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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING  
THE RIGHT TO DEVELOPMENT**

**Written statement\* submitted by Amnesty International, 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.

[2 December 2007]

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

## **Statement on the Review of Mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism**

The establishment, in 2005, of the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (Special Rapporteur) represented an important acknowledgment of the need to address the issue of states' legislation and practices that violate fundamental human rights in the name of combating terrorism.

The former Commission on Human Rights resolution 2005/80, introduced by Mexico and co-sponsored by 68 states<sup>1</sup>, mandated the Special Rapporteur, *inter alia*, to make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism, including for the provision of advisory services or technical assistance; and to gather and receive information on alleged violations of human rights while countering terrorism and to regularly report to the Commission and the UN General Assembly.<sup>2</sup>

Since its establishment, the Special Rapporteur has developed important analysis and recommendations on some key issues and policies related to state actions to counter terrorism, notably on terrorist profiling and shoot-to-kill policies (A/HRC/4/26); refugees and counter-terrorism measures, non-refoulement and use of diplomatic assurances (A/62/263); derogations and limitations to freedom of assembly and association and listing of terrorist groups (A/61/267); the definition of terrorism and the rule of law (E/CN.4/2006/98), and the impact of counterterrorism measures on the enjoyment of economic, social and cultural rights (A/HRC/6/17.)

The Special Rapporteur has also conducted country visits to Turkey, the United States of America, Israel and the Occupied Territories, and South Africa, as well as publishing a "desktop study" on Australia. In his communications to governments, the Special Rapporteur acted upon information concerning individual cases of alleged violations of human rights in the context of counter terrorism. He also provided comments on draft or adopted legislation designed to combat terrorism - with a view to assessing its compliance with human rights standards.

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<sup>1</sup> The resolution was co-sponsored by: Albania, Argentina, Armenia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Congo, Costa Rica, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Chile, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Monaco, Netherlands, New Zealand, Nigeria, Norway, Panama, Paraguay, Poland, Portugal, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, Tanzania, Togo, Ukraine, United Kingdom, United States of America, Uruguay and Venezuela.

<sup>2</sup> Since the establishment of his mandate, the Special Rapporteur has submitted one report to the former Commission on Human Rights, two reports to the Human Rights Council and three reports to the UN General Assembly.

The Special Rapporteur has also developed relationships and dialogues with various UN bodies and regional organizations dealing with issues relevant to his mandate, including notably the Counter-Terrorism Committee of the UN Security Council (CTC.)

The fact that many governments, from different regions of the world, have cooperated with the Special Rapporteur and have accepted requests for visits is an encouraging sign. However, Amnesty International remains concerned that many governments continue to refuse to cooperate with the Special Rapporteur. Many communications sent to governments in 2007 received no reply and the following countries have not responded to the Special Rapporteur's visit requests: Algeria, Egypt, the United States of America in relation to the detention facility at Guantánamo Bay, Malaysia, Pakistan, and Tunisia.

The continuing erosion of human rights and the undermining of international humanitarian and human rights law in the context of counter-terrorism requires ongoing scrutiny and action by the Human Rights Council and other UN bodies. This has been recognised by the UN General Assembly where the Third Committee that has just adopted a resolution on protection of human rights and fundamental freedoms while countering terrorism, which notes with concern counter-terrorism measures taken by states that undermine human rights and the rule of law and which requests, *inter alia*, all governments to cooperate fully with the Special Rapporteur.<sup>3</sup>

Enforced disappearances, unlawful detainee transfers (renditions) and secret detention have taken place with the active participation or complicity of the Afghanistan, Bosnia Herzegovina, Djibouti, Egypt, Ethiopia, Gambia, Indonesia, Iraq, Jordan, Kenya, Macedonia, Mauritania, Morocco, Morocco, Pakistan, Somalia, Syria, Tanzania, Thailand, USA, Yemen and many member countries of the European Union.<sup>4</sup> The facility maintained by the USA at its naval base in Guantánamo Bay, Cuba is the most flagrant example of unlawful detention and ill-treatment. Diplomatic assurances have been used by countries including Austria, France, the Netherlands, Sweden, Turkey, the UK and the USA as a basis for sending individuals to countries such as Algeria, Jordan, Lebanon, Libya and Tunisia where the sending government acknowledges that it would otherwise be prohibited from sending them, because they risk torture or other ill-treatment.

In view of the above and other instances of serious violations of human rights in connection with counter terrorism measures, Amnesty International believes that the mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism serves a most important function in addressing the impact of state counter terrorism measures on the enjoyment of all human rights and fundamental freedoms.

Therefore, Amnesty International calls on the Human Rights Council to:

- Renew the mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism;
- Urge states to fully cooperate with the Special Rapporteur on the protection of human rights and fundamental freedoms while countering terrorism including by

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<sup>3</sup> A/C.3/62/L.47/Rev.1

<sup>4</sup> See *Partners in Crime: Europe's Role in US Renditions* AI Index: EUR 01/008/2006 (June 2006).

responding promptly and in full to his urgent appeals, communications and requests for visits;

- Encourage further dialogue and collaboration between the Special Rapporteur and the Counter-Terrorism Committee of the Security Council, in particular with a view to ensuring that reviews by the CTC of Member State reports address how measures to counter terrorism meet the requirement that they be compatible with human rights.

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