



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



**Protection of human rights and fundamental
freedoms while countering terrorism**

Human Rights Resolution 2005/80

The Commission on Human Rights,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Acknowledging the important contribution of measures at all levels against terrorism, consistent with international law, in particular international human rights law and refugee and humanitarian law, for the functioning of democratic institutions, the maintenance of peace and security and thereby to the full enjoyment of human rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism,

Recognizing that the respect for human rights, democracy and the rule of law are interrelated and mutually reinforcing,

Recognizing that all States must respect the non-refoulement obligations under international refugee and human rights law, while at the same time, pay full respect to exclusion provisions,

Recalling its resolution 2004/87 of 21 April 2004 and taking note of General Assembly resolution 59/191 of 20 December 2004,

Welcoming the various initiatives to strengthen the promotion and protection of human rights in the context of counter-terrorism adopted by the United Nations and regional intergovernmental bodies, as well as by States,

Noting the declarations, statements and recommendations by a number of human rights treaty monitoring bodies and special procedures on the question of the

compatibility of counter-terrorism measures with human rights obligations, as well as the final report of the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on terrorism and human rights (E/CN.4/Sub.2/2004/40),

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,¹

Taking note of General Assembly resolution 59/195 of 20 December 2004 and recalling Commission resolution 2004/44 of 19 April 2004 on human rights and terrorism,

Taking note also of the declaration on the issue of combating terrorism contained in the annex to Security Council resolution 1456 (2003) of 20 January 2003, in particular the statement that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Stressing that everyone is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families and expressing its profound solidarity with them;

3. *Recalls* that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such

¹ Paragraph 17 of section I of the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights on 25 June 1993.

derogations;²

4. *Calls upon* States to raise awareness of the importance of these obligations among national authorities involved in combating terrorism;

5. *Urges* States to review, with full respect for the fundamental principle of non-refoulement and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

6. *Reaffirms* that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism, as stated in the report of the Secretary-General (E/CN.4/2004/91) submitted pursuant to General Assembly resolution 58/187 of 22 December 2003;

7. *Takes note with appreciation* of the study of the United Nations High Commissioner for Human Rights (A/59/428) submitted pursuant to General Assembly resolution 58/187;

8. *Also takes note with appreciation* of the report of the independent expert on the protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2005/103);

9. *Further takes note with appreciation* of the report of the High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2005/100), submitted pursuant to Commission resolution 2004/87 and General Assembly resolution 59/191;

10. *Encourages* States to make available to relevant national authorities the “Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism” and to take into account its content, and requests the High Commissioner to update and publish it periodically;

11. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Committee to strengthen the links and to continue to develop the cooperation with relevant human rights bodies, in particular with the Office of the High Commissioner for

² See, for example, general comment No. 29 (2001) on article 4 of the Covenant (derogations during a state of emergency) adopted by the Human Rights Committee.

Human Rights, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Council resolutions relating to terrorism;

12. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission and the relevant comments and views of treaty bodies;

13. *Requests* the High Commissioner for Human Rights, making use of existing mechanisms, to continue:

(a) To examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources;

(b) To make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism;

(c) To provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies;

14. *Decides* to appoint, for a period of three years, a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, with the mandate:

(a) To make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism, including, at the request of States, for the provision of advisory services or technical assistance on such matters;

(b) To gather, request, receive and exchange information and communications from and with all relevant sources, including Governments, the individuals concerned, their families, their representatives and their organizations, including through country visits, with the consent of the State concerned, on alleged violations of human rights and fundamental freedoms while countering terrorism, with special attention to areas not covered by existing mandate holders;

(c) To identify, exchange and promote best practices on measures to counter terrorism that respect human rights and fundamental freedoms;

(d) To work in close coordination with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and other

relevant United Nations bodies;

(e) To develop a regular dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, in particular with the Counter-Terrorism Committee of the Security Council, the Office of the United Nations High Commissioner for Human Rights, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, human rights mandate

holders and treaty bodies, the Sub-Commission for the Promotion and Protection of Human Rights, as well as non-governmental organizations and other regional or subregional international institutions, fully respecting the respective mandates of the above-mentioned bodies and with a view to avoiding duplication of effort;

(f) To report regularly to the Commission on Human Rights and to the General Assembly;

15. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the Special Rapporteur's urgent appeals and providing the information requested;

16. *Requests* the High Commissioner for Human Rights to assist the Commission's various special procedures to enhance coordination and avoid duplication of efforts;

17. *Requests also* the High Commissioner to report regularly on the implementation of the present resolution to the Commission on Human Rights and to the General Assembly;

18. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/80 of 21 April 2005, approves the decision of the Commission to appoint a special rapporteur on the promotion and protection of human rights while countering terrorism for a period of three years with the mandate contained in that resolution. The Council also approves the request to the United Nations High Commissioner for Human Rights to report regularly on the implementation of the resolution to the Commission and to the General Assembly.”

*60th meeting
21 April 2005*

[Adopted without a vote. See chap. XVII, E/CN.4/2005/L.10/Add.17]