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HUMAN RIGHTS COUNCIL  
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Agenda item 3

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

**Argentina\*, Armenia\*, Austria\*, Belgium\*, Bosnia and Herzegovina,  
Bulgaria\*, Chile\*, Croatia\*, Czech Republic\*, Denmark\*,  
Finland\*, France, Guatemala, Hungary\*, Latvia\*, Liechtenstein\*,  
Luxembourg\*, Mexico, Monaco\*, Netherlands, Norway\*, Peru,  
Portugal\*, Russian Federation, Slovakia\*, Sweden\*, Switzerland,  
Ukraine, United Kingdom of Great Britain and Northern Ireland:  
draft resolution**

**7/... Protection of human rights and fundamental freedoms  
while countering terrorism**

*The Human Rights Council,*

*Recalling* its decision 2/112 and its resolution 6/28, and also recalling Commission on Human Rights resolutions 2003/68, 2004/87 and 2005/80, as well as General Assembly resolutions 57/219, 58/187, 59/191, 60/158, 61/171 and 62/159,

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\* Non-member State of the Human Rights Council.

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, expresses its profound solidarity with them, and stresses the importance of providing them with proper assistance;

3. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,<sup>1</sup> to respect that certain rights are non-derogable in any circumstances, and recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations;<sup>2</sup>

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

5. *Reaffirms* that counter-terrorism measures should be implemented in full consideration of the human rights of persons belonging to minorities and must not be discriminatory on grounds such as race, colour, sex, language, religion or social origin;

6. *Calls upon* States not to resort to discriminatory profiling based on stereotypes founded on grounds of discrimination prohibited by international law, and recalls therefore, to the extent that States use profiling while countering terrorism that they must comply strictly with international law, including human rights law;

7. *Urges* States, while countering terrorism, to fully comply with their obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in particular the absolute prohibition of torture;

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<sup>1</sup> See General Assembly resolution 2200 A (XXI), annex.

<sup>2</sup> 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.

8. *Also urges* States to fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations 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;

9. *Calls upon* States to refrain from returning persons, including in cases related to terrorism, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law, in particular human rights law, international humanitarian law and international refugee law, including in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their life or freedom would be threatened in violation of international refugee law on account of their race, religion, nationality, membership of a particular social group or political opinion, bearing in mind obligations that States may have to prosecute individuals not returned;

10. *Also calls upon* States to ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly refugee law and human rights law, towards persons seeking international protection;

11. *Urges* States, while countering terrorism, to ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,<sup>3</sup> of the International Covenant on Civil and Political Rights and of the Geneva Conventions and their additional Protocols,<sup>4</sup> in their respective fields of applicability;

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<sup>3</sup> General Assembly resolution 217 A (III).

<sup>4</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

12. *Also urges* all States to take all necessary steps to ensure that persons deprived of liberty, regardless of the place of arrest or of detention, benefit from the guarantees to which they are entitled under international law, including the review of their detention and, if subjected to trial, fundamental judicial guarantees;

13. *Opposes* any form of deprivation of liberty that amounts to placing a detained person outside of the protection of the law, and urges States to respect the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in all places of detention in accordance with international law, including human rights law and international humanitarian law;

14. *Acknowledges* the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance by the General Assembly in its resolution 61/177 of 20 December 2006 and recognizes that its entry into force will be a significant event;

15. *Calls upon* States to ensure that their laws criminalizing terrorist conduct and/or activities are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law;

16. *Also calls upon* States to include adequate guarantees, including the requirement of legality and the availability of effective review in their national procedures for the listing of individuals and entities with a view to combating terrorism, and to ensure full compliance with their international obligations, including human rights obligations;

17. *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;

18. *Acknowledges with appreciation* the reports of the Special Rapporteur on the promotion and protection of human rights while countering terrorism submitted to the Council;<sup>5</sup>

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<sup>5</sup> A/HRC/6/17 and Corr.1 and Add.1-4 and Add.4/Corr.1, A/HRC/4/26 and Add.1-3 and E/CN.4/2006/98 and Add.1-2.

19. *Also acknowledges with appreciation* the reports of the High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism submitted to the Council<sup>6</sup> as well as the work to implement the mandate given to her by the Commission on Human Rights in its resolution 2005/80 and the General Assembly in its resolution 60/158, and requests the High Commissioner to continue her efforts in this regard;

20. *Calls upon* international, regional and subregional organizations to strengthen coordination and cooperation in promoting the protection of human rights and fundamental freedoms while countering terrorism;

21. *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;

22. *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 strongly encourages the Security Council and its Committee, including its Executive Directorate, to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Council resolutions relating to terrorism;

23. *Acknowledges with appreciation* the cooperation between the Special Rapporteur and all relevant procedures and mechanisms of the Council, United Nations human rights treaty bodies and the Office of the United Nations High Commissioner for Human Rights, and urges them to continue their cooperation, in accordance with their mandates, and to coordinate their efforts, where appropriate, in order to promote a consistent approach on this subject;

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<sup>6</sup> E/CN.4/2006/94 and A/HRC/4/88.

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

25. *Welcomes* the issuance by the Counter-Terrorism Committee of the Security Council of its policy guidance number 2 regarding human rights and the Committee;

26. *Calls upon* States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy,<sup>7</sup> which, inter alia, reaffirms respect for human rights for all and the rule of law to be the fundamental basis of the fight against terrorism;

27. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to continue to contribute to the work of the Counter-Terrorism Implementation Task Force, including by raising awareness about the necessity to respect human rights while countering terrorism;

28. *Requests* the High Commissioner to report regularly on the implementation of the present resolution to the Council, in accordance with its annual programme of work, and to the General Assembly;

29. *Decides* to continue consideration of this issue in the 2008-2009 cycle of the Council, in accordance with its annual programme of work.

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<sup>7</sup> General Assembly resolution 60/288.