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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Terrorism and human rights

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 76/169. In the report, it is emphasized that countering terrorism and respecting, protecting and promoting human rights should be viewed as complementary, rather than separate, objectives, and that law enforcement and military responses must be complemented by preventive measures that tackle the conditions conducive to terrorism. Persistent concerns relating to national counter-terrorism legislation, due process and fair trial, and the impact of counter-terrorism measures on civic space are also highlighted in the report. In addition, consideration is given to the use of new technologies in counter-terrorism efforts - and the situation of third-country nationals with suspected ties to designated terrorist groups.

* A/78/150.
I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 76/169. In the resolution, the Assembly reaffirmed its unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism conducive to terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as well as its profound solidarity with the victims of terrorism and their families, and acknowledged the importance of protecting their rights and providing them with proper support, assistance and rehabilitation while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity. The Assembly further reaffirmed that States must ensure that any measure taken to combat terrorism complied with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law. In addition, the Assembly expressed serious concern at the violations of human rights and fundamental freedoms and of international refugee law and international humanitarian law in the context of countering terrorism and violent extremism conducive to terrorism and urged States to fully comply with their obligations under international law while countering terrorism, in particular international human rights law, international refugee law and international humanitarian law, with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

2. The Assembly also stressed the importance of ensuring access to justice and accountability and called upon States to ensure that any person who alleged that his or her human rights or fundamental freedoms have been violated by measures taken or means employed to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy.

3. The report covers the period from July 2021 to June 2023 and is focused on the latest developments related to human rights concerns in the context of countering terrorism and violent extremism conducive to terrorism. References are also made to recommendations by international human rights mechanisms as well as those contained in other United Nations reports. Conclusions and recommendations are also provided on measures to be considered by Member States and other stakeholders.

II. Respecting human rights and countering terrorism

4. The seventy-fifth anniversary of the adoption of the Universal Declaration of Human Rights in 2023 presents an opportunity to reaffirm the commitment to the enduring principles enshrined in the Declaration and to the human rights mechanisms of the United Nations. At the same time, it is imperative that tangible action be taken to address the myriad challenges encountered in achieving the objectives of the Declaration, particularly in the context of counter-terrorism.

5. International law imposes obligations on States to combat terrorism. Within the framework of international human rights law, States are obliged to respect, protect and fulfil the rights of all individuals within their territory and subject to their jurisdiction. It is crucial to note that the implementation of counter-terrorism measures must comply with international human rights law, which, inter alia, sets out specific requirements for the lawfulness of such measures. In this context, in successive resolutions, the General Assembly and the Human Rights Council have underscored the mutually reinforcing and complementary nature of counter-terrorism and human rights, emphasizing the integration of the respect for human rights and gender equality considerations into all counter-terrorism efforts. The Secretary-
General has repeatedly stressed that counter-terrorism strategies devoid of respect for human rights are likely to be ineffective, as they create new or exacerbate pre-existing vulnerabilities that can be exploited by terrorist groups. Consequently, placing international human rights law and the rule of law at the core of all counter-terrorism policies is of paramount importance.

6. Acts of terrorism have far-reaching impacts on the exercise of all human rights and fundamental freedoms. They endanger peace and security, erode the pillars of democracy, good governance and civil society, hinder social and economic advancement, and disproportionately affect those marginalized, with women and children bearing the brunt of the impacts. In addition, terrorism poses a global challenge to the United Nations purposes of upholding peace and security, fostering sustainable development, advancing human rights and providing vital humanitarian aid to those in need.

7. Recently, the United Nations Global Counter-Terrorism Strategy underwent its eighth review, which resulted in a welcome retention in the Strategy of the existing human rights and gender equality language. In addition, the review process involved an encouraging level of engagement with civil society organizations, including the holding of town hall meetings specifically focused on women-led civil society organizations. The United Nations Global Counter-Terrorism Strategy espouses a holistic approach to addressing terrorism that encompasses four pillars, namely, measures to address the conditions conducive to the spread of terrorism; prevent and combat terrorism; build States’ capacity to prevent and combat terrorism and strengthen the role of the United Nations system in this regard; and ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.

8. With a view to supporting the successful outcomes of counter-terrorism measures, a range of guidance was issued during the reporting period by United Nations entities, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Office of Counter-Terrorism. For example, the Working Group on Protecting and Promoting Human Rights, the Rule of Law and Supporting Victims of Terrorism of the United Nations Global Counter-Terrorism Coordination Compact published a human rights reference guide that articulates principles regarding the national proscription of organizations in counter-terrorism contexts. In 2022, the Office of Counter-Terrorism, the United Nations Office on Drugs and Crime and the Inter-Parliamentary Union jointly published model legislative provisions aimed at supporting the needs and protecting the rights of victims of terrorism. Moreover, OHCHR is implementing a two-year project on model national human rights-based counter-terrorism responses, with the objective of offering interdisciplinary guidance to Governments, among others, and assisting them in designing and implementing effective counter-terrorism strategies with a human rights-based approach through the development of practical tools.

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III. Persistent human rights issues in counter-terrorism efforts

9. States are required to implement various measures to prevent and counter terrorism. However, certain measures have had adverse effects on the exercise of human rights and are therefore unlikely to be effective in the fight against terrorism. The following section outlines significant human rights issues that persist in the context of counter-terrorism efforts.4

A. Counter-terrorism legislation

10. The absence of a universally accepted definition of terrorism has resulted in divergent definitions in national legislation. Nonetheless, an international legal framework exists and provides guidance on possible definitions of terrorism, and intergovernmental organs have taken some steps to guide the legislative efforts of Member States. For example, the General Assembly has emphasized that national legislation criminalizing terrorism should be accessible, precise, non-discriminatory, non-retroactive and fully compliant with international law, including international human rights law.5 Criminal laws must adhere to the principles of legality and legal certainty. Furthermore, any limitations established by or based on counter-terrorism legislation must comply with international human rights law.

11. The principles of legality and legal certainty, firmly enshrined in international human rights law, are aimed at preventing arbitrary, unjust and retroactive punishment and ensure fairness in criminal legislation and proceedings. Ambiguous, vague or overbroad criminal laws, including those related to counter-terrorism, create uncertainty regarding what actions are considered criminal and may hinder individuals’ ability to fairly defend themselves. Prohibited conduct in criminal law should also be clearly formulated and sufficiently foreseeable in order to enable individuals to regulate their conduct accordingly.6

12. The Secretary-General, the High Commissioner for Human Rights and United Nations human rights mechanisms have consistently expressed concerns that domestic laws criminalizing terrorism-related offences are often drafted using vague language.7 Such laws may readily lead to unnecessary or disproportionate interference with certain rights, such as the right to freedom of expression, the right to freedom of association and the right to peaceful assembly. The Human Rights Committee, for instance, has repeatedly raised concerns regarding the adoption by States parties of laws that define terrorism offences in broad and vague terms, questioning whether such laws comply with the principles of legality and legal certainty.8

13. Some laws are not only contrary to the principles of legality and legal certainty but may result in expansive or otherwise heavy-handed implementation, leading to ineffective and counterproductive counter-terrorism responses. In some contexts, States have enacted laws criminalizing acts of “encouragement”, “glorification” or “justification” of terrorism in ways that could also lead to undue interference with

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4 Some of these trends have been addressed in previous reports of the Secretary-General. See, for example, A/76/273 and A/74/270.

5 General Assembly resolutions 72/180, para. 5 (α), and 73/174, para. 18.


7 In, for example, A/76/273, para. 15; A/HRC/45/27, para. 16; and CCPR/C/ISR/CO/5, paras. 18 and 19, CAT/C/ARE/CO/1, para. 17, CCPR/C/Egypt/CO/5, paras. 13 and 14, respectively.

8 See, for example, CCPR/C/KEN/CO/4, para. 16; CCPR/C/PER/CO/6, para. 14; CCPR/C/TKM/CO/3, para. 20; CCPR/C/LKA/CO/6, para. 16; CCPR/C/Egypt/CO/5, para. 13; CCPR/C/PHL/CO/5, para. 13 (b); CCPR/C/RUS/CO/8, para. 18.
certain rights, notably the right to freedom of expression. The Human Rights Committee has emphasized that while acts of terrorism should be criminalized in accordance with international law, the definition of such crimes must not be overly broad or discriminatory, nor should it curtail or discourage the exercise of the right of peaceful assembly.

14. The practice of misusing counter-terrorism laws, with broad and vague definitions, to unduly restrict fundamental freedoms was also observed in the online space. In a recent report by OHCHR, it was noted that global concerns surrounding cybercrime, terrorism, hate speech and incitement online have led to the implementation of weakly formulated laws worldwide, without sufficient diligence in conducting human rights impact assessments and engaging in meaningful consultations. Unfortunately, instead of fostering safety online, there is a risk that such laws, including counter-terrorism laws, may create opportunities for arbitrary State interventions and curtail civic space and fundamental freedoms.

15. The High Commissioner for Human Rights has highlighted that Security Council resolution 1566 (2004) and the model definition of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provide guidance on the cumulative characteristics of acts of terrorism. In its resolution 1566 (2004), the Security Council called upon States to cooperate fully in the fight against terrorism and, in doing so, to prevent and punish criminal acts, including against civilians, that have the three cumulative characteristics of being committed with the intent to cause death or serious bodily injury, or taking of hostages; being committed with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act; and constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism. Second, in 2010, the Special Rapporteur proposed a model definition of acts of terrorism that is aligned with the three cumulative characteristics set out by the Security Council.

Against this background, recommendations have been made for States to conduct a review of their laws and regulations on terrorism to ensure they are in line with international human rights standards.

16. Given the continuing proliferation of long-standing and emerging forms of violent extremism conducive to terrorism, such as those based on xenophobia, racism and other forms of intolerance, or in the name of religion or belief, States continue to enact new legislation to criminalize associated offences, including “extremist activity”. The Special Rapporteur has cautioned against the vagueness and problematic nature of crimes defined with the term “extremism”, noting that without specifying the qualifier “violent extremism conducive to terrorism”, the term “extremism” remains overly broad and ambiguous and may encroach on human rights (A/HRC/43/46, para. 14). Therefore, it is imperative for States to learn from the lessons of the past decade and ensure that criminal and administrative offences

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9 See CCPR/C/GC/34, para. 46.
10 CCPR/C/GC/37, para. 68.
11 OHCHR, Human rights impacts of new technologies on civic space in South-East Asia (2023), pp. 20–23 and 31.
13 A/HRC/16/51, para. 28.
14 See, for example, A/HRC/50/8, para. 31.114; A/HRC/50/10, para. 137.58; and communication NZL 1/2021, available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments.
15 See A/HRC/50/49, para. 35; and A/76/273, para. 44.
16 See, for example, A/HRC/49/12, paras. 123.1, 123.46, 123.154 and 123.164; and CCPR/C/UZB/CO/5, para. 20.
17 As provided in the Secretary-General’s Plan of Action to Prevent Violent Extremism (A/70/674).
connected with terrorism and related terms are precisely and legally defined in accordance with international human rights law.\(^{18}\)

**B. Civic space and counter-terrorism**

17. In “The highest aspiration: a call to action for human rights”, the Secretary-General identifies civic space and participation as overarching guiding principles to advance the human rights agenda. Moreover, the United Nations Guidance Note on the Protection and Promotion of Civic Space highlights civic space and participation as a precondition for sustaining peace, achieving development and realizing human rights. Civil society organizations, particularly local and women’s groups, play a crucial role in fostering dialogue, understanding and coexistence, and in promoting an environment that is not conducive to the incitement of terrorism.\(^{19}\) Their involvement is essential for achieving the goals of more inclusive multilateralism outlined by the Secretary-General in his report entitled “Our Common Agenda”, and it is incumbent on all parts of the United Nations system to include civil society in their work across all the pillars of United Nations activities.\(^{20}\)

18. In the same spirit, in its resolution 76/169, the General Assembly urged States to safeguard the work of civil society and acknowledged the valuable role of civil society organizations in enhancing States’ efforts to protect human rights while countering terrorism. It also called on States to ensure that counter-terrorism measures and preserving national security do not impede the work and safety of these organizations. Similarly, in accordance with its review of the United Nations Global Counter-Terrorism Strategy, the General Assembly has encouraged Member States and the Global Counter-Terrorism Coordination Compact entities to continue engagement with civil society and create and maintain an enabling environment for civil society, in particular women-led civil society organizations, including a legal framework that protects and promotes human rights.\(^{21}\)

19. In some contexts, however, measures to counter terrorism are applied in a manner that restricts civic space and hinders the work of civil society.\(^{22}\) Practices such as arbitrarily depriving people of their liberty and restricting their movement\(^{23}\) and criminalizing the work of civil society\(^{24}\) pursuant to ill-defined terrorism-related offences remain a significant concern.\(^{25}\) Other concerning practices include labelling a range of civil society actors, including human rights defenders and protesters, as terrorists,\(^{26}\) as well as unnecessary or disproportionate use of force by law

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18 See A/76/273, para. 51.
19 See United Nations, Office of Counter-Terrorism, “For a future free from terrorism: the role of human rights, the role of law and civil society engagement in effective counter-terrorism efforts”, outcome document of the High-Level International Conference on Human Rights, Civil Society and Counter-Terrorism, Malaga, Spain, May 2022, annex VII. The civil society outcome document is also mentioned in A/77/718, footnote 20.
21 General Assembly resolutions 75/291, para. 10, and 77/298, para. 10.
22 See, for example, A/HRC/40/52; and A/70/371.
24 See, for example, CCPR/C/ISR/CO/5, paras. 48 and 49; and CRC/C/PHL/CO/5-6, para. 18 (b).
26 See, for example, A/77/718, para. 61; and A/HRC/52/25, paras. 72 and 73.
enforcement in the context of protests\textsuperscript{27} and acts of reprisals against those who report on such violations to the United Nations system.\textsuperscript{28}

20. In addition, counter-terrorism measures have been shown to have a disproportionate impact on certain ethnic and religious minorities,\textsuperscript{29} including on their exercise of the rights to freedom of religion and expression, as well as on a range of civil society actors,\textsuperscript{30} such as human rights defenders,\textsuperscript{31} including women human rights defenders\textsuperscript{32} and persons with disabilities,\textsuperscript{33} journalists\textsuperscript{34} and members of the political opposition\textsuperscript{35}.

21. While proscription and related targeted sanctions are in principle recognized as available measures contributing to the prevention of terrorism,\textsuperscript{36} in practice, national criteria for the listing and proscription of organizations raise recurring concerns regarding their compliance with international human rights standards, including the principle of non-discrimination, due process guarantees and the right to an effective remedy.\textsuperscript{37} There have been instances where proscription has been used against civil society organizations and human rights defenders seemingly to prevent their lawful exercise of rights or as a reprisal for criticism or dissent.\textsuperscript{38} The misuse of proscription can also predominantly affect certain ethnic and religious groups or indigenous peoples, including those who defend the rights of such groups.\textsuperscript{39}

22. Freedom of expression online is also increasingly restricted under counter-terrorism justifications. Besides the impact of ill-defined counter-terrorism laws on civic space discussed above, some States have exerted undue influence on private companies to engage in the moderation or removal of online content,\textsuperscript{40} which could lead to unjustified restriction on content. Vague definitions of terrorism\textsuperscript{41} and the lack of robust judicial oversight\textsuperscript{42} further compound the issue, as the line between lawful and unlawful content is blurred and the scrutiny over the decisions made by these private entities is limited. Consequently, the right to freedom of expression and access to information online are at stake. Moreover, to cope with the vast amount of online

\textsuperscript{27}See, for example, communication KAZ 1/2022, available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

\textsuperscript{28}See, for example, communication EGY 9/2022, available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments; and A/HRC/51/47, para. 119, and annex I, paras. 35 and 77.

\textsuperscript{29}See, for example, A/HRC/43/46/Add.1, paras. 21, 24–26; A/HRC/41/54/Add.2, para. 48; A/HRC/49/45/Add.1, para. 35; and communications NZL 1/2021 and CHN 12/2022, CHN 12/2022, available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments.


\textsuperscript{31}See, for example, A/HRC/50/59, para. 51.

\textsuperscript{32}See, for example, CEDAW/C/TUR/CO/8, para. 39.

\textsuperscript{33}See, for example, CRPD/C/CHN/CO/2-3, paras. 73 and 74.

\textsuperscript{34}See, for example, CCPR/C/EGY/CO/5, para. 45.

\textsuperscript{35}See, for example, United Nations, OHCHR, “Arrest of perceived political opponents and civil society in Tunisia”, press briefing note, 14 February 2023.


\textsuperscript{37}See, for example, A/HRC/50/49, para. 15; and Global Counter-Terrorism Coordination Compact, Basic Human Rights Reference Guide: Proscription of Organizations in the Context of Countering Terrorism (United Nations, 2021), pp. 7 and 8.

\textsuperscript{38}A/HRC/49/25, paras. 35–40; and CCPR/C/ISR/CO/5, para. 18.

\textsuperscript{39}A/HRC/50/49, para. 16.

\textsuperscript{40}See A/HRC/50/49, paras. 23 and 24; and A/HRC/38/35, paras. 19 and 20.

\textsuperscript{41}See, for example, communications OTH 46/2018, OTH 73/2020 and OTH 229/2021, available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

\textsuperscript{42}See, for example, CCPR/C/DEU/CO/7, para. 46. See also United Nations, OHCHR, “Moderating online content: fighting harm or silencing dissent?”, 3 July 2021.
content, platforms increasingly rely on automation and artificial intelligence for content moderation. However, these technologies pose significant human rights risks (see sect. III. D). Automated tools are imprecise in detecting harmful content and can inadvertently suppress protected speech under counter-terrorism justifications;\(^{43}\) such suppression could be further intensified when online platforms use broad and vague definitions of, or rules on, terrorism and related terms, such as extremism.\(^{44}\)

23. United Nations entities have increased efforts to encourage and support civil society’s participation in its counter-terrorism initiatives. An instance of this is the High-Level International Conference on Human Rights, Civil Society and Counter-Terrorism, convened by the Office of Counter-Terrorism and the Government of Spain in 2022; civil society participated in the design and implementation of the event as well as in the preparation of the Conference outcome document.\(^{45}\) The potential to further develop and explore such involvement by civil society in future activities has been recognized.\(^ {46}\) Similarly, the United Nations Office on Drugs and Crime continues to facilitate multi-stakeholder engagement in the implementation of conventions, including through constructive dialogues with civil society.

24. OHCHR, in its capacity as the Chair of the Working Group on Protecting and Promoting Human Rights, the Rule of Law and Supporting Victims of Terrorism of the Global Counter-Terrorism Coordination Compact, is developing a checklist for civil society actors on engagement avenues with the United Nations counter-terrorism architecture as well as an advocacy brief on counter-terrorism and civic space. OHCHR also continues to engage with civil society organizations by providing them a platform to interact with members of the Working Group.

C. **Administration of justice and the death penalty in contexts of counter-terrorism**

25. Accountability for serious violations of international humanitarian and human rights laws is crucial for upholding the rule of law, deterring future abuses and violations, and providing justice for victims. States should investigate, prosecute and punish perpetrators of human rights violations and harm caused by non-State entities.\(^ {47}\) Moreover, States are obliged to take adequate preventive measures in order to protect individuals against acts of terrorism, including against reasonably foreseen threats to human rights, including the rights to life and security, posed by terrorist groups.\(^ {48}\)

26. In the same spirit, in its resolution 76/169, the General Assembly emphasized the need to consider aspects of remembrance, dignity, respect, justice and truth, in a manner that fosters accountability and puts an end to impunity. It also reiterated the importance of access to justice and the right to an effective remedy. Moreover, the Assembly stressed the importance of developing and maintaining transparent and accountable criminal justice systems that fully respect the rights to equality, non-discrimination and a fair trial as well as other fundamental judicial guarantees.

\(^{43}\) A/HRC/50/49, para. 29.


\(^{46}\) See A/77/718, para. 63.

\(^{47}\) CCPR/C/21/Rev.1/Add.13, paras. 8 and 18.

\(^{48}\) CCPR/C/GC/36, para. 21.
During the reporting period, States have continued to take steps to bring persons suspected of terrorism-related offences to justice. In a significant milestone, for example, the Federal Court of Justice of Germany confirmed the conviction of a member of Da’esh for the crime of genocide, crimes against humanity and a war crime, while the Higher Regional Courts of Hamburg and Koblenz convicted other members of Da’esh for crimes against humanity, war crimes and aiding and abetting genocide against the Yazidi community. These convictions demonstrate progress in holding Da’esh accountable for its atrocities, a challenge that Member States continue to face. To further enhance accountability, the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/Islamic State in Iraq and the Levant has expanded its investigative efforts, digitizing evidence and offering support to 14 Member States in organizing evidence from conflict zones and conducting interviews with survivors and witnesses.\(^{49}\)

At the same time, human rights violations persist in the context of holding suspects of terrorism-related offences accountable. The 2020 report by the High Commissioner for Human Rights on criminal accountability remains instructive in this regard; it sets out key persistent human rights violations that hinder accountability in line with international standards. The fact that failure to prioritize the rule of law and human rights in counter-terrorism action can be counterproductive and fuel the spread of terrorism and violent extremism is also reaffirmed in the report.\(^{50}\)

Generally, insufficient consideration of due process and fair trial guarantees in terrorism-related legal proceedings continues to be apparent in many jurisdictions.\(^{51}\) There are also concerns regarding allegations of torture and ill treatment,\(^{52}\) overreliance on coerced confessions,\(^{53}\) and long periods of detention without adequate judicial oversight.\(^{54}\) All such practices are prohibited under international human rights law and are counterproductive to eliminating the threat of terrorism. In effect, subjecting individuals to human rights violations while in custody with limited, if any, access to redress and justice not only fails to achieve the intended objectives, but also undercuts any preventive impact of accountability efforts and serves as a catalyst for radicalization and violence.

Of particular concern is the imposition of the death penalty in various countries for terrorism-related offences that fail to meet “the most serious crimes” threshold, which, as stated by the Human Rights Committee, applies to crimes of extreme gravity involving intentional killing under article 6 of the International Covenant on Civil and Political Rights.\(^{55}\) While some States continued to implement counter-terrorism legislation that provides for the death penalty for crimes falling short of this...
threshold,\textsuperscript{56} which at times generated a particularly negative effect on members of certain ethnic groups.\textsuperscript{57} Other States have expanded the application of the death penalty to other terrorism-related crimes.\textsuperscript{58} Special procedures mandate holders of the Human Rights Council have also expressed grave concerns about draft legislation that aims to reinstate the death penalty for persons defined as terrorists. These concerns are compounded when convictions are secured through proceedings that fail to meet fair trial and due process guarantees.\textsuperscript{59} Children have also faced the death penalty for terrorism-related offences in several countries, in contravention of international standards.\textsuperscript{60}

31. Another area of concern is the limited progress made in prosecuting sexual and gender-based violence committed by members of terrorist groups or in the context of countering terrorism.\textsuperscript{61} Sexual violence continues to be employed as a tactic of war, torture and terrorism; however, accountability for crimes of sexual violence perpetrated by members of terrorist groups remains low.\textsuperscript{62} There is an urgent need for enhanced investment by the international community to break cycles of sexual violence and impunity. Accordingly, the Secretary-General called for renewed political and financial support by national, regional and international actors to tackle the root causes of conflict-related sexual violence and prevent it in the first instance.\textsuperscript{63} In this context, it is worth noting the support provided to respective authorities by the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, the United Nations Assistance Mission for Iraq, the United Nations Multidimensional Integrated Stabilization Mission in Mali, the United Nations Assistance Mission in Somalia and the United Nations Mission in South Sudan in implementing joint communiqués aimed at strengthening efforts to prevent and respond effectively to sexual violence in conflict situations.\textsuperscript{64}

D. Use of new technologies in counter-terrorism efforts

32. The emergence of technologies that can collect, analyse and synthesize massive volumes of data offers potential to address pressing problems of our times. Among these, artificial intelligence systems, especially those employing machine learning, stand out as a remarkable tool with the potential to tackle pressing global challenges. Such technologies also present significant opportunities in the fight against terrorism, amplifying the effectiveness of existing tools within the counter-terrorism domain.

33. However, the considerable power bestowed by artificial intelligence systems comes with risks. The High Commissioner for Human Rights and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism have cautioned about the use of artificial intelligence by States in the area of counter-terrorism, particularly given the far-
reaching implications for the rights to privacy, freedom of expression, non-discrimination, a fair trial and other human rights. They expressed concerns about the use of artificial intelligence-based decisions to trigger State actions, emphasizing that artificial intelligence should not be the sole means for establishing reasonable suspicion, stressing that the opacity of decision-making based on artificial intelligence poses challenges in terms of transparency and accountability, hindering the exercise of human rights.65

34. The integration of robust human rights guardrails becomes crucial as initiatives utilizing artificial intelligence for counter-terrorism expand. The absence of such safeguards will exacerbate the human rights concerns already associated with counter-terrorism, and novel impacts particular to the use and power of artificial intelligence will arise. To assist States in making human rights-compliant and effective use of artificial intelligence in counter-terrorism efforts, OHCHR is producing, in partnership with the United Nations Interregional Crime and Justice Research Institute and the Office of Counter-Terrorism, practical guidance on the human rights aspects aimed primarily at policymakers, counter-terrorism practitioners and technology professionals who assess the regulation and use of artificial intelligence in counter-terrorism activities.

35. Surveillance measures are also increasingly becoming a key part of States’ efforts to combat terrorism. This includes giving law enforcement and security agencies more authority to engage in targeted or bulk surveillance activities. Such measures often risk contravening international human rights law, specifically in relation to the rights to privacy and to non-discrimination, particularly as surveillance operations tend to disproportionately target minorities and marginalized communities.66 To comply with international human rights law, surveillance measures should be provided by law, be targeted and address a concrete legitimate aim, such as averting a specific threat to public safety or security, and be necessary and proportionate for the protection of such aim. They should also be limited, focused on specific locations and times.67

36. The rights to non-discrimination and privacy are also affected by the growth in use of biometric technologies in counter-terrorism activities.68 The Security Council, in its resolution 2396 (2017), required Member States to develop systems to collect biometric data in order to identify suspected terrorists, while respecting human rights and fundamental freedoms and consistent with States’ obligations under domestic and applicable international law. Facial recognition in particular entails significant risks of profiling individuals on the basis of race, ethnicity and religion.69 It can be used for illegitimate purposes under the justification of countering terrorism, such as identifying participants in assemblies.70 Despite ongoing regulatory and legislative efforts to control the use of facial recognition and other biometric surveillance tools,
many authorities are still using these systems, including when conducting counter-terrorism activities, without appropriate human rights safeguards.\textsuperscript{72}

37. Information and communications technology (ICT) has also proved to be a double-edged sword from a security and human rights standpoint. Such technology has facilitated tremendous advances in terms of connecting people and the ability to instantly share information across the globe. At the same time, Member States are increasingly concerned by the exploitation of the Internet and social media platforms by terrorist groups to spread disinformation, incite violence, recruit new members and facilitate financial activities and the procurement of weapons.\textsuperscript{73} In this respect, the General Assembly has called on Member States to be vigilant about the use of ICT for terrorist purposes, emphasizing the need for cooperation to prevent and counter violent extremist propaganda and incitement to violence on the Internet and social media, including by developing effective counter-narratives, while respecting human rights and fundamental freedoms.\textsuperscript{74}

38. There are concerns, however, that States’ efforts to address the misuse of ICT by terrorist groups have generated negative impact on human rights.\textsuperscript{75} States have been increasingly imposing Internet shutdowns under the justification of maintaining public order and protecting national security. Such measures consist of blocking or reducing Internet connectivity. A similar measure employed consists of blocking specific ICT services, such as telecommunications services, messaging and social media platforms. The duration of shutdowns and the blocking of other ICT services can range from hours to months and years.\textsuperscript{76}

39. The Human Rights Council has unequivocally condemned Internet shutdowns and called upon States to refrain from and to cease such measures.\textsuperscript{77} Similarly, the High Commissioner for Human Rights has expressed concerns about Internet shutdowns and has recommended States to refrain from the full range of such activities, in view of their indiscriminate and disproportionate impact.\textsuperscript{78} The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has also found that Internet shutdowns “invariably fail to meet the standard of necessity” and have been “generally disproportionate” in terms of their duration and geographic scope. In addition, contrary to Government assertions, “maintaining network connectivity may mitigate public safety concerns and help restore public order”.\textsuperscript{79}

40. The report submitted to the Human Rights Council by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in 2023 is particularly instructive regarding the adequate use of new technologies in counter-terrorism.\textsuperscript{80} The report is focused on the human rights challenges and consequences of the development, use and transfer of new technologies in the context of countering terrorism. While also acknowledging the potential of these technologies to enhance human rights, in the report, the Special Rapporteur highlights their misuse in violating and restricting human rights worldwide, emphasizing that counter-terrorism justifications often lead to the

\textsuperscript{72} See A/HRC/51/17 paras. 48 and 49. See also United Nations, OHCHR, “New and emerging technologies need urgent oversight and robust transparency: UN experts”, press release, 2 June 2023.

\textsuperscript{73} See A/77/718, para. 71.

\textsuperscript{74} General Assembly resolutions 76/169, para. 31, and 77/298, para. 40.

\textsuperscript{75} See A/77/718 para. 9; A/HRC/43/46/Add.1, para. 28.

\textsuperscript{76} A/HRC/50/55, paras. 21 and 22.

\textsuperscript{77} A/HRC/RES/47/16, para. 11.

\textsuperscript{78} See, for example, A/HRC/50/55, paras. 12, 13 and 66.

\textsuperscript{79} A/HRC/35/22, paras. 14 and 15. See also A/HRC/50/29, para. 20.

\textsuperscript{80} A/HRC/52/39.
adoption of intrusive technologies with the promise of limited application, which are then widely used without proper human rights safeguards. The Special Rapporteur calls for a moratorium on the use of certain technologies and a prohibition on their transfer under certain conditions. She also advocates for a moratorium on the transfer of surveillance technology and proposes a global regulatory framework for its use. A similar call to implement such a moratorium was expressed by the High Commissioner for Human Rights and the Special Rapporteur on the right to freedom of opinion and expression, stressing the urgent need to better regulate the sale, transfer and use of surveillance technology and ensure strict oversight and authorization.

41. Pursuant to the request of the General Assembly in successive resolutions, members of the Global Counter-Terrorism Coordination Compact have extended technical assistance to Member States to address new terrorism challenges, while emphasizing human rights prerequisites. For example, the Office of Counter-Terrorism, in partnership with the International Criminal Police Organization (INTERPOL) and other entities, carried out capacity-building programmes and conducted training in Bangladesh, Burkina Faso, Malaysia and Mongolia. These initiatives aimed to enhance counter-terrorism investigations using new technologies while upholding human rights, the rule of law and protecting critical infrastructure from terrorist cyberattacks.

42. The Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism held a special meeting on countering the use of new and emerging technologies for terrorist purposes in 2022, focusing on the abuse by terrorist actors of unmanned aerial systems, ICT and new online payment and fundraising methods. The engagement with many non-State stakeholders, including civil society organizations and academics, helped raise human rights issues linked with both the abuse of technology for committing terrorist acts and related responses by States and businesses.

43. The increased resort to new technologies by Member States as part of the counter-terrorism response requires purposeful deliberation and cautious consideration. This vigilance is necessary as the misuse of technology in this area is exacerbated by existing human rights concerns in the context of counter-terrorism, such as broad and unjustified legislation resulting from the lack of an internationally agreed definition of terrorism and counter-terrorism measures unduly interfering with human rights. Without careful scrutiny and oversight, the leveraging of such technology could lead to increased violations of human rights and aggravation of human rights concerns when countering terrorism. There is a need to assess the appropriateness, necessity and added value of new technologies before embracing them in counter-terrorism efforts to ensure they uphold human rights and the rule of law.

E. Individuals with alleged links to foreign terrorist fighters

44. Thousands of Syrian, Iraqi and third-country nationals who are suspected former Da‘esh members or have presumed family links to Da‘esh members, many of whom

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81 See A/HRC/41/35, paras. 2 and 66 (a); A/HRC/44/24, paras. 40 and 55 (j); and United Nations, OHCHR, “Use of spyware to surveil journalists and human rights defenders”, statement by the High Commissioner for Human Rights, 31 July 2021.
82 General Assembly resolutions 77/298, para. 42, and 75/291, para. 41.
83 S/2022/63, para. 75.
84 United Nations, “Security Council Counter-Terrorism Committee adopts Delhi Declaration, concluding special meeting in India”, 29 October 2022.
85 A/HRC/52/39, para. 11.
are women and children, continue to be held in dire conditions in displacement camps in areas controlled by de facto authorities in the north-east of the Syrian Arab Republic. They are detained in camps and other facilities for alleged or actual links to designated terrorist groups, with limited access to humanitarian assistance and in deplorable conditions that may amount to cruel or inhuman treatment. Many of them remain in legal limbo, unable to return to their country of nationality, and are being held indefinitely without having been tried or having meaningful access to legal remedies.

45. The impact of the coronavirus disease (COVID-19) pandemic and the economic collapse across the Syrian Arab Republic have only worsened the situation. Many of these individuals are subjected to human rights violations and abuses, and security within the camps has deteriorated significantly. Reported cases of killings, sexual and gender-based violence compounded by a lack of prevention or accountability mechanisms for such cases, as well as deadly clashes between internal security forces and individuals held in the camps continue to create an environment of trauma and despair, rendering the camps a breeding ground for violence and further compounding insecurity in the region.

46. The situation of children in the camps remains particularly dire. As of July 2023, an estimated 52,000 people, 60 per cent of whom are children and 80 per cent under the age of 12, are reportedly being held, most of them arbitrarily, in Hawl and Rawj camps. Children have limited access to health care and education. Moreover, there is a reported pattern of forcibly removing boys, separating them from their mothers and siblings and taking them to unknown locations when they reach a certain age. Against this background, children in these camps are deprived of enjoying their human rights. Special procedures mandate holders have expressed concern that serious harm may befall these boys, and fear that they are being forcibly disappeared and subject to sale, exploitation and abuse, and torture and inhuman and degrading treatment or punishment.


87 According to the Committee on the Rights of the Child, the prolonged detention of children in these conditions constitutes cruel, inhuman or degrading treatment or punishment and poses an imminent and foreseeable threat to the lives of the child victims. See CRC/C/89/D/77/2019, CRC/C/89/D/79/2019 and CRC/C/89/D/109/2019. The Committee against Torture found that the conditions in the camps amount to inhuman and degrading treatment. See CAT/C/75/D/922/2019, paras. 6.6–6.8, 7.5 and 8. See also S/2022/63 para. 45.

88 See A/HRC/49/45, paras. 30–32.

89 A/HRC/51/45, para. 97.


91 A/HRC/52/69, para. 115.

92 A/HRC/51/45, para. 98.


95 United Nations, OHCHR “Syria: UN experts alarmed by reports of boys taken from Camp Roj by de facto authorities”, press release, 16 February 2023; A/HRC/51/45, paras. 98, 102; and A/HRC/52/69, para. 115.

96 Ibid.
47. In Libya, the conditions of detention in which women and their children, including Libyan and foreign nationals, are held for alleged links to designated terrorist groups are also extremely concerning, with many detained for prolonged periods without charges. Moreover, the children, some of whom were born while their mothers were already under detention, are deprived of access to education and health care. In addition, teenage children face a heightened risk of experiencing sexual and gender-based violence when transferred to sections designated for adults. Children allegedly linked to terrorist-designated groups should be primarily regarded as victims of terrorism and their effective reintegration must be the primary response.

48. Although some Member States have initiated the repatriation of their nationals, especially from camps in the north-east of the Syrian Arab Republic, the scale has been small and the speed of these efforts has been slow. In other contexts, repatriations have primarily focused on children, as Governments perceive adults to pose greater security risks. Moreover, some Member States have increasingly resorted to depriving their nationals of their nationality. In his report to the Human Rights Council, the High Commissioner for Human Rights highlighted the frequent lack of adequate procedural safeguards against abuse in such processes, which is of particular concern given the severe consequences that deprivation of nationality entails for those affected, and the apparent discriminatory impact of this increasing trend.

49. The Secretary-General, the Office of Counter-Terrorism and United Nations human rights mechanisms have repeatedly called on States to repatriate their nationals, stressing that the situation in the camps is unsustainable and that leaving children in unbearable conditions could exacerbate frustrations and grievances, which could be exploited by designated terrorist groups. This, together with the fact that thousands of people are being held in appalling conditions and poor security, has turned the camps into a “ticking time bomb”.

50. Key developments, however, have taken place during the reporting period to address these complex issues. First, in recognition of the security concerns and the political, human rights, humanitarian, legal and operational challenges and complexities, in September 2021, the United Nations system launched the Global Framework for United Nations Support on Syrian Arab Republic and Iraq Third Country National Returnees, co-led by the Office of Counter-Terrorism and the United Nations Children’s Fund and including the participation of 13 other United Nations entities. Through this Global Framework the collective strength and comparative advantages of the various United Nations entities can be leveraged. The Global Framework is intended to offer support to Member States to protect and address the needs and human rights of returnees, including children; respond to security concerns and promote accountability for individuals suspected of having committed crimes under international law and terrorist acts or offences, in compliance with international law; and employ approaches that are gender responsive and age appropriate. In this regard, the Secretary-General has encouraged Member States that

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97 S/2022/272, para. 36; and A/HRC/53/36/Add.2, para. 68.
98 A/HRC/49/58, para. 32; and A/HRC/40/28, paras. 52, 59 and 60, 69 and 72.
99 A/77/718, para. 80; and S/2023/76, para. 41.
101 See, for example, A/77/718, paras. 79 and 80.
require assistance to seek the advice and support of United Nations actors through the Global Framework to support the safe and voluntary return, rehabilitation and reintegration of their nationals, including considerations pertaining to accountability and prosecution, where relevant. To date, the Global Framework has been rolled out in several countries. In Iraq, for example, a dedicated working group was established in 2022 to ensure collaboration and coordination across and between the Government and United Nations entities at the technical level on all aspects related to the return of Iraqi nationals from the north-east of the Syrian Arab Republic.

51. Second, recent developments in the international human rights jurisprudence have clarified States’ jurisdictional links to persons in such situations and described the scope of obligations to take positive action with a view to the repatriation of relevant nationals. In its consideration of individual complaints, the Committee on the Rights of the Child found that the respondent States had positive obligations to protect children that were within their jurisdiction, by repatriating them or providing other consular responses.103 In the same vein, the Committee against Torture found that the respondent State had a positive obligation to protect its nationals detained in the camps against serious human rights violations including by taking all necessary and possible measures to repatriate them.104

52. Third, the recent convictions of Da’esh returnees in their countries of origin, notably Germany and Sweden, for international crimes, which were made possible in part by the support extended by United Nations investigative mechanisms,105 not only ensured accountability in observance of international standards, but also affirmed the rights of victims of terrorism. Supporting prosecution and investigation remained central to United Nations efforts to address the crimes committed by Da’esh. These processes constitute an important step towards closing the impunity gap for crimes under international law while adhering to a victim and survivor-centred approach to such accountability processes.

53. Considering the aggravating humanitarian and human rights conditions in the camps and the increasing avenues to pursue accountability and justice in some countries of origin in compliance with international standards, safe and voluntary repatriation appears to be the most appropriate human rights-based solution.

IV. Conclusions and recommendations

54. Seventy-five years ago, the international community made a commitment to uphold dignity and justice for all. Today, the consensus envisaged in the Universal Declaration of Human Rights remains as relevant as ever. The seventy-fifth anniversary of the adoption of the Declaration presents an invaluable opportunity to reaffirm the global commitment to human rights, both in the present and for the future. It is imperative to recognize that countering terrorism and protecting human rights are mutually reinforcing objectives that must be pursued collectively, as part of States’ responsibility to protect individuals within their jurisdiction.

55. The Global Counter-Terrorism Coordination Compact entities and working groups play a crucial role in supporting Member States in ensuring a well-balanced implementation of the Global Counter-Terrorism Strategy, including the full incorporation of human rights, rule of law and gender equality.

104 CAT/C/75/D/922/2019, paras. 6.6, 6.8, 7.5 and 8.
105 See, for example, A/77/751, para. 22.
The Compact’s entities will continue strengthening the integration and adherence to international human rights norms and standards, good governance and United Nations rules, regulations, policies and procedures. They will also intensify measures to operationalize the United Nations Guidance Note on the Protection and Promotion of Civic Space, with a strong emphasis on respecting diversity and meaningfully engaging civil society actors.

56. States are recommended to prioritize the following measures to ensure that their domestic laws and practices related to counter-terrorism align with human rights norms and standards:

(a) Terrorism-related offences should be precisely defined in accordance with applicable international law and based on the provisions of relevant international counter-terrorism instruments, including applicable Security Council resolutions. Overly broad or vague language and definitions should be avoided;

(b) Counter-terrorism measures must comply with the principles of legality, legal certainty, necessity, proportionality and non-discrimination and must respect the right to an effective remedy;

(c) Ensuring the meaningful, inclusive and safe participation of civil society at all levels, from local to global, in developing and implementing counter-terrorism measures is critical to making counter-terrorism responses more effective and ensuring human rights are protected. A robust civil society plays a crucial role in fostering trust between governments and the people they represent and serves as a bridge between the two, facilitating the restoration of confidence in counter-terrorism efforts. Counter-terrorism measures must not undermine civic space;

(d) Further steps should be taken to prevent torture and other cruel, inhuman and degrading treatment or punishment, and ensure full respect for due process and fair trial rights in terrorism-related legal proceedings;

(e) More efforts should be invested in ensuring accountability for sexual and gender-based violence in terrorism and counter-terrorism contexts;

(f) States that continue to use the death penalty should establish an immediate moratorium on executions, including in the context of counter-terrorism. In the interim, they should conduct a comprehensive review of relevant legislation and practices on the death penalty to bring them into compliance with international human rights law;

(g) The use of digital technologies in counter-terrorism efforts and related applicable legal frameworks should adhere to international human rights law and integrate robust human rights safeguards. This entails introducing clear definitions of terrorism-related offences, implementing effective monitoring and oversight mechanisms, ensuring transparency, practicing due diligence, including by conducting human rights impact assessments, and implementing appropriate regulations for the procurement and use of artificial intelligence and surveillance technologies by public sector entities. Digital applications that cannot be operated in compliance with international human rights law should not be used and the use of systems that carry a high risk to the enjoyment of human rights should be suspended, unless and until adequate safeguards to protect human rights are in place. In addition, immediate measures should be taken to enhance access to justice and effective remedies for human rights violations in the context of misuse of digital technologies in counter-terrorism efforts;
(h) Additional measures should be taken to facilitate the safe and voluntary repatriation of nationals from conflict zones, in line with the principle of non-refoulement, with respect for family unity and the best interests of children, and in accordance with international law.

57. All stakeholders should publicly commit and adhere to the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, including in their online content moderation practices.