

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists to advise and make recommendations as to the primacy of the rule of law in anti-terrorism measures.

In particular the Advisory Council of Jurists is asked to consider:

- (i) how international human rights instruments and standards define “terrorism”, particularly with reference to other rights including the right to freedom of association, freedom of expression;
- (ii) the reasons for which a person can be deprived of their liberty under international law;
- (iii) the length of time for which a person can be detained without being charged with an offence under international law;
- (iv) the nature of special protections that should be extended to minors when imprisoned, detained or searched in accordance with international law;
- (v) the safeguards to be followed in the event of imprisonment or detention of a person in accordance with international law (eg, access to lawyers and consular assistance);
- (vi) what safeguards are stipulated by international law relating to the right to a fair trial in the event a person is charged with an offence;
- (vii) the manner in which search and seizure powers can be exercised in accordance with international law;
- (viii) the international human rights standards relevant to determining the penalties that can be imposed for committing acts associated with “terrorism”;
- (ix) the international human rights standards that can be derogated from and in what circumstances;
- (x) the relationship between anti-terrorism measures and the rights to seek asylum and to non-refoulement; and
- (xi) the nature of the obligations on States under international human rights instruments and standards which are to be kept in view while enacting and implementing anti-terrorist legislations, at the same time maintaining the primacy of the rule of law.

Relevant international law would include but is not limited to:

- the International Covenant on Civil and Political Rights;
- the Convention on the Rights of the Child;
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- *Basic Principles on the Role of Lawyers*, adopted by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, 1990;
- *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, GARes 43/173 of 9 December 1988;
- *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, ("The Beijing Rules"), GARes 40/33, 1985.