The United Nations 1267 List - Quick Facts

> *"I add my name to those who view the 1267 Committee regime as a denial of basic legal remedies and as untenable under the principles of international human rights. There is nothing in the listing or de-listing procedure that recognizes the principles of natural justice or that provides for basic procedural fairness…. (…) It can hardly be said that the 1267 Committee process meets the requirement of independence and impartiality when, as appears may be the case involving Mr. Abdelrazik, the nation requesting the listing is one of the members of the body that decides whether to list or, equally as important, to de-list a person. The accuser is also the judge."* - Federal Court Justice Russel Zinn, 4 June 2009

What is the 1267 list?

United Nations Security Council Resolution 1267 established a sanctions regime in 1999. Individuals and groups who are "listed" by the 1267 Committee are subject to: a) a travel ban; b) an arms embargo; and c) an asset freeze. For the individuals who are on the list, it is a "prison without walls".

History

The 1267 List was established in 1999 after the US embassies were bombed in Kenya and Nairobi. In 2001, after an attack on several targets within the United States, it was renamed and broadened to target Al Qaeda as well as the Taliban. The resolution was thus adopted to serve a political purpose within a specific conflict. However, it has since come to serve other states in their political pursuits, such as Russia in its Chechnyan conflict and the Philippines in its internal conflicts.

Listing

Individuals are listed on the initiative of a member of the UN Security Council. Prior to 2002, it seems that no information was required to support a listing request. States are currently required to provide a "statement of case" to support their allegation that an individual is "associated with" the Taliban or Al Qaeda and hence should be listed. According to the "guidelines" published on the 1267 committee website, "A criminal charge or conviction is not a prerequisite for listing as the sanctions are intended to be preventive in nature." In fact, no crime need have taken place; listing is based on "association". Individuals are not notified prior to listing; they are not provided with the statement of claim nor given a hearing in which they could respond to allegations. Prior to 2008, the listed individual was given no information about why their name appeared on the list; in response to growing criticism, a simple narrative summary of the allegations – with no supporting evidence – is now published on the website of the 1267 Committee.

Delisting

Countries can petition to have someone removed from the list. Individuals can also apply to be delisted. In both cases, the decision to delist requires consensus among all members of the Security Council, including the state who put the individual on the list in the first place. From a due process perspective, this means that the judge and the accuser are the same. No reasons need be given for refusing a delisting request. The record indicates that individuals are only delisted if their country of citizenship not only applies, but actively lobbies to have their national delisted. In 2008, the Security Council acknowledged that "[i]t is far easier for a nation to place an individual or entity on the list than to take them off." (Update Report 1267, 21 April 2008).

What is the ombudsperson?

Faced with mounting criticism of their blacklist regime, the Security Council embarked on a whitewashing exercise; creating, in December 2009, an ombudsperson to receive delisting requests from listed individuals. Unfortunately, the ombudsperson does not represent any real change to the delisting process. The ombudsperson is tasked with gathering, checking, collating and analysing information, communicating with the listed individual, and writing a report. (Read the mandate for yourself - see Article 20 and Annex II in the UN resolution 1904 linked at www.peoplescommission.org/en/abdelrazik/1267.php.) Her mandate provides her with no significant power over the outcome of a delisting application, not even the power to make recommendations. In the end, the decision to approve or reject a de-listing application remains entirely at the discretion of the fifteen states who are Security Council members, any one of whom can veto a delisting application without an obligation to provide any reason for doing so. Worse still, the basis of the list is as problematic as ever: the elastic concept of "association". The first appointment to the office of ombudsperson, former Canadian Judge Kimberly Prost, was announced on 7 June 2010 – the same day that Abousfian Abdelrazik filed a constitutional challenge to the blacklist in Canadian courts.

Implementation in Canada

The list is implemented in Canada by the “United Nations Al Qaeda and Taliban Regulations” under the *United Nations Act*. These were adopted by Order in Council in 1999 and have since been overhauled. They have never been reviewed by Parliament but were subject to a legal challenge by Liban Hussein in 2002. The challenge was withdrawn after Mr. Hussein’s name was removed from the list (see below).

The regulations make it illegal to “knowingly provide or collect by any means, directly or indirectly, funds with the intention that the funds be used, or in the knowledge that the funds are to be used” by people on the list, “deal directly or indirectly in any [of their] property”, “enter into or facilitate, directly or indirectly, any financial transaction related to a dealing in [their] property”, “provide any financial services or any other services in respect of any [of their] property” or “make any property or any financial or other related service available, directly or indirectly” to someone on the list. In other words, it is illegal to give any material aid or financial service to someone on the list. The regulations establish a “delisting process” by which a listed individual can ask Canada to petition the UN Security Council on their behalf. If Canada refuses to do so, the refusal is subject to a Federal Court review resembling the security certificate process.

Who is on the list

Almost one-third of the individuals on the list are Afghan nationals (“associated with” the Taliban); and the others hail from a wide variety of other countries including Algeria, Bahrain, Chechnya, China, Egypt, India, Indonesia, Iraq, Kashmir, Kenya, Kosovo, Kuwait, Malaysia, Morocco, Palestine, Pakistan, the Philippines, Qatar, Saudi Arabia, Somalia, Syria, Tanzania, Tunisia, Turkey, Uzbekistan, Yemen. A few western nationals or people living in the west – including Belgium, Britain, Canada, France, Germany, Ireland, Italy, Norway, Switzerland – are also listed. There are also a range of organizations and businesses on the list. As of mid-2010, there were over 440 entries (individuals and organizations) on the list.

Canadians on the list

Abousfian Abdelrazik is the only Canadian currently on the 1267 list. Ahmed Said Khadr was delisted on April 22, 2010. He had been dead since October 2, 2003. The Canadian government submitted a delisting request on behalf of Abousfian Abdelrazik – after both CSIS and RCMP cleared him – in 2007. The Security Council refused the request; no reasons were provided for the refusal. At least one other Canadian was listed, Somalian-born Liban Hussein. Mr. Hussein was listed in November 2001. He was removed from the list in July 2002, after Canada requested his removal in June 2002. Interestingly, before his name was delisted, the sanctions against him were suspended in Canada; the government at the time amended the regulations implementing the 1267 list in Canada to exempt Mr. Hussein.