



ODUMUNC 39

Special, Political, and Decolonization Committee

The Protection of Human Rights and Fundamental Freedoms while Countering
Terrorism

By: Petra Szonyegi



**Issue Brief for GA Fourth Committee:
Special, Political, and Decolonization**



***Protection of Human Rights and Fundamental Freedoms While Countering
Terrorism***

By: Petra M. Szonyegi

Old Dominion University Model United Nations Society

“Our responses to terrorism as well as our efforts to thwart it and prevent it, should uphold the human rights that terrorists aim to destroy. Respect for human rights, fundamental freedoms and the rule of law are essential tools in the effort to combat terrorism — not privileges to be sacrificed at a time of tension.”¹

Former UN Secretary General, Kofi Annan
(2003)

I. Introduction

While terrorism has become a well-known phenomenon, the countering of terrorism became a hot topic of the twenty-first century, especially in the aftermath of 9/11. Successfully fighting terrorism requires understanding the aims, goals, and desired end state of the will of these extreme political groupings², because “terrorism is a political action, a means towards an end rather than an end in itself.” However, the more and more brutal tools terrorists use requires more sophisticated methods identified by governments. This methodology has been aiming to fight terrorists while protecting human rights of those living in the area and suffering

¹ Annan, Kofi. "Secretary-General's Statement.", The Special Meeting of The Counter-Terrorism Committee with Regional Organizations, New York, March 6, 2003.

² Oliver Ramsbotham, Tom Woodhouse, Hugh Miall, Contemporary Conflict Resolution, Polity Press, 2005. p. 252.

from the oppression of terrorists. Therefore, lately, the focus has significantly shifted from simply the stopping and punishing of terrorists to analyzing the pros and cons of the methods used to do so.

II. History

When considering fighting terrorism, there is another angle that needs to be taken into consideration: Terrorism itself is an anathema to human rights. Modern human rights standards are rooted in the following four simple values: freedom from want; freedom from fear; freedom of belief; and freedom of expression.³ Torture of prisoners might be one issue when skills of lawyers can be misused in the “cause of evil”⁴ to protect people from terrorists. One important example to this issue is the detention camp at Guantanamo Bay in Cuba.

Guantanamo Bay is a controversial location in the sense that on paper the USA is granted the power to “exercise complete jurisdiction and control”, while Cuba is left to “retain ultimate sovereignty”.⁵ This has

³ Countering Terrorism, Protecting Human Right, OSCE Manual, p. 16. accessed at <http://www.osce.org/odihr/29103?download=true> on 9. 21. 2014.

⁴ Anthony Lewis, Introduction, in Karen J. Greenberg and Joshua L. Dratel, The Torture Papers, (The Road to Abu Graib, Cambridge University Press, 2005. p. xiii

⁵ Von Ness, Pamela M. "Guantanamo Bay Detainees: National Security or Civil Liberty?" *USAWC Strategy*



Issue Brief for GA Fourth Committee: Special, Political, and Decolonization



Protection of Human Rights and Fundamental Freedoms While Countering Terrorism

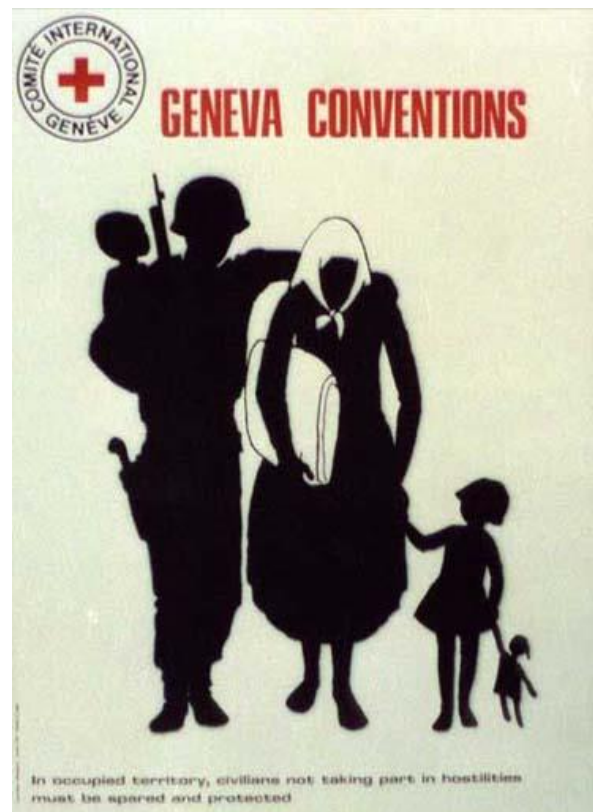
By: Petra M. Szonyegi

Old Dominion University Model United Nations Society

been the US Government's excuse over the years for not claiming responsibilities for the violations of human rights at the base. Extraterritoriality (territory that states own in other states like military bases or embassies) and the limits of state justifications bring an extra layer of issues for the international community to deal with. The captors of the prisoners at Guantanamo Bay when asked of the human rights abuses occurring in the base often deflect questions and point that the detainees are terrorists who have committed the worst crimes of all. However this cannot be used as an excuse to justify the violation of the Geneva Conventions. These are a set of humanitarian rules established in 1949 in the aftermath of World War II to protect civilians, warfighters and correspondents, and the wounded and captured (commonly referred to as prisoners of war, POWs). The four treaties of the Geneva Conventions are the backbone to international regulation of warfare and therefore its violation means the failure to comply with international law. These international regulations amongst other treaties and principles of international law guarantee a prisoner's rights for a just trial and adequate treatment. Groups such as the Human Rights Watch and Amnesty

Research Project, July 4, 2003. Accessed October 15, 2014. <http://fas.org/man/eprint/vonness.pdf>.

International have been pointing out that neither the prisoners' nationality, nor their geographical location of where they are held can disregard these laws.⁶



Geneva Conventions: In occupied territory, civilians not taking part in hostilities must be spared and protected. (Library of Congress)

⁶ Von Ness, Pamela M. "Guantanamo Bay Detainees: National Security or Civil Liberty?" *USAWC Strategy Research Project*, July 4, 2003. Accessed October 15, 2014. <http://fas.org/man/eprint/vonness.pdf>.



Issue Brief for GA Fourth Committee: Special, Political, and Decolonization



Protection of Human Rights and Fundamental Freedoms While Countering Terrorism

By: Petra M. Szonyegi

Old Dominion University Model United Nations Society

The treatment of the prisoners at Guantanamo Bay is only one example in out of many situations where methods should be adjusted in the fight against terrorism to uphold international laws and standards. One relatively new technique used to monitor and counter terrorism has become the use of unmanned aerial vehicles (from here on referred to as UAVs), and more commonly known as drones. The benefits of the use of UAVs are significant, as it radically shrinks the number of casualties on the side fighting terrorism, since it does not require military personnel risking their lives by

being in the danger zone. Surveillance drones are able to acquire precise data concerning the activities of terrorist groups which then is passed on to be used by armed drones, that eventually carry out attacks on targets determined by surveillance drones. UAVs are also thought to be useful in scaring the heads of terrorist organizations with making them feel watched and threatened at all times. However, the detriments of the use of UAVs lead into two major conflicts that bring the protection of human rights and fundamental freedoms into question.



By U.S. Air Force photo/Lt Col
Leslie Pratt [Public domain], via
Wikimedia Commons

III. The Current Situation:

Unmanned Aerial Vehicles have the technological advantage of being able to kill a terrorist leader in his house; simply by a man thousands of kilometers away pressing a button that authorizes the bombing carried out by an armed drone. Such an act means that a human being is murdered without trial. This brings up the first conflict and a widely debated question: Is murder without trial moral (more specifically in the case of countering terrorism)?



**Issue Brief for GA Fourth Committee:
Special, Political, and Decolonization**



***Protection of Human Rights and Fundamental Freedoms While Countering
Terrorism***

By: Petra M. Szonyegi

Old Dominion University Model United Nations Society

The United Nations General Assembly's Resolution 68/178 adopted on 18 December of 2013 concerning this same topic highlights the importance of rights for trial for all human beings. It "*Urges* states, while countering terrorism: ...(b) To take all steps necessary to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international law, including the review of the detention and other fundamental judicial guarantees..."⁷

The second problem brought up by these means is the comparison of casualties caused by the war on terrorism versus the casualties caused by terrorism itself. It is undebatable that both of these cause the death of innocent civilians. As terrorist acts murder innocent victims, drone strikes kill civilians mistaken to be affiliated with terrorist groups, or innocent bystanders killed accidentally. Resolution 68/178 also "*Expresses serious concern* at the occurrence of violation of human rights and fundamental freedoms, as well as of international refugee and humanitarian law, committed in the context of countering terrorism..."⁸ This brings up

multiple questions that should be considered when addressing this issue. Is the use of Unmanned Aerial Vehicles efficient? Is bombing cities and buildings thought to have terrorist actors in them right even if there is a high chance that this will lead to the death of innocent humans? Is the murder of these actors the right answer for the war on terrorism, or would the capturing of them be a more sufficient solution?

IV. Country Positions

The Arab League:

For understandable reasons caused by the harsh impact that terrorism has had on the countries of this league, they are typically very pro-counter-terrorism even if that entails some violation of human rights.

The European Union:

With members, notably Germany, being very outspoken on the issue with civil liberties, the members of the EU typically emphasize human rights and eliminate methods used to counter terrorism that may violate these.

Latin American States:

The states in Latin America have a culture of civil liberties. They typically work closely with the European Union as their interests are similar in focusing on the protection of human rights.

⁷ *UN Resolution*: United Nations. "Protection of human rights and fundamental freedoms while countering terrorism", General Assembly Resolution A/68/456/Add.2 (New York: United Nations, 18 December 2013).

⁸ *Ibid*



**Issue Brief for GA Fourth Committee:
Special, Political, and Decolonization**



***Protection of Human Rights and Fundamental Freedoms While Countering
Terrorism***

By: Petra M. Szonyegi

Old Dominion University Model United Nations Society

The African Union:

Considering the limited lenses used by external actors to view African nations when it comes to their own national and security interests, the African Group typically strive to ensure that counter-terrorist activities are fair, not merely firm.⁹

The United States of America:

A country heavily affected by acts of terrorism, in a post-9/11 world, the USA firmly holds its aims to counter terrorism around the world no matter what.

V. Proposal for Further Action

There is a trade-off between civil liberties and counter-terrorism. Since both can obviously not be maximized, the question is: How to compromise between the two? Does your country prefer to emphasize the importance of countering terrorism or individual liberties? As you write your resolutions in this committee to serve your country's national interests and international priorities, you will have to resolve this question yourself and will have to convince your fellow delegates on why that is the right action to take.

VI. Essential Questions:

- Human rights are basic freedoms extended to everyone in the

world, how best is it for the world to apply these principles to those allegedly violating human rights themselves?

- With limited authority on sovereign state territory, how can the UN ensure the applicability of human rights to everyone, including detainees?
- Is it best to tackle this issue with combatting terrorism as a reactionary cause, or to try to prevent terrorism from flourishing?
- How are issues relating to extraterritoriality and limited host state power over international actors within their borders including issues like diplomatic immunity or a lack of jurisdiction best addressed when it is learned that human rights have been violated?

⁹ Ford, Dr. Jolyon. "Counter-terrorism, Human Rights and the Rule of Law in Africa." *Institute for Security Studies Paper*, 2013, 1.



**Issue Brief for GA Fourth Committee:
Special, Political, and Decolonization**



***Protection of Human Rights and Fundamental Freedoms While Countering
Terrorism***

By: Petra M. Szonyegi
Old Dominion University Model United Nations Society

VII. Bibliography

Annan, Kofi. "Secretary-General's Statement.", The Special Meeting of The Counter-Terrorism Committee with Regional Organizations, New York, March 6, 2003.

Anthony Lewis, Introduction, in Karen J. Greenberg and Joshua L. Dratel, *The Torture Papers, The Road to Abu Graib*, Cambridge University Press, 2005. p. Xiii

Countering Terrorism, Protecting Human Right, OSCE Manual, p. 16. accessed at <http://www.osce.org/odihr/29103?download=true> on 9. 21. 2014.

Ford, Dr. Jolyon. "Counter-terrorism, Human Rights and the Rule of Law in Africa." *Institute for Security Studies Paper*, 2013, 1.

Oliver Ramsbotham, Tom Woodhouse, Hugh Miall, *Contemporary Conflict Resolution*, Polity Press, 2005. p. 252.

UN Resolution: United Nations. "Protection of human rights and fundamental freedoms while countering terrorism", General Assembly Resolution A/68/456/Add.2 (New York: United Nations, 18 December 2013).

Von Ness, Pamela M. "Guantanamo Bay Detainees: National Security or Civil Liberty?" *USAWC Strategy Research Project*, July 4, 2003. Accessed October 15, 2014. <http://fas.org/man/eprint/vonness.pdf>.