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# **In the Name of Counter-Terrorism: Human Rights Abuses Worldwide**

**A Human Rights Watch Briefing Paper for the 59<sup>th</sup> Session of the United Nations Commission on Human Rights  
March 25, 2003**

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**I. INTRODUCTION**

On September 21, 2001, Ahmed Alenany, an Egyptian physician, was approached by a police officer after he had stopped by the roadside in New York City to look at a map. According to Alenany, the police officer questioned why he had stopped in a no-parking zone, asked to see his visa, and discovered it had expired. The police officer also noted two pictures of the World Trade Center in Alenany's car. Alenany was subsequently charged with overstaying his visa even though he had filed for an extension before it expired, and thus, was legally in the United States. Alenany agreed to be deported because the judge suggested that pursuing his case would keep him in jail for many weeks. He was detained for more than five months while waiting to be removed from the country, during which time the government presented no evidence linking him to terrorism. He is now free but still faces possible removal from the United States.

On June 24, 2002, Hassan Bility, the editor of one of Liberia's independent newspapers, and three other journalists were arrested in Monrovia by plain-clothes police and held incommunicado on suspicion of operating a rebel terrorist cell. The Liberian government twice failed to honor a court decision to produce the detainees in court. Echoing the terminology used by the Bush Administration to justify its handling of Taliban and al-Qaeda detainees, the Liberian authorities claimed that Bility was an "illegal combatant" who should be tried before a military tribunal. Judge Wynston Henries, the criminal court judge who ruled that the men be tried before a military court, reportedly claimed that an illegal combatant may not only be a person who carries arms, but also one who "collaborates and means to assist one side or the other." Under pressure from the United States, Hassan Bility was finally released in December 2002. Information Minister Reginald Goodridge told the BBC's Network Africa that he had not been released because of humanitarian concerns, and maintained that Bility was "a terrorist involved in an Islamic fundamentalist war."

In February 2002, in Godhra in the western state of Gujarat, a Muslim mob set fire to a train carrying Hindu activists. Fifty-eight people were killed in the attack. In the days that followed, Hindu nationalist groups in league with the ruling Bharatiya Janata Party (BJP) killed over 2,000 Muslims throughout the state. Local leaders and the vernacular press branded Muslims as terrorists while mobs were deployed to systematically destroy Muslim homes, businesses, and places of worship. Scores of Muslim women and girls were gang raped before being mutilated and burned to death. The government charged 131 Muslims under its new anti-terrorism ordinance, but has failed to prosecute the perpetrators of attacks against Muslims that were carried out with extensive state participation and support.

At a time when the media prominently reports the latest arrests of alleged terrorist suspects, these cases show a different human face to the war against terrorism. Just as terrorism targets innocent civilians, so too are innocent civilians becoming casualties in the international campaign against terrorism.

Terrorism is the very antithesis of human rights. Indeed, it is the body of international human rights and humanitarian law—the limits placed on permissible means to political ends—that best explains why such acts are not legitimate acts of war or politics. Such law makes clear that governments have a responsibility to protect citizens from politically motivated violence of this kind and to cooperate internationally to bring to justice the perpetrators of such abuse.

In fighting terrorism, however, governments must also ensure they meet their other obligations to their people by ensuring that counter-terrorist measures respect and do not violate international human rights, humanitarian, and refugee law. As U.N. Secretary-General Kofi Annan has consistently stressed since September 11, 2001, there must be no tradeoff between human rights and fighting terrorism. In the very first paragraph of his latest report on the Work of the Organization, he states: "I firmly believe that the terrorist menace must be suppressed, but States must ensure that counter-terrorist measures do not violate human rights." True security is ultimately about ensuring an environment in which all human rights are fulfilled, respected and protected—this will not be achieved when basic freedoms are undermined, democratic space is closed, and alienation and discontent are channeled into politically motivated violence.

This paper first surveys initiatives taken by U.N., regional, and other intergovernmental bodies in the context of the international campaign against terrorism. In view of the human rights violations being committed in the name of counter-terrorism, it urges the creation of a dedicated mechanism to address the human rights impact of counter-terrorism measures, most appropriately the appointment of a new special representative of the U.N. secretary-general charged with monitoring and reporting on developments in this area. The paper then details human rights violations connected to anti-terrorism efforts in China, Egypt, Georgia, India, Indonesia, Russia, Spain, United Kingdom, United States, and Uzbekistan. It highlights the degree to which the United States and other governments have become muted in their criticism of and have even extended new security assistance and support to some of the most abusive governments worldwide that have become newfound allies in the fight against terrorism.

The human rights framework is not soft on terrorism. It acknowledges that states must sometimes take exceptional measures to ensure public security. But whatever the emergency situation, some fundamental human rights and freedoms can never be suspended or derogated, such as the right to life; the right to freedom from torture and all forms of cruel, inhuman, or degrading treatment; and the right to freedom of thought, conscience, and religion. In addition, human rights treaties such as the International Covenant on Civil and Political Rights establish that any restrictions on other rights must be, among other requirements, exceptional and temporary in nature; limited to the extent strictly required by the exigencies of the situation; non-discriminatory solely on the ground of race, color, sex, language, religion or social origin; and consistent with the state party's other obligations under international law, particularly the rules of international humanitarian law.

As this document highlights, the campaign against terrorism has led to human rights violations in many countries worldwide. In some cases, governments have enacted new security laws that violate basic rights and freedoms, or have denied terrorist suspects due process and the protection of law. In other cases, the war against terrorism has been used by governments opportunistically to justify the repression of opponents or arbitrary and punitive measures against asylum seekers and other non-nationals.

Protecting human rights during counter-terrorist efforts is more than a legal requirement. It is integral to the success of the campaign against terrorism itself. Terrorism will not be defeated solely by military or security means. By indiscriminately attacking civilians, terrorism breaches the most basic values of human rights. Combating terrorism requires a reaffirmation of human rights values, not their rejection. State repression and human rights abuse closes off peaceful and political channels for political dissent and can channel alienation and grievance into extremism and violence. As the U.N. secretary-general told an open debate of the Security Council's Counter Terrorism Committee in October 2002, "to pursue security at the expense of human rights is short-sighted, self-contradictory, and, in the long run, self-defeating."

## II. INTERNATIONAL INITIATIVES

### U.N. Security Council

In the aftermath of the September 11 attacks, the U.N. Security Council used its powers under Chapter VII of the U.N. Charter to mandate member states to adopt specific measures to combat terrorism. Resolution 1373 of September 28, 2001 takes many elements of existing counter-terrorism treaties and in one swift move makes them binding on all member states. The measures include:

- Prevention of the financing of terrorism, through, inter alia, freezing of the financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or who participate or facilitate the commission of terrorist acts;
- Establishment of terrorist acts as serious criminal offences in domestic laws and regulations, with commensurably serious punishment; and
- Taking appropriate measures before granting refugee status to ensure that the asylum seeker has not planned, facilitated, or participated in the commission of terrorist acts.

The resolution created a new entity called the Counter Terrorism Committee (CTC) of the Security Council, which oversees the implementation of Resolution 1373. It mandated that governments report to the CTC within ninety days, and periodically after that, on the measures adopted to implement the resolution.

Resolution 1373 calls for tough criminal, financial, and administrative measures aimed at individuals and entities considered supportive of or involved in terrorism. But it makes no positive reference to member states' obligations to respect international human rights, humanitarian, or refugee law.

Successive U.N. high commissioners for human rights have expressed serious concerns about the possible impact of Resolution 1373 on human rights worldwide. Soon after the passage of the resolution, then High Commissioner Mary Robinson initiated contacts with the CTC, chaired by U.K. Ambassador Sir Jeremy Greenstock.<sup>1</sup> This dialogue has since been followed up by new High Commissioner Sergio Vieira de Mello. In his meeting with CTC members on October 21, 2002, de Mello raised concerns about states enacting anti-terrorism legislation that is too broad in scope or seeking to fight terrorism outside the framework of the legal system.

- He offered the readiness of his office to assist the CTC in encouraging, as he put it, “the non-abuse of 1373.”
- He reiterated an earlier recommendation put forward by Mary Robinson that the CTC appoint a human rights advisor.
- He suggested that the CTC place basic information on issues such as the non-derogation of certain rights, or relevant conclusions and recommendations of U.N. human rights mechanisms, on its website.
- He encouraged the CTC to establish links with the Human Rights Committee and other relevant treaty bodies and mechanisms of the United Nations human rights system.

The High Commissioner's office also produced a set of guidelines highlighting human rights obligations that should be actively considered by the CTC in reviewing country reports and developing

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<sup>1</sup> In April, the chairmanship of the CTC will be passed on to Spain's Ambassador Inocencio Arrias.

further measures. The document focused on the legality of counter terrorism measures, dealing with issues such as non-derogability, non-discrimination, the right to seek asylum and non-refoulement, and due process.

While Human Rights Watch welcomes this initial dialogue between the CTC and the High Commissioner for Human Rights, we are dismayed by the CTC's refusal to date to act fully upon the High Commissioner's recommendations or integrate consideration of human rights into its work. For instance, while the High Commissioner's guidance was included on the CTC website, the CTC declined to make it an official document and circulate it to all member states. The CTC has also failed to appoint a human rights advisor to its staff. As a welcome step, Security Council Resolution 1456 of January 20, 2003 stressed in its paragraph 6 that "States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, in particular international human rights, refugee, and humanitarian law." On March 6, 2003, during a special meeting of the CTC, Amb. Greenstock stressed that counter-terrorist measures had to be taken "without undue damage" to civil liberties. But he once again reminded those gathered that while the CTC did not ask states to do anything incompatible with their human rights obligations, monitoring such obligations was not the responsibility of the Committee.

### **U.N. General Assembly**

In November 2002, at its 57<sup>th</sup> session, the U.N. General Assembly adopted an important new resolution on Protecting human rights and fundamental freedoms while countering terrorism.<sup>2</sup> The resolution, initiated by Mexico, underscored the need for states to comply with their legal obligations under international human rights, refugee, and humanitarian law. It stressed that certain non-derogable rights must be fully observed at all times, and that where states derogated from their other obligations, they must meet the strict requirements of international law. The resolution asked the U.N. High Commissioner for Human Rights to monitor the protection of human rights in the fight against terrorism and to make recommendations to governments and U.N. bodies. It also requested the U.N. secretary-general to submit reports to both the U.N. Commission on Human Rights and the General Assembly on the implementation of the resolution, promising future attention to this important issue.

The General Assembly resolution came after the U.N. Commission on Human Rights failed to take up this issue at its 58th session last year. A similar draft resolution, circulated by Mexico, was withdrawn in the face of strong opposition by the United States, later joined by India, Pakistan, Algeria, and Saudi Arabia. In receiving the secretary-general's report at this 59th session, it is incumbent that the Commission take up this important challenge and consider an appropriate institutional response to the issue.

### **Treaty Bodies and Special Procedures**

Over the past year and a half, several rapporteurs and other specialists appointed by the U.N. Commission on Human Rights ("special procedures") as well as expert committees monitoring implementation of human rights treaties have addressed the negative impact of some counter-terrorist measures on human rights.

On August 31, 2002, just before the September 11 attacks, the Human Rights Committee set forth clearly the strict parameters within which states can justifiably derogate from their obligations in response to threats to public security. As the Committee observed, even in armed conflicts, states must show that the situation threatens the life of the nation and that the measures derogating from the Covenant are necessary, legitimate, and "limited to the extent strictly required by the exigencies of the situation." This

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<sup>2</sup> A/RES/57/219.

proportionality requirement “relates to the duration, geographical coverage and material scope of the state of emergency and any measures of derogation.”<sup>3</sup>

Since September 11, the Human Rights Committee has examined the human rights impact of counter-terrorism measures in its consideration of several periodic reports by states parties under article 40 of the Covenant. The Committee has repeatedly stressed that counter-terrorist measures taken under Security Council Resolution 1373 must be in full conformity with the Covenant.

In considering reports by New Zealand and Sweden, for instance, the Committee expressed concern about possible negative effects of new legislation and practices on asylum seekers, including the risk of refoulement and the absence of monitoring mechanisms with respect to the expulsion of those suspected of terrorism to their countries of origin.<sup>4</sup> In its consideration of Yemen, the Committee expressed concern about the arrest and detention of terrorist suspects in violation of the guarantees set out in the Covenant, and the expulsion of foreigners without an opportunity to legally challenge such measures.<sup>5</sup> In relation to Egypt, the Committee questioned the broad and general definition of terrorism in national law; noted with alarm that military courts and state security courts have jurisdiction to try civilians accused of terrorism without fair trial guarantees; and expressed concern about the incommunicado detention and treatment of Egyptian nationals arrested abroad and returned to Egypt.<sup>6</sup>

In considering the periodic report of the United Kingdom in December 2001, the Human Rights Committee noted with concern legislative measures being considered by the government which could have “far-reaching effects” and require derogations from its human rights obligations.<sup>7</sup> The Committee also expressed concern at reports of attacks and harassment on the basis of religious beliefs and the use of religion to incite criminal acts, and called for criminal legislation to cover offences motivated by religious hatred and other steps to protect against religious discrimination.<sup>8</sup> During questioning by the Committee, the United Kingdom reportedly invoked Article 103 of the U.N. Charter to argue that its obligations to the Counter Terrorism Committee under Resolution 1373 took precedence over its obligations to the Human Rights Committee.

In November 2001, the Committee against Torture (CAT) issued a statement reminding states parties of the non-derogable nature of most of their obligations and calling for states to ensure their responses to the threat of international terrorism were in full conformity with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The CAT has lately issued

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<sup>3</sup>Human Rights Committee, States of Emergency (article 4): CCPR General comment 29. (General Comments), U.N. Doc. CCPR/C/21/Rev.1/Add.11, 31/08/2001, paragraph 4.

<sup>4</sup>Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: New Zealand, 07/08/2002, U.N. Doc. CCPR/CO/75/NZL, paragraph 11; Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: Sweden, 24/04/2002, U.N. Doc. CCPR/CO/74/SWE, paragraph 12.

<sup>5</sup> Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: Yemen, 26/07/2002, U.N. Doc. CCPR/CO/75/YEM, paragraph 18.

<sup>6</sup> Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: Egypt, 28/11/2002, U.N. Doc. CCPR/CO/76/EGY, paragraph 16.

<sup>7</sup> Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: United Kingdom and Northern Ireland, 06/12/2001, U.N. Doc. CCPR/CO/73/UK; CCPR/CO/73/UKOT, paragraph 6.

<sup>8</sup> Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: United Kingdom and Northern Ireland, 06/12/2001, U.N. Doc. CCPR/CO/73/UK; CCPR/CO/73/UKOT, paragraph 14.

important recommendations related to counter-terrorism to specific countries such as Egypt, Sweden, and Russia. In the last case the Committee stressed that, in accordance with article 2 of the Convention, “no exceptional circumstance whatsoever ... may be invoked as a justification of torture.”<sup>9</sup>

In January 2002, the Committee on the Elimination of Racial Discrimination (CERD) adopted a statement on racial discrimination and measures to combat terrorism.<sup>10</sup> CERD emphasized that measures to combat terrorism should be in accordance with international human rights and humanitarian law, of which the prohibition of racial discrimination was a peremptory norm from which no derogation was permitted. It demanded that states and international organizations ensure that counter-terrorist measures did not discriminate in purpose or effect on grounds of race, color, descent, or national or ethnic origin, and pledged to monitor the potentially discriminatory effects of legislation and practice in its work. In its concluding observations on the 13<sup>th</sup> and 14<sup>th</sup> periodic report of Canada under the International Convention on the Elimination of All Forms of Racial Discrimination, CERD expressed concern about increased racial hatred, violence and attacks against Muslims and Arabs in the wake of the September 11 attacks.<sup>11</sup> It called on Canada to ensure application of Canada’s Anti-Terrorism Act did not lead to negative consequences for ethnic and religious groups, refugees, and asylum seekers, particularly as a result of racial profiling.

On Human Rights Day in 2001, seventeen thematic rapporteurs and independent experts of the CHR issued a joint statement in which they expressed deep concern about the adoption of certain national counter-terrorism laws and reminded states of their obligations to uphold human rights and fundamental freedoms in the aftermath of the events of September 11.<sup>12</sup>

Many of these rapporteurs have underscored specific concerns relating to their specific mandates. For example, the special rapporteur on migrant workers has noted how “In the context of anti-terrorism measures adopted after 11 September 2001, the legislation of some countries allows for long periods of detention of non-nationals, without basic guarantees.”<sup>13</sup> The special rapporteur on torture has warned that, “the provisions of some new anti-terrorist legislation at the national level may not provide sufficient legal safeguards as recognized by international human rights law in order to prevent human rights violations, in particular those safeguards preventing and prohibiting torture and other forms of ill-treatment.”<sup>14</sup> The special rapporteur on freedom of expression has stressed that “the fight against terrorism, (...) is more and more frequently resorted to by the authorities in many countries to infringe—through, inter alia, the adoption of restrictive laws, arrest, detention, censorship, bans, surveillance of and restrictions on publications or the use of the Internet—the right to freedom of opinion and expression, in particular for journalists, members of political opposition groups and parties and human rights

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<sup>9</sup> Conclusions and recommendations of the Committee against Torture, Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Russian Federation, 28<sup>th</sup> Session, U.N. Doc. CAT/C/CR/28/4, paragraph 4.

<sup>10</sup> Committee on the Elimination of Racial Discrimination, Statement on racial discrimination and measures to combat terrorism, U.N. Doc. A/57/18 (Chapter XI)(C.). (Statement), 01/11/2002.

<sup>11</sup> Committee on the Elimination of Racial Discrimination, Concluding Observations: Canada, 01/11/2002, U.N. Doc. A/57/18, paragraph 338.

<sup>12</sup> December 10, 2001, <http://193.194.138.190/hurricane/hurricane.nsf/newsroom>

<sup>13</sup> Report of the Special Rapporteur on the human rights of migrants, Ms. Gabriela Rodríguez Pizarro, submitted pursuant to Commission on Human Rights resolution 2002/62, 59<sup>th</sup> Session of the Commission on Human Rights, ECOSOC, E/CN.4/2003/85, December 30, 2002, paragraph 25.

<sup>14</sup> Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, Theo van Boven, presented to the General Assembly in accordance with resolution 56/143 of 19 December 2001, General Assembly, A/57/173, July 2, 2002, paragraph 5.

defenders.”<sup>15</sup> The special rapporteur on extrajudicial, summary or arbitrary executions has emphasized the fact that even in time of public emergency the right to life allows for no derogations, and that this is “particularly relevant at the present juncture, when Governments should not be tempted to misuse the international war against terrorism as a justification for human rights abuses, including extrajudicial, summary or arbitrary executions.”<sup>16</sup>

This increased attention afforded by treaty bodies and special procedures to the counter-terrorist measures adopted by states is very welcome. But it remains limited in scope and fails to provide comprehensive scrutiny and analysis of the human rights impact of counter-terrorist measures. The treaty bodies are only able to review the performance of states in the context of their periodic reports, and may therefore only raise concerns sometimes years after the event, or in the context of individual communications, which are limited to specific cases. The special procedures, for their part, focus only on those issues that fall within their mandates, failing to give a complete and holistic picture of the problem. As noted above, the Counter Terrorism Committee of the Security Council is receiving more regular reports from states of their actions under Resolution 1373, but it has to date largely excluded human rights considerations from its work.

### **Regional Organizations**

A number of regional and other intergovernmental organizations have taken initiatives in the context of the international campaign against terrorism. Many of these initiatives follow the template of Resolution 1373, highlighting its far-reaching, “trickle down” effect. But all too often they use broad and sweeping definitions of terrorism which could encompass peaceful opposition, and they make little or no reference to international human rights standards.

- In September 2002, the African Union/Organization of African Unity’s Convention on the Prevention and Combating of Terrorism, adopted at the 1999 OAU Summit, came into force. The Convention includes a broad definition of terrorist acts and, while invoking numerous international counter-terrorist conventions and measures, makes no reference to international human rights standards.
- In May 2002, the Organization of the Islamic Conference finalized the Convention on Combating International Terrorism. Terrorism is given a very broad definition, framed in terms of national law rather than international human rights standards. In adopting the Convention, member states condemned terrorism as “a gross violation of human rights,” but failed to affirm the positive obligations of states to respect human rights when combating terrorism.
- The Association of South East Asian Nations (ASEAN) is still working on a regional agreement to combat terrorism. However, neither the 2001 ASEAN Declaration on Joint Action to Counter Terrorism nor the 2002 Joint Communiqué on the Special ASEAN Ministerial Meeting on Terrorism addressed human rights.

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<sup>15</sup> Report of the Special Rapporteur on the right to freedom of opinion and expression, Mr. Ambeyi Ligabo, submitted in accordance with Commission on Human Rights resolution 2002/48, 59<sup>th</sup> session of the Commission on Human Rights, ECOSOC, E/CN.4/2003/67, December 30, 2002, paragraph 34.

<sup>16</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted in accordance with paragraph 23 of General Assembly resolution 55/111 of 4 December 2000, General Assembly, A/57/138, paragraph 16.

Some regional bodies, however, have addressed human rights concerns more positively:

- In December 2001, the Inter-American Commission on Human Rights adopted a resolution and comprehensive report on Terrorism and Human Rights, affirming states' human rights obligations. In June 2002, the Organization of American States General Assembly adopted the Inter-American Convention Against Terrorism. The new Convention makes explicit commitments on human rights.<sup>17</sup>
- On July 11, 2002, the Committee of Ministers of the Council of Europe adopted guidelines on human rights and the fight against terrorism. The guidelines address many important human rights concerns, including the prohibition of arbitrariness, the prohibition of torture, protection of privacy, arrest procedure and pre-trial detention, due process in legal proceedings, conditions of detention, prohibition of the death penalty, prohibition of refoulement, and safeguards on extradition. The guidelines set out clearly the strict limitations on derogation contained in international human rights instruments.
- In December 2002, the Ministerial Council of the Organization for Security Cooperation in Europe (OSCE) adopted a Charter on Preventing and Combating Terrorism. The OSCE undertook "to implement effective and resolute measures against terrorism and to conduct all counter-terrorism measures and co-operation in accordance with the rule of law, the United Nations Charter and the relevant provisions of international law, international standards of human rights and, where applicable, international humanitarian law."<sup>18</sup>

In light of the above, Human Rights Watch believes there is an urgent need for a dedicated mechanism to address these issues, most appropriately a special representative of the secretary-general on human rights and counter-terrorism. This would provide an appropriate institutional link between the United Nations human rights machinery, the Security Council, and other international and regional bodies. This new mandate should be complemented by continued scrutiny by the treaty bodies and special procedures, and effective coordination of activities across their mandates by the Office of the High Commissioner for Human Rights.

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<sup>17</sup> Article 15 of the Convention states: (1) that measures should fully respect the rule of law, human rights, and fundamental freedoms; (2) that nothing in the Convention shall be interpreted as affecting other rights and obligations of states and individuals under international law, in particular the Charter of the United Nations, the Charter of the Organization of American States, international humanitarian law, international human rights law, and international refugee law; and (3) that any person whom measures are taken in compliance with the Convention shall be given a fair treatment, including the enjoyment of all rights and guarantees in conformity with the law of the state in the territory of which that person is present and applicable provisions of international law.

<sup>18</sup> Significantly, the Charter also underlined "the need to address conditions that may foster and sustain terrorism, in particular by fully respecting democracy and the rule of law, by allowing all citizens to participate fully in political life, by preventing discrimination and encouraging intercultural and inter-religious dialogue in their societies, by engaging civil society in finding common political settlement for conflicts, by promoting human rights and tolerance and by combating poverty.

### **III. COUNTRY STUDIES: THE HUMAN RIGHTS IMPACT OF COUNTER-TERRORISM MEASURES IN TEN COUNTRIES**

This chapter looks at human rights concerns raised by counter-terrorism measures in China, Egypt, Georgia, India, Indonesia, Russia, Spain, United Kingdom, United States, and Uzbekistan. Particularly troubling, and common, have been the pretextual use of counter-terrorism laws as new weapons against old political foes, systematic violation of terrorist suspects' due process rights, and tightening of controls on refugees and migrants. The cases detailed below include far-reaching restriction of civil liberties, crackdowns against internal political movements, misuse of immigration laws to circumvent criminal law protections otherwise available to suspects, pervasive secrecy, allegations of torture, and at times indiscriminate detention of non-nationals.

#### **China**

Since the September 11 attacks, China has sought to blur the distinctions between terrorism and calls for independence by the ethnic Uighur community in the Xinjiang-Uighur Autonomous Region (XUAR) in order to enlist international cooperation for its own campaign, begun years earlier, to eliminate "separatism." Chinese authorities have used the global counter-terrorism effort as a justification for deepening crackdown in Xinjiang.

Before September 11, official reports made no distinction between Uighur demands expressed peacefully and acts of separatist violence. All were labeled separatist and treated simply as criminal cases. After September 11, the government re-categorized separatist acts involving the use of force as "international terrorism," reserving the term "separatism" for peaceful activities such as expressions of cultural identity, religion, literature, association, or rites of passage. But at every opportunity the two terms are linked.

China first presented allegations of Uighur complicity in international terrorism in mid-November 2001. On January 21, 2002, the Information Office of the State Council (China's cabinet) issued a report arguing that terrorist forces from Xinjiang "jeopardized...social stability in China, and even threatened the security and stability of related countries and regions." The report cited four waves of terrorism during which Uighur activists were allegedly responsible for explosions, assassinations, attacks on police and government institutions, and poison and arson attacks both inside China and abroad. During the last phase, which began in the latter half of 1999, it claimed that "anti-China" forces outside the country directed domestic forces to carry out sabotage within China. Between 1990-2001, according to the report, the combined efforts resulted in over 200 incidents, 162 deaths, and more than 440 injuries. During those years, Xinjiang police reportedly broke up 487 terrorist groups and identified 253 major violent terrorist crimes. The most serious threat purportedly came from organizations operating from neighboring countries, such as Afghanistan and Uzbekistan, but the report also alleged that other groups, operating from bases in Turkey, Germany, and the United States also sponsored terrorist activities.

Much of the State Council's report and a subsequent one in September 2002 focused on a relatively small group called the East Turkistan Islamic Movement (ETIM), dozens of whose members allegedly trained in Afghanistan. They accused the organization of responsibility for sending terrorists into China, setting up training bases, manufacturing explosives, stockpiling weapons, and preaching "holy war." China claimed that financing for ETIM, including its Central and Western Asian and North African operations and training for over 500 core members, some of whom fought with the Taliban and in

Chechnya, came from Osama bin Laden. The Chinese Foreign Ministry specifically accused ETIM of joining the Islamic Movement of Uzbekistan's "rebellions of invasion" into parts of Uzbekistan and Kyrgyzstan. However, no detailed evidence supporting any of China's allegations has been made public.

The police have claimed success in cracking down on terrorists, arresting over 100 of the more than 1,000 Chinese Muslim Uighurs identified by authorities as having fought with the Taliban. Another 300 reportedly were captured in Afghanistan. Scattered reports indicate that as many as thirty Uighurs are now held by the United States at Guantánamo Bay, Cuba. So far as is known, the United States has refused Chinese requests for extradition.

In December 2001, the Chinese Communist Party committee of the XUAR convened a teleconference to urge that the "strike hard" law and order campaign, which had begun anew in April 2001, be directed against terrorists and separatists. The strike hard campaign involved systematic violations of due process and the right to a fair trial. Credible reports of crackdowns came from communities across Xinjiang; while exact numbers and information about specific crimes were strictly controlled, available information indicated severe sentences and liberal use of the death penalty.

China has sought international support for its campaign. In January 2002, the Shanghai Cooperation Organization (China, Russia, and the Central Asian states of Kazakhstan, Tajikistan, Kyrgyzstan, and Uzbekistan), prodded by China, agreed to step up its backing for China's anti-separatist campaign which, it said, threatened the whole region. In August 2002, the United States, which had repeatedly warned China not to use counter-terrorism as an excuse to repress ethnic minorities, put ETIM on the U.S. State Department list of terrorist organizations. It then backed China's successful effort to have ETIM placed on the U.N. Security Council Sanctions Committee's list of terrorist organizations.

The anti-terrorist campaign may now spread to other parts of China. By March 2002, the Ministry of Public Security had formed special units in all provinces to deal with "terrorist crimes." In December 2002 Chinese courts in two provinces lodged the first known terrorism charges outside Xinjiang. In Sichuan, the renowned and popular Tibetan religious leader Tenzin Delek Rinpoche was sentenced to death (with a two-year reprieve) for "crimes of terror" and "incitement to separatism" in connection with a series of bombings. He denied all charges. His co-defendant, Lobsang Dhondup, was executed. Both men were denied access to family members and lawyers of their own choosing. Chinese authorities had long been unhappy with Tenzin Delek's activities, including support for schools and orphanages, renovation of monasteries, opposition to extensive logging in the region, and his unflinching support for the Dalai Lama.

On February 10, 2003, a court in Guangzhou sentenced U.S. permanent resident Wang Bingzhang to life imprisonment in part for "organizing and leading a terrorist group." The accusations included plotting to blow up the Chinese embassy in Thailand and using the Internet to advocate violence. However, a Thai anti-terrorism official said information about Wang was never solicited, that Wang had come to Thailand as a tourist and had been monitored simply as a "high-profile" person. Wang had been active in dissident activities in China and the U.S. Wang and two others disappeared in June 2002 after meetings with labor activists in the Guangxi Zhuang Autonomous Region. According to Chinese official sources, the three were kidnapped in Vietnam and later secretly transported to Shenzhen.

## **Egypt**

Egypt has a long history of using anti-terrorism decrees and emergency rule to suppress peaceful dissidents, as well as to punish opponents advocating or using violence. But repressive measures have intensified since the September 11 attacks.

Egypt has been under emergency rule—Emergency Law No. 162 of 1958—for most of the past thirty-five years, and continuously since the assassination of President Anwar Sadat in October 1981. The government has routinely used its authority under the law to arrest individuals at will and detain them without trial for prolonged periods, refer civilians to military or exceptional state security courts, and prohibit strikes, demonstrations, and public meetings. On February 23, 2003, without prior notice, the government introduced a bill in the People’s Assembly to extend the law for another three years, and rushed its passage the same day. Prime Minister Atif Ubyayd cited the “war on terrorism” and new security laws passed in the United States and elsewhere since September 11, 2001, to justify the emergency law extension. The prime minister said that most of this legislation was “permanent” and “adopted the principles to which we have adhered in the Egyptian Emergency Law.”

In the early 1990s, following a resurgence of political violence spearheaded by several armed Islamist groups, the government introduced “anti-terror” decrees, notably Law No. 97 of 1992, that gave security and intelligence forces still greater powers of arrest and detention. In its submission to the U.N. Security Council Counter-Terrorism Committee, the government highlighted Law No. 97’s extremely broad definition of terrorism, as “any use of force or violence *or any threat or intimidation* to which the perpetrator resorts in order to carry out an individual or collective criminal plan *aimed at disturbing the peace or jeopardizing the safety and security of society* and which is of such a nature as to create harm or create fear in persons or imperil their lives, freedom or security; harm the environment; damage or take possession of communications; *prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations.*” The U.N. Human Rights Committee has questioned this broad and general definition of terrorism in national law.

Since September 11, 2001, Egypt has arrested hundreds of suspected government opponents, many for alleged membership in the Muslim Brotherhood, a banned but non-violent group, and possession of “suspicious” literature. Many of those arrested, including professors, medical doctors, and other professionals, have been referred to military courts or to emergency and regular state security courts whose procedures do not meet international fair trial standards.

In one case, ninety-four alleged members of a previously unknown Islamist group were arrested in May 2001, prior to the September 11 attacks, on charges of illegally collecting funds for Chechen separatists and the Palestinian group Hamas. In October 2001, after the attacks on the U.S., they were additionally charged with plotting to assassinate government officials and others, and of arranging for military training in Chechnya. Fifty-one were convicted and forty-three acquitted in a trial before the Supreme Military Court.

In January and February 2003, state security forces used emergency law provisions to detain without charge or trial persons involved in peaceful demonstrations opposing military intervention in Iraq and in support for the Palestinian uprising against Israeli military occupation.

Top Egyptian officials have frequently cited the September 11, 2001 attacks to justify Egypt’s repressive policies. “There is no doubt that the events of September 11 created a new concept of democracy that differs from the concept that Western states defended before these events, especially in regard to the freedom of the individual,” President Mubarak said in December 2001, adding that the U.S. decision to authorize military tribunals “proves that we were right from the beginning in using all means, including military tribunals.” In September 2001, Prime Minister Ubyayd, referring to critical reports on torture and unfair trials, lashed out at human rights groups for “calling on us to give these terrorists their ‘human rights.’”

Responding to the February 2003 renewal of emergency legislation, the State Department spokesman said, “we understand and appreciate the Egyptian government’s commitment to combat

terrorism and maintain stability.” He said the U.S. had “serious concerns” with “the manner in which that law has been applied” but did not criticize the law or its renewal.

On a number of occasions before and since September 2001, the U.S. has encouraged and participated in the rendition of suspects to Egypt from third countries without regard for extradition or other legal procedures, and despite concerns about the routine use of torture by Egyptian security officials. Although Egypt’s abusive practices are well known, other governments have returned persons there, in likely violation of the Convention against Torture. Two Egyptian asylum seekers in Sweden, Ahmad Hussein Mustafa Kamil Agiza and Muhammad Sulaiman Ibrahim al-Zari, were forcibly repatriated on December 18, 2001, after their claims were rejected on the basis of secret evidence that they had connections to armed Islamic opposition groups. Other Egyptians have reportedly been forcibly repatriated by Jordan, Syria, Canada, Bosnia, and Uruguay.

The U.N. Human Rights Committee, the treaty body responsible for overseeing implementation by States Parties of the International Covenant on Civil and Political Rights, examined Egypt’s most recent periodic report on November 28, 2002. The Committee expressed alarm at the jurisdiction of military courts and state security courts in cases of civilians accused of terrorism, and “the very broad and general definition of terrorism given in Act No. 97 of 1992.” The Committee noted that “Egyptian nationals suspected or convicted of terrorism abroad and expelled to Egypt have not benefited in detention from the safeguards required to ensure that they are not ill-treated....”

## **Georgia**

U.S.-supported anti-terror measures in Georgia have focused on the Pankisi Gorge and on Georgia’s Chechen population. In implementing these measures the government has committed serious human rights violations, which it refuses to address. President Eduard Shevardnadze indicated the government’s attitude toward observing human rights in its counter-terrorism campaign on October 5, 2002, one day after Georgia had extradited five Chechens to Russia without due process, when he said: “International human rights commitments might become pale in comparison with the importance of the anti-terrorist campaign.”<sup>19</sup>

The U.S. and Russia have both claimed that Georgia’s Pankisi Gorge -- home to several thousand Chechen refugees who fled renewed conflict from 1999 -- was a haven for terrorists, citing the presence there of al-Qaeda and Chechen rebel fighters.<sup>20</sup> The U.S. established a \$64 million “Train and Equip” program to strengthen Georgia’s counter-terrorism capability. As of October 2002, at least sixty U.S. military personnel were based in Georgia, as trainers for the “Train and Equip” program.

Georgian operations in the Pankisi Gorge at times have been arbitrary and brutal. Georgian forces have committed at least one extrajudicial execution, several “disappearances,” summary extraditions, arbitrary detentions, and discrimination on the basis of racial and ethnic identity.

On March 22, 2002 the National Security Ministry detained two Georgian ethnic Chechen activists who worked with refugees in the Gorge, Islam Saidiev and Zurab Khangoshvili, on suspicion of association with al-Qaeda, apparently based only on the fact that they were the only Georgian citizens to make the pilgrimage to Mecca in 2002. That information was provided in a U.S. Embassy letter to the Ministry of National Security.<sup>21</sup> The ministry secured their pre-trial detention for three months by

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<sup>19</sup> Those extradited had been arrested in August. The Procuracy General extradited them without recourse to a court appeal, which is provided for in Georgia’s criminal procedure code.

<sup>20</sup> Russia has repeatedly demanded the forcible return of Chechen refugees and threatened to conduct its own military operations in the Pankisi Gorge.

<sup>21</sup> Human Rights Watch interviews with attorneys for both the defendants, Tbilisi, April 2002.

falsifying the date of their arrest to avoid their compulsory release under criminal procedural deadlines. They were released in June, but the investigation continued.

Human Rights Watch has documented four “disappearances,” one extrajudicial execution, and cases of incommunicado detention, attributable to Georgian security forces engaged in counter-terrorism.

On April 28, 2002 three men of Arab origin “disappeared” after a uniformed military detachment detained them from their car. Witnesses reported that the troops handcuffed the men’s driver, Vizuri Khangoshvili, shot him fatally in the stomach, and left him in a ditch. TIME magazine reported that this action was carried out on the basis of “real time intelligence” provided by the United States.<sup>22</sup>

On September 25, 2002, Chechen refugee Hussein Yussupov “disappeared” while in Security Ministry detention after being detained for five days in the Pankisi Gorge.

On December 6, 2002, a National Security Ministry unit killed four of the five passengers of a car traveling near Lagodekhi, eastern Georgia. No government investigation into these killings has been undertaken. Two of the passengers were from the Russian north Caucasus Karachai-Cherkess Republic, and had been implicated by Russia in the Moscow and Volgograd apartment block bombings of September 1999. One of the two, Yusuf Krymshamkhalov, survived the incident and was summarily extradited the next day to Russia. This was despite a new extradition appeals procedure instituted by the Supreme Court in late October 2002.<sup>23</sup>

In September and October 2002 Georgian officials confirmed then backtracked on reports of extralegal and clandestine extradition of terrorist suspects to U.S. custody. However, on February 6, 2003 Georgia’s U.N. ambassador stated that: “During the search operation in Pankisi last fall, Georgian troops detained several suspected Al-Qaeda members and handed them over to the United States.” U.S. officials have not denied the reports. When asked for comment in October 2002, Secretary of Defense Donald Rumsfeld said: “I guess anything’s possible. I can’t validate it.”<sup>24</sup> The U.S. Embassy had no comment on the extraditions. This situation has provided the Georgian security forces with a tacit alibi for any further “disappearances.”

In a massive passport check in Tbilisi on December 7, 2002, police briefly detained nearly one hundred ethnic Chechens, including some minors. Given the context, many in Georgia believed this operation to be connected with counter-terrorism efforts, though no official publicly linked the two. The Interior Ministry spokesman fended off accusations that the detainees were targeted due to their Chechen ethnicity with the comment: “We also took seven Negroes.”<sup>25</sup> The Interior Ministry spokesman stated that the operation was undertaken on U.S. recommendation, and in newspaper interviews, the U.S. ambassador expressed cautious approval for the operation.<sup>26</sup>

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<sup>22</sup> The Surprise in the Gorge/Inside al-Qaeda’s Georgia Refuge” by Paul Quinn-Judge, TIME Magazine, October 20, 2002. The article was published in two versions, one more comprehensive than the other. The passage quoted amalgamates both, to produce a maximum of relevant detail. The longer version of the article can be accessed on the internet at: <http://www.time.com/time/world/article/0,8599,366217,00.html>. [accessed November 11, 2002]

<sup>23</sup> The Supreme Court’s decision followed the Georgian Procurator General’s controversial summary extradition of five alleged Chechen fighters to Russia on October 4, 2002. Earlier, in July 2002, Adem Dekkushev—another Karachai-Cherkessian—was summarily extradited to Russia.

<sup>24</sup> Rumsfeld Denies Georgia Handed Over Al Qaeda Ties to U.S., Civil Georgia, October 23, 2002, [www.civil.ge](http://www.civil.ge) [retrieved November 2002].

<sup>25</sup> Nona Tsabadze, “Twelve Wanted Men Detained in Tbilisi,” *Akhali Taoba*, December 10, 2002.

<sup>26</sup> See, for example, Shota Utnashvili, “Religious Extremism on the Path to NATO, 24 *Saati*, December 13, 2002.

## India

India's response to perceived threats of terrorism intensified in the wake of an attack by militants on the national parliament in December 2001. On March 26, 2002, the long debated Prevention of Terrorism Act (POTA) was enacted. Like its predecessor, the much misused and now lapsed Terrorists and Disruptive Activities (Prevention) Act (TADA) of 1985 (amended 1987), POTA has already been used by the Indian government to target minorities and political opponents.

POTA creates an overly broad definition of terrorism, while expanding the state's investigative and procedural powers. Suspects can be detained for up to three months without charge, and up to three months more with the permission of a special judge. Its close resemblance to TADA foreshadowed a return to widespread and systematic curtailment of civil liberties. Under TADA, tens of thousands of politically motivated detentions, acts of torture, and other human rights violations were committed against Muslims, Sikhs, Dalits (so-called untouchables), trade union activists, and political opponents in the late 1980s and early 1990s. In the face of mounting opposition to the act, India's government acknowledged these abuses and consequently let TADA lapse in 1995.

Indian and international human rights groups, journalists, opposition parties, and minority rights groups have unequivocally condemned POTA. Numerous political parties have alleged the misuse of POTA against political opponents in states such as Uttar Pradesh and Jammu and Kashmir. Since it was first introduced, the government has added some safeguards to protect due process rights but POTA's critics stress that the safeguards do not go far enough and that existing laws are sufficient to deal with the threat of terrorism. India's own National Human Rights Commission has stated that "existing laws are sufficient to deal with any eventuality, including terrorism, and there is no need for a draconian POTA." India has a plethora of security laws, some pre-dating independence. Many lack adequate procedural safeguards and have been similarly abused.

Since its passage, POTA has been used against political opponents, religious minorities, Dalits, tribals and even children. In February 2003 alone, over three hundred people were arrested under the act.

On July 11, 2002, in the state of Tamil Nadu, Vaiko, a leader of the political party Marumalarchi Dravida Munetra Kazhakam (MDMK), was arrested and charged under POTA for making remarks in support of the banned terrorist group, the Liberation Tigers of Tamil Eelam (LTTE). Only two weeks after Vaiko's arrest, P. Nedumaran, a leader of the Tamil Nationalist Movement, was also arrested under POTA for making pro-LTTE remarks at a conference on April 13.

In Kashmir, the Jammu and Kashmir Liberation Front (JKLF) chairman, Yasin Malik, was held under POTA the very day of its enactment, March 26, on charges of receiving smuggled money from a Pakistan-based separatist group. Malik was released on bail for medical reasons, but was immediately rearrested under a Jammu and Kashmir preventive detention law, the Public Safety Act (PSA), for anti-national activity. Acknowledging the extent of its misuse, the newly-elected government of the state of Jammu and Kashmir announced in October 2002 that POTA would no longer be used in the state.

An independent member of the legislative assembly in Uttar Pradesh and political opponent of the state's chief minister was charged under POTA in January 2003, along with his seventy-year-old father. Both were arrested in November 2002 under the National Security Act. Also in Uttar Pradesh, between April and July 2002, over twenty-five Dalits and tribals were charged under POTA. Tribals in the area, who work for Rs. 20 (U.S.\$0.42) a day, claim that POTA has become an instrument to brand them as Naxalites (members of extreme leftist Maoist-Leninist groups) whenever they challenge the government official-landlord nexus. One villager remarked, "We are thrashed, arrested and called Naxalites. The nexus between the contractors, police, landlords and industry is just growing stronger here.... when we

protest we are booked under POTA.” In one case from Sonbadhra district, nine out of twelve people arrested were bonded laborers who refused to return to work because of the physical abuse of their employer.

On February 19, 2003 in Jharkhand state almost 200 people were arrested under POTA, among them a twelve-year-old boy and an eighty-one-year-old man. According to the government, the accused are being held for supporting Naxalites. According to press reports most of those arrested were farmers, students, or daily wage earners. When asked how a Naxalite was identified, a senior police official told reporters, “Anyone caught with a copy of the Communist Manifesto or Mao’s Red Book becomes a suspicious character. We then watch him and often find clinching evidence.” Following widespread criticism against the charges, Deputy Prime Minister Advani directed the state to review the cases. As a result, officials decided to drop the POTA charges against eighty-three of the detainees. Rights groups have charged that POTA is being used indiscriminately against ordinary citizens in the state, including young children. In January 2003, for example, a thirteen-year-old boy was arrested because his father was suspected of involvement with the insurgent Maoist Communist Centre group. The charges were later withdrawn. At this writing, a total of ten children, mostly students, had been arrested under POTA in Jharkhand state.

On February 19, 2003, the Gujarat government charged 131 Muslims under POTA for allegedly attacking Hindus. A year earlier, a Muslim mob set fire to a train carrying Hindu activists in Godhra in the western state of Gujarat. Fifty-eight people were killed. In the days that followed, Hindu nationalist groups and their supporters killed more than 2,000 Muslims throughout the state. Muslims were branded as terrorists while armed gangs set out to systematically destroy Muslim homes, businesses and places of worship. Scores of Muslim women and girls were gang-raped before being mutilated and burnt to death. Human Rights Watch investigations revealed that attacks against Muslims were carried out with extensive state participation and support and planned months in advance of the Godhra attack. The Hindu nationalist Bharatiya Janata Party that heads the state government has not charged any Hindus under POTA for violence against Muslims.

## **Indonesia**

Since the September 11 attacks, Indonesia has been seen as a frontline in the international campaign against terrorism due to ongoing political and sectarian violence and alleged links between local Islamist movements and international terrorist networks. After the October 12, 2002 Bali bomb attack, President Megawati, under intense U.S. pressure, issued two executive decrees to address terrorism. The Indonesian parliament is now considering similar anti-terror legislation. The decrees and draft legislation threaten to seriously curb fundamental rights, invoking broad definitions of terrorism that could be used to target political opponents. Critics argue that existing Indonesian criminal laws are sufficient to address the country’s security needs.

Under the draft law, suspected terrorists can be detained by the police for up to seven days on the basis of scant preliminary evidence and then for a further six months for questioning and prosecution. The draft law would allow intelligence reports to be admitted as prima facie evidence in order to detain suspects. The military would be allowed to conduct arrests, bringing the Indonesian military back into direct involvement in policing and criminal investigations, powers it abused in the Soeharto era. Investigators would also have the authority to go through personal mail and parcels and to tap telephone conversations or other forms of communication. While intelligence-gathering actions have to be reviewed by a judge, the Indonesian court system is so weak and corrupt that judicial review cannot be relied upon to constitute a meaningful safeguard. The draft law allows for the death penalty.

After the Bali attack, senior Indonesian officials began to incorporate the term “terrorist” into their rhetoric when talking about domestic groups perceived to be a threat to the unity of Indonesia.

Armed separatist groups, the Free Papua Movement (OPM) in Papua and the Free Aceh Movement (GAM) in Aceh, were singled out. In September 2002, Indonesian Foreign Affairs Minister Hasan Wirajuda publicly labeled OPM a terrorist organization, while Coordinating Minister of Political and Security Affairs, Susilo Bambang Yudhoyono, accused GAM of carrying out acts of terrorism.

The Indonesian police have carried out a high profile investigation to identify and arrest the perpetrators of the Bali attack. Up to thirty people have been arrested and are being held under the terrorism decrees. The police have conducted public interrogations of suspects and staged public re-enactments of the crime, using detainees as key 'actors' in these re-enactments. This will make it difficult to hold fair and credible trials, as the presumption of innocence is lost after such reenactments. There are also concerns with the validity of "confessional" evidence from other detainees in Singapore and Malaysia, which has apparently served as the basis for the arrests of many suspects. It is unclear whether or not persons who are not involved in violent activities have been arrested under the anti-terrorism decrees.

The U.S. has pressured the Indonesian government to arrest key terrorist suspects and label the radical Islamic group Jemaah Islamiyah a terrorist organization under Indonesian law. Jemaah Islamiyah has been accused of sponsoring the Bali attack and of planning to carve out an Islamic state in Southeast Asia through violent means. On October 23, 2002, the U.S. State Department designated Jemaah Islamiyah a foreign terrorist organization. Shortly afterwards the U.N. Security Council Sanctions Committee included Jemaah Islamiyah on its consolidated list of individuals and entities, the assets of which member states are required to freeze in accordance with Security Council resolutions. At the end of January 2003 the United Nations Security Council Sanctions Committee added two Indonesians to its list of persons and entities subject to the sanctions because of their links to the Taliban or to other terrorist operatives: Riduan Nurjaman Samuddin and Iqbal Mohamad Abdurrahman. It is unclear where these two individuals are at present but at least one of them is wanted by the Indonesian police in connection with the Bali attack.

Omar al-Faruq, an alleged Kuwaiti citizen married to an Indonesian woman, was arrested on December 5, 2002 and handed over to the U.S. authorities as part of an intelligence operation involving Indonesia's intelligence service and the CIA. Indonesian authorities have given conflicting statements about al-Faruq's case, including statements by authorities insisting that al-Faruq was an Indonesian citizen wanted by the U.S. government for terrorist acts in the U.S. even prior to the September 11 attacks. Coordinating Minister for Political and Security Affairs Susilo Bambang Yudhoyono was quoted in the press as saying, "The arrest was the result of cooperation between the Indonesian police and intelligence as well as foreign intelligence sources under a cooperation framework in the fight against terrorism." However, Minister of Foreign Affairs Hassan Wirayuda said that al-Faruq's extradition to the U.S. was not linked to the government's efforts against terrorism, but was immigration related. It was unclear where Omar al-Faruq was at the time of writing.

The Bush administration has renewed links with Indonesia's military (TNI) as part of its counter-terrorist strategy for Indonesia, arguing that the only way to support democracy and human rights and fight terrorism in Indonesia is to work with the military. The U.S. IMET (International Military Education and Training) program to Indonesia had been cut after the TNI-orchestrated 1999 violence in East Timor. Resumption was conditioned on demonstrable reform of the military and a willingness to tackle impunity, but in its efforts to secure a bulwark against terrorism in Southeast Asia the Bush administration has agreed to resume the program without the necessary reforms. On a visit to Jakarta in 2002, U.S. Secretary of State Colin Powell announced a new \$50 million program to assist the security forces in the campaign against terrorism. The U.S. Congress approved legislation giving Indonesia's police force \$16 million, including \$12 million to set up a special anti-terrorism unit. Restrictions on lethal arms and arms supplies, both commercially and U.S. government-funded, remained in place.

## Russia – Chechnya

Since it launched a military operation in Chechnya in 1999, Russia's leaders have described the armed conflict there as a counter-terrorism operation and have attempted to fend off international scrutiny of Russian forces' abusive conduct by invoking the imperative of fighting terrorism. This pattern has become more pronounced since the September 11 attacks, as Russia sought to convince the international community that its operation in Chechnya was its contribution to the international campaign against terrorism. The current armed conflict in Chechnya is Russia's second in ten years.

Following bombings in Moscow attributed to Chechen separatists, in September 1999 Russian forces began aerial bombing and ground operations in Chechnya. Several thousand civilians died before Russian forces established control over most of the republic's territory in March 2000. Russian officials constantly used the language of counter-terrorism to describe the conflict; in some forums they argued that this meant that humanitarian law was irrelevant.<sup>27</sup> The terrorist label was attached not only to Shamil Basaev, a Chechen field commander responsible for a mass hostage-taking of civilians during the first Chechen war, and Khattab, a field commander with alleged links to al-Qaeda, but to all Chechen forces.

After September 11, Russia went to great lengths to link the war in Chechnya to the global campaign against terrorism. On September 12, 2001, Russian President Vladimir Putin declared that America and Russia had a "common foe" because "Bin Laden's people are connected with the events currently taking place in our Chechnya,"<sup>28</sup> and on September 24 said that the events in Chechnya "could not be considered outside the context of counter-terrorism," glossing over the political aspects of the conflict.<sup>29</sup>

World leaders, until then critical of Russia's conduct in Chechnya, did little to challenge these claims. Two weeks after the attacks in the United States, German Chancellor Gerhard Schroder said, during a meeting with President Putin, "As regards Chechnya, there will be and must be a more differentiated evaluation in world opinion." On the same occasion, Prime Minister Silvio Berlusconi of Italy said, "We'll probably have to judge things differently than we have done until now regarding Chechnya. But it does not mean forgetting about various rights such as human, civil and political rights."

While Russia has described its actions in Chechnya as a tightly focused counter-terrorism operation, it has produced vast civilian casualties. The first phase of the conflict involved the bombing and shelling of dozens of towns and villages to dislodge Chechen fighters. Research by Human Rights Watch and other organizations showed the shelling and aerial bombardment by Russian forces to be highly indiscriminate and disproportionate, causing about 3,000 civilian casualties. Between December 1999 and February 2000, Russian forces committed massacres after taking control of three villages, killing at least 130 people. During this period they also rounded up thousands of people, mostly males whom they called "potential terrorists," took them to detention centers, and tortured them to compel confessions or testimony.

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<sup>27</sup> Russian diplomats objected to references to international humanitarian law for the Chechnya conflict during the 56<sup>th</sup> and 57<sup>th</sup> sessions of the U.N. Commission on Human Rights. Resolutions adopted at both sessions of the UNCHR recognized the applicability of international humanitarian law to the conflict. See, Commission on Human Rights, "Situation in the Republic of Chechnya of the Russian Federation, E/CN.4/2000/L32, 12 April 2000, and Commission on Human Rights, "Situation in the Republic of Chechnya of the Russian Federation," E/CN.4/RES/2001/24.

<sup>28</sup> Susan B. Glasser and Peter Baker, "Putin, Bush Weigh New Unity Against A 'Common Foe,'" Washington Post, September 13, 2001, p. A25.

<sup>29</sup> "Vremya" (Russian Public Television news program), September 24, 2001.

By the spring of 2000, Russian troops had established nominal control over most of Chechnya and large-scale hostilities ceased. They continued to conduct many “sweep operations,” to seek out rebel fighters and ammunition depots. Sweep operations have become synonymous with abuse, involving the arbitrary detention of large numbers of Chechen civilians (along with captured fighters), who are then beaten and tortured in detention.

This cycle of abuse, well established before September 11, continues to this day. Hundreds of people have “disappeared” since that date after being taken into Russian custody. Increasingly, Russian forces conduct targeted night operations, in which masked troops raid particular homes, execute targeted individuals, or take them away, never to be seen again. In December 2002, Human Rights Watch documented nine extrajudicial executions and seventeen forced disappearances by Russian forces, most of which had taken place in the two months following a mass hostage taking in Moscow by armed Chechens. Among these cases was the November 29 killing of Malika Umazheva, who had previously been dismissed from her post as village administrator, had been an outspoken critic of Russian abuses, and a trusted source of information on abuses for human rights organizations. Masked Russian troops shot her at point-blank range during a night raid of her home. Among the many individuals who have “disappeared” is Issa Abumuslimov, a fifty-two-year-old engineer, whom Russian forces detained in a December 11 night raid of his home.

Chechen forces have also targeted civilians. They are believed to be responsible for a continuing pattern of assassinations of village administrators and other civil servants working for the pro-Moscow government in Chechnya. They bombed the main government building in Grozny in December 2002, killing seventy-two civilians, and are believed responsible for other explosions that have cost civilian lives. They took more than seven hundred people hostage at a Moscow theater last October, demanding the withdrawal of Russian troops from Chechnya. They threatened to kill all of the hostages, and killed several. Three days later, Russian special forces liberated over six hundred hostages in a raid that resulted in the deaths of 128 hostages and about fifty hostage takers.

## **Spain**

In the aftermath of September 11, Spain applied its existing strict counter-terrorism regime to the investigation, apprehension, and detention of suspected al-Qaeda operatives. The climate created by the international campaign against terrorism provided the Spanish authorities with a further pretext to crackdown on Basque separatists and supporters of the pro-independence movement. Spanish authorities were also quick to issue public statements equating stricter controls on immigration with the war against terrorism, contributing to a climate of fear and suspicion toward migrants, asylum seekers, and refugees.

Spain’s anti-terror laws permit the use of incommunicado detention, secret legal proceedings, and pre-trial detention for up to four years. The proceedings governing the detentions of suspected al-Qaeda operatives apprehended in Spain in November 2001, July 2002, and January 2003, among others, have been declared secret (*causa secreta*). The investigating magistrate of the Audiencia Nacional, a special court that oversees terrorist cases, can request *causa secreta* for thirty days, consecutively renewable for the duration of the four-year pre-trial detention period. Secret proceedings bar the defense access to the prosecutor’s evidence, except for information contained in the initial detention order. Without access to this evidence, detainees are severely hampered in mounting an adequate defense.

In November 2002, the United Nations Committee against Torture (CAT) expressed serious concern about incommunicado detention under Spain’s criminal laws. A suspect can be held incommunicado for up to five days, without access to an attorney, family notification, services such as access to health care, or contact with the outside world. The CAT concluded that incommunicado detention under these circumstances can facilitate acts of torture and ill-treatment. In Spain, most suspected terrorist detainees are held incommunicado for at least the first forty-eight hours in custody.

The global anti-terror climate hardened the Spanish government's resolve in the ongoing conflict with armed Basque separatists, *Euskadi ta Askatasuna* (ETA) and the non-violent pro-independence movement. ETA uses violent means to seek the creation of an independent Basque state in parts of northern Spain and southern France. The group has been responsible for over 800 deaths since the 1960s. In recent years, it has targeted civilians, including academics and journalists. Since September 11, over fifty suspected ETA members have been detained and held under Spain's anti-terror laws. Casualties of the government's hard-line approach, however, have included *Gestoras pro Amnistía*, an organization that provided support to families of ETA detainees, which was banned in December 2001. In August 2002, the Batasuna Party, widely regarded as the political arm of ETA, was banned for three years. In February 2003, *Euskaldunon Egunkaria*—the sole remaining newspaper written entirely in the Basque language—was closed down, and ten people associated with the paper were arrested and held incommunicado. These actions give rise to serious concerns that Spain's counter-terrorism measures breach the rights to freedom of association and expression. Human rights organizations have also documented instances of alleged torture and ill-treatment of ETA members and pro-independence supporters detained by Spanish authorities.

In the aftermath of September 11, then Spanish Foreign Minister Josep Pique told *El País* that “the reinforcement of the fight against illegal immigration is also the reinforcement of the fight against terrorism.” Such political rhetoric has been accompanied by increasingly restrictive immigration and asylum policies and practices, including police harassment in Muslim and Arab migrant communities, which undermine the right to seek asylum and contribute to the creation of a climate hostile toward all migrants in Spain.

## **United Kingdom**

In the United Kingdom, the government's response to the events of September 11 resulted in laws, policies, and practices that undermine fundamental human rights protections, including the right to seek asylum and prohibitions against arbitrary detention and mistreatment. The U.K. derogated from the European Convention on Human Rights and Fundamental Freedoms (ECHR), the sole Council of Europe member to do so on counter-terrorist grounds. Subsequent government action and rhetoric signaled a further tendency to opt out of human rights obligations, with little effort to find accommodation between national security interests and the protection of human rights.

In considering the periodic report of the United Kingdom in December 2001, the Human Rights Committee noted with concern legislative measures being considered by the government which could have “far-reaching effects” and require derogations from its human rights obligations. The Committee also expressed concern at reports of attacks and harassment on the basis of religious beliefs and the use of religion to incite criminal acts, and called for criminal legislation to cover offences motivated by religious hatred and other steps to protect against religious discrimination. During questioning by the Committee, the United Kingdom reportedly invoked Article 103 of the U.N. Charter to argue that its obligations to the Counter Terrorism Committee under Resolution 1373 took precedence over its obligations to the Human Rights Committee.

### ***Arbitrary Detention***

In December 2001, the Anti-Terrorism, Crime and Security Act (ATCSA) went into force. The ATCSA provides for the indefinite detention without charge or trial of non-U.K. nationals who are suspected of terrorism-related activity and cannot be returned to their country of origin or to another country. The Secretary of State for Home Affairs must certify a detainee as a suspected terrorist or a national security risk. The evidence used to make such a determination is secret and the suspect is prohibited from gaining access to it. A detainee can lodge an appeal with the Special Immigration Appeals Commission (SIAC), but only on a point of law. Although a detainee can be represented by a

court-appointed “special advocate,” he or she has no right to legal counsel. A detainee’s advocate cannot reveal to the detainee or discuss the evidence upon which the original certification was issued, undermining a detainee’s ability to mount an adequate defense. Certification can be withdrawn by the Home Secretary or by the SIAC, although the U.K. courts have ruled that the executive should be given wide discretion in certifications based on national security interests. An October 2002 Court of Appeal ruling held that the indefinite detention of aliens on grounds of national security is a power expressly reserved to the state in time of war or similar public emergency.

In response to the charge that it was reinstating the practice of internment, used in Northern Ireland, the U.K. government derogated from Article 5 of the ECHR, the provision establishing procedural guarantees that govern the right to a fair trial. The derogation was predicated on the argument that the global threat of terrorism amounted to a public emergency that “threatened the life of the nation,” although the Home Secretary publicly stated in October 2001 that there were no specific terrorist threats aimed at the U.K.

In February 2002, the European Committee for the Prevention of Torture (ECPT) made an *ad hoc* visit to the U.K. to monitor detentions under the ATCSA. The committee expressed concern about lack of access to counsel; the use of secret evidence; lack of exercise and out-of-cell time; delayed access to healthcare, in particular to psychological support and psychiatric treatment; translation and interpretation problems; and lack of adequate contact with the outside world.

The U.K. police have arrested over 300 people under anti-terrorism legislation since September 11. Approximately forty persons have been charged, most with immigration-related offenses. Three persons have been convicted for membership of a banned organization, including a Sikh youth group, but none to date for membership or association in a banned Islamic group or organization. Defense lawyers have alleged that the police have targeted particular racial, ethnic, or religious communities in random sweeps, with little hard evidence of terrorist activity.

The arbitrary nature of detention under the ATCSA was highlighted by the case of Lotfi Raissi. In an April 2002 ruling, a U.K. court halted extradition proceedings against Raissi, certified by the Home Secretary as a “terrorist suspect” associated with the September 11 attacks, after the United States promised repeatedly but failed to produce evidence to support that charge. Raissi was released on bail in February 2002 after five months in detention under the ATCSA. The court ruled that it had received “no evidence” to support Raissi’s certification as a “terrorist suspect.” According to human rights monitors, Raissi was severely traumatized by the combination of harsh detention conditions in a high security prison, lack of access to the evidence against him, and the indefinite nature of detention under the ATCSA.

Seven United Kingdom nationals, detained in Guantánamo Bay under the supervision of the U.S. military, have also been subject to indefinite detention without charge or trial and denied access to legal counsel (see section on the United States). While U.K. authorities have interrogated these detainees, they have failed to press the U.S. adequately to ensure that they fully enjoy their rights. A November 2002 ruling by the U.K. Court of Appeals described one U.K. national’s detention at Guantánamo as “objectionable.”

### ***Mistreatment in Detention***

In January 2003, following opposition calls for rejected asylum seekers certified as security threats to be removed from the country, Prime Minister Tony Blair stated publicly that the government would “consider further measures, including fundamentally looking at the obligations we have under the Convention on Human Rights.” Prime Minister Blair’s remarks raised serious concerns that the U.K.

would consider withdrawing from the ECHR in order to return suspected terrorists to their home country despite the possibility that they might be tortured.

The treatment of detainees under anti-terrorism legislation in high security U.K. prisons has also raised concern that they are subject to cruel, inhuman or degrading treatment. Detainees in U.K. prisons have complained of long periods of isolation; lack of access to health care, exercise of religion, and educational services; lack of exercise; obstacles to visits from friends and family; and psychological trauma associated with the uncertainty of when they will be released.

Concerns about the use of torture have also arisen in connection with other aspects of U.K.'s participation in the international campaign against terrorism. In December 2002, reports that U.S. forces were using "stress and duress" techniques in their interrogations of al-Qaeda suspects detained on the island of Diego Garcia—part of British-held Indian Ocean Territory—resulted in urgent appeals to the U.K. government to ensure that the detainees' human rights were upheld. The U.K. government could be seen as having been complicit in acts of torture if it permits allies to use abusive interrogation techniques on its soil.

### ***Treatment of Refugees and Asylum Seekers***

The U.K. government, political parties and the media have exploited insecurities arising from the September 11 attacks to call for greater restrictions on the right to seek asylum in the U.K. The ATCSA and the Immigration, Nationality and Asylum Act of 2002 both contain provisions that seriously undermine the right to seek asylum, ostensibly in the interest of national security. In January 2003, allegations that asylum seekers were implicated in a plot to manufacture poison ricin and the killing of a police officer in the course of that investigation, spawned a backlash against asylum seekers and refugees in the media. Following the killing, the opposition Conservative Party called for the detention of all asylum seekers on arrival in the U.K. pending security checks. Home Secretary David Blunkett responded to media attacks on asylum seekers and refugees, warning against possible vigilante action against asylum seekers by the public. Despite this response, human rights organizations claimed the government was partially responsible for creating a climate of suspicion that links asylum seekers with terrorism.

### **United States**

Many of the measures adopted by the U.S. government after the September 11 attacks violated fundamental provisions of international human rights and humanitarian law. These included the arbitrary and secret detention of non-citizens, secret deportation hearings for persons suspected of connections to terrorism, the authorization of military commissions to try non-citizen terrorists, a failure to abide by the Geneva Conventions in the treatment of detainees held in US military custody in Cuba and elsewhere, and the military detention without charge or access to counsel of U.S. citizens designated as "enemy combatants."

Recently unveiled draft legislation prepared by the Department of Justice reveals the administration's plan to further increase executive branch powers under the rubric of strengthening national security. The so-called Domestic Security Enhancement Act of 2003 would, among other legal changes, authorize secret arrests in immigration cases, permit Americans to be stripped of their citizenship for peacefully supporting groups deemed terrorist by authorities, expand the grounds on which non-citizens can be summarily deported without a hearing, and preclude judicial review of certain immigration proceedings by exempting them from habeas corpus provisions.

### ***Non-Citizen “Special Interest” Detainees Held on Immigration Charges***

Some twelve hundred non-citizens, mostly from the Middle East or South Asia, some of whom were legal permanent residents, were detained in connection with the investigation of the September 11 attacks, although the government has never disclosed the exact number. At least 752 were held on immigration charges; the others were held on criminal charges or as material witnesses. Four have been indicted for terrorism-related crimes. Although the detainees were of interest to the Department of Justice because of possible links to terrorism, they were held under immigration laws, which enabled the Department of Justice to circumvent the greater safeguards in the criminal law—including the requirement of probable cause for arrest, the right to a court-appointed attorney and the right to be brought before a judge within forty-eight hours of arrest. The U.S. Department of Justice has maintained in secrecy the names of “special interest” detainees held on immigration charges, their place of incarceration, and the names of their attorneys, and has closed their deportation proceedings to the public, arguing that this was necessary to protect national security interests. A federal appeals court accepted this argument on October 8, 2002. Human Rights Watch has documented the mistreatment of non-citizens detained in the September 11 investigation, including: custodial interrogations without access to counsel, prolonged detention without charge, executive decisions overriding judicial orders to release detainees on bond during immigration proceedings, and unnecessarily restrictive conditions—including solitary confinement—under which some “special interest” detainees were held.

### ***Guantánamo Bay Detainees***

Since September 11, the United States has transferred about 650 men captured in connection with the Afghan war or who are suspected of links to al-Qaeda to the U.S. military base at Guantánamo Bay, Cuba. U.S. officials apparently chose the site both for security purposes as well as because they believed that U.S. courts would refuse to exercise jurisdiction over it – a belief that has been borne out in court cases. The detainees were originally held in makeshift open-air facilities with chain-link walls until moved to a newly constructed facility on April 28, 2002. According to press reports, the detainees spend twenty-four hours a day in small single-person cells, except for two fifteen minute periods of solitary exercise a week, as well as interrogation sessions. About eighty of the prisoners were held in special high security cells with steel walls that prevented them from communicating with other prisoners.

The United States has refused to recognize the applicability of the Geneva Conventions to any of the Afghan war or al-Qaeda detainees held at Guantánamo or elsewhere, including captured members of the Taliban armed forces, although it has insisted that it treats them humanely. It refused to permit competent tribunals to determine whether any of the detained combatants were entitled to prisoner of war status. It has also refused to abide by principles of international human rights law with regard to these detainees, asserting, in effect, that no legal regime applies to them and that in the war against terrorism, the United States may hold such combatants for as long as it chooses. The Guantánamo detainees remain without a legal forum in which they can challenge their detention; a federal judge ruled on July 30, 2002 that U.S. federal courts do not have jurisdiction to hear constitutional claims brought by aliens held by the United States outside U.S. sovereign territory. In addition, the United States denied the request made by the Inter-American Commission on Human Rights to provide for a lawful tribunal or court to determine the status of these detainees. The United States did not even respond to letters from the United Nations Working Group on Arbitrary Detention seeking information on the treatment and legal status of the Guantánamo detainees.

### ***Enemy Combatants***

The United States is holding incommunicado at U.S. military facilities two U.S. citizens who it claims are “enemy combatants” who may be held indefinitely without charges and without access to counsel. Jose Padilla, a.k.a. Abdullah al-Mujahir, was arrested on May 8, 2002 at the Chicago international airport and initially held as a material witness pursuant to a federal court order. In June, President Bush signed an order designating him as an enemy combatant and he was then removed from

the criminal justice system, and incarcerated in a military base in South Carolina. U.S. officials claimed that Padilla had met with al-Qaeda representatives overseas, that he had engaged in conduct in preparation for acts of international terrorism, and that he had returned to the United States to advance plans to explode a radioactive “dirty bomb” in the United States. According to U.S. officials, Yaser Esam Hamdi was captured in Afghanistan in November, 2001, where he was reportedly fighting with the Taliban, and he was transferred to Guantánamo Bay, Cuba. When U.S. officials learned that he was a U.S. citizen, they transferred him to a U.S. Navy brig in Norfolk, Virginia.

In the case of Yaser Esam Hamdi, a federal appeals court agreed with the United States’ position that a citizen alleged to be an enemy combatant could be detained indefinitely without charge or access to counsel if a court, based on documents provided by the government, agrees that there is “some basis” for the enemy combatant designation. The court rejected Hamdi’s petition for habeas corpus even though Hamdi was never given an opportunity to contest (or even review) the facts alleged against him by the government and was never permitted to meet with his attorney. In the case of Jose Padilla, a court ruled that he has a right to present facts to argue against his detention and that the best way for him to do so would be through counsel. The U.S. government, however, has still refused to give Padilla access to his lawyer, and has filed briefs arguing that to do so would disrupt ongoing interrogations (which at this point have lasted more than eight months) and hence harm national security. The U.S. government is appealing a federal court decision ordering that Padilla be able to meet with his lawyer.

## **Uzbekistan**

Since September 11, the government of Uzbekistan has used the global campaign against terrorism to justify its own abusive five-year campaign to eliminate independent Islam. Western governments, particularly the United States, have been less critical of the Uzbek government’s human rights record in view of the country’s strategic importance to international counter-terrorist efforts.

Since 1998, the Uzbek government has imprisoned thousands of independent Muslims whom it claims are religious “extremists.” These are individuals who practice their religion beyond the tight restrictions imposed by the government, by participating in private prayer groups, following imams out of favor with the state, joining religious organizations banned by the state, and distributing literature not sanctioned by the state.

After a series of bombings of government buildings in Tashkent in February 1999, government officials began to brand such people as “terrorists.” They also tried to justify abuses as a necessary element of the government’s campaign against the Islamic Movement of Uzbekistan (IMU), an armed insurgent group that was primarily based in Afghanistan and that had links to the Taliban and al-Qaeda.<sup>30</sup> On October 9, 2001, President Karimov declared that “indifference to, and tolerance of, those with evil intentions who are spreading various fabrications, handing out leaflets, committing theft and sedition in some neighborhoods and who are spreading propaganda on behalf of religion should be recognized as being supportive of these evil-doers.”

Victims of the arrest campaign face charges of “anti-state activity” or “attempted subversion of the constitutional order,” with sentences of up to twenty years in prison. While the Uzbek authorities have claimed defendants are associated with terrorism, they have very rarely charged them with acts of terrorism, conspiracy to commit terrorism, or involvement in any violent act. Human Rights Watch has documented more than one hundred cases in which arrest victims were tortured, including five deaths resulting from torture in 2002 alone. Among them was Muzafar Avazov, who died in August 2002. His

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<sup>30</sup> The IMU launched cross border incursions into Uzbekistan in 2000 and Kyrgyzstan in 1999 and 2000.

body was covered with burns, bruises, and open wounds; his hands had no fingernails. Avazov had been sentenced to nineteen years for having given classes on Islam and other related charges.

Another victim of the arrest campaign was human rights defender, Yuldash Rasulov. Police arrested Rasulov, of the Human Rights Society of Uzbekistan, on May 24, 2002, charging him with “religious extremism.” On May 27, police claimed that Rasulov had recruited young men for “terrorist training camps abroad,”<sup>31</sup> a move that seemed aimed at discrediting human rights workers. In a letter to Human Rights Watch, which Uzbek authorities distributed among Tashkent’s diplomatic community, Uzbek authorities attempted to link him to the IMU, and by association to Osama bin Laden and the Taliban, “against whom international forces are carrying out a counter attack in the campaign against terrorism after the events of September 11.”<sup>32</sup> A court sentenced him to seven years of imprisonment for spreading “religious extremist” materials; it dismissed the charge that he had recruited for criminal organizations.

The government also invoked the counter-terrorism imperative when faced with international criticism about the death in custody of an independent Muslim. On January 14, 2002, a police spokesman justified the actions of four policemen charged with the October death in custody of Ravshan Haidov, an accused member of the Islamic group Hizb ut-Tahrir, by claiming that the group was responsible for the events of September 11. Hizb-ut-Tahrir, which employs anti-Semitic and anti-American rhetoric, is banned in Uzbekistan for espousing the establishment of a Caliphate, but it has not been implicated in acts of violence. On January 30, 2002, the policemen were found guilty of inflicting “bodily harm that caused death” and were sentenced to twenty years in prison.

Uzbekistan’s proximity to Afghanistan, and its willingness to host U.S. airbases, has made it a valued partner in the international campaign against terrorism. The U.S. has failed to leverage this partnership to press for human rights improvements in Uzbekistan, and sometimes exaggerated Uzbekistan’s progress in meeting its human rights commitments. In August 2002, the State Department prematurely certified that Uzbekistan was making the progress demanded by supplemental aid legislation, allowing for the release of \$16 million in military and security assistance. It made no visible effort to use the law to seek additional progress to meet the law’s requirements, despite several key human rights setbacks during those months. Prior to the August supplemental appropriation, Uzbekistan was scheduled to receive \$173 million in U.S. assistance, of which \$61.3 million was security related. Citing “serious human rights violations by members of Uzbek security forces,” a Congressional amendment to the U.S. Foreign Appropriations Act required the administration to report every six months on all military and security assistance to the government.

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<sup>31</sup> Remarks made by Iliia Piagi, of the Department for the Fight Against Organized Crime, Corruption and Terrorism of the Ministry of Internal Affairs of Uzbekistan, to Human Rights Watch and others gathered at the Ministry of Internal Affairs to protest Rasulov’s arrest, Tashkent, May 27, 2002.

<sup>32</sup> Letter dated July 25, 2002 to Human Rights Watch from A.O. Sharafutdinov, chief of Main Directorate for Investigation of the Ministry of Internal Affairs.