

EXECUTIVE SUMMARY:

SECURITY AND HUMAN RIGHTS

COUNTER-TERRORISM AND
THE UNITED NATIONS

**AMNESTY
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Amnesty International Publications

First published in September 2008 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

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Index: IOR 40/020/2008
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

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“To reaffirm the United Nations system’s important role in strengthening the international legal architecture by promoting the rule of law, respect for human rights, and effective criminal justice systems, which constitute the fundamental basis of our common fight against terrorism”

**United Nations Global Counter-Terrorism Strategy -
Annex – IV-5**

EXECUTIVE SUMMARY

On 4 September 2008, the United Nations General Assembly (UNGA), sitting in plenary, will conduct its first review of the United Nations Global Counter-Terrorism Strategy (“the Global Strategy”) which it adopted two years ago, on 8 September 2006. The Global Strategy is a path-breaking document as all States recognize in it, unequivocally, that human rights are the fundamental basis for the fight against terrorism. The September review meeting provides an excellent opportunity for the UNGA to take stock of the implementation of the strong human rights provisions in the Global Strategy and to take concrete steps for their implementation.

Regrettably, as this brief survey of global practices shows, there is a huge gap between governmental human rights rhetoric in the Global Strategy and the reality of human rights observance on the ground. Much more needs to be done to mainstream human rights throughout the UN system and States must demonstrate the political will to translate stated human rights commitments into action. **Amnesty International therefore calls on the General Assembly to mark the occasion of the 60th anniversary of the Universal Declaration of Human Rights to make implementation of the human rights provisions of the UN Global Counter-Terrorism Strategy a top priority for the coming year.**

In this brief, Amnesty International considers the impact of terrorism on human rights, examines UN work on counter-terrorism, notably of the Security Council, and conducts a brief review of the type of human rights violations committed in the pursuit of counter-terrorism measures, citing a range of country examples from every region of the world.

While counter-terrorism policies in numerous countries have led to human rights violations well before 2001, the “war on terror” launched by the United States of America (USA) in the wake of the 11 September 2001 attacks has had world-wide repercussions. It has undermined the rule of law and international standards and poses significant challenges to the protection of human rights worldwide in numerous countries of the world today.

Amnesty International’s brief survey of countries all over the world shows that following the 11 September 2001 attacks on the USA, and attacks in other countries since, a wider range of counter-terrorism laws, policies and practices have eroded human rights protections as governments claim the security of some can only be achieved by violating the rights of others. The voices of human rights defenders, political opposition leaders, journalists, people from minority groups and others have been stifled.

Governments have rushed through problematic laws formulating new and often vaguely-defined crimes, banning organizations and freezing their or individuals' assets without due process, undermining fair trial standards and suspending safeguards aimed at protecting human rights. Unfortunately, countries which have long claimed to be leaders in promoting human rights have now taken the lead in enacting draconian laws that have eroded human rights protection for everyone. Other states have used the climate of fear created by terrorism to enhance powers to suppress legitimate political dissent, to torture detainees, subject them to enforced disappearances, or hand them over to other states in violation of the principles of *non-refoulement* and undermining laws governing extradition. The international law of armed conflict has been distorted or misapplied in ways that undermine its legitimacy.

Within three weeks of the 11 September 2001 attack, the Security Council passed resolution 1373 and imposed obligations on all states, for an indefinite period, requiring that they take a range of far-reaching measures to prevent terrorism. Other Security Council resolutions followed. They raised serious human rights concerns because of their broad and vague provisions. The Security Council's push for the criminalization and suppression of terrorism world wide, its lack of emphasis on the need to ensure that human rights must be protected in the process, and the absence of a definition on terrorism in resolution 1373 are likely to have contributed to the passing, by a number of states, of broadly phrased anti-terrorist laws since 2001 which have harmed human rights protection and fall far short of states' obligations under international human rights law. Indeed, Amnesty International believes that the Security Council – especially its five Permanent Members - has demonstrated a deep reluctance to embrace human rights in its efforts to combat terrorism. The Security Council must shoulder some responsibility for the adverse consequences for human rights, identified in this briefing, perpetrated "in the name of security".

Amnesty International has persistently and unequivocally condemned acts of terrorism and other deliberate attacks on civilians, underlining that States have a duty to protect those under their jurisdiction from such attacks. The organization has called for prompt impartial investigations and for the perpetrators to be brought to justice in accordance with international standards. It continues to demand that all armed groups and individuals stop using violence against civilians and calls on their leaders to denounce human rights abuses including torture and other ill-treatment, hostage taking, indiscriminate attacks, or direct attacks on civilians. An Appendix to the report lists principles that should guide states' treatment of victims, submitted in advance of the Symposium on Supporting Victims of Terrorism hosted by the Secretary-General on 9 September 2008, which closely follows the UNGA review of the Global Strategy.

States have a specific responsibility to promote and protect human rights, including the right to life, and a duty to protect civilians from attacks by taking effective measures to prevent and deter attacks on civilians. However, as the High Commissioner for Human Rights and the UN Secretary-General have strongly emphasized, States must not violate their specific human rights obligations in the process.

This brief describes human rights violations that have occurred in many countries under four themes: broad definition of terrorism / incitement; undermining the absolute prohibition of torture

and other ill-treatment; illegal detention and unlawful transfers and challenges to fair trial guarantees. Amnesty International acknowledges and welcomes the positive steps taken by some states to strengthen -- rather than weaken -- legal safeguards in the fight against terrorism. Amnesty International believes that countering terror with justice, by bringing cases before the ordinary criminal justice system, observing the requirements of due process, upholding fair trial standards and ensuring the independence of the judiciary, is the only effective response to terror.

RECOMMENDATIONS

The 60th anniversary of the Universal Declaration of Human Rights (UDHR) and the first review of the UN Global Counter-Terrorism Strategy provide an excellent occasion to review state practices and make human rights the fundamental basis for the UN's common fight against terrorism.

Recommendations to the General Assembly

Amnesty International recommends that the General Assembly takes the following steps:

- Mark the occasion of the 60th anniversary of the UDHR to make implementation of the human rights provisions of the UN Global Counter-Terrorism Strategy a top priority for the coming year;
- Request the Secretary-General to include in future reports on the implementation of the UN Global Counter-Terrorism Strategy, information on the difficulties States have encountered in implementing their obligations under Security Council resolutions 1373 and 1624 while also meeting their obligations under international human rights law;
- Request all Member States to review the counter-terrorism measures they have taken since the adoption of Security Council resolution 1373 in September 2001 in order to assess, with a view to ensuring compliance, whether they meet their obligations under international law, including international human rights, humanitarian and refugee law and to inform the Secretary-General of the steps they have taken;
- Emphasize, in future resolutions, the importance of mainstreaming human rights in its work on counter-terrorism throughout the United Nations system, including in the work of the Security Council, the Counter-Terrorism Committee, the Counter Terrorism Executive Directorate and the Counter-Terrorism Implementation Task Force, ensuring that human rights are also addressed in all its working groups because of their importance for all components of the Global Strategy;

- Commit to strengthen the resources for human rights in the UN's fight against terrorism, including by strengthening the resources of the Office of the High Commissioner for Human Rights and of the Working Group on Protecting Human Rights while Countering Terrorism, led by the Office of the High Commissioner for Human Rights;
- Urge all states to extend a standing invitation to the Special Rapporteurs of the Human Rights Council on the promotion and protection of human rights while countering terrorism, on extrajudicial, summary or arbitrary executions, and on torture and cruel, inhuman or degrading treatment or punishment, as well as the Working Groups on arbitrary detention and on Enforced or Involuntary Disappearances, and furthermore to invite CTED's Human Rights Officer or an expert from the Office of the High Commissioner for Human Rights to participate in any country visits conducted by the Counter-Terrorism Committee;
- Create effective means for NGOs to interact with the UNGA about the implementation of the UN Global Counter-Terrorism Strategy, including its provisions on human rights recognized as the fundamental basis of the fight against terrorism.

Recommendations to the Security Council

The Security Council must use the opportunity of the review of the UN Global Counter-Terrorism Strategy to address the human rights deficit that has marked much of its counter-terrorism work, notwithstanding some recent attempts at improvement. It must act to ensure that human rights are mainstreamed in its work.

Amnesty International recommends that the Security Council takes the following steps:

- Adopt unambiguous, strong language in its forthcoming resolutions dealing with counter-terrorism that Member States must meet their human rights obligations in the measures which the Security Council requires them to take;
- Ensure that the work of the Counter-Terrorism Committee and the Counter Terrorism Executive Directorate strengthens and does not hinder the protection of human rights while countering terrorism, including by establishing a mechanism to monitor the implementation of the human rights provisions in Security Council resolutions, by involving human rights officers or experts in all field missions and promoting the development of human rights best practices in countering terrorism;
- Strengthen the Counter Terrorism Executive Directorate's human rights capacity by substantially reinforcing its human rights staff and providing human rights training to all its experts – to ensure that human rights are fully incorporated in the Counter Terrorism Executive Directorate's communications and that States receive better assistance to review their counter-terrorism strategies to meet their human rights obligations;
- Institute a Counter-Terrorism Committee process of regular and more in depth interaction

with the UN's human rights experts, including the High Commissioner for Human Rights, the above UN Special Rapporteurs and Working Groups of the Human Rights Council and the relevant human rights treaty bodies such as the Human Rights Committee; and

- Create an independent review mechanism to examine de-listing requests of suspected terrorists subjected to the Security Council's targeted sanctions regime, and provide direct access for those listed to fair hearings providing basic human rights guarantees.

