

UNHRC Counter-terrorism

Committee Background Guide

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ПРИВЕТСТВОВАТЬ.
bienvenidos.
bienvenue.
welcome.

سلام.
欢迎.

About this committee

The Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva. The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights. The Council is made of 47 Member States, which are elected by the majority of members of the General Assembly of the United Nations through direct and secret ballot. The General Assembly takes into account the candidate States' contribution to the promotion and protection of human rights, as well as their voluntary pledges and commitments in this regard.

What is the Human Rights Council?

Almost every United Nations (UN) body or agency is in some way involved with protecting human rights, including the Human Rights Council. The Human Rights Council is in charge of promoting and protecting human rights around the world. The Council exists to:

- Prevent discrimination and abuses
- Find ways to deal with discrimination and abuses when they happen
- Protect the people who are most in danger and at risk of discrimination and abuse

Conventions and treaties are legal agreements made by governments to protect men, women, children and also our planet. They highlight the promises governments have made on an issue (for example: children and women's rights), and they are part of the law, not just advice to governments.

The issue: Protecting Human Rights while countering terrorism

The issue of terrorism and human rights has long been a concern of the United Nations. Following the terrorist attacks of 11 September 2001 and subsequent surge in acts of terrorism worldwide, it has become even more urgent.

The United Nations has placed a priority on the question of protecting human rights in the context of counter-terrorism measures. The defence of human rights and upholding the rule of law while countering terrorism is indeed at the heart of the United Nations Global Counter-Terrorism Strategy.

Member States acknowledged that effective counter-terrorism measures and the protection of human rights were not conflicting goals but complementary and mutually reinforcing aims.

They pledged to take measures aimed at addressing violations of human rights and to ensure that any measures taken to counter terrorism comply with their human rights obligations

One of the side effects of terrorist activity and the international response to it has been the tendency to pit the ideas of liberty and security against each other. The notion of human rights protection has often been presented as being in conflict with protection from terrorism. Nothing could be further from the truth. International human rights standards emerged from a need, and obligation, to control violent and extreme behaviour.

An effective counter-terrorism strategy can therefore be a part of a state's human rights obligations.

From <http://www.osce.org/odihr/29103?download=true>

Key committee issues:

- Rendition
- Torture
- The use of drones

How do we define rendition and torture?

The practice of transferring terrorist suspects to countries that routinely practice torture and other ill-treatment is of growing international concern and has been defined as rendition. A number of governments around the world – in particular in Europe, Middle East and North America – have transferred or attempted to transfer terrorist suspects to places where they are at risk of being subjected to torture or ill-treatment.

Even if a person is a terrorist suspect, rendition and torture are illegal according to key international law treaties such as:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (CAT),
- International Covenant on Civil and Political Rights 1966 (ICCPR),
- The Convention relating to the Status of Refugees 1951 (1951 Refugee Convention) and its Protocol;
- and the Geneva Convention relative to the Treatment of Prisoners of War 1949 (Geneva III), and the Geneva Convention relative to the Protection of Civilian Persons in Time of War 1949 (Geneva IV)

...to send him to a state where it is possible to be tortured.



The term that has been used to describe this procedure is the principle of nonrefoulement and it is used in numerous international treaties including the Convention against Torture. The methods of transfer and treatment of the terrorist suspects is the main point under discussion.

Terrorism has no agreed international definition – what problems could this present?

What actions should be taken about this?

Focus on Torture.

Torture has no exceptional circumstances; a state of war or any other public emergency may not be used as a justification for torture. When state-sponsored torture is proven to have occurred, what should the UN do?

- The prohibition against torture under international law applies to many measures-e.g. beating on the soles of the feet; submersion in water; suffocation by plastic and many other brutal practises.
- Examples of mistreatment that are not included in the definition of torture which International Law also prohibits include: being forced to stand spread eagled against the wall; being subjected to bright lights or blindfolding; being subjected to continuous loud noise; being deprived of sleep; food or drink; being subjected to forced constant standing or crouching; or violent shaking.



What laws prohibit Torture?

Torture is universally condemned, and whatever its actual practice, no country publicly supports torture or opposes its eradication.

Torture and Prison Abuse



Guantanamo Bay, Cuba
Picture Credit: telegraph.co.uk

The Bush administration's treatment of "enemy combatants" undermines international law and disregards fundamental human rights. Ever since Washington launched its "war on terrorism," lawyers and human rights groups have presented evidence of torture and other ill-treatment of detainees by US authorities in Afghanistan, Guantánamo Bay, Iraq, and at secret locations. The Pentagon's prisoner interrogation techniques, solitary confinement procedures, and its failure to provide "full and fair" trials at detention centers, violate the Geneva Conventions and basic human rights.

Washington argues that international law does not apply to "enemy combatants" and that detentions in the name of "war on terror" are vital to national security. By ignoring international law, the US not only loses credibility and moral ground on human rights, but such policies also open the door for other countries to follow suit with human rights violations.

Examples of rendition

Egyptian-born Hassan Osama Nasr (a.k.a. Abu Omar) disappeared from his city of residence, Milan, in February 2003. He briefly surfaced 15 months later, when he called his family in Italy claiming to have been kidnapped by U.S. and Italian forces, taken to Egypt and tortured.

Based on the latest available information, Abu Omar is being held in the Tora prison on the edge of the Egyptian capital Cairo. Italian authorities are currently conducting an inquiry into Nasr's purported kidnapping.

On June 23, 2005, an Italian judge issued arrest warrants for 13 alleged C.I.A agents in connection with Abu Omar's kidnapping. On the same day, another Italian judge issued an indictment against Abu Omar for crimes relating to terrorism.

In July 2005, the Italian government issued warrants for 6 more alleged C.I.A. agents accused of helping plan the kidnapping. In November 2005, prosecutors requested that the Italy's Justice Ministry seek the extradition of the C.I.A. agents from the U.S. The handover of the shackled and blindfolded prisoner reportedly took place in the middle of the night in a remote corner of the airport, without the benefit of extradition or deportation procedures. *All allegations from Human Rights Watch*

- The Geneva Convention has been signed by more than 190 states.
- In 1987 the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was signed.

Rendition violates Conventions concerning human rights Some cases like the debate of the appropriate treatment of al Qaeda and Taliban combatants detained by the Northern Alliance forces allied in the United States during the 2001 campaign in Afghanistan, have caused a debate over whether or not the Geneva Convention should be expanded in order to include terms for the protection of terrorist suspects as well.

American C.I.A agents are allegedly involved in the illegal transferring of terrorist suspects and other prisoners to countries where torture takes place. The USA has allegedly made agreements with European countries over the facilitation of flights carrying terrorist suspects.



In addition, research from the UN Committee against Torture that incriminate, apart from United States, Canada, Britain, the Netherlands, Germany, Austria and Sweden for sending terrorist suspects to states such as Syria, Egypt and Uzbekistan that are considered to be among the most abusive, based on diplomatic assurances.

In addition, Amnesty International's reports of 2005 highlighted countries such as Bosnia and Herzegovina, Germany, Italy, Macedonia, UK and Turkey, where according to data and verified information actions of rendition were committed, or the countries had given access to airplanes transferring prisoners that would be tested.

According to Amnesty International there is strong evidence (consisting of photos and videos) that prove the use of torture by U.S officials over Iraqis as part of the United States' war on terror.

<http://www.washingtonpost.com/ac2/wpdyn>

Captured al-Qaeda operatives and Taliban commanders held at the U.S.- occupied Bagram air base in Afghanistan are subjected to physical and psychological "stress and duress" techniques, including being held blindfolded or hooded, bound in awkward painful positions, and deprived of sleep for prolonged periods. Prior to interrogation, some captives have been beaten.

<http://www.washingtonpost.com/ac2/wpdyn>

Drones: Addressing the Human Rights Violations Deriving from Drone Strikes



There is a further major controversy of whether the use of drones is a violation of human rights or not. The matter of whether it is inhumane to have an unmanned machine-striking people from above, without a proportional threat to the lives of those controlling it, remains to be decided.

There is no specific mention of drones in any of the Human Rights conventions. Should there be? What is your country's position on drones?

Bloc positions

Although there are no clear blocs of countries involved in this problem since there are numerous states that have been accused of the use of torture or cooperation with other states for the transfer of terrorist suspects and other mainly political prisoners, there are some Conventions that can make the situation clearer.

Bloc positions (sontinued)

The U.S.A. is the number one accused country for sending terrorist suspects to prisons in Syria, Egypt and Uzbekistan.

As far as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is concerned, the following details are particularly significant:

The USA, the UK and Uzbekistan have all signed and ratified the Convention.

Algeria, Argentina, Australia, Austria, Belgium, Bulgaria, Cameroon, Canada, Croatia, Cyprus, Ecuador, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Italy, Luxembourg,

Malta, Netherlands, New Zealand, Norway, Poland, Russian Federation, Senegal, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Uruguay, Venezuela and Yugoslavia (Former Republic of Yugoslavia) have also made a declaration under Article 22 recognizing the competence of the Committee against Torture to consider individual complaints.

Afghanistan, China, Israel, Kuwait, Morocco, Poland, Saudi Arabia, and Ukraine by making a reservation under Article 28 of the Convention **do not recognise** the competence of the Committee against Torture to undertake confidential inquiries into allegations of systematic torture if warranted. (this simply means that they do not recognize the Committee as capable of conducting secret investigation into possible cases of torture.)

<http://www.osce.org/odihr/29103?download=true>

Research questions:

Questions for Research:

- 1) Who is considered to be a terrorist? Which actions of a person or a group should put him or them in the category of terrorists?
- 2) When does a person qualify to be named a terrorist suspect? Should it be determined by a specific Convention?
- 3) Should these suspects have any legal rights and what kind of rights should they have?
- 4) What methods of 'punishment' should be included in the definition of torture and what methods should the nations use in order to eliminate any violation of Human Rights?
- 5) By what methods could rendition be reduced and which should be the appropriate methods of punishment of terrorist suspects? Should the methods be identical for all nations or not?
- 6) In countries where rendition or torture of terrorist suspects has been committed, should any sanctions be imposed or not, and which legal body should be responsible for that?
- 7) Who should determine if the accusations towards a country are valid, and how?
- 8) What is the role of the United Nations over the terrorist suspects? Should it have the right to interfere in states that are suspected of committing torture of terrorist suspects?
- 9) How can which states practice such illegal actions over the suspects be found? Should any UN body be responsible for the investigation and determination of the actual terrorist suspects or should Governments be responsible for that?
- 10) Should the transfer of terrorist suspects between the states be allowed or not? Should the conditions of transfer be prescribed by international law and any specific Convention?

Country analysis

Country briefings: (BBC):

http://news.bbc.co.uk/1/hi/country_profiles/default.stm?AX42843

Country briefings: (from an NGO)

<http://www.humanium.org/en/middle-east-north-africa/>

Global human rights report from Human Rights Watch

http://www.hrw.org/sites/default/files/wr2014_web_0.pdf

UNICEF country profiles – very useful for human rights issues

<http://www.unicef.org/infobycountry/northafrica.html>

Further info

www.amnesty.org

www.un.org/terrorism/strategy-counter-terrorism

<http://www.un.org/sc/ctc/intlcooperation>

<http://www.un.org/issues/docs/d-terror.html>

<http://www.ciaonet.org/wps/lch18/lch18.pdf>

<http://www.fas.org/sgp/crs/natsec/RL32890.pdf>

http://historynewsnetwork.org/articles/article.html?id_11

<http://hrw.org>

<http://washingtonpost.com>

http://www.slate.com/articles/news_and_politics/jurisprudence/2009/03/ice_water_and_sweatboxes.html

Multimedia (caution – some upsetting material relating to torture)

<https://www.youtube.com/user/AmnestyInternational> a range of videos, sensitively addressed by Amnesty International

<https://www.youtube.com/watch?v=cobNAvk5I7c> Human Rights Watch annual report

<https://www.youtube.com/watch?v=CgZDsG0IYOs> Powerful enactment of waterboarding (older students)

<https://www.youtube.com/watch?v=PBjrf2O8ag> Powerful statistics and testimony from torture survivors (Amnesty)

<https://www.youtube.com/watch?v=vS0dgMBTVE> Amnesty demands Obama explains why drones kill people

<https://www.youtube.com/watch?v=DFrmmXm57zY> US drone attacks are 'war crimes' say Amnesty

<https://www.youtube.com/watch?v=nOEt5BqmRg> BBC documentary about Guantanamo bay and torture. Part 2 <https://www.youtube.com/watch?v=xG3MfKel1s8>