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

## Terrorism and human rights

### Report of the Secretary-General

#### *Summary*

The present report is submitted pursuant to General Assembly resolution [74/147](#). In the report, it is emphasized that countering terrorism and respecting and promoting human rights should be viewed as complementary, rather than separate, objectives, and that law enforcement and military responses must be complemented by preventive measures that tackle the conditions conducive to terrorism. Emphasis is also placed on the importance of meaningful engagement with a range of diverse actors to ensure the effective implementation of policies to counter terrorism and prevent violent extremism. Persistent concerns relating to national counter-terrorism legislation, due process and fair trial, and the impact of counter-terrorism measures on civic space are also highlighted in the report. In addition, it is observed that limited progress has been made in prosecuting sexual and gender-based crimes, and consideration is given to procedural fairness and humanitarian concerns associated with sanctions listing and delisting, the situation of third-country nationals with suspected ties to designated terrorist groups, and new and emerging forms of violent extremism conducive to terrorism.

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\* [A/76/150](#).



## I. Introduction

1. The present report is submitted pursuant to General Assembly resolution [74/147](#). The Assembly, in paragraph 37 of that resolution, requested the Secretary-General to submit a report on the implementation of the resolution to the Human Rights Council and to the Assembly at its seventy-sixth session.

2. In the resolution, the Assembly reaffirmed its unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism conducive to terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation. It emphasized that terrorism and violent extremism conducive to terrorism could not and should not be associated with any religion, nationality, civilization or ethnic group. The Assembly also called upon States to ensure that measures to counter terrorism and violent extremism conducive to terrorism and to preserve national security were in compliance with the obligations of States under international law, in particular international human rights law, international refugee law and international humanitarian law. In addition, the Assembly expressed serious concern at the violations of human rights and fundamental freedoms and of international refugee law and international humanitarian law in the context of countering terrorism and violent extremism conducive to terrorism. The Assembly also urged States to fully comply with their obligations under international law and to take a number of specific measures.

3. The report covers the period from July 2019 to June 2021, since the previous report of the Secretary-General ([A/74/270](#)), which was submitted to the General Assembly at its seventy-fourth session. It is emphasized in the present report that countering terrorism, as well as respecting and promoting human rights, should be viewed as complementary rather than competing objectives. Recurring human rights concerns in the context of countering terrorism are also outlined, with particular reference to recommendations made by international human rights mechanisms. Recommendations are also provided on specific measures to be considered by Member States.

## II. Holistic approach to countering terrorism

4. Acts of terrorism have a detrimental effect on the full enjoyment of human rights and fundamental freedoms. They destabilize Governments, jeopardize peace and security, undermine democracy, good governance and civil society, threaten social and economic development, and disproportionately affect specific groups, including women and children. In some cases, women and children endure most of the violence inflicted by terrorist groups, including a high number of violations involving sexual violence, including rape and forced marriage.

5. The Security Council, in its resolution [1373 \(2001\)](#), required States to take a number of measures to prevent and counter terrorism. In subsequent resolutions, the Council stressed that States must ensure that any measures taken to combat terrorism comply with all of their obligations under international law and adopt such measures in accordance with international law, in particular international human rights law, refugee law and humanitarian law.<sup>1</sup>

<sup>1</sup> See Security Council resolutions [1456 \(2003\)](#), annex, para. 6, [1535 \(2004\)](#), and [1624 \(2005\)](#), para. 4. More recently, the Council has also pointed out in its resolutions that effective counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary, mutually reinforcing and an essential part of a successful counter-terrorism effort. See Security Council resolutions [2129 \(2013\)](#), [2170 \(2014\)](#), [2178 \(2014\)](#), [2395 \(2017\)](#) and [2396 \(2017\)](#).

6. The United Nations Global Counter-Terrorism Strategy, which is the blueprint for the counter-terrorism activities of Member States and the United Nations, recently underwent its seventh review (see General Assembly resolution [75/291](#)). In that resolution, the Assembly stressed that respect for human rights for all and the rule of law are the fundamental basis of the fight against terrorism. The resolution also contains concrete elements to assist Member States in fulfilling their obligations to ensure that counter-terrorism measures comply with international human rights law. Within the framework of the United Nations Global Counter-Terrorism Coordination Compact, all working groups should ensure respect for human rights and the rule of law in their efforts to support Member States in the fight against terrorism. Two working groups in particular focus on human rights approaches to counter-terrorism efforts, such as the promotion and protection of the rights of victims of terrorism, the promotion of human rights and gender mainstreaming, and the inclusion of women in the fight against terrorism.<sup>2</sup> Since its establishment in 2017, the Office of Counter-Terrorism has made significant investments in delivering capacity-building programmes that integrate human rights.

7. In the light of the above, Member States need to pay more attention to ensuring the compliance of counter-terrorism measures with international law, including international human rights law.<sup>3</sup> Certain measures to counter terrorism and the ways in which they are carried out continue to be a cause for concern with regard to human rights. In some States, criminal justice proceedings do not uphold the full range of fair trial guarantees for those suspected of terrorist acts and charged with terrorism-related offences. There may have also been cases of disproportionate or collective punishment having been imposed,<sup>4</sup> and the conditions of detention for persons charged with or convicted of such offences can be particularly inhumane (see [A/HRC/45/27](#), para. 22). Evidence shows that such practices undermine prevention efforts, create fresh grievances and feed into narratives that can be exploited by terrorists as part of their recruitment tactics and efforts to stoke ethnic and sectarian divisions. Such situations can further nourish conditions conducive to surges in terrorism and risks, creating an environment susceptible to violence and insecurity.<sup>5</sup>

8. Failure to respect human rights while countering terrorism runs counter to the ultimate goal of defeating terrorism.<sup>6</sup> Protecting and promoting human rights,

<sup>2</sup> Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism and Supporting Victims of Terrorism and the Working Group on Adopting a Gender-Sensitive Approach to Preventing and Countering Terrorism.

<sup>3</sup> See the remarks delivered by the Secretary-General at the second High-Level Conference of Heads of Counter-Terrorism Agencies of Member States, 28 June 2021. Available at [www.un.org/sg/en/content/sg/statement/2021-06-28/secretary-generals-remarks-the-second-high-level-conference-of-heads-of-counter-terrorism-agencies-of-member-states-delivered](http://www.un.org/sg/en/content/sg/statement/2021-06-28/secretary-generals-remarks-the-second-high-level-conference-of-heads-of-counter-terrorism-agencies-of-member-states-delivered).

<sup>4</sup> See, for example, United Nations Assistance Mission for Iraq (UNAMI) and Office of the United Nations High Commissioner for Human Rights (OHCHR), “Human rights in the administration of justice in Iraq: trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL”, January 2020, p. 14. Available at [www.ohchr.org/Documents/Countries/IQ/UNAMI\\_Report\\_HRAAdministrationJustice\\_Iraq\\_28January2020.pdf](http://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf).

<sup>5</sup> See United Nations University (UNU) Centre for Policy Research and Institute for Integrated Transitions, *The Limits of Punishment: Transitional Justice and Violent Extremism* (UNU, 2018), pp. 53 and 62; [A/HRC/43/46](#), paras. 19–20; and [A/70/674](#), paras. 26, 28, 30 and 36. See also the opening statement made by the then United Nations High Commissioner for Human Rights at the thirty-fifth session of the Human Rights Council, 6 June 2017. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21687>.

<sup>6</sup> Statement made by the United Nations High Commissioner for Human Rights in the context of the virtual dialogue with human rights and civil society partners on building a better paradigm to prevent and counter terrorism, 25 May 2021. See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27111&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27111&LangID=E) and <https://reliefweb.int/report/world/20-years-after-adopting-landmark-anti-terrorism-resolution-security-council-resolves>.

including advancing gender equality, should not be seen as operational or strategic impediments, but rather as prerequisites for successful counter-terrorism measures.<sup>7</sup>

9. Although law enforcement and military responses have contributed to reducing the scale of acts of terrorism,<sup>8</sup> these measures alone are not sufficient to durably root out terrorism (General Assembly resolution 72/284, para. 9). There are clear indications that terrorist acts cannot be prevented or deterred by military means alone, especially in the long-term.<sup>9</sup> Moreover, as the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stressed: “the path to radicalization is individualized and non-linear, with a number of common ‘push’ and ‘pull’ factors but no single determining feature” (see A/HRC/31/65, para. 15). Hence the importance of preventive measures that seek to address the specific and local conditions conducive to the rise of terrorism and the need for a thorough comprehension of the underlying push and pull factors that drive radicalization to terrorism.<sup>10</sup>

10. Various United Nations studies have referred to common factors that lead to the spread of terrorism. Key enablers can include poverty, socioeconomic exclusion, civil and political rights violations, systemic racism and discrimination, unresolved conflicts, weak institutions and the lack of accountability for human rights violations and abuses.<sup>11</sup> Preventing terrorism, rather than merely reacting to the spread of terrorism, requires genuine investment in addressing the grievances that terrorists continue to exploit.<sup>12</sup> These vicious cycles must be brought to an end urgently.

11. To ensure the success of terrorism prevention strategies, it is crucial to seek the perspectives and insights of a wide range of actors, including civil society and victims.<sup>13</sup> The United Nations High Commissioner for Human Rights has identified recurrent components of best practices and lessons learned on human rights-compliant programming aimed at preventing and countering violent extremism and terrorism. These include community engagement and youth empowerment (see A/HRC/33/29, sects. IV A and B). When such preventive measures explicitly take into account gender perspectives, and are inclusive and tailored to specific local contexts, they can help to foster a climate of trust, itself a key ingredient for resilient societies. In that spirit, protecting civic space and ensuring people’s participation in processes that affect them, including in the development of counter-terrorism measures, are threshold requirements for building resilience, peace and development. The General Assembly, in its resolution on the seventh review of the United Nations Global Counter-Terrorism Strategy (resolution 75/291, para. 10), encouraged Member States

<sup>7</sup> Remarks by the Secretary-General at the second United Nations High-level Conference of Heads of Counter-Terrorism Agencies of Member States.

<sup>8</sup> According to the *Global Terrorism Index* for 2020, in 2019, deaths as a result of terrorism fell for the fifth consecutive year, after peaking in 2014, and there was a decrease of 15.5 per cent in deaths between 2018 and 2019.

<sup>9</sup> See para. 12 of the declaration of the sixth African Union annual high-level retreat of special envoys and mediators on the promotion of peace, security and stability in Africa, on the theme: “Silencing the guns – terrorism, mediation and armed groups”, October 2015. Available at [https://au.int/sites/default/files/documents/38313-doc-12\\_auc-mediation-retreat-windhoek-declaration-22-10-2015.pdf](https://au.int/sites/default/files/documents/38313-doc-12_auc-mediation-retreat-windhoek-declaration-22-10-2015.pdf).

<sup>10</sup> Fionnuala Ní Aoláin, “The complexity and challenges of addressing the conditions conducive to terrorism”, in *Using Human Rights to Counter Terrorism*, Elgar Studies in Human Rights, Manfred Nowak and Anne Charbord, eds. (30 March 2018), p. 167.

<sup>11</sup> See A/72/621, paras. 9–12; United Nations Development Programme (UNDP), *Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment* (New York, 2017), p. 5; and A/HRC/33/29, para. 13.

<sup>12</sup> Remarks by the Secretary-General at the second United Nations High-level Conference of Heads of Counter-Terrorism Agencies of Member States.

<sup>13</sup> See Security Council resolutions 1624 (2005) and 2178 (2014).

to create and maintain an enabling environment for civil society, and took note of the guidance note on the protection and promotion of civic space.

12. Successful measures to counter and prevent terrorism also depend on putting victims at the centre. Victims have a decisive role to play in such efforts (A/74/790, paras. 7 and 9). To ensure their meaningful inclusion in measures to counter and prevent terrorism, their voices must be heard, they must have access to justice, revealing truth, and they must be provided with the space needed to contribute to prevention strategies. The victim-centric approach used by the New Zealand Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques on 15 March 2019 constitutes a good practice in that regard. The Commission recognized that survivors and witnesses should be at the heart of the inquiry. Members of the Commission held several meetings with survivors and families of the deceased, as well as with members of the Muslim community in New Zealand, to ensure that the voices of the people affected were heard and that their insights informed the inquiry.<sup>14</sup>

13. In order to strengthen the capacities of States, particularly of national parliaments, to better support victims of terrorism, the Office of Counter-Terrorism, the United Nations Office on Drugs and Crime and the Inter-Parliamentary Union jointly organized a series of thematic expert consultations in 2020 and 2021. The meetings were a first step in drafting model legislative provisions on victims of terrorism. The model provisions will be launched at the first United Nations Global Congress of Victims of Terrorism, to be held in 2021 or 2022.

### III. Human rights considerations

#### A. Key concerns

14. The section below references some recurrent concerns relating to national counter-terrorism legislation and its application, due process and fair trial issues, as well as the impact of counter-terrorism measures on civic space. It also contains an outline of concerns relating to the failure to adequately prosecute sexual and gender-based crimes in terrorism contexts.

##### 1. Counter-terrorism legislation

15. States have taken considerable steps to hold perpetrators of terrorism-related offences to account. Prosecution efforts, however, often continue to rely on counter-terrorism legislation that fails to define terrorism-related offences or define such offences in a vague fashion (A/HRC/45/27, paras. 17–18). The High Commissioner for Human Rights and United Nations human rights mechanisms have consistently recommended that States review their counter-terrorism legislation in order to clarify and narrow the definition of the offences concerned.<sup>15</sup> The principles of legal certainty and legality require that criminal laws specify precisely the types of behaviour and conduct that constitute a criminal offence, as well as the consequences of committing such an offence. Criminalizing acts without providing foreseeably clear notice of the

<sup>14</sup> See <https://christchurchattack.royalcommission.nz/the-report/voices-of-the-community/who-we-engaged-with>.

<sup>15</sup> See for example, A/HRC/28/28, para. 22; A/HRC/43/46/Add.1, para. 60 (a); CCPR/C/GNQ/CO/1, paras. 22–23; CCPR/C/BEL/CO/6, paras. 11–12; CCPR/C/FIN/CO/7, paras. 10–11; CCPR/C/KEN/CO/4, paras. 16–17; CCPR/C/TUN/CO/6, paras. 31–32; and CCPR/C/BHR/CO/1, paras. 29–30.

conduct proscribed poses a risk of breaching obligations such as those enshrined in article 15 of the International Covenant on Civil and Political Rights.<sup>16</sup>

16. In the context of prosecuting offences related to Da'esh for instance, an analytical brief by the Counter-Terrorism Committee Executive Directorate on the prosecution of women associated with Da'esh indicated that there was overreliance on certain broad offences. The use of those offences resulted in women being convicted for merely being family members of alleged Da'esh fighters without taking into account the degree to which a woman's association with Da'esh may have been voluntary or coerced.<sup>17</sup> Children have also been punished in a manner that contravenes international standards. Many children who have been conscripted, enlisted or used by an armed or designated terrorist group, instead of being treated primarily as victims, faced prolonged pretrial detention and trials on the basis of their perceived membership of an armed group.<sup>18</sup> In her report to the Human Rights Council, the High Commissioner for Human Rights noted that some States had relied on circumstantial or limited evidence when applying membership and association offences to the prosecution of terrorism suspects, mainly on the basis of demographic considerations or sectarian or religious affiliation. Consideration of elements of duress and coercion did not appear to feature significantly. A focus on prosecuting membership and association offences often fails to expose the full scope of criminal conduct committed by members of a terrorist group, including in some cases where the individuals concerned may have engaged in international crimes (A/HRC/45/27, paras. 30–32 and 53 (b)).

17. Moreover, the development and implementation of imprecise and broad counter-terrorism legislation, which sometimes does not require violent conduct, is of concern (ibid., paras. 16–17). Some counter-terrorism laws have criminalized vaguely defined preparatory activities to acts of terrorism that may have scarce links to an actual criminal offence, such as “encouraging” terrorism, “apology” for or “glorification” of terrorism.<sup>19</sup> Such legislation may seriously encroach upon principles of legal certainty and legality.

## 2. Administration of justice

18. United Nations human rights mechanisms have pointed to several due process concerns during various phases of criminal proceedings initiated against terrorism suspects. These include lengthy pretrial detention,<sup>20</sup> the use of torture and ill-

<sup>16</sup> See, for example, CCPR/C/ETH/CO/1, para. 15; CCPR/C/KOR/CO/4, para. 20; CCPR/C/BEL/CO/6, para. 11; CCPR/C/KEN/CO/4, paras. 16–17; CEDAW/C/CHL/CO/7, paras. 30–31; and p. 6 of communication SAU 12/2020, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25726>.

<sup>17</sup> Counter-Terrorism Committee Executive Directorate, “CTED Analytical Brief: the prosecution of ISIL-associated women”, August 2020, p. 3–4. Available at [www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Jan/cted\\_analytical\\_brief\\_the\\_prosecution\\_of\\_isil-associated\\_women.pdf](http://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Jan/cted_analytical_brief_the_prosecution_of_isil-associated_women.pdf).

<sup>18</sup> According to the United Nations Children's Fund (UNICEF), as of April 2021, 1,159 Iraqi children, some as young as 9 years old, are detained on national security-related charges, including for their actual or alleged association with armed groups, primarily Da'esh. Most children were charged, with custodial sentences of between 5 and 15 years. See also UNAMI and OHCHR, “Human Rights in the administration of justice in Iraq”, January 2020, paras. 20 and 36; and CRC/C/OPAC/DZA/CO/1, paras. 31–32.

<sup>19</sup> A/HRC/16/51, para. 31. Moreover, the Human Rights Committee has highlighted that offences of “praising”, “glorifying” or “justifying” terrorism must be clearly defined to ensure that they do not lead to unnecessary or disproportionate interferences with freedom of expression, see Human Rights Committee general comment No. 34 (2011) on the freedoms of opinion and expression, para. 46.

<sup>20</sup> See, for example, CAT/C/NER/CO/1, para. 15; CCPR/C/SEN/CO/5, paras. 34–35; CCPR/C/KEN/CO/4, para. 32; and CAT/C/BFA/CO/2, para. 11.



treatment during prolonged detention of persons by the police and security forces,<sup>21</sup> the use of coerced confessions as evidence in courts,<sup>22</sup> restricted access to legal counsel of the suspects' own choosing,<sup>23</sup> and the fact that terrorism-related proceedings are held behind closed doors, which may affect judicial independence.<sup>24</sup>

19. In some cases, individuals charged with terrorism-related offences were tried by special or military courts in proceedings that failed to comply with international fair trial standards.<sup>25</sup> In Somalia, for example, Al-Shabaab and Da'esh suspects and all other terrorism-related cases have been prosecuted and tried before military courts without adequate transparency or procedural rights.<sup>26</sup> These courts frequently have imposed the death penalty based on the Criminal Code of 1962, operating without judicial oversight from the Supreme Court of Somalia. In considering the trial of civilians before military courts or special courts, the Human Rights Committee has insisted that such trials must be afforded the full guarantees stipulated in article 14 of the International Covenant on Civil and Political Rights. The Committee has also noted that these trials may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned, and that trials of civilians by military or special courts should be exceptional.<sup>27</sup>

20. In Iraq, the United Nations Assistance Mission for Iraq (UNAMI) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have raised concerns regarding trials under anti-terrorism laws on grounds of ineffective legal representation, limited possibilities to challenge evidence and an overreliance on confessions obtained under duress, with frequent allegations of torture that remain inadequately addressed.<sup>28</sup> It also noted that prosecution under this legal framework, with its overly broad and vague definition of terrorism and related offences, focuses on "association" with or "membership" of a terrorist organization, without sufficiently distinguishing between those who participated in violent acts and those who joined Da'esh for survival and/or through coercion.<sup>29</sup> It also expressed concern with regard to the imposition of the death penalty, even in cases falling below the "most serious crimes" threshold established under international human rights law.<sup>30</sup>

21. In Ukraine, for example, the human rights monitoring mission reported on the impact of the absence of statutory regulations on the classification of crimes, which therefore allows the prosecution to use its own discretion to classify the crime. This

<sup>21</sup> See, for example, A/HRC/43/46/Add.1, paras. 30–32; A/HRC/37/50, para. 26; CCPR/C/MRT/CO/2, para. 26; CAT/C/KWT/CO/3, paras. 13–14; CAT/C/BFA/CO/2, paras. 19–20; United Nations Assistance Mission in Afghanistan and OHCHR, *Preventing Torture and Upholding the Rights of Detainees in Afghanistan: A Factor for Peace* (2021), available at [www.ohchr.org/Documents/Countries/AF/2021report/2021-Torture-Public-Report.pdf](http://www.ohchr.org/Documents/Countries/AF/2021report/2021-Torture-Public-Report.pdf), p. 30; and A/75/334, para. 19.

<sup>22</sup> See, for example, A/HRC/28/69, paras. 104–105; CAT/C/BFA/CO/2, paras. 13–14; and communication BHR 4/2020, pp. 1–10.

<sup>23</sup> See, for example, CAT/C/UZB/CO/5, para. 35; CCPR/C/TUN/CO/6, para. 31; and CCPR/C/MUS/CO/5, para. 27.

<sup>24</sup> See A/HRC/44/49/Add.1, para. 26; A/HRC/44/21, paras. 9 and 36; and A/HRC/47/55, para. 39.

<sup>25</sup> See CCPR/C/JOR/CO/5, para. 26; CCPR/C/CMR/CO/5, para. 11; and communication EGY 2/2018, pp. 4–5, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>26</sup> On the use of military courts in Somalia to try individuals charged with terrorism-related offences, see UNU and Institute for Integrated Transitions, *The Limits of Punishment*, p. 34.

<sup>27</sup> Human Rights Committee, general comment, No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 22.

<sup>28</sup> UNAMI and OHCHR, "Human rights in the administration of justice in Iraq".

<sup>29</sup> Ibid., p. 14.

<sup>30</sup> Ibid., pp. 5 and 12.

gap allows prosecutors to put pressure on individuals to confess by threatening them to apply more severe terrorism charges if they do not cooperate.<sup>31</sup>

### 3. Impact on democratic and civic space

22. Vague notions set out in counter-terrorism laws contribute to the shrinking space within which people can meaningfully and safely engage in decision-making processes that shape their lives and futures. In some countries, such laws are routinely misused to label civil society actors, including human rights defenders, as terrorists<sup>32</sup> and to prosecute them for terrorism-related offences, with a view to hindering their human rights work.<sup>33</sup> In other instances, counter-terrorism measures were introduced to restrict civil society access to funding and increase reporting requirements, putting additional undue pressure on them.<sup>34</sup> Reprisals against human rights defenders<sup>35</sup> and the stigmatization of civil society actors (see A/HRC/43/70, para. 64) for having engaged with the United Nations are of particular concern, as they are frequently applied through the misuse of counter-terrorism legislation.

23. In addition, participants in protests and in political opposition have been charged under vaguely defined terrorism-related offences. In Nicaragua, for example, the authorities used counter-terrorism legislation against protesters in April 2018.<sup>36</sup> This led to the arrest of journalists (see A/HRC/42/18, para. 18), social leaders, leaders of the political opposition, human rights defenders,<sup>37</sup> and protesters.<sup>38</sup> The measures included the dissolution of civil society organizations under the pretext of alleged terrorist activities (see A/HRC/42/18, para. 20).

24. In several States, broad formulations of terrorism-related offences have been applied to cover a range of activities protected under the freedoms of expression and

<sup>31</sup> According to the human rights monitoring mission in Ukraine, between 2014 and 2020, the vast majority of those who pleaded guilty have been convicted on charges of membership in unlawful armed formations and, as a rule, received suspended sentences. Those who did not plead guilty, as a rule, were prosecuted for membership in a terrorist organization and sentenced to up to 14 years in prison. See more in OHCHR, “Human rights in the administration of justice in conflict-related criminal cases in Ukraine: April 2014–April 2020”, 2020, para. 92 and footnote 117. Available at <https://www.ohchr.org/Documents/Countries/UA/Ukraine-admin-justice-conflict-related-cases-en.pdf>.

<sup>32</sup> See, for example, A/HRC/44/22, paras. 49–61; and A/HRC/46/35, para. 59.

<sup>33</sup> Procuraduría de los Derechos Humanos and OHCHR-Guatemala, *Situación de las personas defensoras de derechos humanos en Guatemala: Entre el compromiso y la adversidad* (2019), para. 29. Available at [http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe\\_personas\\_defensoras.pdf](http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe_personas_defensoras.pdf); see also A/HRC/44/49/Add.1, para. 27; CAT/C/NER/CO/1, para. 31; and communication CHN 18/2019, available at [https://www.ohchr.org/Documents/Issues/Terrorism/SR/OL\\_CHN\\_18\\_2019.pdf](https://www.ohchr.org/Documents/Issues/Terrorism/SR/OL_CHN_18_2019.pdf).

<sup>34</sup> See, for example, A/HRC/47/49, para. 67; A/HRC/43/46/Add.1, para. 19; and CCPR/C/TJK/CO/3, para. 51.

<sup>35</sup> See, for example, A/HRC/39/41, annex I, paras. 3 and 32–34.

<sup>36</sup> OHCHR, “Nicaragua debe poner fin a la ‘caza de brujas’ contra las voces disidentes, dicen expertos de la ONU”, 9 August 2018, available at [www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=S](http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=S); and OHCHR, “Nicaragua: la espantosa pérdida de vidas debe detenerse inmediatamente”, 17 July 2018, available at [www.oacnudh.org/nicaragua-la-espantosa-perdida-de-vidas-debe-detenerse-inmediatamente/](http://www.oacnudh.org/nicaragua-la-espantosa-perdida-de-vidas-debe-detenerse-inmediatamente/).

<sup>37</sup> OHCHR, *Violaciones de derechos humanos y abusos en el contexto de las protestas en Nicaragua 18 de abril – 18 de agosto de 2018* (2018), paras. 35–38. Available at [https://reliefweb.int/sites/reliefweb.int/files/resources/HumanRightsViolationsNicaraguaApr\\_Aug2018\\_SP.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/HumanRightsViolationsNicaraguaApr_Aug2018_SP.pdf).

<sup>38</sup> Persons participating in protests to varying degrees were accused of terrorism, financing terrorism, kidnapping, organized crime and illegal possession of weapons (see A/HRC/42/18, para. 41). Civil society organizations documented the cases of at least 85 persons arrested under terrorism-related charges in the context of the protests (see OHCHR, *Violaciones de derechos humanos y abusos*, para. 33).



association.<sup>39</sup> These include, for instance, peaceful protest, dissent and the defence of human rights.<sup>40</sup> Thus, in the Bolivarian Republic of Venezuela, vaguely formulated criminal offences related to organized crime and terrorism have been used to stigmatize and criminalize civil society and the media.<sup>41</sup>

25. The negative impact of counter-terrorism measures on civic space has been further amplified during the crisis brought about by the coronavirus disease (COVID-19). In response to the pandemic, many States resorted to exceptional measures. While some States declared public emergencies, others resorted to directly restricting existing rights, such as the freedom of movement, expression, peaceful assembly and association, beyond limits provided for in international human rights law. While international human rights law permits certain restrictions of some human rights for the protection of public health, specific conditions must be met in order for the restrictions to be compatible with international human rights law. Such conditions include that the measures must be provided by law and that they must be necessary, proportionate and non-discriminatory.<sup>42</sup>

26. Some States used counter-terrorism measures alongside exceptional powers to respond to the COVID-19 pandemic. Counter-terrorism measures have also been used to arrest human rights defenders and journalists during the pandemic<sup>43</sup> and to arrest those protesting the alleged arbitrary detention of individuals during the pandemic.<sup>44</sup>

#### 4. Prosecution of sexual violence in terrorism contexts

27. A further concern related to the prosecution of those suspected of terrorist acts is the lack of progress with respect to holding the perpetrators of sexual violence to account, despite the well-documented use of sexual violence by terrorist groups (S/2020/95, para. 72). Reports by the United Nations indicate that a range of factors contribute to this shortcoming, including a reluctance among victims to report for fear of stigma, ostracism or reprisals, a lack of awareness of the options available to them in order to obtain redress and reparations, and mistrust of the authorities, the judiciary or law enforcement officers (S/2021/312, paras. 11 and 32–33).

28. In Nigeria, for example, the Government's special investigations panel on sexual and gender-based violence documented 210 cases of conflict-related sexual

<sup>39</sup> For example, with regard to Hong Kong, China, see OHCHR, "Press briefing note on China/Hong Kong SAR", 3 July 2020, and communication CHN 18/2019, available at [www.ohchr.org/Documents/Issues/Terrorism/SR/OL\\_CHN\\_18\\_2019.pdf](http://www.ohchr.org/Documents/Issues/Terrorism/SR/OL_CHN_18_2019.pdf); with regard to Egypt, see OHCHR, "Press briefing note on Egypt – detention of human rights defenders", 20 November 2020; with regard to Switzerland, see OHCHR, "Switzerland's new 'terrorism' definition sets a dangerous precedent worldwide, UN human rights experts warn", 11 September 2020; and, with regard to Turkey, see United Nations High Commissioner for Human Rights, oral update at the forty-sixth session of the Human Rights Council, 26 February 2021, available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=26806](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=26806). In addition, in March 2019, a number of special rapporteurs sent a communication to Guatemala (see communication GTM 3/2018, available at <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-GTM-3-2018.pdf>) on Bill No. 5266 and Bill No. 5239, in which a broad new criminal offence of terrorism was defined. See also A/HRC/46/74, annex, para. 73.

<sup>40</sup> Communication SAU 12/2020; and CCPR/C/TJK/CO/3, para. 23.

<sup>41</sup> A/HRC/47/55, paras. 57–60. On the same trend, see also A/HRC/40/52, para. 75, and A/HRC/40/52, para. 75 (a).

<sup>42</sup> OHCHR, "Emergency measures and COVID-19: guidance", 27 April 2020. Available at [www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](http://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf).

<sup>43</sup> See, for example, OHCHR, "Egypt uses terrorism trials to target human rights activists, say UN experts", 8 October 2020. Available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26364&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26364&LangID=E).

<sup>44</sup> Communication EGY 10/2020. Available at [spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25457](http://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25457).

violence committed in 2020, including rape and forced marriage, by Boko Haram factions.<sup>45</sup> However, crimes remain underreported because of the stigmatization many women and girls endure if they become known to have been victims of sexual violence.

29. In Iraq, the enactment of the Yazidi Female Survivors Law by the Federal Parliament of Iraq on 1 March 2021 was a significant step towards addressing the needs of survivors of conflict-related sexual violence. The passing of this law followed extensive efforts by the Human Rights Office of UNAMI and other United Nations agencies, funds and programmes in Iraq that work with survivors of conflict-related sexual violence to advocate legislation that meets international standards and addresses all survivors of conflict-related sexual violence. Notwithstanding this progress, Iraqi criminal courts have continued to use counter-terrorism frameworks to prosecute members of Da'esh, without including charges of sexual violence (S/2021/312, para. 33). Similarly, in the Syrian Arab Republic, there have been no convictions for sexual offences committed during the decade-long Syrian conflict (ibid., para. 57).

## **B. Procedural fairness and humanitarian concerns associated with sanctions listing and delisting**

30. The designation of groups and individuals as terrorists, at the national and international levels, continues to be used in order to impose targeted sanctions.

31. The international sanctions regime for individuals linked to Al-Qaida and the Taliban was established by Security Council resolution 1267 (1999). It was modified by subsequent resolutions that have consolidated the system of designating and imposing sanctions on individuals and entities associated with designated terrorist groups.<sup>46</sup> In its resolutions 2170 (2014) and 2178 (2014), the Council gave additional responsibilities to the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, in particular the mandate to report on the threat posed by groups associated with Al-Qaida and on foreign terrorist fighters, and to make recommendations on potential responses.

32. There are several pathways for listing organizations and individuals at the national level. Such listing can occur as a result of the implementation of Security Council processes, regional listings or through domestic processes for the listing of other entities, their members and/or associated individuals.

33. Individuals appearing on sanction lists can be subject to travel bans, asset freezing or the confiscation of property, among other measures. Such measures may have significant human rights implications (A/67/396, para. 13). Moreover, in a report to the Human Rights Council, the Special Rapporteur on the promotion and protection of human rights while countering terrorism highlighted the wide-ranging impacts of counter-terrorism sanctions and listings on women and girls, which affect their enjoyment of political, social, economic and cultural rights (A/HRC/46/36, para. 16). The High Commissioner for Human Rights has also expressed concern about the impact of the listing and delisting regime established by the Security Council and of related national procedures for the implementation thereof on the human rights of those affected and their families (A/HRC/16/50, paras. 21–22). Furthermore, the Human Rights Committee has pointed to challenges associated with listing

<sup>45</sup> See [www.un.org/sexualviolenceinconflict/countries/nigeria/](http://www.un.org/sexualviolenceinconflict/countries/nigeria/).

<sup>46</sup> Security Council resolutions 1333 (2000), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009).

individuals, which can have a considerable impact on individuals' rights to movement, property, family, privacy and reputation (CCPR/C/94/D/1472/2006, paras. 10.12 and 10.13).

34. The Security Council has taken steps to improve the sanctions regime so as to ensure fair and transparent procedures.<sup>47</sup> In December 2019, an updated technical guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions, prepared by the Counter-Terrorism Committee Executive Directorate, was published (S/2019/998, annex). The technical guide highlights international law, in particular international human rights, refugee and humanitarian law, that is pertinent to the implementation of the relevant Council resolutions. Depending on a State's international obligations, applicable law may include provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as provisions of other international human rights instruments.

35. According to the technical guide, States should have a legal provision in place that provides for the freezing of terrorist funds and assets pursuant to resolution 1373 (2001) and should establish a designating mechanism, with adequate due process considerations. The technical guide also stresses that it is necessary to consider whether judicial or other remedies that are effective, independent and impartial are available to persons or entities to challenge decisions to freeze assets (S/2019/998, annex, paras. 51 and 54).

36. Some States have developed their own listing and sanctions procedures for persons suspected, charged or convicted under domestic law of terrorism or "extremism" (A/HRC/46/36, para. 16.). The use of broad national definitions of "terrorism" or "terrorist acts" for the purpose of listing of organizations and individuals creates risks of violations of human rights.<sup>48</sup> United Nations human rights mechanisms have expressed concern about the designation of peaceful protesters and civil society organizations as terrorists, leading to the imposition of sanctions on them, such as travel bans and asset freezes.<sup>49</sup>

37. Terrorist listings can also disrupt humanitarian activities (S/2021/423, paras. 39 and 44). Humanitarian actors, their suppliers and service providers may be impeded with respect to providing humanitarian assistance to populations present in areas controlled, or formerly controlled, by terrorist groups. Efforts have been made at the

<sup>47</sup> For example, the procedural fairness of the Al-Qaida and the Taliban sanctions regime was enhanced by the creation of the Office of the Ombudsperson to receive requests from individuals and entities seeking to be removed from the list. Nevertheless, the current Ombudsperson has echoed challenges raised by his predecessors related to procedural fairness and the independence of the Office of the Ombudsperson. In particular, he has highlighted that, "in Ombudsperson proceedings, the principle of fairness has the potential to be compromised in two respects: (1) when the decision is based on confidential information which cannot be disclosed to the petitioner, i.e., which the petitioner does not know and on which she or he cannot comment; (2) if the reasons letter cannot disclose to the petitioner all the reasons which, in the opinion of the Ombudsperson, are necessary for understanding the Committee's decision, especially in cases where the listing is retained" (S/2019/112, para. 31; see also the rest of para. 31, and para. 32). See also Security Council resolution 1904 (2009), para. 20; S/2020/106, para. 34; and S/2021/122, para. 45.

<sup>48</sup> See, for example, OHCHR, "UN experts call for removal of rights defenders Ramy Shaath and Ziad El-Elaimy from 'terrorism entities' list", 21 February 2021. Available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26739](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26739).

<sup>49</sup> See, for example, A/HRC/43/46/Add.1, para. 20; OHCHR, "UN experts decry US rhetoric on designation of terrorist groups", 19 June 2020, available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25980&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25980&LangID=E); and Sri Lanka, United Nations Act, No. 45 of 1968, *The Gazette of the Democratic Socialist Republic of Sri Lanka: Extraordinary*, No. 2216/37 (5 February 2021), available at [http://fiusrilanka.gov.lk/docs/UNSCR/List/2216\\_37/2216\\_37\\_E.pdf](http://fiusrilanka.gov.lk/docs/UNSCR/List/2216_37/2216_37_E.pdf).

United Nations to address this concern. The General Assembly, in its resolution [74/147](#), urged States to ensure that counter-terrorism legislation and measures did not impede humanitarian and medical activities or engagement with all relevant actors as foreseen by international humanitarian law. The Security Council, in its resolution [2462 \(2019\)](#), also recognized the need to ensure that the provisions of the resolution were implemented in a manner consistent with the obligations of States under international law, including international humanitarian law, international human rights law and international refugee law, and urged States to take into account the potential effects of counter-terrorism measures on “exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law” (ibid., para. 24). The Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism and Supporting Victims of Terrorism is developing a human rights reference guide on the proscription of organizations in the context of countering terrorism. In the guide, to be published in 2021, the Working Group sets out nine principles to ensure full compliance with human rights during the process of listing organizations as terrorist organizations.

38. Some promising practices have emerged with regard to action by the humanitarian sector. Some States, such as Chad and New Zealand, have excluded the activities of impartial humanitarian organizations from terrorism legislation and provided humanitarian exemptions to otherwise prohibited travel to areas under the influence of groups designated as “terrorist”.

### C. The situation of third-country nationals with suspected ties to Da’esh

39. Thousands of Syrian, Iraqi and third-country nationals who are suspected former Da’esh members or have presumed family links to Da’esh members continue to be held in dire conditions in displacement camps in areas controlled by de facto authorities in north-east Syria.<sup>50</sup> In the Hawl camp, women and children of third-country nationality, many of whom are victims of serious crimes committed by Da’esh ([S/2020/95](#), para. 44), are kept in a separate annex, deprived of their liberty and not allowed to leave the camp ([A/HRC/45/27](#), para. 49), yet are unable to meaningfully challenge their placement there.<sup>51</sup>

40. The protracted humanitarian situation in north-east Syria and in displacement camps is unsustainable. Living conditions are poor owing to a lack of adequate shelter, water, food, sanitation, education opportunities and health care, and prevailing insecurity and violence,<sup>52</sup> all of which have been magnified by the COVID-19 pandemic.<sup>53</sup> In addition, the outbreak of COVID-19 has led to the suspension of some services and the reduction of staff providing assistance to persons in the Hawl camp.<sup>54</sup> These conditions, taken together, create an environment of despair and radicalization, especially among young people ([S/2020/95](#), para. 11).

<sup>50</sup> [S/2020/774](#), para. 5; [S/2021/98](#), para. 43; [A/75/729](#), paras. 22 and 74; and OHCHR, “Syria: UN experts urge 57 States to repatriate women and children from squalid camps”, 8 February 2021.

<sup>51</sup> See, for example, communication BEL 1/2021. Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25977>.

<sup>52</sup> Bo Viktor Nylund, “Two children killed in al-Hol camp in Syria”, UNICEF, 24 March 2021.

<sup>53</sup> See, for example, the remarks of the Secretary-General to the General Assembly on the situation in Syria, 30 March 2021; OHCHR, “Bachelet urges States to help their nationals stranded in Syrian camps”, 22 June 2020; and [S/2021/423](#), para. 32.

<sup>54</sup> Communication AUT 1/2021, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25928>, pp. 1–2; and [A/75/729](#), paras. 7 and 22.

41. The situation of children in the Hawl camp is cause for particular concern.<sup>55</sup> According to the United Nations Children's Fund, an estimated 27,260 foreign children from approximately 60 countries remain in camps in north-east Syria (see also [S/2021/98](#), para. 13). A total of 90 per cent of the children in the camps are under the age of 12, and 50 per cent are under 5. Children with suspected family ties to foreign terrorist fighters may be at particular risk of forcible recruitment and must be protected against such dangers ([A/HRC/40/28](#), para. 34). The Security Council, in its resolution [2396 \(2017\)](#), called upon States to distinguish between suspected fighters and accompanying family members. Children must be treated primarily as victims, not as security threats, in a manner consistent with their rights, dignity and best interests in accordance with applicable international law, in particular the Convention on the Rights of the Child.

42. While some States have accepted a significant number of their nationals coming from north-east Syria and Iraq, others are doing so only on a case-by-case basis, often citing national security considerations and prioritizing unaccompanied or orphaned children. A number of States have deprived those present in Syria or Iraq and suspected of having joined Da'esh of their nationality. Those individuals may, as a result, become stateless, in some instances without being afforded an effective right of appeal against the deprivation of their nationality.<sup>56</sup> The deprivation or loss of nationality has significant human rights implications, especially when it leads to statelessness, which, in turn, makes individuals highly vulnerable to the deprivation of other fundamental human rights. The deprivation or loss of nationality must strictly comply with international law, in particular in relation to the prohibition of arbitrary deprivation of nationality. The deprivation or loss of nationality must serve a legitimate purpose, be the least intrusive instrument to achieve the desired result and be proportional to the interest to be protected. International law therefore strictly limits the circumstances in which loss or deprivation of nationality leading to statelessness can be recognized as serving a legitimate purpose ([A/HRC/25/28](#), para. 4).

43. There is an urgent need to find durable solutions for every person present in the camps in north-east Syria, and such solutions must be in line with international law. Individuals who are part of the foreign population in the camps, especially women and children, should be given the opportunity to return to their country of origin voluntarily.<sup>57</sup> It is encouraging to note emerging shifts in some States' positions on

<sup>55</sup> See the statement of the Under-Secretary-General, United Nations Counter-Terrorism Office, at the Security Council open Arria-formula meeting on "Children and armed conflict, repatriation of children from conflict zones: from camps to homes, call for action", 29 January 2021 ([S/2021/192](#), annex, p. 4).

<sup>56</sup> See, for example, [A/74/270](#), para. 60; CCPR/C/NLD/CO/5, paras. 50–51; and the amicus curiae brief by the Special Rapporteur in the *Begum* case, available at [www.ohchr.org/Documents/Issues/Terrorism/SR/2020\\_05\\_29\\_FINAL\\_Begum\\_Intervention.pdf](http://www.ohchr.org/Documents/Issues/Terrorism/SR/2020_05_29_FINAL_Begum_Intervention.pdf). In the same case, the Supreme Court of the United Kingdom of Great Britain and Northern Ireland accepted that Shamima Begum could not have an effective right of appeal against deprivation of citizenship while she was outside the country (Supreme Court of the United Kingdom, *Begum v. Special Immigration Appeals Commission and Others*, Case No. [2021] UKSC 7, Judgment, 26 February 2021).

<sup>57</sup> See, for example, Peter Zimonjic, Rosemary Barton and Philip Ling, "It's 'absolutely essential' Canada repatriate citizens in Syrian camps: António Guterres", CBC News, 26 March 2021; OHCHR, "Bachelet urges States to help their nationals stranded in Syrian camps", 22 June 2020; [A/HRC/45/27](#), para. 56; [A/74/270](#); the statement of the Under-Secretary-General, United Nations Counter-Terrorism Office, at the Security Council open Arria-formula meeting, 29 January 2021 ([S/2021/192](#), annex, p. 4); UNICEF, "UNICEF urges repatriation of all children in Syria's Al-Hol camp following deadly fire", 28 February 2021; and OHCHR, "Syria: UN experts urge 57 States to repatriate women and children from squalid camps".

repatriation.<sup>58</sup> The Office of Counter-Terrorism, together with the United Nations Children's Fund, is coordinating the provision of support to requesting Member States to ensure the prosecution, rehabilitation and reintegration of returnees from camps in northern Syria and Iraq, in line with international human rights standards and the best interests of the child.

#### **D. New and emerging forms of violent extremism conducive to terrorism**

44. During the reporting period, including during the recently concluded seventh review of the United Nations Global Counter-Terrorism Strategy, States expressed growing concern at the spread of new and emerging forms of violent extremism conducive to terrorism (see General Assembly resolution [75/291](#), p. 2 and para. 36). These forms include antisemitic or anti-Muslim hatred, misogynistic and "supremacist" ideologies, and other racially, religiously, and ethnically motivated forms of violent extremism. While the political objectives and forms of organization associated with such extremism may vary, xenophobic and racially motivated violence and hatred, including hate speech, have often been connected to rhetoric grounded in the debasement of the status of individuals in society.<sup>59</sup> United Nations human rights mechanisms have warned about the globally accelerating threat of violence stemming from groups harbouring those ideologies.<sup>60</sup> The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has observed that limited action has been taken to address the risks that racial, ethnic and religious majorities can pose to minority groups.<sup>61</sup>

45. The Secretary-General, in his report on the activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy, noted the rise of such hateful and violent ideologies worldwide, and the exploitation by certain groups of the COVID-19 crisis to increase and diversify their support by accelerating pre-existing trends, social polarization and cultural manipulation.<sup>62</sup>

46. The Secretary-General, in his Plan of Action to Prevent Violent Extremism, emphasizes the need to adopt broad policies that go beyond security-based counter-terrorism measures and address the drivers of new and emerging forms of violent extremism ([A/70/674](#), para. 6). A primary focus on the security aspects of preventing violent extremism could prove insufficient to address the threat, or even

<sup>58</sup> See, for example, with respect to Canada, Janice Dickson, "Foreign affairs committee recommends Ottawa repatriate children detained in Syria", 10 June 2021; and, with respect to Denmark, Reuters, "Denmark to repatriate women, children from Syrian camps", 18 May 2021.

<sup>59</sup> Institute for Economics and Peace, *Global Terrorism Index 2020: Measuring the Impact of Terrorism* (Sydney, November 2020), p. 86.

<sup>60</sup> See, for example, [A/HRC/43/46](#), para. 28; the statement of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance at the Counter-Terrorism Committee virtual open briefing on emerging trends in violent extremism conducive to terrorism and addressing violent extremism through a human rights-based approach, 9 October 2020; [A/HRC/34/56](#), paras. 81–89; [A/HRC/41/45/Add.1](#), para. 53; [A/HRC/44/58](#), para. 12; [CCPR/C/AUT/CO/5](#), para. 15; [CERD/C/AUT/CO/18-20](#), para. 11; [CERD/C/IRL/CO/5-9](#), para. 21; [CAT/C/GRC/CO/5-6](#), para. 12.

<sup>61</sup> Similarly, the former Special Rapporteur on minority issues observed that the rise of ethno-nationalist political parties coincides with more sophisticated ethno-nationalist messages that appeal to a broader base of voters and thus enter the mainstream discourse more easily ([A/HRC/28/64](#), para. 79).

<sup>62</sup> See [A/75/729](#), para. 10. See also United Nations, "Secretary-General spotlights re-emerging crisis of antisemitism, warning 'We can never lower our guard', at Holocaust Memorial Ceremony", press release, SG/SM/19951, 27 January 2020; and UN News, "In Geneva, UN urges upholding human rights amid rising populism and extremism", 27 February 2017.



counterproductive,<sup>63</sup> as has been seen with regard to countering terrorism (see [A/HRC/31/65](#), para. 49).

47. To ensure the effectiveness of measures aimed at addressing all forms and manifestations of violent extremism conducive to terrorism, irrespective of their motivations, such measures should be evidence-based, human rights-compliant, non-discriminatory and inclusive. Programmes that are intended to prevent violent extremism and lead to the stigmatization of certain minority groups aggravate alienation and may in turn serve as breeding grounds for extreme ideologies that have the potential to result in violent acts.<sup>64</sup>

48. In efforts to prevent violent extremism stemming from such ideologies, including those of “supremacist” groups, measures should be free of any bias. In New Zealand, for example, the Royal Commission of Inquiry<sup>65</sup> assessed the challenges of detecting and disrupting terrorists, particularly lone actors, and the difficulties faced by intelligence and security and law enforcement agencies in detecting and stopping them.<sup>66</sup> It concluded that the counter-terrorism bodies had primarily focused on the perceived threat of Islamist extremist terrorism,<sup>67</sup> and it deemed that focus “inappropriate”.<sup>68</sup> The Commission recommended that the Government develop and implement a public-facing strategy to address extremism and prevent, detect and respond to current and emerging threats of violent extremism and terrorism. Since the release of the Commission’s report, the New Zealand Security Intelligence Service has taken steps to ensure that, in its counter-terrorism efforts, it addresses threats stemming from multiple violent extremist and terrorist groups.<sup>69</sup>

49. In the United States of America, the Office of the Director of National Intelligence, in a report released in March 2021,<sup>70</sup> underscored the threat from racially or ethnically motivated violent extremists and warned that the threat from what it termed “domestic violent extremists” could increase. In that connection, the National Security Council and the White House recently released the first strategy developed

<sup>63</sup> For example, a recent experience in the Sahel has shown that reinforcing the military in countries with undemocratic Governments can unintentionally make violent extremism more attractive to long-marginalized populations who may be forced to choose sides between a repressive Government and local violent extremist groups (see Eric Rosand and Marc Sommers, “ Militarized counterterrorism in Africa: moving beyond a failed approach”, Just Security, 30 October 2020).

<sup>64</sup> See, for example, the statement of the Special Rapporteur on contemporary forms of racism at the Counter-Terrorism Committee virtual open briefing on emerging trends in violent extremism; [A/HRC/43/46](#), para. 15; [A/HRC/31/65](#), para. 39; and [A/70/674](#), para. 26. UNDP has also noted that the prevention of violent extremism as a whole in certain countries is focused on Islamist violent extremism, obscuring other forms of extremism that can lead to stigmatization and polarization (UNDP, *Assessing Progress Made, and the Future of Approaches to Preventing Violent Extremism: Report of the United Nations Development Programme Second Global meeting on Preventing Violent Extremism, “Oslo II”* (Oslo, 2018), p. 20).

<sup>65</sup> New Zealand, Royal Commission of Inquiry, “Executive summary”, in *Ko Tō Tātou Kāinga Tēnei: Report of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch masjidain on 15 March 2019*, vol. I (2020).

<sup>66</sup> Ibid., para. 24.

<sup>67</sup> Ibid., para. 28.

<sup>68</sup> Ibid., para. 31.

<sup>69</sup> For example, the New Zealand Security Intelligence Service has changed the terminology it uses to describe threats with the aim of conveying a clear message that its concern is with violent extremists and terrorists of varying ideologies, and is not exclusively focused on one (see the statement by the Director-General, New Zealand Security Intelligence Service, at the open session of the Intelligence and Security Committee, 24 March 2021).

<sup>70</sup> United States of America, Office of the Director of National Intelligence, “Domestic violent extremism poses heightened threat in 2021”, 1 March 2021.

specifically to address the “domestic terrorist” threat.<sup>71</sup> The European Union is also increasingly active on what it terms “right-wing violent extremism”, which has been on the rise in recent years.<sup>72</sup>

50. Addressing the phenomenon of violent extremism conducive to terrorism also raises definitional challenges ([A/HRC/31/65](#), paras. 11–13 and [A/HRC/43/46](#), para. 10). The term “extremism” is vague and, according to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, has no basis in binding international legal standards ([A/HRC/43/46/Add.1](#), para. 15). While “violent extremism”-related offences must focus on the violent conduct path, the term has sometimes been used to criminalize actions and expressions that are otherwise protected under international human rights law (see, for example, [A/HRC/31/65](#), para. 21; [A/HRC/33/29](#), paras. 17–24; [A/HRC/43/46](#), para. 13; and [A/HRC/47/49](#), paras. 26 and 75). Vague “extremism”-related offences are often used to unduly restrict the freedoms of religion, expression, peaceful assembly and association, including of political dissidents and journalists (see, for example, [A/HRC/43/46/Add.1](#), para. 18; [CCPR/C/TJK/CO/3](#), para. 23; and [CCPR/C/UZB/CO/5](#), para. 20).

51. As a first step towards ensuring that measures to prevent violent extremism are firmly rooted in human rights and the rule of law,<sup>73</sup> legislation should be narrowly tailored to clearly define acts of violent extremism (see [A/70/674](#), para. 50 (k); [A/HRC/31/65](#), para. 21; [A/HRC/43/46](#), para. 15; and [CCPR/C/GC/34](#), para. 46), in conformity with the principles of legality and certainty. In that context, the General Assembly, in paragraph 37 of its resolution [75/291](#), called upon Member States to respect the principles of equality and non-discrimination, in line with their obligations under international human rights law, and to take the necessary measures to counter direct and indirect forms of religious and racial discrimination and incitement to hostility, hatred and violence propagated by terrorist groups, including on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

52. Engaging diverse civil society actors and the communities most affected by the surge of new and emerging forms of violent extremism in the design, implementation and evaluation of such measures is crucial to their success.<sup>74</sup> Community representatives and non-governmental organizations make important contributions to efforts to counter terrorism and violent extremism, from identifying conditions conducive to the rise of new threats and effectively addressing them to building trust through dialogue and partnerships with communities. Their participation contributes to peaceful and sustainable solutions and can help safeguard against unintended harm resulting from measures to counter terrorism and prevent violent extremism.

## IV. Conclusions and recommendations

**53. Efforts to prevent and counter terrorism over the past decades, including at the United Nations, have led to important advances. Yet terrorism has persisted and diversified. Human rights based-approaches should be at the centre of all counter-terrorism measures. To that end, a holistic approach firmly rooted in human rights standards and the rule of law is required. Human rights-compliant**

<sup>71</sup> United States, National Security Council, “National strategy for countering domestic terrorism”, June 2021.

<sup>72</sup> Sofija Voronova, “Understanding EU counter-terrorism policy”, January 2021.

<sup>73</sup> Pillars one and four of the United Nations Global Counter-Terrorism Strategy. See also [A/73/347](#), para. 51; and General Assembly resolution [72/246](#), para. 6.

<sup>74</sup> UNDP, *Assessing Progress Made and the Future of Approaches to Preventing Violent Extremism*, p. 15.

law-enforcement measures to address acts of terrorism should also be accompanied by preventive measures that target the conditions conducive to the spread of terrorism. Member States are therefore encouraged to allocate resources and demonstrate political support, at both the national and international levels, to ensure that human rights and the rule of law are integrated in all counter-terrorism efforts.

54. As stated in General Assembly resolution [75/291](#), on the seventh review of the United Nations Global Counter-Terrorism Strategy, States should ensure that human rights and gender are integrated in all counter-terrorism measures. To that end, they should devote sufficient attention and resources to the implementation of the fourth pillar of the United Nations Global Counter-Terrorism Strategy, focused on human rights and the rule of law, and to integrating human rights throughout all four pillars of the Strategy in accordance with international human rights law.

55. States should, in particular, ensure that counter-terrorism measures do not undermine democratic and civic space, that civil society actors are able to function effectively without fear of reprisals, and that counter-terrorism efforts are not used as a pretext to silence dissent or opposition. Terrorism sanctions regimes should follow clear and fair processes, and counter-terrorism measures should be designed and implemented in a manner that does not adversely affect humanitarian action. With a view to minimizing risks and harm resulting from counter-terrorism interventions, States are urged to consider ways of more systematically assessing and regularly reviewing the human rights impacts of counter-terrorism measures, including by engaging diverse stakeholders, particularly civil society.

56. Overly broad definitions and interpretations of terrorism offences continue to be of concern. Definitions of terrorism and terrorist acts must comply with the principles of legality and legal certainty. They should be accessible and formulated with precision, and should comply with the principles of non-discrimination and non-retroactivity.

57. The rights of victims of terrorism to effective remedies, including truth, justice and reparations, must be ensured in line with international human rights law. Special attention should be paid to the rights of victims of sexual and gender-based violence in the terrorism context, including by ensuring their access to justice and protecting them from stigmatization or discrimination.

58. Effective prevention requires approaches that take into account complex push factors, notably conditions conducive to violent extremism, and pull factors arising from individual motivations. Ideologies grounded in the debasement of the status of individuals in society have resulted in new and emerging forms of violent extremism conducive to terrorism. States should take appropriate measures to address the new and emerging threats posed by the rise in terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. States should, moreover, ensure that risk assessment tools used to prevent violent extremism are evidence-based and do not lead to human rights violations, stigmatization of specific communities or polarization within societies.