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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Written statement* submitted by International Federation for Human Rights (FIDH), a non-
governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2003]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human Rights and counter terrorism measures

The International Federation for Human Rights and its 116 member organisations condemn all acts of international terrorism: they have since their establishment, fought for the defence of Human Rights and denounced Human Rights violations. They also have been unanimous in condemning the September 11 attacks against the United States. Their perpetrators must be brought to justice, strictly in conformity with the universal norms of human rights.

However, since the September 11 terrorist attacks, the fight against terrorism has very often been used by the States as a means to reinforce the security measures, most of the times without taking into consideration the international Human Rights standards: Moreover, as security has become the absolute priority and the – legitimate and necessary – fight against terrorism is increasingly diverted from its primary objective and used by governments to establish or strengthen their hold on power at the expense of their commitments on human rights.

As the report of the Working Group on Arbitrary Detention sets out, the initiatives of the USA in the struggle against terrorism blatantly contravene Human Rights International norms. Indeed, the UN Working Group concluded that, both the case of persons detained in prisons on United States territory and those detained at the Naval Base of Guantanamo Bay, amount to arbitrary detention¹.

The FIDH, which has ceased on January 22 2002 the UN working group on the situation of the detainees at Guantanamo Bay, welcomes such decision. The American initiatives to prevent their Soldiers and Nationals from being sued by the International Criminal Court is another expression of their will to free their fight against terrorism from international justice and international law.

In other Western European countries, anti-terrorist legislation passed in 2001 and 2002, such as those passed in Great Britain, Germany, France and Italy² include, *inter alia*, severe restrictions to freedoms (detention for an indefinite period, or refusal to grant the right of asylum and immigration, and an increased role for secret services, etc.) on the basis of a mere suspicion of belonging to a terrorist group.

Repressive measures multiply in several countries, under the pretext of the fight against terrorism, aimed, whether at repressing citizens, minorities or political opponents by equating them with Ben Laden's dangerous accomplices, or at muzzling human rights organizations. For President Mubarak of Egypt, the establishment of military tribunals in the United States "prove(s) that we were right from the beginning in using all means, including military trials, [in response to] these great crimes that threaten the security of society". In several countries, and notably in Israel, Tunisia or Egypt, the anti-terrorism discourses is instrumentalised in order to tone down political opposition and Human Rights Activists. In Latin America, human rights defenders in Colombia are often accused of spreading propaganda that can harm the

¹ Civil and Political Rights, including the Question of Torture and Detention, Report of the Working Group on Arbitrary Detention, E/CN.4/2003/8.

² See the FIDH request, on March 4 2002, to the Committee on the Elimination of All forms of Racial Discrimination (CERD) for an urgent procedure on the cases of the Anti Terrorism Act in the UK, the USA PATRIOT Act and the Anti-terrorist legislation in Germany

State, jeopardising national security, trying to topple the government, and aiding and abetting terrorism.

This criminalisation is often backed with legislation, as several states – such as China, Egypt, Algeria, Tunisia – adopted or re-implemented anti-terrorists legislation. In most cases, these new laws give a very broad definition of terrorism, which enable States to use the fight against terrorism against political opponents and Human Rights activists. The law on political extremism that Russia passed in a few days in June 2002 is a case in point. This law gives no clear definition of "political extremism", which leaves the door open to numerous arbitrary interpretations. And yet people can be sent to prison for up to 5 years on those grounds alone, or even for simply launching "an appeal for political extremism". Moreover, the fight against terrorism is largely used by the Russian authorities to legitimise its war in Chechnya. In Africa, a number of States such as South Africa, Tanzania and Zimbabwe have already passed or envisage passing legislation against terrorism which could be used against civil society protest movements. For example, in Zimbabwe, any individual "undermining the authority of the President" may be found guilty of an act of terrorism.

As US President, George Bush declared Asia as "the second front in the war against terrorism", Asian countries have joined the coalition against terrorism launched by the US and through these events have found renewed justification for reinforcing their security law. In Malaysia for instance, the fight against terrorism gave new justification to the Internal Security Act (ISA), the use of which led to a new wave of arrests of individuals supposedly linked to groups of fundamentalists.

No wonder then that the regional and international mechanisms, which have logically followed their government, adopt the same attitude toward the struggle against Terrorism.

On a regional level, the texts adopted or set back to the agenda following September 11, 2001 have in common an extremely broad definition of "terrorist"³, which suggests that a large number of acts, including legitimate opposition and mobilization of civil society, could fall under the "terrorist" heading. This is the case of the Arab Convention for the Suppression of Terrorism adopted in Cairo on 22nd April, 1998, back on the agenda, whose aim is to suppress terrorism, and also appears to muzzle political opposition and all those who dare to criticise the current regimes pacifically. Indeed, the vagueness of the definition of "terrorism" corresponding to "any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardise national resources". The African Union's Convention Against Terrorism and laws to combat terrorism adopted by the European Union and the Organisation for Security and cooperation in Europe (OSCE) adopt as well broad definitions of terrorism.

To the same extent, FIDH remain deeply concerned by the fact that the UN Secretary-General and UN Human Rights High Commissioner calls on the State Parties to both fight terrorism and respect the international human rights standards and the international humanitarian law have not been listened to. Hence, the fight against terrorism has dominated debates, to the detriment of an evaluation of human rights situations. One year after its inception in autumn

³ Terrorism is not as such a separate offence in the international field

2001, the United Nations Committee on Terrorism had received 207 reports from 163 governments. This enthusiasm contrasts with the cumulative delay of 1,371 reports regretted by the six UN committees in charge of monitoring the application of human rights treaties.

However, the FIDH welcomes the resolution unanimously adopted during the 57th session of the UN General Assembly in 2002⁴, which emphasises the importance of both combating terrorism and respecting the Rule of Law and individual freedom. The position adopted by Kofi Annan, UN Secretary-General, to the 20 January Security Council ministerial meeting on terrorism, denouncing the fact that: “Internationally, we are seeing an increasing use of what I call the “T-word” -- terrorism -- to demonize political opponents, to throttle freedom of speech and the press, and to delegitimize legitimate political grievances. We are seeing too many cases where States living in tension with their neighbours make opportunistic use of the fight against terrorism to threaten or justify new military action on long-running disputes.”⁵

Indeed, the FIDH believes that the United Nations do have a very important role to play in the fight against terrorism: it is the most legitimate body to recall the states that, “while there is an urgent and compelling need to prevent acts of terror, there is a no less compelling need to pursue the goals enshrined in the United Nations Charter.”

Hence, the FIDH recommends that:

- States now consider that the coalition against terrorism must act within the framework of international human rights standard and international humanitarian law.
- Efforts should be made by the States so that the Arab Convention for the suppression of terrorism and the African Union’s Convention against Terrorism should be revised in order to refer to international human rights and humanitarian law;
- the UN Commission for Human Rights adopt a resolution which firmly stresses that fighting against terrorism does not prevent State Parties to comply with their International Human Rights commitments;
- that the Commission set up a special mechanism to monitor the impact of counter-terrorism measures undertaken by State Parties on Human rights at the national, regional and international levels.

4 A/RES/57/219

5 Press Release SG/SM/8583 SC/7639