

Rights Groups Challenge UN Blacklist in Court

ICLMG and BCCLA challenge UN 1267 anti-terrorism sanctions regime

June 1, 2010 - Canada's participation in the U.N.'s anti-terrorism sanctions regime, also known as the "1267 Regime", is being challenged in Federal Court by rights groups. The BC Civil Liberties Association (BCCLA) and the International Civil Liberties Monitoring Group (ICLMG), in conjunction with Abousfian Abdelrazik, launched a lawsuit today.

The 1267 Regime is designed to limit the rights and freedoms of individuals alleged to have ties with terrorism, and the U.N.'s 1267 Committee maintains a list of such individuals, known as the "1267 List". Individuals placed on the 1267 List are subject to, among other things, an asset freeze and an international travel ban. They must petition the U.N. to access their own funds to pay for food and shelter.

Warren Allmand, for the ICLMG: "Individuals placed on the 1267 List are subjected to the most severe restrictions on their personal liberties, yet afforded none of the basic protections of procedural fairness absolutely fundamental to the rule of law."

Individuals are placed on this list without notice, and until recently, could not be told why they were even placed on the list to begin with. Once placed on the 1267 List, individuals have no recourse to judicial – or even independent – review to challenge the listing. Challenges to a listing are reviewed by an ombudsperson appointed by the U.N. – the very body responsible for compiling the 1267 List in the first place. A Canadian citizen can be placed on the 1267 List by a foreign nation without any independent review by Canada.

The 1267 Regime has drawn criticism from Canada's Federal Court, the United Nations' own experts, and the European Court of Justice. Earlier this year, the House of Lords struck down the domestic implementation of the 1267 Regime in the United Kingdom, criticizing the lack of an effective judicial remedy against a listing by the UN's 1267 Committee.

Carmen Cheung, Counsel at the BCCLA : "The protection of rights is at the core of the UN's mission. The UN Charter's requirement that all state parties implement directives contained in Security Council

Resolutions simply cannot extend to practices that are patently at odds with basic principles of fairness and due process. It would run counter to the very notion of the rule of law – the bedrock upon which all international human rights is built.”

BACKGROUND

How is the 1267 Regime implemented in Canada?

Section 2 of the *United Nations Act*, R.S.C. 1985, c. U-2, permits the Governor in Council to make orders or regulations to implement measures requested by the U.N. Security Council. The requirements set out in Security Council Resolution 1267 and other related Security Council Resolutions are implemented into Canadian law via regulations issued by Order in Council; these regulations are known collectively as the *United Nations Al-Qaida and Taliban Regulations*, SOR/99-444.

What are the effects of the United Nations Al-Qaida and Taliban Regulations?

The *United Nations Al-Qaida and Taliban Regulations* place a freeze on the assets and resources of any individual or entity named on the UN’s 1267 List. The *Regulations* also prohibit any person in Canada, or any Canadian citizen outside of Canada, from directly or indirectly providing any funds, property or financial resources to listed individuals. Third parties – including employers – who wish to provide listed individuals with money are also required to petition the United Nations for permission. Pursuant to the *United Nations Act*, any individual breaching the *Regulations* may be subject to criminal liability and face imprisonment of up to 10 years.

Are there any Canadians currently on the 1267 List?

Abousfian Abdelrazik, a party in this lawsuit, remains the only Canadian citizen on the 1267 List, despite the fact that both the Canadian Security Intelligence Service and the Royal Canadian Mounted Police have cleared him of involvement in any criminal activities. Mr. Abdelrazik was listed on July 31, 2006.

Since his listing, Mr. Abdelrazik has been subjected to an asset freeze at the direction of the Canadian government. He has had difficulty finding employment because potential employers would have to petition the United Nations for permission to pay his wages. Recently,

the Canadian government attempted to invoke his status on the 1267 List as justification for denial of his *Charter* rights to return home to Canada; ultimately, the Federal Court rejected Canada's position and ordered Mr. Abdelrazik's repatriation.