorism Center that constitutes “a substantial expansion of the terrorist watchlist system, authorizing a secret process that requires neither ‘concrete facts’ nor ‘irrefutable evidence’ to designate an American or foreigner as a terrorist.”

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

[Press Article 4](#)

### **USA: Senate report on CIA renditions withheld due to allegedly excessive CIA redaction**

On 5 August, Senator Dianne Feinstein, Chair of the Senate Intelligence Committee, wrote to President Obama protesting what she considered to be the excessive proposed redaction by the CIA of her Committee’s report and executive summaries documenting an investigation into the CIA-led rendition, interrogation and secret detention programme. Senator Feinstein declared that she had “concluded the redactions eliminate or obscure key facts that support the report’s findings and conclusions” and affirmed that the report, said to be some 6,000 pages in length, would not be released to the public, with all of these redactions standing. Reportedly, the CIA redaction would cover 15 percent of the text, including what are reported to be critical portions. On 31 July, at the end of an internal inquiry within the CIA, its head John O. Brennan, apologized to the Committee for the “improper” access to the computers of the Senate Committee’s inquiry staff by ten CIA employees and contractors. Meanwhile, the news agency McClatchy Newspapers revealed that the CIA has intercepted emails of officials in charge of protecting whistleblowers and of the Congress, “triggering fears the CIA has been intercepting the communications of officials who handle whistleblower cases”.

[CIA Internal Inquiry Findings](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

### **USA: Snowden documents reveal NSA and FBI monitoring of Muslim civil rights leaders**

On 9 July, *The Intercept* published a leaked document provided by whistleblower and former NSA agent Edward Snowden revealing that the “National Security Agency and FBI have covertly monitored the emails of prominent Muslim-Americans—including a political candidate and several civil rights activists, academics, and lawyers—under secretive procedures intended to target terrorists and foreign spies.” According to the documents, among the “7,485 email addresses listed as monitored between 2002 and 2008,” the activists included in the surveillance are Faisal Gill, Asim Ghafoor, Hooshang Amirahmadi, Agha Saeed and Nihad Awad. Forty-four human rights organizations wrote to President Obama asking the US Government to “thoroughly explain why it placed five American Muslim leaders, including the head of a prominent Muslim civil liberties group, under electronic surveillance.”

[Letter](#)

[NGO Statement](#)

[Press Article](#)

### **USA: Court of Appeals allows lawsuit against company for Abu Ghraib abuses**

On 30 June, the federal Court of Appeals for the Fourth Circuit ruled that federal courts retained jurisdiction under the *Alien Tort Statute* (ATS) to “consider certain civil claims seeking damages against an American corporation for the torture and mistreatment of foreign nationals at the Abu Ghraib prison in Iraq.” The Court of Appeal distinguished this case from previous ones in which jurisdiction was denied, because the “claims ‘touch and concern’ the territory of the United States with sufficient force to displace the presumption against extraterritorial application” of the ATS. The corporation sued is CACI Premier Technology, Inc. whose personnel were allegedly involved in the torture and ill-treatments of Abu Ghraib. The Court of Appeal remanded the case to the lower District Court to assess whether the case was barred under the “political question” doctrine.

Ruling

NGO Statement

### **USA: District Court finds “no fly list” system unconstitutional**

On 24 June, the federal District Court for the District of Oregon ruled that the procedures constituting the “No Fly List” regime for “terrorism suspects” was in violation of the rights of due process under the United States Constitution. The Court held that US citizens have “constitutionally-protected liberty interests in international travel” and in their reputation and that those were infringed upon by their presence in the “No-Fly List”. The Court further ruled that the List redress process, including the judicial review, “contains a high risk of erroneous deprivation” of these rights and fell short of satisfying the requirements of due process. For the Court, this lack of procedural safeguards could not be justified by reasons of national security and protection from terrorism that underpinned the “No Fly List”. The Court ordered the government to fashion new, constitutionally compliant procedures to replace those presently in effect. The case was brought by thirteen US citizens, who had been denied boarding on flights over United States airspace.

Ruling

NGO Statement

Press Article

### **USA: Court of Appeal strikes down military commission charges under *ex post facto* clause**

On 14 July, the federal Court of Appeals for the District of Columbia Circuit overturned the conviction on the charges of “providing material support for terrorism” and “solicitation of others to commit war crimes” of Ali Hamza Ahmad Suliman al Bahlul, alleged to have been a “personal assistant to Osama Bin Laden,” because they violated the prohibition of criminal conviction under *ex post facto* laws, under the US Constitution. The Court declined to assimilate the offence of “material support” to that of “aiding the enemy” as it did not arise from a situation of disloyalty towards the country, and did not find sufficient, if any, precedent in US law to justify the existence of this offence prior to the *Military Commission Act 2006*. The Court, however, rejected the challenge of the conviction for conspiracy to commit seven war crimes based on *ex post facto* arguments, maintaining that the crime of conspiracy to kill a US national had long existed in US law before the contested facts and there was enough domestic precedent to allow for this conviction not to be tainted by a plain error. The Court, therefore, remanded the case to the Court of Military Commission Review to hear further challenges to the conviction.

Ruling

NGO Statement

### **USA: Planned US disengagement in Afghanistan does not affect legal status of Guantánamo detainees, rules District Court**

On 3 August, the US District Court for the District of Columbia ruled that Fawzi Khalid Abdullah Fahad al Odah, who has been detained in Guantánamo Bay since 2002, could not obtain a prospective remedy of *habeas corpus* in view of the disengagement from Afghanistan by the end of 2014 announced by President Obama. Judge Colleen Kollar-Kotelly ruled that the claim was “not ripe because it is dependent on future events that may not occur as anticipated or may not occur at all.” Al Odah had argued that a

disengagement from Afghanistan, where he had been captured, would mean an end of the Authorization for the Use of Military Force (AUMF) that constituted the legal ground for his detention in Guantánamo.

Ruling

### **Canada: Court moves Omar Khadr to correctional facility**

On 8 July, the Court of Appeal of Alberta ruled that Omar Khadr had to be moved to a provincial correctional facility for adults, instead of being placed in a federal penitentiary. The Court of Appeal ruled that the eight-year sentence agreed by Omar Khadr in a plea agreement with the US authorities qualified as a “youth sentence” and not an “adult sentence”, and therefore the *International Transfer of Offenders Act* mandated that he be held in a provincial correctional facility for adults. Omar Khadr, who had been detained in Guantánamo for ten years since he was 15 and is now 26 and transferred to Canada in 2012, had entered a plea agreement for the charges of murder in violation of the law of war, attempted murder in violation of the law of war, conspiracy and providing material support for terrorism.

Ruling

### **Chile: UN Committee concerned at use of anti-terrorism law against Mapuche people**

On 25 July, the UN Human Rights Committee published its concluding observations on the compliance by Chile with its obligations under the *International Covenant on Civil and Political Rights*. Among their observations, the UN independent experts expressed concern at the overly broad definition of terrorism included in the Anti-Terrorism Law no. 18.314 that “could give rise to arbitrariness in its application.” The Committee noted that this law had been used in, some cases, for the criminal prosecution of members of the Mapuche indigenous communities. The Committee recommended that Chile adopt a stricter and more precise definition of terrorism and that it ensure that counter terrorism measures are not directed against specific persons because of their ethnic origin or for any other social or cultural reason.

Concluding Observations

## **ASIA - PACIFIC**

### **China: “Terrorist” knife attack followed by mass extrajudicial executions, according to Uighur organization**

On 23 August, State media reports announced that eight persons convicted for the “terrorist” attacks in Xinjiang and at Tiananmen Square in 2013 had been executed. Three of them had been convicted in connection with their leadership of the attack in Tiananmen Square. On 3 August, after an attack with knives on a police station and government offices in Elishku (Xinjiang) in which 96 people were alleged to have died, including 59 persons alleged by the Chinese authorities to be “terrorists” the police reportedly arrested 215 suspects on charges of “terrorism.” Meanwhile, Rebiya Kadeer, president of the Germany-based World Uyghur Congress (WUC) claimed that, following these events, “at least 2,000 ethnic minority Uyghurs may have been killed by Chinese security forces.”

Press Article 1

Press Article 2

Press Article 3

Press Article 4

### **Pakistan: New anti-terrorism law introduces special powers and courts**

On 11 July, President Mamnoon Hussain signed into law the *Protection of Pakistan Act 2014*, legislation replacing the *Protection of Pakistan Ordinance* that had been heavily criticized by human rights organizations. The new law, which was passed by Parliament on 2 July 2014, has been similarly criticized for giving military and law enforcement authorities sweeping powers to detain individuals in contravention of Pakistan’s international human rights law obligations, and for creating special courts to try offences

in proceedings that violate the right to a fair trial. Although it was said to correct certain deficiencies of the previous Ordinance, the new law is alleged to permit preventive administrative detention without adequate safeguards and to authorize retrospectively otherwise arbitrary or unauthorized arrests or detentions previously carried out. It is also said to authorize secret and unacknowledged detention, as well as in some cases, the nondisclosure of grounds for detention and to introduce vague and overbroad offences relating to cyber crimes, internet offences and other offences related to information technology that “threaten the security of Pakistan.” In addition, the legislation establishes special courts for these offences, operating outside the ordinary judicial system.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article](#)

### **Sri Lanka: UN human rights commissioner appoints investigative commission on Sri Lanka**

On 25 June, the UN High Commissioner for Human Rights announced that she had appointed Martti Ahtisaari, Silvia Cartwright and Asma Jahangir as three distinguished experts to “advise and support the team set up to conduct a comprehensive investigation of alleged human rights violations in Sri Lanka, as mandated by the Human Rights Council in March” 2014. On 27 March, the UN Human Rights Council had voted for the adoption of a resolution calling upon the Government of Sri Lanka “to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law, as applicable; to hold accountable those responsible for such violations; to end continuing incident of human rights violations and abuses in Sri Lanka.” The Council requested the Office of the UN High Commissioner for Human Rights to “undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission, and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability.”

[UN Statement](#)

### **Australia: Government tables anti-terrorism draft law before Parliament**

On 16 July the Australian Government introduced in Parliament the *National Security Legislation Amendment Bill (No.1) 2014*. The draft legislation aims to modify several provisions of Australia’s counter-terrorism legislation, in particular in the domain of internet surveillance. The legislation would modify the definition of “computer” to extend to “one or more computer systems; or ... one or more computer networks; or ... any combination of the above,” an amendment which rights proponents have criticized as overly broad and as a means to authorize mass surveillance by the intelligence services (ASIO). Furthermore, the draft law introduces a criminal offence of communicating information that has originated from the ASIO intelligence agency via leaks or whistleblowers. Civil society representatives have alleged that this provision may risk violation of the freedom of expression, including by the media.

[Draft Law](#)

[AHRC Submission](#)

[Press Article](#)

### **Australia/USA: Former Guantánamo detainee to challenge plea agreement in the US**

On 20 August, former Guantánamo detainee David Hicks filed a motion asking the US Court of Military Commission Review to lift the stay entered in his case and to annul his conviction by plea agreement of 2007. The motion came after the federal Court of Appeals for the District of Columbia overturned the conviction by a military commission of Ali Hamza Ahmad Suliman al Bahlul for “material support for terrorism”, as the application of this offence to acts prior to 2006 constituted retroactive application of criminal law (see

story [here](#)). David Hicks pled guilty to the same offence in 2007 as a condition of his return to Australia, and was given a seven-year sentence. The majority of the sentence was suspended, but David Hicks was required to serve nine months in Adelaide's Yatala Labour Prison.

Motion

Press Article

## EUROPE & COMMONWEALTH OF INDEPENDENT STATES

### **UK: Government tables draft surveillance law before Parliament**

On 10 July, the UK Government tabled before Parliament the *Data Retention and Investigatory Powers Bill 2014* that would reform elements of existing legislation on security surveillance. The legislation was presented as an emergency law intended to be operative until 2016, so as to fill a gap left by the invalidation of the EU Data Retention Directive by the Court of Justice of the European Union. The draft legislation would oblige telephone companies and internet providers to collect metadata and store it for twelve months, even if companies may otherwise be required to store them only for a shorter period. The draft law would also allow for the issuance of an interception warrant against communications providers based abroad, but offering services to UK nationals. Human Rights Watch, Amnesty International and Privacy International have underscored risks of violations of the right to privacy under this legislation.

Draft Law

Government Statement

NGO Statement 1

NGO Statement 2

### **UK: Document leaked by Edward Snowden shows internet attack techniques of UK surveillance agency**

On 14 July, journalist Glenn Greenwald published on *The Intercept* a document provided by whistleblower and former NSA agent Edward Snowden that reveals part of the internet "weaponized" attack capability of the UK Government Communications Headquarters (GCHQ). The document called "JTRIG Tools and Techniques" is said to include "previously unknown tactics for manipulating and distorting online political discourse and disseminating state propaganda, as well as the apparent ability to actively monitor Skype users in real-time." Reportedly, the GCHQ would have available "tools to seed the internet with false information, including the ability to manipulate the results of online polls, artificially inflate pageview counts on web sites, 'amplif[y]' sanctioned messages on YouTube, and censor video content judged to be "extremist"."

Press Article

### **UK: Court of Appeal upholds military Afghanistan interrogation policy**

On 31 July, the Court of Appeal upheld the lawfulness of a military interrogation policy applied in Afghanistan by UK armed forces, called "challenge direct" that consists in "a series of statements delivered as a verbal, short, sharp shock during questioning to encourage the captured person to engage with the questioner." The Court ruled that this policy was not harsh enough to reach the threshold of the prohibition of torture and inhuman or degrading treatment under article 3 European Convention on Human Rights nor of "unpleasant or disadvantageous treatment" under article 17 of the Third Geneva Convention.

Judgment

### **UK: News reports unveil Diego Garcia base hosted more rendition planes than thought**

On 12 July, *The Observer* revealed that government emails and handwritten notes that refer to logs of rendition flights to the UK base of Diego Garcia "when it was allegedly used as a secret US prison are in the possession of the police." The weekly magazine confirmed that a "Whitehall official was photographed last week carrying documents marked 'sensitive' confirming that the logs recording details of planes landing and taking off at the

atoll have been handed to detectives.” The Government has only admitted that the base of Diego Garcia has been used for the refueling of two CIA rendition flights with none disembarking the plane.

[NGO Statement](#)

[Press Article 1](#)

[Press Article 2](#)

### **UK: Terrorism Legislation Reviewer calls for new definition of terrorism**

On 22 July, the UK Independent Reviewer of Terrorism Legislation, David Anderson Q.C., published a report concluding that the United Kingdom “has some of the most extensive anti-terrorism laws in the western world.” The Reviewer further asserts that, “if these exceptional powers are to command public consent, it is important that they should be confined to their proper purpose. Recent years have seen a degree of ‘creep’ that Parliament could reverse without diminishing in any way the utility of anti-terrorism law.” The Independent Reviewer urged the UK Government and Parliament to bring UK anti-terrorism legislation in line with international law and in particular to redefine “terrorism” “so that it applies only if there is intent to coerce, compel or intimidate a Government or a section of the public.”

[Report](#)

[Press Article](#)

### **France: Government tables anti-terrorism draft law before National Assembly**

On 9 July, the French Government presented to the National Assembly a draft law revising its anti-terrorism legislation. Under the draft law, any French citizen may be subject to a prohibition on leaving the national territory for six months, renewable, where there are reasonable grounds to believe that he or she is planning to travel abroad to participate in terrorist activities, war crimes or crimes against humanity or to go in places where terrorist groups are operating in conditions likely to threaten French public security. The law introduces, among other provisions, new powers to limit personal contacts of persons convicted of terrorism who are subject to an obligation to reside in a certain place, and would extend the investigatory powers in cases of prosecution of the offence of glorification of terrorism.

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

### **Italy: Court of Cassation publishes reasoning for dismissal of terrorism charges against activists**

On 27 June, the Court of Cassation published its reasoning for its decision to dismiss the charges of “terrorist attack” and “terrorism attack through explosives” against four activists who, during a protest against an EU-funded railway project, launched, together with others, ten to fifteen Molotov bombs within the construction area without wounding anyone. The Court ruled that a terrorist purpose is not only a psychological phenomenon, but must concretize in an action that is seriously capable of having terrorist effects. Furthermore, a mere political purpose is insufficient to fit the definition of an aim of “forcing” public authorities to do or not to do something. The Court ruled that the attack must aim at something that is of sufficient scale to destabilize the nation’s social life or its constitutional grounds. Finally, the Court held that liability for offences of terrorism require specific intent, and not simply recklessness. In application of these principles, the Court ordered the lower Tribunal to reconsider whether the acts committed by the defendants were sufficient to give rise to a terrorist offence.

[Ruling \(Italian\)](#)

### **Ireland: UN Committee concerned at lack of definition of terrorism in domestic law**

On 23 July, the UN Human Rights Committee adopted its concluding observations on the compliance by Ireland with its obligations under the *International Covenant on Civil and Political Rights*. Among its observations, the Committee expressed concern at “the lack of a definition of terrorism under domestic legislation and the continuing operation of the Special Criminal Court.” It expressed further concern at the expansion of the remit of the

Special Criminal Court to include organized crime. The Committee recommended that Ireland introduce “a definition of ‘terrorist acts’ in its domestic legislation, limited to offences which can justifiably be equated with terrorism and its serious consequences” and that it abolish the Special Criminal Court.

#### Concluding Observations

### **Poland: European Courts finds government complicity in CIA rendition**

On 24 July, the European Court of Human Rights ruled that Poland had been complicit in the enforced disappearance, torture and other human rights violations of two “high value detainees”, Abd al-Rahim al-Nashiri and Zayn Al-Abidin Muhammad Husayn, also known as Abu Zubaydah, held incommunicado since 2002 to 2006 by the CIA in various secret detention centres, including Stare Kiejkety military base in Poland, and currently detained at Guantánamo Bay. The Court held that, as a result of its acquiescence and connivance in these actions, Poland violated its obligations under the European Convention on Human Rights. In addition, the Court found that Poland had failed to protect Mr Al-Nashiri and Mr Abu Zubaydah against these human rights violations and the foreseeable real risk of other egregious human rights violations following their transfer abroad. The Court also found that the Polish authorities had not investigated the cases effectively, and had failed in their obligation to disclose the truth about what had happened. The ICJ and Amnesty International, who intervened jointly in the case, welcomed the judgment as an advance in the fight against impunity.

Judgment 1

Judgment 2

NGO Statement

### **Turkey: European Court finds detention of journalists to be arbitrary**

On 8 July, the European Court of Human Rights ruled that the prolonged pre-trial detention of journalists Nedim Şener and Ahmet Şık violated their rights under article 5.3 of the European Convention on Human Rights (ECHR), and that their right to *habeas corpus* under article 5.4 ECHR had also been violated. The journalists were detained for one year and a week on the charge of “belonging to a terrorist organization.” They were arrested on 3 March 2011, and are still on trial, for allegedly providing assistance in the form of propaganda support to a “ultra-nationalist network called Ergenekon to prepare a *coup d’état*”. The Court ruled that the grounds alleged were neither sufficient nor pertinent to the accusation of “terrorism” to justify such a length of detention. It further ruled that neither the journalists nor their lawyers had had access to their judicial file and that this detriment constituted a violation of their right to *habeas corpus*. Finally, the Court held that such prolonged detention without pertinent and sufficient grounds, has a “dissuasive effect” on the journalists’ will to exercise their freedom of expression and violated article 10 ECHR.

Judgment 1 (F)

Judgment 2 (F)

NGO Statement (E)

### **Ukraine: Amendments to Criminal Code give “judicial powers” to prosecutors**

On 21 August, the law “On amendments to the Criminal Procedure Code of Ukraine regarding the special pre-judicial investigation during military, emergency situation and in the regions of counter-terrorism operations” no. 1630-VII, which had been previously adopted by the Parliament, was signed by the President. The amendments grant prosecutors “the powers of a judge” where an actual judge is not able carry out these functions in a timely manner. However, the law does not specify a clear timeframe. The law allows prosecutors, among other things, to preventively detain persons charged with crimes under a wide range of articles of the Criminal Code, including terrorist acts, incitement of terrorism, and certain other crimes not related to terrorism. Furthermore, the new legislation introduces preventive detention of persons suspected of terrorism for up to thirty days, authorized by a decision of the head of the Security Service of Ukraine or the heads of local department of the Ministry of Internal Affairs, with the agreement of the Prosecutor.

Law (Ukrainian)

President Statement (Ukrainian)

### **Ukraine: New law lifts warning before use of lethal force against “terrorists”**

On 18 August, President Poroshenko signed amendments to the Law “On the Police”, which allow law enforcement agents to use lethal force without preliminary warning against persons classified as terrorist under the law “On countering terrorism”. Earlier this year, Prosecutor General designated as “terrorist organizations” the “People’s Republics of Donetsk and Lugansk”.

[Law \(Ukrainian\)](#)

[President Statement \(Ukrainian\)](#)

### **Belarus: New “antiterrorist articles” to be introduced to the Criminal Code**

On 30 June, Parliament adopted legislation for the inclusion of new articles in the Criminal Code of Belarus effective from January 2015. Among the articles are “aiding and abetting in a terrorist activity”, which includes “engaging” a person in a terrorist activity, training or other preparation (Article 290-2), and training in a terrorist organization or membership in it (Article 290-5). The law also amends a number of existing articles of the Criminal Code including on money laundering (Article 290-1), and financing terrorism (Article 292). A number of corresponding articles will be introduced into the Code of Administrative Responsibility.

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

## **UNITED NATIONS & REGIONAL ORGANIZATIONS**

### **UN: Security Council adopts resolution on anti-terrorism in Middle East**

On 15 August, the UN Security Council adopted resolution no. 2170(2014) on threats to international peace and security caused by terrorist acts by Al-Qaida. In the resolution, the Council reaffirms that “Member States must ensure that any measures taken to combat terrorism, including while implementing this resolution, comply with all their obligations under international law, in particular international human rights, refugee and international humanitarian law, and underscor[es] that effective counterterrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing, and are an essential part of successful counterterrorism effort, and notes the importance of respect for the rule of law so as to effectively prevent and combat terrorism.” The Security Council also “deplore[d] and condemn[ed]” acts of the Islamic State in Syria and Iraq termed as “continued gross, systematic and widespread abuses of human rights and violations of international humanitarian law.” The Council stressed the need to “ensure that ISIL, ANF and all other individuals, groups, undertakings and entities associated with Al-Qaida are held accountable for abuses of human rights and violations of international humanitarian law, [and urged] all parties to prevent such violations and abuses.”

[Resolution](#)

### **UN: High Commissioner for Human Rights issues report on the right to privacy on the Internet**

On 16 July, the UN High Commissioner for Human Rights, Navanethem Pillay, presented the first report her Office on “The Right to Privacy in the Digital Age.” The High Commissioner said that the report reveals a “disturbing” lack of transparency about governmental surveillance policies and practices, “including de facto coercion of private sector companies to provide sweeping access to information and data relating to private individuals without the latter’s knowledge or consent.” The report also “warns that Governmental mass surveillance is ‘emerging as a dangerous habit rather than an exceptional measure’ and that practices in many States reveal ‘a lack of adequate national legislation and/or enforcement, weak procedural safeguards, and ineffective oversight’.”

[Report](#)

[UN Statement](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

### **UN: Human Rights Council adopts resolution on human rights and the Internet**

On 27 June, the Human Rights Council adopted a resolution on human rights and the Internet. In the resolution, the Council affirmed that “the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.” It further called “upon all States to address security concerns on the Internet in accordance with their international human rights obligations to ensure protection of freedom of expression, freedom of association, privacy and other human rights online, including through national democratic, transparent institutions, based on the rule of law, in a way that ensures freedom and security on the Internet so that it can continue to be a vibrant force that generates economic, social and cultural development.”

Resolution

### **EU: European Council adopts strategic guidelines on counter-terrorism**

On 26 June, the European Council adopted strategic guidelines for the European Union work in the following five years. With regard to counter-terrorism, the European Council stated that the EU “will prevent and combat crime and terrorism[,] by cracking down on organised crime, such as human trafficking, smuggling and cybercrime; by tackling corruption; by fighting terrorism and countering radicalisation – while guaranteeing fundamental rights and values, including the protection of personal data.” The strategic guidelines focus the EU action in counter-terrorism on assistance to Member States and coordination mainly through “the review and update of the internal security strategy by mid 2015; the improvement of cross-border information exchanges, including on criminal records; the further development of a comprehensive approach to cybersecurity and cybercrime; [and] the prevention of radicalisation and extremism and action to address the phenomenon of foreign fighters, including through the effective use of existing instruments for EU-wide alerts and the development of instruments such as the EU Passenger Name Record system.”

Strategic Guidelines

### **OAS: Special Rapporteur publishes report on freedom of expression and the internet**

On 27 June, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights published a report on “Freedom of Expression and the Internet.” The report collects and presents “the general principles that must serve as a guide for the protection of the right to freedom of thought and expression in the digital environment, systematizes standards on this issue, and analyzes relevant best practices and international doctrine and jurisprudence.” With regard to surveillance for counter-terrorism and other national security purposes, the report finds that “the people most affected are those who take unpopular positions, or the members of political, racial, or religious minorities who are often unjustifiably classified as ‘terrorists’, which makes them the object of surveillance and monitoring without proper oversight.”

Report

### **BRICS: Declaration reaffirms support of UN anti-terrorism action**

On 16 July, in Fortaleza (Brazil) the heads of State of Brazil, the Russian Federation, India, China and South Africa (the “BRICS”) adopted the *Fortaleza Declaration and Action Plan*. In the Declaration, the five States called “upon all entities to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities.” The Declaration stresses that the BRICS “believe that the UN has a central role in coordinating international action against terrorism, which must be conducted in accordance with international law, including the UN Charter, and with respect to human rights and fundamental freedoms.” The Declaration expresses “concern at the increasing use, in a

globalized society, by terrorists and their supporters, of information and communications technologies (ICTs), in particular the Internet and other media, and reiterate that such technologies can be powerful tools in countering the spread of terrorism, including by promoting tolerance and dialogue among peoples.”

**Declaration**

---

To subscribe free of charge to this E-Bulletin, please send an email to [icjcounter-terrorism@icj.org](mailto:icjcounter-terrorism@icj.org) with your details (name, organization) and “subscribe ICJ E-Bulletin” in the subject line. To unsubscribe from this list send an email to [icjcounter-terrorism@icj.org](mailto:icjcounter-terrorism@icj.org) “unsubscribe ICJ E-Bulletin” in the subject line.

Find this E-Bulletin and more information about the ICJ, the rule of law and human rights on our website: [www.icj.org](http://www.icj.org). Please send feedback about the E-Bulletin to [icjcounter-terrorism@icj.org](mailto:icjcounter-terrorism@icj.org).