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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Protection of human rights and fundamental freedoms while countering terrorism

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 35/34, in which the Council requested the United Nations High Commissioner for Human Rights to present her report in conformity with its annual programme of work.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



I. Introduction

1. In its resolution 35/34, the Human Rights Council, *inter alia*, unequivocally condemned terrorism and stressed the need to promote and protect the rights of victims of terrorism, in particular women and children. The Council recognized the important roles of education, combating discrimination, respect for cultural diversity, employment and inclusion in the prevention of terrorism and violent extremism conducive to terrorism. The Council called upon States to consider the impact of counter-terrorism strategies on the human rights of women and children. It reiterated that given their potential status as victims of terrorism and other violations of international law, all children alleged of, accused of or recognized as having infringed the law, as well as child victims and witnesses of crimes, should be treated in a manner consistent with their rights, dignity and needs in accordance with applicable international law, in particular the Convention on the Rights of the Child. The Council further urged States to take relevant measures to effectively reintegrate children formerly associated with armed groups, including terrorist groups. The Council requested the High Commissioner to present her report in conformity with its annual programme of work, bearing in mind the content of the resolution. At its thirty-seventh session, the Human Rights Council adopted resolution 37/27 entitled “Terrorism and human rights”.

2. In previous reports to the Council on the protection of human rights while countering terrorism, the High Commissioner has examined the international human rights framework; legislative measures taken by States; the right to life, liberty and security of the person; the prohibition of torture and ill-treatment; accountability and reparations; foreign fighters; due process and targeted sanctions; the right to a fair trial; the right to privacy; economic, social and cultural rights; international cooperation; and the rights of victims.¹ The impacts of terrorism and counter-terrorism are not identical for all members of society and certain vulnerable or marginalized groups benefit from specific protections under international law. Consistent with resolution 35/34, the present report is focused on children, considering child victims and witnesses of terrorist acts, children at perceived risk of recruitment and children associated or suspected of association with terrorist groups. The precise legal obligations of States may vary according to the circumstances of the child, but children in all such situations must be considered and treated as victims of terrorism.

3. The Convention on the Rights of the Child has achieved near-universal ratification. The Convention makes no provision for derogation in times of conflict or emergency, and only three of the substantive rights it recognizes may be restricted on the basis of national security, where such restrictions are necessary, proportionate and prescribed by law (arts. 10, 13 and 15).

4. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict provides that non-State armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years and that States parties shall take all feasible measures to prevent such recruitment and use (art. 4).

5. Recent decades have seen the rise of terrorist networks with global reach and sophisticated strategies of international recruitment, which in some cases explicitly target children. Some of those networks control territories and children account for more than half of the civilian population of such territories. Those developments have rightly been the focus of much international attention, but the present report is not limited to such contexts. Terrorist acts perpetrated outside conflict zones by groups or lone actors, whether motivated by anti-Muslim sentiments, anti-Semitism, xenophobia, misogyny, or another hateful ideology or political goal, also have an impact on children.

¹ A/HRC/34/30; A/HRC/28/28; A/HRC/22/26; A/HRC/16/50; A/HRC/13/36; A/HRC/8/13; A/HRC/4/88.

II. Child victims and witnesses of terrorist acts

A. Duty of protection and right to rehabilitation

6. States have a special duty of protection and care towards children under their jurisdiction and under the Convention on the Rights of the Child the best interests of the child shall be a primary consideration in all actions concerning children (art. 3). In particular, States shall ensure to the maximum extent possible the survival and development of the child (art. 6) and take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence (art. 19).

7. Some terrorist attacks aim to instil fear in the population by specifically targeting children, including in their schools.² The right to education is non-derogable and quality education is essential to building peaceful and inclusive societies (see A/66/269 and A/HRC/8/10). Where there is a high risk of such attacks, States have a duty to devise and implement effective strategies to protect children and the Safe Schools Declaration provides guidance in that regard. The need to strengthen resilience, for example by training children on the measures to take in case of an attack, must be carefully balanced with the important developmental need for children to feel safe in their learning environment.

8. The Convention on the Rights of the Child provides that States shall take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of, inter alia, exploitation, abuse, torture, ill-treatment and armed conflict (art. 39). Children who suffer physical injury, impairment of their mental health, or physical or psychosocial disability as a result of a terrorist act thus have a legal right to recovery and reintegration in an environment which fosters their health, self-respect and dignity. That supplements the rights to the highest attainable standard of health (art. 24) and to special care for children with disabilities (art. 23). Where necessary, the State should provide appropriate financial and material support to children and their caregivers to ensure an adequate standard of living (arts. 26–27).

9. In the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, direct child victims of crime and dependants of victims who have died or become incapacitated are recognized as being entitled to redress, which the State should provide if other sources are unavailable. Reparation should address the costs of social and educational reintegration, health care and legal services. In the United Nations Global Counter-Terrorism Strategy, the General Assembly recommends that States consider establishing national systems of assistance to promote the needs of victims and their families (para. 8). In its most recent review of the Strategy, the General Assembly reiterated the importance of proper support and assistance both immediately following an attack and in the long term.³

10. Rehabilitative health care must be adapted to the needs of the individual child. The impact of experiencing or witnessing extreme violence and destruction depends on the child's stage of development. Research indicates that preschool-age children often display regressive behaviour, older children may suffer somatic complaints and become preoccupied with unrelated fears, whereas adolescents more closely mirror adult reactions, with higher rates of depression and substance abuse. As a result of the different ways in which girls and boys are socialized, the effects of trauma may manifest differently, with girls more likely to develop anxiety disorders and boys more likely to develop behavioural

² See Global Coalition to Protect Education from Attack, *Education Under Attack 2018* and Office of the United Nations High Commissioner for Human Rights, "Background paper on attacks against girls seeking to access education", available at www.ohchr.org/Documents/HRBodies/CEDAW/Report_attacks_on_girls_Feb2015.pdf.

³ Resolution 72/284, para. 14. See also Human Rights Council resolutions 37/27 and 20/14.

disorders.⁴ States should take these age and gender dimensions into account when designing interventions and allocating budgets.

11. Where children lose their primary caregivers as a result of a terrorist act, the State is responsible for ensuring appropriate alternative care (Convention on the Rights of the Child, art. 20). In line with the Guidelines for the Alternative Care of Children, priority should be given to solutions that allow the child to remain in a family environment.⁵ Placement in an institution is rarely in the best interests of the child, particularly following traumatic loss, and should be used only as a last resort and for the shortest possible time.

12. The right of children to be heard and have their views taken into account should be fully respected and, if required, facilitated with appropriate support (Convention on the Rights of the Child, art. 12). Participating in decisions concerning their care, the support services available to them and any memorialization of the events can help child victims and witnesses regain a sense of control over their lives and contribute to their rehabilitation.⁶

13. Where States are unable to meet their obligations to child victims, they should have access to international cooperation, including information exchanges and training of professionals working on preventive health care and the medical, psychological and functional treatment of children impacted by terrorism.⁷

B. Freedom of expression, access to information and the right to privacy of child victims and witnesses

14. The psychological impact of terrorism on children is mediated by the responses of caregivers and trusted adults, as well as the duration of any exposure to media coverage, which may itself traumatize even children who are not direct victims or witnesses. Advice and support should be available to caregivers and professionals working with children in the aftermath of terrorist acts. Children should have opportunities to discuss their reactions in a supportive environment, which they should also be free to refuse. Some children may choose to exercise their freedoms of expression and association by forming or joining victim or advocacy groups.

15. The Convention on the Rights of the Child recognizes the right of children to access information from a diversity of national and international sources, while obliging States to encourage the development of appropriate guidelines to protect them from information and material injurious to their well-being (art. 17). Such guidelines may include television watersheds, monitored by an independent body, before which particularly distressing images of a terrorist act should not be broadcast. The provision cannot, however, be used to impose blanket restrictions on information which would also affect adults (see A/69/335). To ensure full respect for freedom of expression and avoid illegitimate censorship, the removal of online content should occur only following an order by a judicial authority, in accordance with due process and standards of legality, necessity, proportionality and legitimacy (see A/HRC/38/35).

16. Online hate speech often spikes following terrorist attacks. Children's education should include modules on information literacy to enable them to identify bias and hate

⁴ See, for example, Ankur Saraiya, Amir Garakani and Stephen B. Billick, "Mental health approaches to child victims of acts of terrorism", *Psychiatric Quarterly*, vol. 84, No. 1, March 2013; and Paramjit T. Joshi and Deborah A. O'Donnell, "Consequences of child exposure to war and terrorism", *Clinical Child and Family Psychology Review*, vol. 6, No. 4, December 2003.

⁵ See also CRC/C/153.

⁶ See Committee on the Rights of the Child, general comment No. 12 (2009) on the right of the child to be heard, para. 125.

⁷ See Convention on the Rights of the Child, art. 23 (4), and Convention on the Rights of Persons with Disabilities, art. 32.

speech and empower them to access and critically assess information in line with their evolving capacities.⁸

17. States should take measures to ensure the right to privacy of child victims and witnesses, whose identities should be protected. Child victims should not be used as “poster children” for a particular political viewpoint or in counter-terrorist messaging. Journalists reporting on terrorist incidents or groups should respect the United Nations Children’s Fund (UNICEF) principles and guidelines for media reporting on children.⁹

C. Rights of child witnesses in court proceedings

18. States have a duty to investigate terrorist acts, as well as any deaths, injuries, discrimination or other human rights violations caused by law enforcement or other public officials in responding to terrorist acts. Accountability of perpetrators and guarantees of non-repetition are important elements of reparation and can reduce the potential for acts of revenge and cycles of violence.

19. Where criminal proceedings take place, both the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (para. 6 (b)) and the Convention on the Rights of the Child (art. 12) require that child victims and witnesses be able to express their views freely and be heard in judicial proceedings affecting them. States should undertake all necessary measures to ensure that this right is exercised in a manner that ensures the protection of child victims and witnesses from negative consequences.¹⁰

20. The Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime provide practical guidance on child-sensitive procedures. States should ensure that specialized staff are properly trained and that procedures are in place to protect child victims and witnesses and meet their special needs, taking into account gender considerations, the particularly traumatic nature of acts of terrorism and the need to prevent re-traumatization. Appropriate policies should be in place to ensure the safety of child witnesses and their families before, during and after the judicial process. The right to be heard is also linked to the right of child victims or witnesses to be informed about the availability of health, psychological and social services, their role in the proceedings, the support persons available, how questioning or interviews are to be conducted, the location and times of hearings, the possibility of receiving reparation and provisions for appeal.

D. Child victims and witnesses of terrorist acts in conflict zones

21. A significant proportion of terrorist acts occur in the context of armed conflict. Directing attacks against civilians and civilian objects may constitute violations of international humanitarian law¹¹ and, under certain circumstances, war crimes.¹² In addition, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, applicable to international armed conflicts, including situations of occupation, prohibits all measures of intimidation or of terrorism (art. 33). In both international and non-international armed conflicts, acts or threats of violence with the primary purpose of spreading terror among the civilian population are specifically prohibited (Additional Protocol I, art. 51 (2) and Additional Protocol II, arts. 4 (2) and 13 (2)).¹³

⁸ See Jagtar Singh, Paulette Kerrand and Esther Hamburger, eds., *Media and Information Literacy: Reinforcing Human Rights, Countering Radicalization and Extremism*, (Paris, United Nations Educational, Scientific and Cultural Organization, 2016).

⁹ See www.unicef.org/eca/media/ethical-guidelines.

¹⁰ See Committee on the Rights of the Child, general comment No. 12, para. 21.

¹¹ See Protocol additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts (Protocol I), arts. 48, 51 (2) and 52 (2); and Protocol II relating to the protection of victims of non-international armed conflicts, art. 13 (2).

¹² See Rome Statute of the International Criminal Court, arts. 8 (2) (b) (i) and 8 (2) (e) (i).

¹³ See also https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule2.

22. In line with their obligations under the International Covenant on Civil and Political Rights, States have a duty to investigate alleged or suspected violations of article 6 of the Covenant in situations of armed conflict, in accordance with the relevant international standards.¹⁴ If international crimes have been committed, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law provide that full and effective reparation following such attacks should include, as appropriate, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. States should endeavour to establish reparation programmes for harms inflicted by non-State entities.

23. The Convention on the Rights of the Child provides that States shall take all feasible measures to ensure the protection and care of children affected by armed conflict, and all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of armed conflict (arts. 38–39).

24. Children in conflict zones face multiple negative stressors, which may include loss of routine, lack of education, loss of family income, displacement, loss of community and loss of loved ones. When these already vulnerable children experience a terrorist act, they are at increased risk of developing psychosocial illnesses and disabilities. Children with disabilities have the right to special care, which should be free of charge and available from the earliest possible stage, based on a multidisciplinary assessment of individual needs and strengths.¹⁵

25. Rape and other forms of sexual and gender-based violence are increasingly used as tactics by groups operating in conflict zones, such as in the Syrian Arab Republic, mainly against women and girls, although sexual violence against men and boys is underreported (see S/2018/250 and S/2016/361/Rev.1).¹⁶ Children displaced by conflict are especially vulnerable to violence, including sexual violence, throughout the displacement or migration process. Child victims or witnesses of sexual violence should have access to appropriate, quality health-care services, including sexual and reproductive and mental health services. Girls who are pregnant as a result of rape should have access to safe abortion if they so choose.¹⁷ States should make concrete efforts to alleviate the stigma associated with sexual violence, both for survivors and for children conceived through rape.

E. Obligations of States receiving child victims or witnesses

26. Research indicates that child victims and witnesses of terrorism have better outcomes if they remain in close contact with their primary caregivers. Children fleeing a State affected by terrorism should not be separated from their parents against their will and States must treat applications to enter or leave a State for the purposes of family reunification in a positive, humane and expeditious manner, and cooperate in efforts to trace family members of child refugees and children seeking refugee status (Convention on the Rights of the Child, arts. 9, 10 and 22). It is never in the best interests of a child to be detained due to his or her migration status and non-custodial solutions must be found for

¹⁴ See Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 64; and Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), paras. 20–22.

¹⁵ See Convention on the Rights of the Child, art. 23, and Convention on the Rights of Persons with Disabilities, art. 26.

¹⁶ See also, Office of the United Nations High Commissioner for Refugees, “Sexual violence against men and boys in the Syria crisis” (2017).

¹⁷ See, for example, Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health; Committee on the Rights of the Child, general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, para. 60; Human Rights Committee, general comments No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 11, and No. 36 (2018) on the right to life, para. 8; and Committee on the Elimination of Discrimination against Women, general comment No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, paras. 18 and 31 (a).

the entire families of accompanied children.¹⁸ States must ensure care arrangements for unaccompanied children that prevent their recruitment by terrorist or other armed groups, in particular by refusing guardianship to persons directly or indirectly involved in terrorism or conflict, and children should not be returned to a State where there is a real risk of recruitment.¹⁹ An insecure or precarious migration status can have particularly negative effects on children already traumatized by acts of terrorism, and so States should ensure access to clear and child-friendly status determination procedures.²⁰ Any young person claiming to be a child must be treated as such unless and until there is definitive proof to the contrary.²¹

27. Some terrorist groups with effective control of territories have constrained or denied access by girls to education, health care and public life. States receiving girls fleeing such territories should provide appropriate support to redress gender-based abuse and give due consideration to supporting them to complete their education even after they have reached the age of majority.²²

III. Children at perceived risk of recruitment

A. State duty to prevent recruitment of children

28. Terrorist groups may seek to recruit or otherwise exploit children for various reasons, including a dwindling of support and thus of potential adult recruits, ease of manipulation, the relative lack of suspicion raised by children, local attitudes regarding childhood and child labour, propaganda value, or a desire for continuity and succession.²³

29. In its resolution 1373 (2001), the Security Council provides that States should suppress terrorist recruitment. Preventing the recruitment of children forms part of the broader obligation to prevent the exploitation of children under the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. The factors that may place children at greater risk of association with a terrorist group also place them at greater risk of other forms of exploitation, including sale, trafficking, forced labour and sexual exploitation. Elements of the security threat posed by terrorist groups may be unique, but this should not be extrapolated to a conclusion that their recruitment methods are unique or require untested or draconian preventive approaches that focus on the child as a potential risk rather than potentially at risk of exploitation. Measures to prevent the recruitment of children by terrorist groups must be adequate, proportionate, reasonable, non-discriminatory, non-arbitrary, effective and justified.

30. The United Nations Global Counter-Terrorism Strategy identifies a number of conditions conducive to the spread of terrorism, including unresolved conflicts, lack of rule of law, poor governance, violations of human rights, discrimination, political exclusion and socioeconomic marginalization. States with higher levels of gender equality are less likely

¹⁸ See joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, section B.

¹⁹ See Committee on the Rights of the Child, general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, para. 55.

²⁰ See joint general comment No. 4/No. 23, para. 18.

²¹ See joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, para. 32.

²² See joint general comment No. 4/No. 23 Child, para. 60.

²³ Siobhan O'Neil, "Trajectories of children into and out of non-State armed groups" in *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict*, Siobhan O'Neil and Kato van Broeckhoven, eds. (United Nations University, 2018).

to experience acts of terrorism (see A/70/674).²⁴ Many States have focused their public spending on counter-terrorism on the military, law enforcement, intelligence and targeted prevention programmes. Allocations to social services and development have often stagnated or even declined, which may breach the obligation of States to take steps to the maximum of their available resources to realize economic, social and cultural rights.²⁵ Effective counter-recruitment strategies must address structural inequalities, discrimination and marginalization, providing communities with mechanisms to address grievances and providing children with the means to meet their basic needs and participate fully in society, including access to education in a school environment that is safe for both boys and girls and access to vocational programmes and income-generating activities (see A/HRC/12/22).²⁶

31. States that permit the voluntary recruitment of children into their armed forces risk normalizing the idea of children as fighters capable of taking full responsibility for their actions, making it difficult for the population to view children recruited by terrorist groups primarily as victims.²⁷

32. Where children are at risk of forced recruitment by terrorist groups, States must take effective measures to prevent their abduction and exploitation, including from schools, orphanages, other institutions and, where they exist, camps for refugees or internally displaced persons. In preventing recruitment by terrorist groups, States should prioritize existing, evidence-based strategies for the prevention of exploitation of children and of juvenile crime.²⁸ Terrorist recruiters may use similar grooming techniques to those observed in the sexual exploitation of children.²⁹ Where such similarities exist, good practices and lessons learned should inform prevention strategies. States should collect data to identify the drivers and patterns of recruitment in order to target, improve and evaluate policies and programmes.

33. Where children are identified or reported as being at risk of exploitation by a terrorist group, an individual assessment based on clear criteria should be conducted to determine whether there are objective grounds for that consideration. Attempts to recruit children should constitute serious offences under national criminal law and States must take measures to identify and prosecute perpetrators, while respecting due process rights.³⁰ Where a child is at ongoing risk of or potentially traumatized by attempted recruitment, a multidisciplinary best interests assessment, giving adequate weight to the views of the child, should determine any response. Actions may include tailored mentoring and exposure to counter-narratives, in particular from victims of terrorism, former terrorists, peers and role models (see S/2017/375).³¹ States should monitor and evaluate interventions to determine their effectiveness, and collect data to enable detection of any direct or indirect discrimination in the referral process.

²⁴ See also Mary Caprioli, "Primed for violence: the role of gender inequality in predicting internal conflict", *International Studies Quarterly*, vol. 49, No. 2 (April 2005).

²⁵ See International Covenant on Economic, Social and Cultural Rights, art. 2 (1), and Convention on the Rights of the Child, art. 4.

²⁶ The Committee on the Rights of the Child regularly addresses recommendations to States on this issue. See, for example, CRC/C/OPAC/DZA/CO/1, paras. 23–24.

²⁷ Where permitted, voluntary recruitment of children above the age of 15 into State armed forces must respect appropriate safeguards. See Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, art. 3.

²⁸ See United Nations Guidelines for the Prevention of Juvenile Delinquency and Committee on the Rights of the Child, general comment No. 10 (2007) on children's rights in juvenile justice.

²⁹ Asaad Almohammad, "ISIS child soldiers in Syria: the structural and predatory recruitment, enlistment, pre-training indoctrination, training and deployment", International Centre for Counter-Terrorism (2018).

³⁰ See Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, art. 4.

³¹ See also Global Counterterrorism Forum, Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF phenomenon (2014).

34. Children of foreign fighters may be at particular risk of forcible recruitment. In resolution 2178 (2014), the Security Council required States to prevent individuals from travelling for the purpose of perpetrating, planning, preparing or participating in terrorist acts, or providing or receiving terrorist training, while providing that any measures adopted must comply with international human rights law. In particular, such measures must not impinge on the right to freedom of movement.³² In resolution 2396 (2017), the Security Council called upon States to distinguish between suspected foreign fighters and accompanying family members. Where a child is in imminent danger of recruitment by a caregiver, or of being obliged to accompany a caregiver to a territory where the child risks forced recruitment, the State should take appropriate protection measures in the best interests of the child, including in some cases temporary removal from the family environment. Any such decision must be taken on the basis of actual risk to the child's well-being, and should comply with the Guidelines for the Alternative Care of Children.³³

B. Motivation of child recruits

35. There is limited empirical research on the drivers of child recruitment and that which does exist disproportionately focuses on the recruitment of children from developed countries to terrorist groups whose leaders and primary operations are in another country. The research available indicates that the drivers of recruitment are different for those children who live in areas directly affected by terrorism, but that in all cases there is no single factor or group of factors that reliably predict child association with terrorist groups.³⁴

36. Children do not enjoy the independence, agency and range of choices open to adults. Even when they are not forcibly recruited, most child association with terrorist groups involves some form of coercion or constraint. If a terrorist group controls territory, children may be unable to avoid association. Where States indiscriminately target a particular territory, claiming that everyone in it, including children, is necessarily associated with a terrorist group, they are likely to remove any perceived advantage to remaining unaffiliated.

37. Children who exercise some degree of agency in joining a terrorist group often cite meeting basic needs, financial incentives, opportunities for advancement, resolving grievances and defending or promoting the interests of their families or communities as the attractions of terrorist groups.³⁵ They may also perceive terrorist groups as a route to identity, significance and status. The participation rights recognized in the Convention on the Rights of the Child are inherently preventive, in that where they are fully respected children can exercise agency and make choices in their daily lives, and adults have a responsibility to take the views of children into account. In such circumstances, society demonstrates to children that they are valued, whereas children who feel disenfranchised and unappreciated are more vulnerable to terrorist recruitment (see A/HRC/33/29).³⁶

C. Role of the community

38. Terrorist groups generally rely on a degree of community support, whether based on a perception that they respond to legitimate grievances, or because they provide basic services in the absence of State provision. In its resolution 2178 (2014), the Security Council encouraged States to engage local communities and non-governmental actors to

³² See International Covenant on Civil and Political Rights, art. 12; United Nations Counter-Terrorism Implementation Task Force, "Guidance to States on human rights-compliant responses to the threat posed by foreign fighters" (2018); and A/HRC/28/28.

³³ See also Committee on the Rights of the Child, general comments No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and No. 6, in particular para. 54.

³⁴ See generally *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict*.

³⁵ See Siobhan O'Neil, "Trajectories of children into and out of non-State armed groups".

³⁶ See also Paramjit T. Joshi and Deborah A. O'Donnell, "Consequences of child exposure to war and terrorism".

counter violent extremist narratives that could incite terrorist acts and address the conditions conducive to the spread of violent extremism by empowering youth, families, women, religious, cultural and education leaders and other concerned groups of civil society.

39. There is broad agreement among researchers and practitioners that building resilience to the terrorist recruitment of children requires the active participation of communities, families and children themselves, who should lead or partner in the design, implementation and evaluation of programming (ibid.). Support to caregivers is a vital element of the prevention of adolescent criminality and a strong family environment enhances resilience to terrorist recruitment. Boys and girls often have different vulnerabilities in their families and communities and respond to different motivators to join terrorist groups.

40. Peer networks are increasingly influential as a child ages and often play a role in terrorist recruitment. Educational programmes in schools and awareness-raising in communities can enhance collective opposition to violence as a means of resolving grievances. In some contexts, terrorist groups have co-opted or created parallel education systems with the aim of indoctrinating children. States should take appropriate measures to ensure that all children have access to quality public education and that all schools in their territory comply with the aims of education laid out in the Convention on the Rights of the Child, notably preparation of the child for life in a peaceful and tolerant society that respects gender equality (art. 29).³⁷

41. Adult expectations have a powerful influence on the development of a child's personality. Interventions explicitly advertised as prevention of terrorism or violent extremism may reinforce negative stereotypes and drive children towards excusing or using violence if they feel that is all society expects of them. A child's or caregiver's membership of a religious or ethnic community, expression of a political opinion, or other prohibited ground of discrimination should never be used as an indicator of vulnerability of the child to recruitment, or a ground for referral to social services or law enforcement.³⁸ Such profiling is both prohibited under international law and likely to be counterproductive, alienating and stigmatizing community members whose engagement is essential to the success of counter-terrorism efforts.³⁹ Programming and development assistance targeted at children should focus on inclusion and peacebuilding rather than solely on the prevention of their opposites.⁴⁰

D. Freedom of opinion and expression and the right to privacy of children at perceived risk of recruitment

42. Where children have regular Internet access, online peer networks may influence their vulnerability to terrorist recruitment. The Convention on the Rights of the Child recognizes the child's rights to privacy (art. 16) and to accessing information, while providing that children should be protected from material injurious to their well-being (art. 17). The latter provision cannot be used to justify mass surveillance of children's online communications, which would breach their right to privacy (see A/HRC/39/29). Prevention of online recruitment should focus on the detection and accountability of perpetrators, and

³⁷ See also Committee on the Rights of the Child, general comment No. 1 (2001) on the aims of education.

³⁸ See Security Council resolution 2396 (2017).

³⁹ See generally the Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF phenomenon.

⁴⁰ See Kato van Broeckhoven, "A complex programming landscape: the prevention of and response to child association with non-State armed groups" in *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict*.

building the resilience of children, including through exposure to targeted counter-narratives.⁴¹

43. Some States have created a legal duty for teachers and other educators to report children who may be at risk of recruitment, with sanctions for failure to report. Such measures risk undermining the purpose of education, which relies on the free flow of ideas in an environment of respect and mutual trust, and are not in the best interests of the child (see A/HRC/31/65). Adolescence in particular is a developmental stage characterized by rebellion against authority and the testing of opinions, and where children express support for terrorism that is best addressed through open discussion in which their educators and peers can counter violent extremist narratives (see S/2017/375).⁴² Educators should not be required to act as law enforcement officials, but rather law enforcement and social services should work to develop relationships of trust with all communities so that concerned individuals can report situations of potential risk of recruitment confident that the authorities will focus on the protection of the child and fully respect his or her rights.

44. Where they exist, offences such as justifying terrorism or extremist activity must be clearly defined to avoid unnecessary or disproportionate interference with the fundamental freedoms of opinion, expression, association, religion or belief (see A/HRC/37/52 and A/HRC/31/65).⁴³ Expressions of support for particular groups, acts or ideologies that do not rise to the level of incitement to discrimination, hostility or violence, or to committing terrorist acts, should not constitute criminal offences.⁴⁴

45. Any counter-terrorism measures that may interfere with the child's right to privacy must be provided in law and be necessary and proportionate to achieve a legitimate aim. States must ensure that children, at a minimum, have a right to know that personal data concerning them has been retained and processed, to access the data, to rectify data that is inaccurate or outdated and to delete or rectify data unlawfully or unnecessarily stored (see A/HRC/39/29).

IV. Children associated or suspected of association with terrorist groups

46. Children's roles within terrorist groups vary from support roles, such as domestic workers or porters, to identifying possible recruits, spying, scouting targets and participation in terrorist acts. Girls are at particular risk of sexual abuse and forced or early marriage. The term "recruitment" should be understood broadly to encompass all of those roles.⁴⁵ Some terrorist groups enforce loyalty through drug use or physical, psychological or sexual violence. They may threaten violence against children or their families if the child becomes disillusioned and attempts to leave. This complex landscape does not lend itself to simple solutions to child association that could apply in every context, but international human rights law provides an essential framework for identifying, implementing and evaluating the most effective interventions for the dissociation and reintegration of children.

⁴¹ See Committee on the Rights of the Child, report on the 2014 day of general discussion on digital media and children's rights, available from www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2014.aspx.

⁴² See also <https://en.unesco.org/preventing-violent-extremism/edu-as-tool>.

⁴³ See also Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression.

⁴⁴ See International Covenant on Civil and Political Rights, arts. 19 and 20. In the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1624 (2005) States are called upon to prohibit by law incitement to commit terrorist acts in accordance with their obligations under international law.

⁴⁵ See Principles and Guidelines on Children Associated with Armed Forces or Armed Groups. See also generally Radikha Coomaraswamy, "The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict – towards universal ratification", *International Journal of Children's Rights*, vol. 18, No. 4 (January 2010).

A. Prohibition of the recruitment of children

47. Recruitment of children under the age of 15 into non-State armed groups is prohibited under the Convention on the Rights of the Child, which further obligates States to take all feasible measures to ensure such children do not take a direct part in hostilities (art. 38). In the context of an armed conflict, the Additional Protocols to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international and non-international armed conflicts prohibit the recruitment of children under the age of 15⁴⁶ and using such children to participate actively in hostilities constitutes a war crime.⁴⁷

48. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict extends that protection to all children, providing that non-State armed groups shall not recruit or use in hostilities children under the age of 18 and that States parties shall take all feasible measures to prevent such recruitment and use (art. 4). The Committee on the Rights of the Child has considered the term “armed groups” to include terrorist, guerrilla and paramilitary groups operating in situations that may not reach the threshold to qualify as a non-international armed conflict under international humanitarian law, or are not recognized as such by the State.⁴⁸

49. The international community reiterated its commitment to end the recruitment of children in the 2030 Agenda for Sustainable Development, in which it required States to take immediate and effective measures to end the recruitment and use of child soldiers (Goal 8, target 8.7) and the abuse, exploitation, trafficking, torture and all forms of violence against children (Goal 16, target 16.2).

50. In the context of an armed conflict, States must take account of the special protections afforded to children under international law. In particular, States should ensure that military personnel receive training on child protection measures, including the referral or handover of any associated children to civilian child protection actors.⁴⁹

B. Criminal responsibility of recruiters and associated children

51. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict provides that States should criminalize the recruitment or use in hostilities of children under 18 by non-State armed groups (art. 4 (2)). Children, as victims of that crime, should not face criminal charges for the fact of their association with a terrorist group. States should investigate and prosecute adults who recruit children or order them to commit terrorist acts. A strict application of this principle may prevent leaders of terrorist groups from seeking impunity by assigning the worst atrocities to children. Targeted sanctions against terrorist leaders responsible for the six grave violations that result in listing in the reports of the Secretary-General to the Security Council (killing and maiming of children, recruitment or use of children as soldiers, sexual violence against children, abduction of children, attacks against schools or hospitals and denial of humanitarian access for children) are another useful tool in the fight against impunity.⁵⁰

52. In some cases, there may be evidence that an associated child above the age of criminal responsibility has committed a crime. In such circumstances, States should prioritize non-judicial measures focusing on the rehabilitation and reintegration of the child rather than prosecution and detention.⁵¹ Any criminal charges brought against a child must

⁴⁶ Additional Protocol I, art. 77, and Additional Protocol II, art. 4 (3) (c).

⁴⁷ See Rome Statute of the International Criminal Court, arts. 8 (2) (b) (xxvi) and 8 (2) (e) (vii).

⁴⁸ See, for example, CRC/C/OPAC/DZA/CO/1; CRC/C/OPAC/COL/CO/1; CRC/C/OPAC/IND/CO/1; CRC/C/OPAC/MEX/CO/1; and CRC/C/OPAC/PHL/CO/1. See also Human Rights Council resolution 35/34.

⁴⁹ See Security Council resolution 2225 (2015).

⁵⁰ See <https://childrenandarmedconflict.un.org/six-grave-violations/>.

⁵¹ See Security Council resolution 2225 (2015) and Global Counterterrorism Forum, Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context (2015).

be handled by the regular juvenile justice system and not any form of military or special court.

53. Deprivation of liberty of children should be a measure of last resort and for the shortest appropriate time. Pretrial detention should be used only in exceptional circumstances, for example where children pose an immediate danger to themselves or others, with its legality reviewed regularly by a court or other competent, independent and impartial authority, preferably every two weeks.⁵² Children should never face the death penalty or life imprisonment without the possibility of release. Formerly associated children who are detained should have access to any necessary rehabilitative health care and psychosocial support, as well as reintegration programmes, both in detention and upon release.⁵³

54. Formerly associated children who have been indoctrinated to hate or dehumanize a perceived enemy may continue to hold negative views for a long time and in some cases may pose a security threat.⁵⁴ Such threats should be addressed in rehabilitation programmes and not through administrative detention, which is never in the best interests of the child.

55. Detention can re-traumatize children who have been abused or ill-treated, reinforce terrorist narratives about the cruelty or injustice of the State, increase the likelihood of re-association and complicate subsequent integration or reintegration efforts.

56. The recognition that formerly associated children are primarily victims of terrorism does not negate the experience of victims of acts of violence committed by the child or their own rights in terms of accountability and reparation. Where children have exercised a high degree of agency and voluntarily joined and remained in a terrorist group, communities victimized by their actions may reject the notion that such children are victims. Lessons may be drawn from the field of transitional justice and mechanisms established for reconciliation and restorative justice. Care should be taken to ensure that age and gender considerations are fully taken into account by such mechanisms.

57. Some States have used a counter-terrorism and national security discourse in an effort to justify violations of human rights, including arbitrary detention, the use of live ammunition against unarmed protesters and targeted killings. Children suspected or accused of association with terrorist groups have been among the victims of such violations. States should ensure that all such violations are independently investigated and perpetrators held accountable.

58. Law enforcement officers should exercise maximum restraint in any use of force against children associated with terrorist groups, which must be strictly necessary, and should refrain from targeting children who do not present an imminent threat of death or serious injury.⁵⁵

C. Right to reintegration of children associated with terrorist groups

59. States have an obligation to take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of exploitation, abuse, ill-treatment or armed conflict, in an environment that fosters the health, self-respect and dignity of the child (Convention on the Rights of the Child, art. 39). In addition, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict provides that States shall ensure the demobilization or release of associated children and, where necessary, assist their physical and psychological recovery and social reintegration, including through international cooperation (arts. 6–7).

⁵² See Convention on the Rights of the Child, art. 37.

⁵³ See Committee on the Rights of the Child, general comment No. 6, paras. 56–57.

⁵⁴ See Judith Myers-Walls, “Children as victims of war and terrorism” in *The Victimization of Children: Emerging Issues*, Janet L. Mullings, James W. Marquart, Deborah J. Hartley, eds. (New York, Haworth Press, 2003).

⁵⁵ See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

60. States must take appropriate measures to ensure that the best interests of the child are a primary consideration in their counter-terrorism laws and policies. Overly broad counter-terrorism laws prohibiting loose association with, or material support for, terrorist groups can in practice criminalize the provision of assistance to associated children, impede efforts to inform them of their rights, prevent advocacy with terrorist groups on the legal prohibition of recruitment of children and even hinder negotiation of the release of children (see A/73/314). An associated child's right to release, protection and reintegration is immediate and does not depend on the existence of a ceasefire, peace agreement or formal disarmament, demobilization and reintegration process.

61. The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups draw on a considerable body of expertise to lay out best practices for successful, human rights-based reintegration and prevention of re-recruitment. Children should not be institutionalized but should return to their families and communities as early as possible, following a risk assessment and any necessary community sensitization. Where reintegration with their own families is not possible, alternative family-based care arrangements should be sought. Reintegration programmes should be available to all children who wish to participate and accessible to children with disabilities. They should include support for vulnerable, non-associated children in the community, in order to reduce stigma and avoid a perception that children who may have harmed the community are privileged over others. Programmes should strengthen local capacity to provide long-term support to children, their families and communities.

62. Some formerly associated children, particularly those who have committed or been subjected to acts of physical or sexual violence, may require intensive psychosocial support and counselling, but others may reintegrate quickly in a supportive environment with only minimal psychosocial support. Referrals should be based on an individual assessment, taking into account that symptoms of trauma can take some time to appear and may vary between boys and girls owing to their different socialization. Any participation by children in group or individual counselling must be voluntary.

63. The measures that may help prevent child association with a terrorist group do not necessarily overlap neatly with the measures that can facilitate dissociation and reintegration into society. The narrative of radicalization is of limited value in preventing association, but there is evidence that some children who have committed or participated in violent acts may internalize violent extremist narratives in a post facto justification of their actions. For such children, de-radicalization measures may play an essential role in their reintegration, but for others they may prove counterproductive, further stigmatizing children and their communities, or exacerbating grievances by ignoring or minimizing the primary motivators that in fact led to association.⁵⁶

64. Reintegration programmes must take account of the social, economic, psychological and security stressors that may have driven association and include measures aimed at preventing re-association. In some contexts, good practices and lessons learned from the reintegration of former gang members can inform programme design. Disassociation may involve a significant loss of status, resulting in feelings of insignificance and ineffectiveness, which can be reduced through active child participation in programme design and implementation. Formerly associated children could take on non-traditional roles in their communities, applying any useful skills they have acquired through association in a positive way.

65. Girls often choose not to access formal release and reintegration programmes owing to a fear of stigmatization. In such cases, informal community-based programmes should be available, partnering with existing women's groups and including access to education and vocational training. All programmes should be gender-sensitive and include an adequate number of female personnel to ensure that girls feel secure and comfortable in accessing the support available. The perceived value of girls is often associated with marriageability in patriarchal social structures. Girl victims of child, early and forced marriage or other sexual

⁵⁶ See Kato van Broeckhoven, "A complex programming landscape: the prevention of and response to child association with non-State armed groups".

exploitation or harmful practices within a terrorist group may be vulnerable to ostracization or further sexual abuse in the community. Where girls do not wish to return to their previous communities, they should have access to education and vocational training in their new community. Girls, and in particular girl mothers, should be supported in making choices in their own best interests, including whether to recognize or reject relationships they may have had with members of the terrorist group. Any children resulting from such unions should be registered and their rights to identity, nationality and not to be subjected to discrimination must be respected.

66. Formerly associated children outside their country of nationality should be afforded consular support and assistance in returning to their home country for the purpose of reintegration, whenever that is in their best interests. States should never strip the citizenship of children associated with terrorist groups abroad, regardless of whether they hold dual citizenship. Children born to foreign fighters are at particular risk of statelessness, abandonment, family separation, prolonged detention with their parents, discrimination, exploitation and recruitment by terrorist groups.⁵⁷ States should cooperate to ensure that all children are registered, have appropriate documentation of their identity and nationality, are permitted to enter their parents' country of origin, and are protected against stigma and discrimination. States should recognize the risk of recruitment as a child-specific form of persecution for the purposes of the Convention relating to the Status of Refugees and should not return a formerly associated child to a country where there is a real risk of re-recruitment.⁵⁸

V. Conclusions and recommendations

67. The full range of the impacts of terrorism and counter-terrorism on children cannot be addressed in a single report. In addition to the harms examined in the present report, terrorist groups may engage in trafficking, hostage-taking for ransom, harmful traditional practices and other forms of exploitation and abuse of children. Children whose caregivers are accused of terrorist crimes or traumatized by terrorist violence face particular risks. In all cases, international human rights law provides an essential framework for identifying, implementing and evaluating the most effective interventions to protect children and gender considerations should be integrated at all levels.

68. Children have been largely ignored in the counter-terrorism discourse. There is a need for further research on the short- and long-term impacts of terrorism on children and the drivers of terrorist exploitation of children. Counter-terrorism policies and programmes should, however, be grounded in the available empirical evidence, rather than untested theories, such as the narrative of radicalization.

69. States have different legal obligations towards children who are direct victims or witnesses of a terrorist attack, children at risk of association and children associated with terrorist groups. However, children in all of those categories are victims of terrorism. States should ensure that their laws, policies and practices recognise the primary status of children as victims, incorporate the best interests of the child as a primary consideration, ensure the protection of children and fully respect their right to express their views in all matters affecting them.

70. States should ensure that reparation programmes for victims and witnesses of terrorist acts are age- and gender-sensitive. Child victims and witnesses should have access as early as possible to any necessary rehabilitative health care based on their individual needs, including psychosocial and sexual and reproductive health-care services. Reparation programmes should account for the fact that the impact of terrorism on child victims and witnesses may include lost opportunities and ensure

⁵⁷ See United Nations Counter-Terrorism Implementation Task Force, "Guidance to States on human rights-compliant responses to the threat posed by foreign fighters".

⁵⁸ See Committee on the Rights of the Child, general comment No. 6, paras. 58–59.

that the children affected have access to special educational programmes and skills training. Caregivers of child victims and witnesses should also have access to appropriate support.

71. In their prevention efforts, States should recognize that the factors that place children at risk of exploitation by a terrorist group overlap with risk factors for other forms of exploitation. Child protection measures should take a holistic approach to those risks, in partnership with children, their families and their communities. In particular, States should take measures to address child poverty, to ensure that all children have access to quality education without discrimination and to resolve community grievances.

72. In line with their international obligations, States should explicitly prohibit and criminalize the recruitment and use of children in hostilities by non-State armed groups, including terrorist groups. Cases of exploitation of children by such groups should be investigated and the perpetrators brought to justice. Exploited children should have access to comprehensive rehabilitation and reintegration, which should be gender-sensitive.
