



# General Assembly

Distr.: General  
22 February 2013

English only

---

## Human Rights Council

Twenty-second session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Open Society Institute, 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.

[11 February 2013]

---

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

## Accountability required for secret detention and extraordinary rendition

1. The Open Society Justice Initiative, part of the Open Society Institute, welcomes the latest report by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism focusing on transparency and accountability for human rights violations committed in the context of countering terrorism.
2. The importance of respecting human rights in countering terrorism is not a new or even disputed issue. The United Nations Global Counter-Terrorism Strategy's Plan of Action, adopted on September 8, 2006, represents the first time that all Member States have agreed to a common strategic approach to fight terrorism. It also recognizes that "effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism."
3. States may give rhetorical support to human rights, but they regularly fail to live up to their human rights obligations in the counter-terrorism context and ensure accountability for resulting human rights violations.
4. The United States' post-September 11, 2001, secret detention and extraordinary rendition program is a notable example of this disconnect between words and actions. As documented in the Justice Initiative's new report, *Globalizing Torture*, the United States Central Intelligence Agency conspired with dozens of other governments to operate this global program.<sup>1</sup>
5. Extraordinary rendition is the transfer—without legal process—of a detainee to the custody of a foreign government for purposes of detention and interrogation. *Globalizing Torture* shows that at least 54 governments are reportedly implicated in the program, operating at the highest levels of secrecy, stripping people of their most basic rights, and in many instances facilitating torture and other forms of abuse.
6. The former Bush Administration authorized a set of interrogation methods it referred to as "enhanced interrogation techniques" that the CIA program relied upon. But, in fact, they were forms of torture or other cruel, inhuman, or degrading treatment that violated the UN Convention Against Torture.
7. These techniques included quickly pulling the detainee forward and then thrusting him against a flexible false wall, waterboarding, forcing the detainee to remain standing with his arms outstretched in front of him so that his fingers touch a wall five feet away and support his entire body weight, forced nudity, sleep deprivation while being vertically shackled, and dietary manipulation.
8. Khaled El-Masri, a German national, was seized by Macedonian security officers on 31 December 2003, at a border crossing, because he had been mistaken for an al-Qaida suspect with a similar name. He was held incommunicado and abused in Macedonian custody for 23 days, after which he was handcuffed, blindfolded, and driven to Skopje airport, where he was handed over to the CIA and severely beaten. The CIA stripped, hooded, shackled, and sodomized El-Masri with a suppository as Macedonian officials stood by. The CIA drugged him and flew him to Kabul to be locked up in a secret prison,

---

<sup>1</sup> Open Society Justice Initiative: *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition*, available at <http://www.opensocietyfoundations.org/reports/globalizing-torture-cia-secret-detention-and-extraordinary-rendition>.

the “Salt Pit”, where he was slammed into walls, kicked, beaten, and subjected to other forms of abuse. Held at the Salt Pit for four months, El-Masri was never charged, brought before a judge, or given access to his family or German government representatives. He was ultimately released without explanation or apology in Albania in May 2004.

9. On December 13, 2012, the European Court of Human Rights held that Macedonia had violated El-Masri’s rights under the European Convention on Human Rights, and found that his ill-treatment by the CIA at Skopje airport in Macedonia amounted to torture.

10. In another example, Wesam al-Deemawi was seized in Iran and held for 77 days in the CIA’s “Dark Prison” in Afghanistan. He was later held by the U.S. in Bagram, Afghanistan for 40 days and subjected to sleep deprivation, hung from the ceiling by his arms in the “strappado” position, threatened by dogs, made to watch torture videos, and subjected to sounds of electric sawing accompanied by cries of pain.

11. In November 2002, Gambian intelligence agents detained Bisher al-Rawi, Jamil el-Banna, and Wahab al-Rawi upon their arrival at Banjul airport. Two of these men were subsequently transferred to CIA custody in Afghanistan where they were secretly detained. El-Banna reported being beaten, kicked, dragged along the floor, and subjected to other abuses while in CIA custody.

12. Abd al Rahim al Nashiri was secretly detained in various CIA black sites. While secretly detained in Poland, U.S. interrogators subjected al Nashiri to a mock execution with a power drill as he stood naked and hooded; racked a semi-automatic handgun close to his head as he sat shackled before them; held him in “standing stress positions;” and threatened to bring in his mother and sexually abuse her in front of him.

13. Muhammed al-Zery and Ahmed Agiza were extraordinarily rendered from Sweden to Egypt, where they were tortured with shocks to their genitals. Al-Zery was also forced to lie on an electrified bed frame.

14. These are just a few examples of cases involving a range of countries from the continents of Africa, Asia, Australia, Europe, and North America participating in the CIA’s global secret detention and extraordinary rendition network.

15. Several former interrogators and counterterrorism experts have confirmed that “coercive interrogation” is ineffective. Col. Steven Kleinman, Jack Cloonan, and Matthew Alexander stated in a letter to Congress that that U.S. interrogation policy “came with heavy costs” and that “[k]ey allies, in some instances, refused to share needed intelligence, terrorists attacks increased worldwide, and Al Qaeda and like-minded groups recruited a new generation of Jihadists.”

16. To date, the United States and the vast majority of the other governments involved have refused to acknowledge their participation, compensate the victims, or hold accountable those responsible for the program and its abuses.

17. The Open Society Justice Initiative encourages States to broaden a slowly widening path of transparency and accountability. Italy is the only country to have convicted government officials for their involvement in the secret detention and extraordinary rendition operations. And Canada is the only country to have issued both an apology and compensation to an extraordinary rendition victim, Maher Arar, who was tortured in Syria. The United States has not meaningfully acknowledged its role in his case.

18. To continue down the path of transparency and accountability, and to ensure that the brutality of the secret detention and extraordinary rendition program never repeats itself, governments should refuse to participate in secret detention, including at the behest, or with the involvement, of any U.S. agency or any other government. The United States and its partner governments should also take the following measures:

- Disclose information relating to human rights violations associated with secret detention and extraordinary rendition operations, including the identities of all individuals subjected to these operations, information on their detention and treatment, current whereabouts, and diplomatic assurances secured in particular cases.
- Conduct effective and thorough investigations into human rights abuses associated with CIA secret detention and extraordinary rendition operations with a view to examining the role of, and holding legally accountable, officials who authorized, ordered, assisted, or otherwise participated in these abuses.
- Provide appropriate compensation to all individuals subjected to secret detention and extraordinary rendition operations in which the particular government participated.
- Institute safeguards for ensuring that future joint counterterrorism operations do not violate human rights standards, including by making participation in such operations contingent on compliance of all participating governments with human rights standards.

19. The UN Human Rights Council has an important role to play as well as Member States. The Open Society Justice Initiative encourages the relevant special procedures, including the Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism, the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment, the Working Group on Arbitrary Detention, and the Working Group on Enforced Disappearances to request and undertake joint missions to countries identified in the Justice Initiative report and to encourage these countries to fully disclose information relating to and secure accountability for their participation in CIA secret detention and extraordinary rendition operations.

20. The Open Society Justice Initiative also requests that these four mandate holders provide an update to the Human Rights Council on their efforts to encourage member states to implement the recommendations of the 2010 Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism (A/HRC/13/42).

---