



E-BULLETIN ON COUNTER-TERRORISM & HUMAN RIGHTS

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AFRICA & MIDDLE EAST

Sudan: Ten members of Darfur armed group sentenced to death by anti-terrorism court

Bahrain: King pardons 35 persons convicted in unfair terrorism trials

Israel: Constitutional petition withdrawn in protest to admission of secret evidence

AMERICAS

USA: Federal Court grants *habeas corpus* to Bagram detainees; Government appeals

USA: ICRC report on torture and ill-treatment of CIA detainees made available

USA: Uighur Guantánamo detainees petition Supreme Court to allow resettlement in the US

USA: Four legal memoranda relating to torture policy and practices released

USA: President Obama says CIA officers who acted on authority of superiors will not be prosecuted

USA: CIA announces end of use of secret detention but asks immunity for past abuses

USA: Removal decision against Omar Khadr's lawyer overturned by Military Judge

Canada: Federal Court rules Government must seek repatriation of Omar Khadr

Peru: Fujimori convicted to 25 years for crimes against humanity in counter-terrorism

ASIA - PACIFIC

Sri Lanka: Military accuses international NGOs of complicity with LTTE

China: Authorities execute Uighurs convicted for terrorist attack

Malaysia: Detainees arbitrarily held under anti-terrorism law conditionally released

Australia: UN Human Rights Committee finds anti-terrorism legislation incompatible with human rights obligations

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Binyam Mohamed was pressured to plead guilty without charges by US

UK: Surveillance powers to investigate terrorism extensively used for petty offences

UK: Government seeks Pakistani diplomatic assurances to deport terrorist suspect

Spain: Senior legal officers of Bush administration at risk of criminal charges for torture

Italy: Constitutional Court recognizes wide discretion by the Government on state secrets

Italy: Council of Europe independent expert criticises aliens' expulsions for counter-terrorism

Sweden: UN Human Rights Committee criticises reliance on diplomatic assurances and internet surveillance in counter-terrorism

Poland: Journalists report evidence of CIA prisons on national soil

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Human Rights Council expresses serious concern at human rights violations in counter-terrorism

UN: Sanctions Committee begins review of terrorism list

EU: Council asserts that Guantánamo detainees resettlement's decision lies with States

EU: Commission publishes survey on Member States' counter-terrorism practices

IN BRIEF

Human Rights First report calls for use of ordinary courts in counter-terrorism

AFRICA & MIDDLE EAST

Sudan: Ten members of Darfur armed group sentenced to death by anti-terrorism court

On 15 April, an anti-terrorism special court in Khartoum convicted ten members of the Darfur armed opposition group Justice and Equality Movement of offences in connection with an attack against government targets in Khartoum on 10 May 2008. The court imposed a death sentence on the convicted men. A statement by several UN Human Rights Council mandated experts condemned the trial as unfair and requested that the Sudanese government stay the executions. Since last July, some 50 other persons have reportedly been sentenced to death by the same court.

[UN Experts Statement](#)

[NGO Statement](#)

[Press Article](#)

Bahrain: King pardons 35 persons convicted in unfair terrorism trials

On 12 April, King Hamad bin Isa al-Khalifa granted pardons to 178 people, including 35 who were on trial for terrorism-related offences. The pardon follows the concerns of human rights observers, including Human Rights Watch, that the trial was unfair. Statements of allegedly coerced "confession" by the men were shown on Bahrain television and there are allegations that the defendants had been subjected to torture and cruel, inhuman or degrading treatment.

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article 1](#)

[Press Article 2](#)

Israel: Constitutional petition withdrawn in protest to admission of secret evidence

On 24 March, the NGOs, Public Committee against Torture, ACLI and Adalah, withdrew petitions to the Israeli Supreme Court challenging the constitutionality of a criminal procedure law applying mainly to Palestinian security detainees, which allows, among other things, for administrative detention for up to 96 hours without judicial review. The organisations acted after the Court allowed the Government to present their evidence in secret without the presence of the petitioners, allegedly undermining the fundamental principles of equality of arms by depriving the petitioners of the means to challenge the evidence.

[Petition \(Hebrew\)](#)

[NGO Statement](#)

AMERICAS

USA: Federal Court grants *habeas corpus* to Bagram detainees; Government appeals

On 2 April, a federal court ruled that detainees being held at Bagram Air Base in Afghanistan, who are not citizens of or have not been apprehended in Afghanistan, can proceed with *habeas corpus* challenges to their detention. On 10 April, the Justice Department asked the Judge for a stay in the proceedings to allow an interlocutory appeal to the Federal Court of Appeals. The court's ruling does not necessarily apply to persons detained in Afghanistan in the context of the armed conflict in that country.

[Ruling](#)

[Government motion](#)

[NGO Statement 1](#)

[NGO Statement 2](#)

[Press Article 1](#)

[Press Article 2](#)

USA: ICRC report on torture and ill-treatment of CIA detainees made available

On 6 April, a previously leaked confidential ICRC report from 2007 on the treatment of 14 "high level detainees" held in the CIA's secret detention programme was made publicly available by the New York Review of Books on its website. The report describes in detail the interrogation procedures, including severe beatings, prolonged sleep deprivation, stress positions, subjection to extreme temperatures, "waterboarding" (near drowning). The ICRC, which confirmed the authenticity of the report, concludes that the detainees were subjected to torture and cruel, inhuman and degrading treatment.

[Report](#)

[Press Article 1](#)

[Press Article 2](#)

USA: Uighur Guantánamo detainees petition Supreme Court to allow resettlement in the US

On 3 April, lawyers for Guantánamo detainees of Uighur origin petitioned the Supreme Court to reverse a Court of Appeals' decision which held that, despite a judicial determination that the prisoners were being unlawfully held, the court lacked the power to grant them the remedy of release. On 7 April, the Court of Appeals rejected another petition of the detainees requesting 30-days notice before any possible transfer to allow for a potential judicial challenge on grounds that such transfers would place the detainees at risk of torture, ill-treatment or persecution.

[Ruling](#)

[Petition](#)

[Press Article](#)

USA: Four legal memoranda relating to torture policy and practices released

On 16 April, the Justice Department, under direction of President Obama, released four memoranda of the Office of Legal Counsel. A 1 August 2002 memo signed by Jay S. Bybee, now a federal judge, reviews a number of practices in respect of the CIA interrogation programme, including waterboarding, prolonged sleep deprivation, beatings against a wall, stress positions, and closed confinement with insects, and concludes that the techniques are lawful. Three memos signed by Steven G. Bradbury in May 2005 express, among other things, the view that the UN Convention against Torture does not apply outside the territory of the United States and that abusive interrogation techniques which were used on US personnel in training exercises could not "shock the conscience" and so did not constitute torture under US law.

[Memoranda](#)

[NGO Statement](#)

[Press Article](#)

USA: President Obama says CIA officers who acted on authority of superiors will not be prosecuted

On 16 April, President Obama indicated that his administration did not intend to pursue prosecutions against CIA agents who carried out torture or other unlawful ill-treatment in reliance on the legal advice and instructions from superiors. He also said that it was a matter for the US Attorney General to determine whether those who formulated the policy would be subject to investigation and prosecution. UN independent experts stressed that blanket immunity for those responsible in respect of credible allegations of torture was incompatible with the UN Convention against Torture.

[President Statement](#)

[Justice Department Statement](#)

[ICJ Statement](#)

[UN Expert Interview \(German\)](#)

[Press Article 1](#)

[Press Article 2](#)

USA: CIA announces end of use of secret detention but asks immunity for past abuses

On 9 April, CIA Director, Leon Panetta, announced in a message to CIA employees that the CIA will no longer operate detention facilities or black sites, will not employ "enhanced interrogation techniques" and will not allow CIA contractors to conduct interrogations. The Director also stated that the CIA retains authority to detain individuals on a short-term transitory basis and claimed that officials who acted under guidance of the Department of Justice should not be investigated or prosecuted, as also indicated by the Justice Department and President Obama.

[CIA Director Statement](#)

[Press Article](#)

USA: Removal decision against Omar Khadr's lawyer overturned by military judge

On 7 April, a Military Judge overturned a decision of the Chief Defence Counsel of the Military Commissions to remove the military defence lawyer of Omar Khadr, a Canadian held in Guantánamo since he was a child, from the case. The Judge ruled that only a Judge had the competency to remove a lawyer from the case.

[Ruling](#)

[Press Article](#)

Canada: Federal Court rules Government must seek repatriation of Omar Khadr
On 23 April, the Federal Court decided that the Government was under a duty to request the repatriation to Canada of the Guantánamo detainee, Omar Khadr, who was 15 years of age when detained in Afghanistan in 2002. The Court ruled the Government must make such a request as a necessary remedy for its violation of Khadr's rights under the Canadian Charter. The violations resulted by Canadian Secret Services complicity in Omar Khadr's detention through the interrogations they conducted at Guantánamo. The Government announced it would appeal.

[Ruling](#)

[Press Article 1](#)

[Press Article 2](#)

Peru: Fujimori convicted to 25 years for crimes against humanity in counter-terrorism

On 7 April, the Special Criminal Section of the Supreme Court convicted former President Alberto Fujimori on charges of "crimes against humanity" and sentenced him to 25 years of imprisonment. The Court held that Alberto Fujimori had responsibility in relation to crimes committed by the army, security forces and paramilitary groups pursuant to his counter-terrorism policies, which consisted *inter alia* in extrajudicial killings of people alleged to be sympathisers of the armed guerrilla organisation *Shining Path*.

[Judgment \(Spanish\)](#)

[ICJ Statement \(Spanish\)](#)

[Press Article](#)

ASIA - PACIFIC

Sri Lanka: Military accuses international NGOs of complicity with LTTE

On 24 March, the Ministry of Defence of Sri Lanka, in a press release, accused international aid NGOs of forming a "vicious coalition" harbouring terrorists and seeking to prolong the armed conflict. In particular, the army accused the NGO CARE International, which had denounced the killing by the army of one of its aid workers.

[Defence Ministry Statement](#)

[CARE Statement](#)

[ICJ Briefing Paper](#)

China: Authorities execute Uighurs convicted for terrorist attack

On 8 April, media reported that Chinese authorities had executed two men of Uighur origin sentenced to death last December for an attack said to be aimed at sabotaging last year's Olympics. Reportedly, Chinese authorities arrested some 1,300 people last year for alleged terrorism or state security offences. The arrests occurred in Xinjiang, a region with a Uighur majority.

[Press Article](#)

Malaysia: Detainees arbitrarily held under anti-terrorism law conditionally released

On 5 April, Malaysian authorities released 13 people subject to administrative detention under the Internal Security Act (ISA), which allows for detention without trial and full judicial review. Among the released were lawyers V. Ganabatirau and R. Kengadharan of the Hindu NGO *Hindraf* who were arrested for organising a protest on anti-discrimination.

[President Statement](#)

[Internal Security Act](#)

[FIDH-OMCT Report](#)

[Press Article](#)

Australia: UN Human Rights Committee finds anti-terrorism legislation incompatible with human rights obligations

On 2 April, the UN Human Rights Committee criticised a number of Australia's anti-terrorism measures, including what it said was an excessively vague definition of the crime of the "terrorist act", the reversal of burden of proof in terrorism-related cases and bail proceedings and the powers of the Australian Intelligence Services to detain people for up to seven days. The Committee found these measures to be incompatible with the Covenant rights.

[Concluding Observations](#)

EUROPE & COMMONWEALTH OF INDEPENDENT STATES

UK: Binyam Mohamed was pressured to plead guilty without charges by US

On 23 March, the High Court of Justice published a previously classified section of its 22 October 2008 judgment relating to allegations of torture of former Guantánamo detainee Binyam Mohamed. The document reveals that, prior to his release and repatriation to the UK, Binyam Mohamed was offered an opportunity to plead guilty and serve one additional year. As part of arrangement, he would have to agree not to take any kind of legal action against the US or any other country, to sign a document stating he had not been tortured, and to agree not to make any public statement about his situation. On 30 March, another Guantánamo detainee, Shaker Aamer, alleged complicity by UK secret services in torture and other abuses committed against him by US authorities.

[Decision released](#)

[Summary of decision](#)

[Press Article 1](#)

[Press Article 2](#)

UK: Surveillance powers to investigate terrorism extensively used for petty offences

On 26 March, information obtained under the Freedom of Information Act revealed that local councils have abused their powers of surveillance for serious crimes and terrorism under the Regulation of Investigatory Powers Act (RIPA) by using such surveillance also for petty offences. These powers have reportedly been used more than 10,000 times in the last five years. The Home Office replied by announcing a revision of such powers and of provisions of the RIPA.

[Lib-Dem Statement](#)

[Law \(RIPA\)](#)

[Press Article 1](#)

[Press Article 2](#)

UK: Government seeks Pakistani diplomatic assurances to deport terrorist suspect

On 13 March, *The Times* newspaper revealed that the Government was seeking diplomatic assurances from Pakistan to enable deportation of most of the Pakistani detainees arrested in anti-terrorism operations on 8 April and who continue to be held in pre-trial detention. The Government authorities have reportedly been unable to gather enough evidence to start a criminal prosecution. On 22 April, it was announced that nine of the men detained had been released and will face deportation on national security grounds to Pakistan.

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Spain: Senior legal officers of Bush administration at risk of criminal charges for torture

On 17 April, Examining Judge Baltasar Garzón sent to the Chief Examining Judge a criminal case against senior legal advisers of the Bush administration who formulated legal policy allowing for practices of torture and other ill-treatment. The officials included Alberto Gonzales, a former White House counsel and attorney general; David Addington, former vice-president Dick Cheney's chief of staff; Douglas Feith, who was under-secretary of defence; William Haynes, formerly the Pentagon's general counsel; and John Yoo and Jay Bybee, who were both senior justice department legal advisers. The case originated in the application of the NGO *Asociación pro Dignidad de los Presos y Presas de España*, who asked that charges be brought for crime of torture under Spanish universal jurisdiction. The Attorney General refused to investigate. Following protests by the Public Prosecutor, Judge Garzón referred back the case to the Chief Examining Judge who assigned it to his colleague, Judge Eloy Velasco.

[Petition \(Spanish\)](#)

[Press Article 1](#)

[Press Article 2](#)

[Press Article 3](#)

Italy: Constitutional Court recognizes wide discretion by the Government on state secrets

On 3 April, the Constitutional Court published its opinion on the use of the secret of state doctrine by the Government, in relation to the case of the CIA kidnapping and rendition of Abu Omar (see, E-Bulletin no. 31, March 2009). The Court stated that the Government enjoys wide discretion in invoking the secret of state privilege, unless conducive or

covering a fact undermining the constitutional order, which was not found present in relation to the case of Abu Omar.

[Court Opinion \(Italian\)](#)

[Press Article](#)

Italy: Council of Europe independent expert criticises aliens' expulsions for counter-terrorism

On 16 April, the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, published a report on his visit to Italy in January 2009. In the report, the Commissioner strongly criticises the practices concerning the expulsion of aliens for security and counter-terrorism related reasons, expresses opposition to reliance on diplomatic assurances, and calls for respect for decisions of the European Court of Human Rights, particularly concerning interim measures.

[Report](#)

Sweden: UN Human Rights Committee criticises reliance on diplomatic assurances and internet surveillance in counter-terrorism

On 2 April, the UN Human Rights Committee expressed concern in its Concluding Observations at the continued reliance of Sweden on diplomatic assurances in relation to expulsions and transfers of non-Swedish nationals. The Committee also requested that the new Law on Signals Intelligence in Defence Operations, that will provide for surveillance of electronic communications, be implemented in conformity with the right to privacy, including through effective oversight and review by an independent, impartial body.

[Concluding Observations](#)

[ICJ Submission](#)

Poland: Journalists report evidence of CIA prisons on national soil

On 15 April, Polish journalists announced that they had obtained evidence that Poland had hosted secret US CIA prisons used in the practice of secret detention and rendition. According to this information, the Polish Government designated 20 secret state agents to provide assistance to the CIA's operations.

[Press Article 1](#)

[Press Article 2](#)

UNITED NATIONS & REGIONAL ORGANISATIONS

UN: Human Rights Council expresses serious concern at human rights violations in counter-terrorism

On 20 March, the UN Human Rights Council adopted a resolution on human rights while countering terrorism where it expressed its serious concern at human rights and international law violations in countering terrorism. The Council also stressed the importance of respect of the right to a fair trial, of access to an effective remedy and to fair and clear procedures in terrorism listing. The Council entrusted the Special Rapporteur on counter-terrorism and human rights with drafting a collection of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism.

[Resolution 10/15](#)

UN: Sanctions Committee begins review of terrorism list

On 12 March, the UN Al-Qaida and Taliban Sanctions Committee announced the beginning of a review of the names and organisations listed in accordance with the new guidelines and Security Council resolution 1822 (2008). The Committee will circulate the names each trimester to the designating State and State of residency and/or nationality of the listed person. Afghan President Hamid Karzai requested the deletion of Taliban members who are not members of Al-Qaida.

[UN Committee Statement](#)

[Guidelines](#)

[Resolution 1822](#)

[Press Article](#)

EU: Council asserts that Guantánamo detainees resettlement's decision lies with States

On 6 April, the European Council on Justice and Home Affairs reiterated its position that decisions to accept Guantánamo detainees will be taken singularly by each European country in consultation with other members of the Schengen area. The Council also mandated the EU Committee of Permanent Representatives to present a proposal for an EU framework for the acceptance of detainees and for a Memorandum of Understanding with the United States. This decision came following a formal request to the European Union by US President Obama on 5 April.

[European Council Statement](#)

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

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

EU: Commission publishes survey on Member States' counter-terrorism practices

On 4 March, the Secretary General of the European Commission made public a document containing the summary of the Member States' answers to a survey on counter-terrorism practices. The document illustrates practices of administrative detention, expulsion, criminal prosecution and redress of human rights violations in the 27 EU States.

[EU Document](#)

IN BRIEF

Human Rights First report calls for use of ordinary courts in counter-terrorism

In March, Human Rights First released its policy paper *The Case Against A Special Terrorism Court* where it opposes the creation of a special terrorism court and the use of detention without charge in counter-terrorism and advocating for the use of the ordinary criminal system for US-held detainees.

[Report](#)

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