



Nine Steps States must take against Secret Detention Worldwide

UN Experts' Joint Global Study on Secret Detention presented to UN Human Rights Council underscores need for states to end the use of secret detention

(1 June 2010)

United Nations human rights experts are scheduled to present their joint study on global practices of secret detention in the context of countering terrorism, on Wednesday 2 June 2010, at the UN Human Rights Council in Geneva, Switzerland.

Amnesty International, the International Federation for Human Rights (FIDH), Human Rights Watch and the International Commission of Jurists (ICJ) call on all delegations to the Council to engage in serious substantive discussion of how to bring an end to this worldwide practice and ensure accountability of those responsible.

As the UN Study concludes, secret detentions cannot be justified under any circumstances. Secret detention involves and enables serious violations of human rights and crimes under international law and has a corrosive effect on the rule of law itself. Amnesty International, FIDH, Human Rights Watch and the ICJ have for many years highlighted the human rights violations associated with secret detentions worldwide, including enforced disappearance, torture and other cruel, inhuman and degrading treatment, extrajudicial execution, and arbitrary deprivation of liberty.

The UN experts' recommendations echo recommendations Amnesty International, Human Rights Watch and ICJ have been making for many years. All

states should implement them immediately.

To this end, Amnesty International, FIDH, Human Rights Watch, and the ICJ urge states to focus the discussion on secret detention at the Human Rights Council on immediate action to be taken by all states, including as a matter of priority the following measures:

1. National laws should include explicit and absolute prohibition of secret detention and secret detention facilities, and the laws should be strictly enforced in practice.
2. Lawyers, medical personnel, and independent monitoring mechanisms must have legal rights of access to all places of deprivation of liberty, and private access to all detainees, which are fully respected in practice.
3. All detentions must be subject to meaningful independent judicial control.
4. National law should require prompt notification of immediate families of detainees of their relative's detention, current location, legal status, and condition of health, and these requirements should be respected in practice; families should also have a legally-enforceable right to compel the production of such information.
5. All activities of intelligence services should be made subject to national laws that are themselves in conformity with international obligations, provide for effective independent review and oversight, and include safeguards to prevent complicity in human rights violations perpetrated by foreign agencies.
6. All allegations of human rights violations related to secret detentions must result in prompt investigation, accountability, and access to effective remedy and reparation, including for families of persons who appear to have been subjected to enforced disappearance. Secrecy or national security privileges must not be invoked or applied so as to deprive victims of their right to a remedy and reparation.
7. Independent comprehensive public inquiries should be established with full investigative powers to examine whether the co-operation of government agents with foreign intelligence and law enforcement agencies has led to violations of human rights.
8. National laws should prohibit all transfers of persons from one State to another without judicial supervision in line with international standards, and never in violation of the prohibition of refoulement (including torture

or other ill-treatment, enforced disappearance, or manifestly unfair trials). These laws should be strictly respected in practice. Diplomatic assurances against torture, with or without “monitoring mechanisms”, should not be sought or relied upon to justify such transfers.

9. States that have not already done so should ratify without reservation, and implement, all relevant human rights treaties including particularly:
 - a. the International Convention for the Protection of All Persons from Enforced Disappearance;
 - b. the International Covenant on Civil and Political Rights;
 - c. the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol.

Amnesty International, FIDH, Human Rights Watch and the ICJ also call on all states to undertake in light of this global study a comprehensive review of their laws and policies to prevent secret detention in the future. Those states identified in the secret detention study should in particular provide information to the four mandate holders as to the steps taken to end the practice of secret detention; to investigate and to ensure accountability and remedies for such violations; and on the legal reforms undertaken to prevent future violations.

One focus of the Joint Study is secret detention practices in the USA-led global "war on terror" operations that began after 11 September 2001. Amnesty International, FIDH, Human Rights Watch and the ICJ have documented and continue to push for real accountability for such abuses, including crimes under international law, covering the responsibilities both of the USA itself and those of other states in Europe and elsewhere which colluded in or tolerated such activities.

The organisations particularly welcome that the UN Study also highlights the global nature of the problem, naming dozens of countries around the world as undertaking secret detention or being complicit in it through international networks of detainee transfers and intelligence agencies. Amnesty International, FIDH, Human Rights Watch and ICJ work against such practices in many countries around the world.

In 2008 and 2009, for instance, Amnesty International documented and campaigned against enforced disappearance in Pakistan, and the secret or prolonged incommunicado detention of "security suspects" in Saudi Arabia and those accused of involvement in terrorism-related activities in Tunisia.

In the last three years, Human Rights Watch has documented US responsibility for the enforced disappearance of terrorism suspects in CIA ‘black sites’, British complicity in secret detentions in Pakistan, and the use of secret detention, and

the use of secret detention in Jordan, Pakistan and Egypt and Uganda, among other places.

In 2009, the ICJ published the Report of its Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights (*Assessing Damage, Urging Action*), which included many accounts of secret detention globally and emphasized the primacy of the criminal justice system as a means of responding to terrorism, and the need to ensure accountability in relation to counter terrorism measures, including in intelligence cooperation.

The UN Joint Study was prepared by four Special Procedures of the UN Human Rights Council (the Special Rapporteur on human rights and counter-terrorism; the Special Rapporteur on torture; the Working Group on Arbitrary Detention; and the Working Group on Enforced or Involuntary Disappearances). Amnesty International, FIDH, Human Rights Watch and the ICJ deeply appreciate the work and determination of the Special Procedures to place this fundamental and pressing human rights issue on the agenda of the Human Rights Council for serious, substantive, focussed discussion.

Amnesty International, FIDH, Human Rights Watch and the ICJ also welcome the decision of the four Special Procedures to produce the study jointly, which enabled them to address the human rights aspects of the practice of secret detention in an integrated and comprehensive manner.

For more information see:

1. The UN Joint Study (UN Doc. A/HRC/13/42), which is available on the website of the UN Office of the High Commissioner for Human Rights: http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.13.42_re-iss.pdf
2. Amnesty International documents including:
 - *USA: Off the Record. U.S. Responsibility for Enforced Disappearances in the "War on Terror"*, 7 June 2007, <http://www.amnesty.org/en/library/info/AMR51/093/2007/en>.
 - *USA: A case to answer. From Abu Ghraib to secret CIA custody: The case of Khaled al-Maqtari*, 14 March 2008, <http://www.amnesty.org/en/library/info/AMR51/013/2008/en>.
 - *State of denial: Europe's role in rendition and secret detention*, 24 June

2008, <http://www.amnesty.org/en/library/info/EUR01/003/2008/en>.

- *USA: Impunity for crimes in CIA secret detention program continues*, 29 January 2010,
<http://www.amnesty.org/en/library/info/AMR51/008/2010/en>.
- *UN Human Rights Council: Governments' Efforts to Suppress UN Report on Secret Detention Fail*, 5 March 2010,
<http://www.amnesty.org/en/library/info/IOR41/006/2010/en>.

3. International Federation for Human Rights documents including:

- Egypt: "Counter-terrorism against the background of an endless state of emergency", March 2010.
<http://www.fidh.org/Counter-terrorism-against-the-background-of-an>
- Yemen: "In the name of national security", January 2010.
<http://www.fidh.org/In-the-name-of-national-security-human-rights>
- Russia: "Russian society under control . Abuses in the fight against extremism and terrorism".
<http://www.fidh.org/Russian-society-under-control-Abuses-in-the-fight>
- USA: work on the practice of illegal detention by US authorities has been documented and subject to legal proceedings through FIDH's member organisation the Centre for Constitutional Rights,
<http://www.ccrjustice.org/illegal-detentions-and-guantanamo>.

4. Human Rights Watch reports including:

- *US--Ghost Prisoner: Two Years in Secret CIA Detention*, 26 February 2007,
<http://www.hrw.org/en/reports/2007/02/26/ghost-prisoner-0>.
- *Off the Record. U.S. Responsibility for Enforced Disappearances in the "War on Terror"*, 7 June 2007,
<http://www.hrw.org/en/reports/2007/06/07/record>.
- *Egypt: Anatomy of a State Security Case: The 'Victorious Sect' Arrests*, 10 December 2007,
<http://www.hrw.org/en/reports/2007/12/10/anatomy-state->

security-case.

- *Double Jeopardy: CIA Renditions to Jordan*, 7 April 2008, <http://www.hrw.org/en/reports/2008/04/07/double-jeopardy-0>.
- *Open Secret: Illegal Detention and Torture by the Joint Anti-Terrorism Task Force in Uganda*, 8 April 2009, <http://www.hrw.org/node/82082>.
- *Cruel Britannia: British Complicity in the Torture and Ill-treatment of Terror Suspects in Pakistan*, 24 November 2009, <http://www.hrw.org/en/reports/2009/11/24/cruel-britannia-0>.

5. International Commission of Jurists documents including:

- *Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights* (2009), <http://www.icj.org/dwn/database/EJP-Report.pdf>.
- ICJ Berlin Declaration on Upholding Human Rights and the Rule of Law while countering terrorism (2004).

6. Amnesty International, Human Rights Watch, the International Commission of Jurists and the Association for the Prevention of Torture, *Twelve Steps to End Renditions and Secret Detentions in Europe*, 27 June 2006, <http://www.amnesty.org/en/library/info/IOR10/001/2006>.