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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

Protecting human rights and fundamental freedoms while countering terrorism

Report of the Secretary-General

Summary

The General Assembly, in its resolution [72/180](#), reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, and urged States, while countering terrorism, to fully comply with their obligations under international law. In its resolution [73/174](#), the General Assembly strongly condemned all terrorist acts as criminal and unjustifiable and expressed grave concern at their detrimental effects on the enjoyment of all human rights. The present report is submitted pursuant to paragraph 27 of resolution [72/180](#) and paragraph 37 of resolution [73/174](#).

* [A/74/150](#).



I. Introduction

1. The present report was prepared pursuant to General Assembly resolution [72/180](#). In that resolution, the General Assembly stressed that States must ensure that all measures used in the fight against terrorism are in compliance with the obligations of States under international law, including international human rights law, international refugee law and international humanitarian law. It welcomed the work of the United Nations High Commissioner for Human Rights to implement the mandate granted in 2005 by the Assembly in its resolution [60/158](#) and requested the High Commissioner to continue efforts in that regard. In addition, it took note with appreciation of the report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism ([A/72/316](#)).

2. Also in resolution [72/180](#), the General Assembly expressed serious concern at the occurrence of violations of human rights and fundamental freedoms, as well as of international refugee and international humanitarian law, committed in the context of countering terrorism, and urged States to take a number of specific measures in order to comply fully with international law. In paragraph 27, it requested the Secretary-General to submit a report on the implementation of the resolution to the Human Rights Council and to the General Assembly at its seventy-fourth session.

3. In its resolution [73/174](#), the General 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, while emphasizing that terrorism and violent extremism conducive to terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group. In paragraph 37, the General Assembly requested the Secretary-General to consider the implementation of the resolution in the preparation of the present report.

4. The present report covers the period since the previous report of the Secretary-General ([A/72/316](#)) was submitted to the General Assembly at its seventy-second session. It includes relevant developments that took place between 1 July 2017 and 30 June 2019, with reference in particular to recommendations made by international human rights mechanisms. Efforts undertaken to respect the rights of victims are described the interplay between protections of human rights and countering terrorism is detailed, ongoing concerns are highlighted in relation to the undermining of human rights in the context of countering terrorism and a number of recommendations are made on specific measures to be taken by Member States.

II. Recent developments in the United Nations counter-terrorism architecture

5. The Global Counter-Terrorism Coordination Compact ([A/72/840](#), annex III) was launched in December 2018 as an agreed framework between the Secretary-General and the heads of 36 United Nations entities, the International Criminal Police Organization (INTERPOL) and the World Customs Organization. In the Compact, those entities agreed to achieve stronger coordination and coherence of United Nations work in support of Member States' efforts to counter terrorism and prevent violent extremism, with respect for human rights and the rule of law as the fundamental basis. They also agreed to conduct risk assessments to ensure that all projects are grounded in respect for international law, including international human rights law and, where relevant, international humanitarian law.

6. Following the launch of the Compact, the United Nations inter-agency Global Compact working groups (formerly known as the Counter-Terrorism Implementation Task Force working groups) were restructured. New terms of reference were developed for each of them, all of which include commitments to ensuring respect for human rights and the rule of law as the fundamental basis of all support to Member States, as well as application of the human rights due diligence policy on United Nations support to non-United Nations security forces ([A/67/775-S/2013/110](#), annex). The former Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism was merged with the Working Group on Supporting and Highlighting Victims of Terrorism. It is undertaking efforts to mainstream human rights into the work of other working groups¹ and stands ready to support other working groups and entities in conducting risk assessments prior to project implementation, in line with the terms of reference of the Global Compact.

III. Respecting human rights and countering terrorism

7. Acts of terrorism negatively impact the enjoyment of human rights, they deprive people of their right to life² as well as their ability to fully enjoy social, economic and cultural rights, including the rights to health, education and to an adequate standard of living.³ It is precisely to protect the right to life, liberty and security of the person, as well as to fulfil economic, social and cultural rights, that States have a duty to take effective measures to prevent and counter terrorism.⁴ However, for measures to effectively prevent, deter and investigate acts of terrorism, they must be grounded in respect for human rights and the rule of law. Failure to do so risks generating the opposite effect and exacerbating feelings of victimization and marginalization, which in turn make individuals more likely to resort to violence.⁵

8. The General Assembly, in its reviews of the Global Counter-Terrorism Strategy⁶ and relevant resolutions, as well as the Security Council, have recognized that human rights and counter-terrorism are complementary and mutually reinforcing. The Strategy recognizes that measures to ensure respect for human rights and the rule of law in the fight against terrorism and violent extremism, when conducive to terrorism, are a fundamental basis for success and has enshrined this principle in its fourth pillar.

9. The United Nations system continued to take measures to uphold this premise. The Security Council for example, through its resolution [2391 \(2017\)](#) welcoming the launch of the Joint Force of the Group of Five for the Sahel, acknowledged that respect for human rights and the rule of law is an essential part of a successful counter-terrorism effort. The Joint Force is pioneering a new approach to the integration of human rights into the new peace and security architecture. Its objective is to ensure that human rights are fully taken into account in security responses addressing new types of violence and conflict, including terrorism.⁷ To be effective, the Joint Force

¹ Examples include human rights mainstreaming in projects concerning the use of military to collect battle-field evidence in support of investigations into acts of terrorism, and the prevention of travel for terrorist suspects. In addition, entities implementing projects in the area of preventing and countering terrorism and violent extremism have requested risk assessments by the Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism and Supporting Victims of Terrorism. These include the Office of Counter-Terrorism, the United Nations Office on Drugs and Crime and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

² [A/73/347](#), paras. 3 and 4.

³ *Ibid.*, paras. 22–24.

⁴ *Ibid.*, para. 5.

⁵ *Ibid.*, para. 51.

⁶ General Assembly resolutions [60/288](#) and [72/284](#).

⁷ [S/2018/1006](#), para. 26.

will need the trust and support of local populations, whose rights must be respected. Mistakes and abuses in the context of security responses risk driving people in the region towards allegiances to extremist groups, which are skilled at offering promises of protection and revenge.⁸

10. The Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism and Supporting Victims of Terrorism continues to implement its global human rights capacity-building project for law enforcement and to support the integration of human rights into security and law enforcement officials' counter-terrorism initiatives.

11. Respect for human rights is also deeply rooted in the renewed focus of the United Nations on conflict prevention⁹ and sustaining peace. These new approaches to improving institutional analysis and response are often applicable in contexts where acts of terrorism and violent extremism are prevalent. Thus, ensuring that United Nations support for Member States in the area of countering terrorism and violent extremism complies with human rights standards is also a means of ensuring consistency of approach across the system and of addressing the root causes of conflict in a coherent way. Effective prevention requires action aimed at deterrence, but it also requires the drivers that may make terrorism an attractive alternative to be addressed. While there is no clear-cut pathway towards terrorism, studies have shown that poor governance, corruption and rule of law deficits contribute to creating the conditions where violent extremism takes root.¹⁰

12. Examining the root causes of conflicts, promoting the rule of law and respecting civil, political, economic, social and cultural rights are hence the first line of defence against terrorism¹¹ and an integral part of the solution to preventing terrorism.¹² Sustainable and inclusive development can also make a decisive contribution to preventing conflict and terrorism. The 2030 Agenda for Sustainable Development is a powerful antidote to some of the conditions conducive to terrorism. Its commitment to leave no one behind and to target those furthest behind, together with the commitments of the United Nations to empower and invest in young people can help to address some of the grievances of those who have been historically marginalized and make their communities more resilient and less vulnerable to radicalization.¹³

13. For any prevention strategy to be effective, a range of actors must be engaged. Civil society, for example, can play an important role where States are not present to counter terrorism and mend relationships between States and their citizens, in particular those belonging to marginalized communities, who may be drawn to extremism.¹⁴ Investment in youth must also be a major element of any prevention strategy. A recent United Nations Development Programme global report¹⁵ has shown that the average age of members of violent extremist groups falls within the "youth" age group and efforts, to date, to combat the phenomenon of violent extremism have tended to focus on youth radicalization and recruitment. However, the vast majority

⁸ S/2019/371, para. 47.

⁹ www.un.org/sg/en/priorities/prevention.shtml.

¹⁰ United Nations University, *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict* (2018), chap. 10, p. 174.

¹¹ www.un.org/press/en/2018/sgsm19118.doc.htm. See also A/HRC/33/29, paras. 14 and 15.

¹² www.un.org/sg/en/content/sg/statement/2017-11-16/secretary-general%E2%80%99s-speech-soas-university-london-%E2%80%9Ccounter-terrorism.

¹³ www.un.org/sg/en/content/sg/statement/2019-07-10/secretary-generals-remarks-the-african-regional-high-level-conference-counter-terrorism-and-prevention-of-violent-extremism-conducive-terrorism.

¹⁴ A/HRC/40/52, para. 13.

¹⁵ www.undp.org/content/dam/undp/library/Democratic%20Governance/Youth/Frontlines-Web.pdf, p. 13.

of the world's youth have in fact rejected violent extremism and are more engaged in activism, education and peacebuilding.¹⁶ It is therefore essential that policies promulgated to prevent violent extremism are aligned with realities on the ground and that youth be considered an important agent in stemming violent extremism and countering terrorism.¹⁷ Youth need to be more visible, seen not as a threat but as an enormous potential for our world, in particular in our search for peace, justice and respect for human rights.¹⁸

14. Education has also proved an effective prevention tool. Education and awareness-raising initiatives are essential for addressing the underlying factors contributing to terrorism, such as racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance reports that some States have developed awareness-raising campaigns to counter negative sentiments towards specific groups and to foster openness and respect for cultural diversity.¹⁹ Political, religious and community leaders are instrumental in achieving those goals. More efforts should be invested in social cohesion, education and inclusive societies, where diversity is perceived as an asset and not a threat, where every individual feels a full member of the community. Members of an inclusive society are naturally more immune to invitation to join an alternative, destructive path.

15. Recognizing the importance of grounding counter-terrorism efforts in respect for the rule of law and human rights, several countries have included explicit references to human rights and non-discrimination in their national policies on counter-terrorism. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance also reports that some countries have included explicit references to human rights and non-discrimination in their national policies on counter-terrorism. For example, the counter-terrorism strategy of Switzerland is aimed, inter alia, at preventing the stigmatization of minorities and discriminatory profiling practices, while, in France, the code of conduct for the national police, including those carrying out counter-terrorism functions, prohibits the discriminatory use of ethnicity, religion and national origin in targeting persons as suspects.²⁰ The Special Rapporteur also reports that some States have adopted measures designed to ensure the compliance of their domestic counter-terrorism frameworks with international human rights, refugee and humanitarian law,²¹ while others have introduced procedures for assessing the potential human rights impact of draft counter-terrorism laws on certain groups.²² Such good examples should be replicated and reinforced.

IV. Ensuring respect for the human rights of victims of terrorism

16. Member States have highlighted the importance of ensuring respect for the right of victims of terrorism to reparation, truth and justice, as well as their right to life, liberty and security of person and to be provided with the remedies and support to which they are entitled and need. The General Assembly, in its resolutions [72/180](#) and

¹⁶ [A/72/761-S/2018/86](#), paras. 18 and 19.

¹⁷ www.worldbank.org/en/topic/fragilityconflictviolence/publication/pathways-for-peace-inclusive-approaches-to-preventing-violent-conflict.

¹⁸ www.un.org/sg/en/content/sg/speeches/2018-04-12/remarks-investing-youth-counter-terrorism.

¹⁹ [A/72/287](#), para. 84.

²⁰ *Ibid.*, para. 61.

²¹ *Ibid.*, para. 62.

²² *Ibid.*, para. 63.

73/174, expressed profound solidarity with victims and their families and encouraged Member States to provide them with proper support and assistance.

17. Pillars I and IV of the Global Counter-Terrorism Strategy²³ also indicate the need to support, promote and protect the rights of victims of terrorism and acknowledge the central role that they can play in preventing terrorism and violent extremism. The emphasis on victims in the Strategy is further bolstered by key Security Council resolutions²⁴ reflecting the concern of the Council at the use of sexual and gender-based violence as tactics by terrorist groups, and the establishment of the International Day of Remembrance of and Tribute to the Victims of Terrorism in 2017 (General Assembly resolution 72/165). The first International Day was held on 21 August 2018 and included an exhibition featuring the personal stories of victims and representatives of victims' associations.

18. In recent years, the Global Counter-Terrorism Coordination Compact Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism and Supporting Victims of Terrorism has implemented several activities in support of victims of terrorism. In addition, since its inception in 2017, the Office of Counter-Terrorism has prioritized victims of terrorism as a key area of its work. It has developed a Victims of Terrorism Unit in the United Nations Counter-Terrorism Centre, which launched its Victims of Terrorism Support Programme during Counter-Terrorism Week in June 2018. The aim of the Support Programme is to strengthen the voices of victims and enhance their role in preventing and countering violent extremism. The Office will also convene the first Global Congress of Victims of Terrorism in June 2020 to further discuss how to protect and promote the rights and needs of victims of terrorism.

19. Different victims-focused tools have been developed over the period under review to assist States in respecting the rights of victims. For example, in 2018, the United Nations Counter-Terrorism Centre published a Handbook of Good Practices to Empower and Strengthen Victims of Terrorism Associations to Assist, Protect and Support Victims of Terrorism.²⁵ A similar product has been developed specifically targeting victims in the Asia-Pacific region and is planned for publication in 2019. The United Nations Office on Drugs and Crime has also developed a training package focused on addressing the rights of children who are forcibly recruited and exploited by terrorist groups and preventing such recruitment.²⁶

20. A victim-centric approach should be at the heart of the Organization's fight against impunity and for accountability for crimes of terrorism. States should systematically open a prompt, thorough, effective and independent investigation into each terrorist attack.²⁷ In its recently adopted general comment No. 36 (2018) on the right to life, the Human Rights Committee stressed that States parties are under a due diligence obligation to undertake reasonable positive measures, which do not impose disproportionate burdens, in response to reasonably foreseeable threats to life originating from private persons and entities, including armed or terrorist groups,

²³ General Assembly resolution 60/288.

²⁴ For example, resolutions 2331 (2016) and 2388 (2017).

²⁵ www.un.org/victimsofterrorism/sites/www.un.org.victimsofterrorism/files/oct-uncct-handbook_of_good_practices_to_support_victim27s_associations_-web.pdf.

²⁶ See www.unodc.org/unodc/en/frontpage/2019/June/unodc-launches-roadmap-on-treatment-of-children-associated-with-terrorist-and-violent-extremist-groups.html; and an example of such a tool: www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf.

²⁷ See report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on Framework principles for securing the human rights of victims of terrorism (A/HRC/20/14).

whose conduct is not attributable to the State. There is thus a positive obligation for States to take adequate preventive measures in order to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups, including armed or terrorist groups.²⁸

21. On 20 August 2018, the United Nations Investigative Team to Promote Accountability for Crimes committed by the Islamic State in Iraq and the Levant (UNITAD) officially commenced its work. Pursuant to Security Council resolution [2379 \(2017\)](#), UNITAD is mandated to support domestic efforts to hold Islamic State in Iraq and the Levant (ISIL) accountable for its crimes by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by ISIL. As reflected in the first and second reports of the Special Adviser and Head of UNITAD to the Security Council, progress has already been made by the Team in establishing its core infrastructural, budgetary and substantive framework,²⁹ and work has been undertaken to begin forensic analysis of mass grave sites and the exhumation of the remains of victims.³⁰ In recent months, UNITAD has gained access to more than 600,000 videos related to ISIL crimes, as well as over 15,000 pages of internal ISIL documents. Initial investigative work focused on three areas; attacks committed by ISIL against the Yazidi community in the Sinjar district in August 2014, crimes committed by ISIL in Mosul between 2014 and 2016 and the mass killing of unarmed Iraqi air force cadets from Tikrit Air Academy in June 2014.³¹ UNITAD is also actively engaging with victims and considering them as partners in the successful delivery of its mandate.³²

22. Despite some positive developments, more progress needs to be achieved in order to secure the rights of victims, including their access to justice. The Special Rapporteur on extrajudicial, summary or arbitrary executions has expressed the view that trials of members of terrorist groups in which victims have not participated do not serve justice.³³ In her report following a mission to Iraq, she advises that national legal frameworks should be reformed in order to ensure that members of terrorist groups suspected of committing international crimes are brought to justice through proceedings where victims are heard.³⁴

23. West African countries are confronted by other similar judicial challenges in their efforts to bring justice to victims of terrorism, in part due to the unprecedented levels of arrests and detentions for terrorism-related offences, which put pressure on the judicial system to conduct trials as speedily as possible. In an effort to address the backlog of cases in an evidence-based manner, West African States have taken steps to strengthen cooperation between national and local law enforcement agencies and criminal justice professionals.³⁵ Despite such efforts, prosecution of gender-based-violence, consistent with international standards, committed by both military and law enforcement personnel and members of terrorist groups in various conflict settings, remains a challenge.³⁶

²⁸ [CCPR/C/GC/36](#), para. 21.

²⁹ [S/2019/103](#).

³⁰ [S/2019/407](#).

³¹ www.un.org/press/en/2019/sc13882.doc.htm.

³² *Ibid.*

³³ www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24440&LangID=E.

³⁴ [A/HRC/38/44/Add.1](#), paras. 51 and 52.

³⁵ [S/2019/103](#), para. 57.

³⁶ [S/2019/280](#).

V. Human rights considerations

24. The Global Counter-Terrorism Strategy, as reaffirmed and updated by the General Assembly in its resolution 70/291, provides the blueprint for a comprehensive, strategic and long-term response to terrorism that is grounded in respect for human rights and the rule of law.

25. During the period covered by the present report, the Security Council, the Human Rights Council, the Secretary-General and the High Commissioner for Human Rights condemned acts of terrorism committed in countries worldwide, underscoring the devastating consequences for victims and the negative effects of such acts of violence on the enjoyment of human rights.³⁷

26. Member States have expressed concern over violations of human rights and fundamental freedoms, as well as violations of international refugee law and international humanitarian law in the context of countering terrorism.³⁸ The Special Rapporteur on freedom of religion or belief, in his interim report to the General Assembly, has expressed concern over the adoption of legislation and policies, within the framework of preventing and countering violent extremism, that profile members of certain religious or belief groups on the basis of stereotypes and that classify peaceful manifestations of religious belief as indicators of support for violent extremism.³⁹

27. Member States have also expressed the view that, when counter-terrorism efforts neglect the rule of law and violate international law, they not only betray the values they seek to uphold, but might also further fuel extremism that can be conducive to terrorism.⁴⁰ Terrorism is fundamentally a denial of human rights, and the fight against terrorism will never succeed by perpetuating the same denial and destruction.⁴¹

A. Effects on the right to life

28. Terrorism continued to take a staggering toll on the lives of people during the period under review. In 2017, ISIL remained the deadliest terrorist group globally. However, according to the 2018 *Global Terrorism Index*,⁴² a drop in the intensity of conflict in the Middle East, the decline of ISIL and an increase in counter-terrorism activity has meant that the total number of deaths from terrorism declined for the third consecutive year, falling by 27 per cent to 18,814 deaths in 2017.

29. In Iraq, the United Nations Assistance Mission for Iraq has verified a minimum of 939 Iraqi civilians killed in acts of terrorism and conflict-related violence during 2018, compared with 3,298 the year before.⁴³ In Sri Lanka, Easter day terrorist attacks in 2019 killed 258 people and injured hundreds. In 2018, the United Nations Assistance Mission in Somalia recorded hundreds of civilian deaths, with over 50 per cent of civilian casualties attributed to Al-Shabaab militants.⁴⁴ In Mali, between July

³⁷ A/HRC/40/28, para. 5; and Human Rights Council resolution 37/27, preamble.

³⁸ General Assembly resolution 72/180, preamble, and para. 3, and resolution 73/174, para. 5.

³⁹ A/73/362, para. 19.

⁴⁰ General Assembly resolution 72/284, para. 10.

⁴¹ www.un.org/sg/en/content/sg/statement/2017-11-16/secretary-general's-speech-soas-university-london-counter-terrorism.

⁴² <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018-1.pdf>, sect. 1, p. 12.

⁴³ www.uniraq.com/index.php?option=com_k2&view=item&id=9762:un-casualty-figures-for-iraq-for-the-month-of-december-2018&Itemid=633&lang=en.

⁴⁴ S/2018/1149; S/2018/800; S/2018/411.

2018 and June 2019, the Human Rights and Protection Division of the United Nations Multidimensional Integrated Stabilization Mission in Mali recorded human rights abuses committed by terrorist and violent extremist groups. Some 39 per cent of a total of about 600 killed were civilians, almost three times as many as in 2017.⁴⁵

30. Recent events have heightened the fear of future far-right terrorism. On 27 October 2018, an anti-Semitic gunman killed 11 people in a synagogue in Pittsburgh, Pennsylvania, United States of America, and 51 people were killed in two attacks targeting Muslims in Christchurch, New Zealand on 15 March 2019. Such extremist, neo-Nazi groups are also using the internet as a platform to mobilize support across borders, radicalize, recruit and carry out attacks.⁴⁶ In this regard, the extraordinary solidarity with the victims and their families expressed by the people and Government of New Zealand should be noted, as well as the responsible Government response to the mass shootings, including by strengthening gun control legislation.

31. Cases of extrajudicial killings in the context of counter-terrorism were reported during the period under review in the Sahel and Lake Chad Basin regions.⁴⁷

32. Another concern in relation to the right to life arising in the context of fighting terrorism is the resurgence of the death penalty.⁴⁸ Contrary to the international trend towards abolition of the death penalty, some Governments have applied the death penalty for terrorism-related offences in cases that go beyond the threshold of “intentional killing” or have applied it to defendants below the age of 18 years.⁴⁹ All States that continue to impose and implement death sentences are encouraged to establish a moratorium on executions with a view to abolishing the death penalty.⁵⁰

33. Vague laws, broadening the definition of “terrorist acts” beyond what is included in Security Council resolutions and other applicable international law have led to serious concerns. In some cases, the extended lists of offences included acts whose gravity falls below the threshold of “most serious crimes”.⁵¹ In this regard, the Human Rights Committee has emphasized that the term “most serious crimes” must be read restrictively and appertains only to crimes of extreme gravity, involving intentional killing.⁵² In other cases, defendants were below the age of 18 at the time of the commission of the alleged crime for which they were convicted and sentenced, or even at the time the death penalty was carried out, contrary to international human rights law.⁵³

34. In addition, according to paragraph 5 of the safeguards guaranteeing protection of the rights of those facing the death penalty, capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial. However, notwithstanding the foregoing, in a number of instances, suspects of terrorism were sentenced to death following trials that did not meet due process standards and were reportedly subjected

⁴⁵ S/2019/262, para. 44.

⁴⁶ www.un.org/sg/en/content/sg/speeches/2018-12-06/un-global-counter-terrorism-compact-coordination-committee-remarks.

⁴⁷ CCPR/C/CMR/CO/5, para. 25, and S/2019/454, para. 49.

⁴⁸ CCPR/C/CMR/CO/5, para. 11.

⁴⁹ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E.

⁵⁰ A/73/347, para. 43; A/HRC/38/44/Add.1, paras. 47, 60 and 62.

⁵¹ Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 35.

⁵² www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E, A/HRC/38/44/Add.1, para. 25; Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 48.

⁵³ Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 48.

to enforced disappearance, torture and denial of access to legal representation during investigations, and others were tried by military courts.

B. Impact of national legislation

35. The General Assembly has underlined the importance of ensuring that national legislation criminalizing acts of terrorism is accessible, formulated with precision, non-discriminatory, non-retroactive⁵⁴ and consistent with and applied in a manner that fully complies with international law, including international human rights law, with a view to ensuring respect for the principles of legal certainty and legality.⁵⁵

36. As highlighted by the Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and on the rights to freedom of peaceful assembly and of association, ensuring that counter-terrorism legislation and policy comply with international legal standards helps to promote the prosecution and conviction of individuals engaged in acts of terrorism. Excessively broad language poses the risk that, where such laws and measures restrict the enjoyment of rights and freedoms, they will offend the principles of necessity and proportionality that govern the permissibility of any restriction on human rights.⁵⁶

37. In a climate of growing insecurity, many States have either maintained legislation or enacted new laws that provide for an overly broad definition of terrorism that is susceptible to wide interpretation, increasing the risk of abuse by law enforcement and other officials.⁵⁷ United Nations human rights bodies continued to recommend that States bring their anti-terrorism legislation, including definition of terrorism, into line with international standards.⁵⁸ Sweeping definitions of “association with”, “support” or “assistance” to terrorist organizations have been highlighted by the International Committee of the Red Cross and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism as potentially criminalizing a broad range of conduct, including that of organizations carrying out activities that are humanitarian in nature, thus making delivery of most basic services, to civilians in conflict areas, difficult.⁵⁹ Such responses will only cause further resentment and instability and contribute to radicalization.

38. In addition, the broad definition of terrorism has disproportionately affected the enjoyment of human rights by particular groups, including ethnic and religious minorities, and contributed to their stigmatization.⁶⁰ The General Assembly has repeatedly reaffirmed that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group and has urged States to ensure that counter-terrorism measures are not discriminatory and do not profile on the basis of stereotypes.⁶¹

⁵⁴ General Assembly resolution 72/180, para. 5 (o).

⁵⁵ General Assembly resolution 73/174, para. 18.

⁵⁶ A/HRC/16/51, para. 26, and A/HRC/41/41, para. 34.

⁵⁷ A/72/316, para. 27, and A/HRC/38/44/Add.1, para. 47.

⁵⁸ CAT/C/QAT/CO/3, paras. 15 and 16; CAT/C/MRT/CO/2, para. 4 (d); CAT/C/CAN/CO/7, paras. 44 and 45; CCPR/C/PAK/CO/1, paras. 21 and 22; CCPR/C/SWZ/CO/1, paras. 36 and 37; CCPR/C/LAO/CO/1, paras. 13 and 14; CCPR/C/JOR/CO/5, paras. 12 and 13; CCPR/C/DZA/CO/4, paras. 17 and 18; CCPR/C/BHR/CO/1, paras. 29 and 30; CCPR/C/BGR/CO/4, paras. 33 and 34; CERD/C/CHN/CO/14-17, paras. 36 and 37.

⁵⁹ A/73/361, para. 49.

⁶⁰ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24637&LangID=E, May 2019.

⁶¹ General Assembly resolutions 68/178, 70/148, 71/291, 72/180 and 73/174.

39. The Special Rapporteur on freedom of religion or belief has noted that counter-terrorism measures have disproportionately affected religious minorities and found that there was a tendency to associate any form of extremism with religious extremism.⁶² While laws themselves may not explicitly discriminate on the basis of race, ethnicity or national origin, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has found that national security policies have facilitated the stripping of citizenship, which in practice, has also had a disproportionate effect on marginalized racial, national and religious groups.⁶³

C. Civil society and relevant public freedoms

40. The central role of civil society in the broader counter-terrorism strategies must be recognized and preserved.⁶⁴ In the 2018 review of the Global Counter-Terrorism Strategy, the General Assembly encouraged Member States and United Nations entities to enhance engagement with civil society and to support its role in the implementation of the Strategy.

41. The General Assembly also reaffirmed the need to fully respect the rights to freedom of expression and association of individuals in civil society.⁶⁵ In addition, it urged States, while countering terrorism, to safeguard the work of civil society by ensuring that counter-terrorism laws and measures respect human rights, in particular the rights to freedom of expression, peaceful assembly and association.⁶⁶ In establishing the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Human Rights Council also stressed the need to ensure that counter-terrorism efforts are not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression.⁶⁷ The Security Council moreover recognized the importance of civil society in increasing awareness about the threats of terrorism and more effectively tackling them.⁶⁸

42. There were situations where civil society organizations, including human rights defenders, were impacted by measures to address terrorism, cybersecurity and prevention of violent extremism.⁶⁹ Some counter-terrorism measures are used and implemented to counter civil activists and political opposition,⁷⁰ as well as to silence those who question the legitimacy of such measures.⁷¹ As noted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, along with other human rights bodies, counter-terrorism laws have been used to limit the operational capacities and fundamental freedoms of civil society groups, including journalists and human rights defenders, resulting in undue restrictions on their freedoms of expression, association and assembly.⁷²

43. Similar restrictions have been observed in the digital space. Modern technology and social media provide important opportunities for communications and social

⁶² [A/HRC/37/49/Add.2](#), paras. 50 and 51, and [A/73/362](#), para. 19.

⁶³ [A/HRC/38/52](#), para. 57, and [A/72/287](#), para. 7.

⁶⁴ www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy.

⁶⁵ General Assembly resolution [72/284](#), paras. 24 and 26.

⁶⁶ General Assembly resolution [72/180](#), para. 5 (g).

⁶⁷ Human Rights Council resolution [7/36](#).

⁶⁸ Security Council resolutions [2395 \(2017\)](#), paras. 9, 13, 15, 21 and 26; and [2396 \(2017\)](#), paras. 30, 32 and 35.

⁶⁹ [A/HRC/40/52](#), paras. 1–4; [A/HRC/41/41](#), paras. 17 and 39.

⁷⁰ [CCPR/C/SWZ/CO/1](#), para. 36; [CAT/C/RUS/CO/6](#), paras. 34 and 35.

⁷¹ [A/HRC/40/52](#), para. 8.

⁷² [A/HRC/38/34](#), paras. 28–38; [CCPR/C/JOR/CO/5](#), paras. 30–33; [CCPR/C/DZA/CO/4](#), para. 17; [CCPR/C/BHR/CO/1](#), para. 29.

connections through their instantaneous global reach. However, social media platforms have brought new challenges with regard to the legitimate exercise of the freedom of expression. Drawing the line between free speech and hate speech that can incite violence has become a pressing task. The Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework provide a useful framework for Governments and companies to consider their respective and collective responsibilities when it comes to regulating online content.⁷³

44. In response to this growing concern, a diverse group of 30 Member States committed to protecting and promoting online freedoms domestically and abroad called on all Governments to refrain from using counter-terrorism and other national security prerogatives such as cybersecurity, to unduly limit the ability of human rights defenders to exercise their human rights.⁷⁴

D. Surveillance

45. Technology, databases and the exchange of information play key roles in preventing terrorism. In 2018, the General Assembly renewed its commitment to strengthening international cooperation, including through the exchange of information and intelligence on countering terrorism, which must be pursued in accordance with international law.⁷⁵ The Security Council, in resolution [2396 \(2017\)](#), also stressed that the sharing and use of biometric data, as well as the development of watch lists and databases should be in compliance with human rights and fundamental freedoms and consistent with States’ obligations under domestic and applicable international law.

46. In this regard, pursuant to Security Council resolution [2396 \(2017\)](#), the Counter-Terrorism Committee Executive Directorate continued to assess the implementation of advance passenger information and passenger name record systems by Member States aimed at stemming the flow of foreign terrorist fighters. On 1 October 2018, a multi-year project was launched to enhance States’ capacity to use the data collected.⁷⁶ While States are required to implement their international human rights obligations when implementing counter-terrorism measures, including under resolution [2396 \(2017\)](#), it is important that any measure that interferes with the right to privacy is both necessary and proportionate to the specific risk being addressed. Procedural safeguards and effective oversight mechanisms are critical to prevent discriminatory measures or the abusive use of personal data, and to ensure that redress is provided in cases of abuse.⁷⁷

⁷³ At the regional level, the Council of Europe Commissioner for Human Rights highlighted that, in Europe, the misuse of anti-terrorism legislation has become one of the most widespread threats to freedom of expression, including media freedom. See www.coe.int/en/web/commissioner/-/misuse-of-anti-terror-legislation-threatens-freedom-of-expression?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2Fcounter-terrorism (4 December 2018).

⁷⁴ <https://freedomonlinecoalition.com/wp-content/uploads/2019/05/FOC-Joint-Statement-on-Defending-Civic-Space-Online.pdf>, May 2019. The group is composed of: Argentina, Australia, Austria, Canada, Costa Rica, Czechia, Estonia, Finland, France, Georgia, Germany, Ghana, Ireland, Japan, Kenya, Latvia, Lithuania, Maldives, Mexico, Moldova, Mongolia, Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America.

⁷⁵ General Assembly resolution [73/174](#), para. 23.

⁷⁶ [S/2019/103](#), paras. 83 and 84.

⁷⁷ www.justsecurity.org/51075/security-council-global-watch-lists-biometrics/.

47. By the same token, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has expressed concern about the overly broad legislation leading to extensive surveillance programmes targeting racial, ethnic and religious minorities. The surveillance experienced by members of minority and migrant communities has a chilling effect on their freedoms of expression and religion.⁷⁸ The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted that the increased use of surveillance practices by intelligence agencies, premised on countering terrorism or violent extremism, has undermined the trust that society places not only in the State and its judicial system but also, ultimately, in the rule of law.⁷⁹

E. The rule of law and human rights

48. The General Assembly has stressed the importance of developing effective criminal justice systems,⁸⁰ and urged States to ensure due process guarantees as enshrined in international law when countering terrorism.⁸¹ It also urged States to comply with their obligation with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

49. However, some States continued to allow for the use of military courts in the context of counter-terrorism.⁸² The High Commissioner for Human Rights expressed concerns over the lack of due process and fair trial guarantees in terrorism-related cases in her opening statements to the Human Rights Council at the September 2018 and June 2019 sessions.⁸³ In March 2019, she also highlighted that comprehensive security approaches that ensure that military operations comply with international human rights and humanitarian law, as well as take into account the spectrum of rights intended to address the root causes, will have the greatest impact on terrorism and conflict.⁸⁴

50. United Nations special procedures mandate holders have also communicated with several Member States, expressing concerns over reports of persons being subjected to arbitrary arrest,⁸⁵ torture,⁸⁶ and proceedings without due process in the context of countering terrorism.⁸⁷

51. It is imperative for States to ensure accountability for any gross or serious violations of international human rights law and international humanitarian law that take place in the context of countering terrorism. The Human Rights Council stressed that effective, fair, humane, transparent and accountable justice systems are fundamental for any counter-terrorism strategy.⁸⁸ Human rights bodies continued to call on States parties to ensure that all allegations of torture and ill-treatment of those accused of terrorism are promptly, impartially and effectively investigated, perpetrators

⁷⁸ A/72/287, paras. 39–43.

⁷⁹ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24637&LangID=E, May 2019, and A/HRC/40/52/Add.1, para. 47.

⁸⁰ General Assembly resolution 73/174, para. 9.

⁸¹ General Assembly resolution 72/180, para. 5 (s).

⁸² CCPR/C/PAK/CO/1, para. 23; CCPR/C/CMR/CO/5, para. 11.

⁸³ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23518&LangID=E, and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24724&LangID=E.

⁸⁴ www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24265&LangID=E.

⁸⁵ AL TUR 6/2018.

⁸⁶ AL BHR 5/2018, UA SYR 3/2018UA, UA LBN 4/2017, AL PAK 6/2018.

⁸⁷ UA SAU 14/2018, UA SYR 3/2018, UA LBN 4/2017, UA RUS 16/2018, AL PAK 6/2018.

⁸⁸ Human Rights Council resolution 35/34.

are prosecuted and punished appropriately, and victims receive appropriate redress in accordance with the law.⁸⁹

F. Gender and age-specific considerations

52. Women and children continue to endure egregious human rights violations in terrorism contexts.⁹⁰ In Somalia, for example, women and children, mostly girls, are particularly vulnerable to sexual violence. The fragile justice system, ongoing security concerns and limited access to areas controlled by Al-Shabaab place women and girls in a state of acute vulnerability, including to abduction for forced marriage and rape, perpetrated primarily by non-State armed groups.⁹¹ Al-Shabaab was the main perpetrator of these crimes and the killing and maiming of hundreds of children during 2018. Other armed groups, such as ISIL and Boko Haram, continued to recruit and use children on a large scale, including across borders.⁹² In Mali, violent extremism and terrorism have had a particularly worrying effect on women's and girls' rights,⁹³ and children continued to face difficulties in accessing education due to continuous threats and attacks on, as well as closure of, schools and school personnel.⁹⁴ In Iraq and Nigeria, egregious sexual and gender-based violence, including rape and sexual slavery by members of terrorist groups, continued to be reported.⁹⁵ Furthermore, survivors of sexual violence – and their children, including those born of wartime rape – face high levels of stigma and discrimination.⁹⁶

53. Counter-terrorism measures have also generated gender-specific human rights concerns, including following blanket arrests of women and their detention by military and law enforcement authorities on charges of radicalization or association with terrorist groups.⁹⁷ United Nations human rights bodies expressed concern about States' misuse of anti-terrorism policies to dissuade women human rights defenders from asserting their rights.⁹⁸

54. In Iraq, Nigeria and Mali, despite well-documented acts of sexual violence by terrorist groups, there are yet to be prosecutions of such crimes.⁹⁹ The risk is that, alongside a manifest denial of justice to victims, these heinous crimes will be omitted altogether from the historical record of many conflicts.¹⁰⁰ Some progress was made in Afghanistan in 2018, where individuals accused of rape by parties to the conflict, including members of the Taliban, were prosecuted and convicted.¹⁰¹

55. The United Nations system continued to provide capacity-building training to States to ensure that gender and age perspectives are adequately mainstreamed in terrorism-related responses. For instance, the United Nations Office on Drugs and Crime has published the *Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism*, guiding policymakers and practitioners in mainstreaming gender through the criminal justice response to terrorism.

⁸⁹ CAT/C/CMR/CO/5, para. 12 (b).

⁹⁰ S/2019/280.

⁹¹ Ibid., paras. 72 and 73.

⁹² A/72/865 and S/2018/465, para. 16.

⁹³ S/2019/280, paras. 60–64.

⁹⁴ A/HRC/40/77, paras. 53 and 55.

⁹⁵ CERD/C/IRQ/CO/22-25, para. 17; CEDAW/C/NGA/CO/7-8, para. 15.

⁹⁶ CEDAW/C/NGA/CO/7-8, para. 15 (c); see also S/2019/280, paras. 20 and 21.

⁹⁷ CEDAW/C/NGA/CO/7-8, para. 15 (b).

⁹⁸ A/HRC/41/41, para. 39.

⁹⁹ S/2019/280.

¹⁰⁰ Ibid., para. 25. See also paras. 52, 60 and 61.

¹⁰¹ Ibid., para. 31.

G. Foreign fighters and their families

56. In the aftermath of the territorial defeat of ISIL in Iraq and the Syrian Arab Republic, thousands of suspected foreign fighters and their family members have been captured. The High Commissioner for Human Rights highlighted that alleged fighters and suspected family members held at the Hawl camp, in the north-east of the Syrian Arab Republic, were in deeply sub-standard conditions.

57. The situation at the Hawl camp has attracted considerable international attention in recent months mainly due to an acute humanitarian crisis¹⁰² and the political and legal complexities surrounding the status of suspected foreign fighters and their families. Third country nationals (not Syrians or Iraqis) make up 15 per cent (around 11,000 individuals) of the camp population. The Independent International Commission of Inquiry on the Syrian Arab Republic expressed particular alarm regarding the situation of children, including those born as a result of rape, many of whom lack birth registration documents.¹⁰³ In this regard, the High Commissioner for Human Rights highlighted the vulnerability of children of foreign fighters to serious human rights violations, including forcible recruitment. She recalled States' obligation to take appropriate protection measures in the best interests of the child. Children outside their country of nationality should be afforded consular services and, when appropriate, assistance in returning to their home country. States should never strip citizenship of children associated with terrorist groups abroad, regardless of whether they hold or have the right to hold dual citizenship. States should also cooperate to ensure that children are registered, have legal identity and nationality, and that they are permitted to enter their parents' country of origin.¹⁰⁴ Moreover, the Special Representative of the Secretary-General for Children and Armed Conflict has called for the immediate repatriation of all children under 18 and the development of specialized child-protection programmes to ensure their full reintegration.¹⁰⁵

58. In Iraq, third-country nationals with suspected ties to ISIL are mostly tried under the Anti-Terrorism law of 2005 on the grounds of their membership or affiliation to the group. Special Rapporteurs have expressed concern not only at the inadequacy of the legal framework in Iraq to ensure accountability for the heinous crimes committed by ISIL, but also at the lack of judicial guarantees and due process,¹⁰⁶ sometimes with the use of confessions obtained under duress to convict suspects of terrorism, leading to the possible imposition of the death penalty.¹⁰⁷ Furthermore, the age of criminal responsibility in Iraq remains very low, at nine years of age, and some children have been charged and convicted under anti-terrorism legislation.

59. Families of foreign fighters are largely not held for prosecution purposes. In addition, some suspected foreign fighters – including children – are detained, without judicial review of their detention and no prospect of trial before competent judicial

¹⁰² <https://reliefweb.int/report/syrian-arabrepublic/syria-crisis-whos-response-al-hol-camp-al-hasakeh-governorate-issue-7-12>; Office for the Coordination of Humanitarian Affairs situation report No. 4 – As of 29 May 2019; United Nations Children's Fund (UNICEF), Syria crisis situation report – April 2019 humanitarian results.

¹⁰³ Independent International Commission of Inquiry on the Syrian Arab Republic, "Respect for the rule of law and fundamental rights must not be undermined for political expediency or sacrificed for security considerations", 9 May 2019.

¹⁰⁴ A/HRC/40/28, paras. 34 and 66.

¹⁰⁵ S/2019/103, para. 63.

¹⁰⁶ "Iraq: UN expert says prosecution of ISIL leadership must be fair and thorough", April 2019; "UN rights wing 'appalled' at mass execution in Iraq", December 2017.

¹⁰⁷ A/HRC/38/44/Add.1, paras. 47–49 and 67.

bodies.¹⁰⁸ They are left in legal and administrative limbo and thus susceptible to abuse.¹⁰⁹

60. Some States have cited national security considerations to justify their reluctance to repatriate their nationals. At the same time, it is important to take into account the reality of the humanitarian situation affecting foreign women and children in Iraq and the Syrian Arab Republic, as well as deficiencies in the legal framework and administration of justice in countries where they are held.

61. Some States began repatriating their nationals from conflict sites in Iraq and the Syrian Arab Republic, for prosecution, rehabilitation and reintegration purposes, as appropriate. Kazakhstan, Kosovo,¹¹⁰ Tajikistan and Uzbekistan are important examples in this regard. Other States stripped or revoked the citizenship of those deemed to be foreign fighters, potentially creating cases of statelessness.¹¹¹

62. To ensure that measures taken under Security Council resolutions [2178 \(2014\)](#) and [2396 \(2017\)](#), in relation to foreign fighters, are compliant with States' international human rights obligations, the Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism launched its publication *Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters*.¹¹² It provides concrete advice to States on how to deal with the travel of foreign fighters, as well as their return. The guidance also contains sections dealing specifically with the situation of women and children.

63. In the same vein, the Office of Counter-Terrorism, in consultation with other United Nations entities, produced a set of key principles for the protection, repatriation, prosecution, rehabilitation and reintegration of women and children with links to United Nations listed terrorist groups, in April 2019. The Counter-Terrorism Committee Executive Directorate also continued to address related human rights questions, including in its trends report entitled "Gender dimensions of the response to returning foreign terrorist fighters"¹¹³ and through the adoption of the addendum to the guiding principles on foreign terrorist fighters.¹¹⁴

VI. Conclusions and recommendations

64. Terrorism affects people in all countries, in all walks of life, and denies and hinders the enjoyment of all human rights. States need to take effective measures to prevent and deter acts of terrorism, and to protect all individuals under their jurisdiction against such acts. Defeating terrorism, however, requires not only security-based counter-terrorism measures, but also systematic preventive measures that directly address the drivers of violent extremism and terrorist acts. It is longstanding grievances, often combined with poor economic circumstances and social and political frustrations, that can lure people to violence. We need greater investment in justice, and in upholding economic and

¹⁰⁸ "Children of ISIL terrorists likely held in 'secret detention facilities', UN human rights office warns", 21 May 2019.

¹⁰⁹ www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/AWayForward_DetentionInSyria.pdf; see also [A/73/347](#), para. 19.

¹¹⁰ Reference to Kosovo shall be understood in full compliance with Security Council resolution [1244 \(1999\)](#) and without prejudice to the status of Kosovo.

¹¹¹ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24724&LangID=E.

¹¹² www.un.org/sc/ctc/wp-content/uploads/2018/08/Human-Rights-Responses-to-Foreign-Fighters-web-final.pdf.

¹¹³ www.un.org/sc/ctc/wp-content/uploads/2019/02/feb_2019_CTED_Trends_Report.pdf.

¹¹⁴ [S/2018/1177](#), annex.

social rights. The United Nations stands ready to work with Governments and civil society in all regions to assist them in addressing these issues.

65. Preventing terrorism and violent extremism requires a comprehensive and inclusive approach that engages all relevant actors, from Member States and the private sector, to national and regional organizations and civil society. Youth need to be engaged as partners as they are particularly well positioned to engage effectively with those most vulnerable to the influence of extremism. Civil society is also a key ally in the effort to counter terrorism and violent extremism. The trend whereby overly broad definitions of terrorism are negatively impacting their operational space needs to be reversed. Civil society groups are well placed to bridge the gap between the authorities and marginalized communities, and States benefit from their effective engagement in the design, implementation and evaluation of counter-terrorism policies.

66. Measures to counter terrorism must be based on human rights and the rule of law, in line with pillars I and IV of the Global Counter-Terrorism Strategy. Disregarding core international obligations, including the absolute prohibition of torture, is neither appropriate nor effective as a response to terrorism and violent extremism. A narrow security-based approach will not defeat terrorism and violent extremism, but may even run contrary to its stated purpose by generating new grievances and enticing more individuals to resort to violence. To this end, the following recommendations are made for Member States:

(a) To conduct an in-depth review, including a human rights impact assessment, of their counter-terrorism legislation, policies and practices, on an ongoing basis. This also means that regional and national plans of action to prevent violent extremism, as well as other measures to counter terrorism adopt a comprehensive and inclusive approach and are consistent with their international human rights obligations.

(b) To ensure respect for the rights of victims to reparation, truth and justice, in line with international human rights standards, including by ensuring victims' access to justice, as part of their right to know the truth and be heard. More concerted efforts are needed to secure the rights of victims of gender-based violence, in particular in conflict settings. Furthermore, States need to ensure that the survivors of such crimes are not subject to stigmatization or discrimination.

(c) To prevent and deter violations of international human rights law and of international humanitarian law occurring in the context of countering terrorism, including through launching prompt, independent and effective investigation into all violations.

(d) To ensure that national counter-terrorism legislation is not overly broad or vague, but precisely defined on the basis of the provisions reflected in the international counter-terrorism instruments.

(e) States retaining capital punishment to establish a moratorium on the use of the death penalty and, in the interim, undertake a comprehensive review of all relevant legislation to bring it into compliance with international human rights law and standards.

(f) To review legislation and practices related to the rights to freedom of opinion, expression, peaceful assembly and association and the right to privacy – all of which are preconditions for enabling civil society to enrich public life both online and offline.

(g) To take further steps towards the prevention of torture and other cruel, inhuman and degrading treatment or punishment, and ensure respect for due process and fair trial rights.

(h) With regard to foreign fighters and their families, States need to assume responsibility towards their nationals. As a first step, they should ensure that effective consular services are extended to their nationals present in conflict settings to meet their needs. States need to ensure that their efforts in relation to return, prosecution, rehabilitation and reintegration of foreign fighters and their families are consistent with their obligations under international human rights law, including the best interests of the child. In doing so, they are encouraged to be guided by the *Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters*, as well as the High Commissioner's report, focused on children, on the protection of human rights and fundamental freedoms while countering terrorism (A/HRC/40/28), alongside other relevant United Nations guidance addressing the issue of foreign fighters and their families.
