



HUMAN RIGHTS FIRST STATEMENT TO TWELFTH SESSION OF THE HUMAN RIGHTS COUNCIL

Agenda Item 3: Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism

Delivered by Andrew Hudson

September 18, 2009

Mr President

Human Rights First welcomes the Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism and its timely focus on economic, social and cultural rights. We also welcome the report's conclusion that counter-terrorism measures must be adopted in compliance with the obligations of States under international human rights law, humanitarian law, and refugee law.

Respect for applicable law is at the core of sound counterterrorism policy. The experience of the last eight years illustrates that failure of States to abide by applicable legal norms fuels the regenerative abilities of terrorist organizations, creates obstacles to international cooperation in fighting terrorism, and complicates the all-important goal of holding terrorists accountable in legitimate judicial proceedings.

Criticism by some states of traditional humanitarian and human rights legal frameworks is misplaced. If understood and properly applied, the complementary schemes of humanitarian and human rights law provide States with a roadmap of best practices in the service of both liberty and security.

In the United States, the Obama administration has made significant improvements in conforming to the rule of law on matters of detainee treatment. However, there is still much work to do to remove the stain of the Bush administration's policies of arbitrary detention and unfair trials. Moreover, we remain concerned that rendition will continue to states with histories of detainee abuse, on the basis of unenforceable "diplomatic assurances".

Human Rights First urges all states to make a good faith judgment of whether or not a particular act of terrorism has occurred in the context of armed conflict in order to determine whether or not humanitarian law applies. States must also respect the rules of human rights law applicable in armed conflict either on their own territory or extraterritorially. Outside the context of armed conflict, the full measure of human rights law must be applied.

Whatever the context, Human Rights First urges all states to uphold the applicable law that prohibits arbitrary detention, disappearances and secret detention, and details the requisites for fair trials and humane detainee treatment. Human Rights First also urges all states to respect the applicable law which also prohibits counterterrorism measures that discriminate based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Finally Human Rights First reminds states that they must also ensure that meaningful remedies are available to those whose rights are violated.