



INTERNATIONAL COMMISSION OF JURISTS

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ICJ EMINENT JURISTS PANEL ON TERRORISM, COUNTER-TERRORISM AND HUMAN RIGHTS

CANADA NATIONAL HEARING
Toronto, 24 April 2007
Ottawa, 25 April 2007

CALL FOR SUBMISSIONS

The Eminent Jurists Panel is an independent panel of eight international judges, lawyers and legal academics established by the International Commission of Jurists (ICJ) to conduct a global inquiry into terrorism, counter-terrorism and human rights. The Panel is chaired by Justice Arthur Chaskalson, former Chief Justice of South Africa and the first President of South Africa's Constitutional Court, and includes Professor Georges Abi-Saab (Egypt), Professor Robert K. Goldman (United States), Ms. Hina Jilani (Pakistan), Professor Vitit Muntarbhorn (Thailand), Ms. Mary Robinson (Ireland), Professor Stefan Trechsel (Switzerland) and Justice E. Raúl Zaffaroni (Argentina).

The mandate of the Panel is:

"To examine the compatibility of laws, policies and practices, which are justified expressly or implicitly as necessary to counter terrorism, with international human rights law and, where applicable, with international humanitarian law."

The Panel process is built on a broad consultation through national and sub-regional hearings in various countries around the world. The Panel has already held hearings in Australia, Colombia, East Africa (covering Kenya, Tanzania and Uganda), the United Kingdom (in London on current policies and Belfast on lessons from the past), North Africa (covering Algeria, Morocco and Tunisia), the United States, the Southern Cone (covering Argentina, Uruguay, Chile, Paraguay and Brazil) and South East Asia (covering Indonesia, Malaysia, Thailand and the Philippines), the Russian Federation and South Asia. Other countries or regions where the Panel will also hold hearings include the Middle East and Europe.

The Panel will be visiting Canada in April 2007 to examine and assess the impact of counter-terrorism laws and policies on human rights and the rule of law. **On 24 April, the Panel will be holding a public hearing in Toronto and on 25 April in Ottawa.** The Eminent Jurists Panel will be represented in Canada by its Chair, Justice Arthur Chaskalson (South Africa) and Professor Robert K. Goldman (United States).

The Toronto hearings will be hosted at Osgoode Hall Law School's Professional Development facility at 1 Dundas Street West, Suite 2602, Toronto. The public hearings in Ottawa will be at the Ottawa Congress Centre, Capital Hall 3B, 55 Colonel By Drive, Ottawa. Simultaneous English/French interpretation will be available at the Ottawa hearing.

In addition to the oral evidence received at the public hearing, the Panel welcomes *written submissions* from any interested individuals or organisations on the impact of terrorism and counter-terrorism measures on the rule of law and the protection of human rights in Canada.

In the framework of its global inquiry, the Panel generally encourages submissions that adopt the following analytical approach:

- (1) What special laws, policies or practices has the government adopted, since 2001 or in the past, which it has justified expressly or implicitly as necessary to counter-terrorism?
- (2) Have these counter-terrorism measures had an impact on the rule of law and on the rights guaranteed to all persons by international human rights or international humanitarian law? If so, what has been the impact?
- (3) How has the government justified such counter-terrorism measures and do you consider that past or current terrorist threats have justified these measures?
- (4) What has been the impact of the 'War On Terror' in your country?
- (5) What lessons should today's policy-makers learn from any past experience with terrorism and counter-terrorism in your country?¹

¹ A more comprehensive list of questions related to the Panel's global inquiry is available at http://eip.icj.org/article.php?id_article=17.

In this context the Panel would be interested in submissions including but not limited to

- (i) the extent of preventive detention in respect of terrorist suspects;
- (ii) the range of terrorist offences under Canadian law, especially the scope of inchoate offences;
- (iii) the use of measures short of detention that limit liberties of terrorist suspects;
- (iv) the proscription of terrorist organisations;
- (v) the use of closed proceedings, and special advocates in terrorism cases;
- (vi) evidentiary issues in terrorism cases, including the use of secret evidence;
- (vii) proposals to increase judicial involvement in the investigation of terrorism offences;
- (viii) the use of diplomatic assurances and memoranda of understanding in relation to the deportation of foreign nationals on grounds of national security, and the use of immigration powers generally as counter-terrorism measures;
- (ix) the existence of any policies governing the use of lethal force by security forces for the prevention of imminent acts of terrorism;
- (x) the impact of counter-terrorism measures on minority groups, including issues of discrimination on grounds of ethnicity, nationality and national origin, and religious belief;
- (xi) the use of surveillance, databases and data-sharing, and the use of biometric identifiers and identity cards in the fight against terrorism;
- (xii) the use of "no fly" or other screening lists as a counter-terrorism security measure and the due process standards applied in the placing of persons on these lists;
- (xiii) issues relating to cooperation of the Canadian government with foreign governments in the fight against terrorism, including the sharing of data and intelligence with other states, and Canadian policy in relation to extraordinary rendition and diplomatic protection;
- (xiv) the rights of victims of terrorist acts, including compensation.

The ICJ welcomes both written and oral submissions.

Organizations and individuals interested in making written submissions are invited to do so by **16 April 2007** or as soon as possible thereafter. Submissions should be addressed to Eminent Jurists Panel, c/o ICJ Canada, 865 Carling Avenue, Suite 500, Ottawa, ON, K1 S, 5S8 **and** sent via email to Craig Forcese at Craig.Forcese@uottawa.ca and Isabelle Heyer at hey@icj.org.

Organizations and individuals interested in making oral submissions (instead or in addition to written submissions) at the Ottawa or Toronto hearings should contact Craig Forcese at Craig.Forcese@uottawa.ca by **16 April 2007**. We will do our best to accommodate all those interested in appearing. Witnesses should anticipate presentations of about 15 minutes in length, although the ICJ may require that submissions be shorter in order to accommodate all those who wish to appear.

Further details concerning the Eminent Jurists Panel are available at <http://ejp.icj.org>.