

Summary of the Secretary General Report on Terrorism and Human Rights (A/78/269)



I. Overview

The United Nations Secretary General submitted a report to the General Assembly on terrorism and human rights, pursuant to resolution 76/169. The report highlights the crucial need for counter-terrorism efforts to align with international law, including human rights, humanitarian, and refugee law, while also addressing the ongoing challenges that States face in meeting these obligations. Additionally, the report considers fair trial deficits in terrorism related trials as well as the continuous adverse impact of counter-terrorism measures on civic space. It also explores the use of new technologies, such as artificial intelligence, in counter-terrorism efforts and their implications for human rights. Finally, it draws attention to the dire situation of ISIL-affiliated suspects stranded in detention facilities in conflict zones.

II. Persistent Human Rights Issues in Counter-Terrorism efforts

The report highlights significant human rights issues that persist in counter-terrorism.

A. Counter-Terrorism Legislation

The absence of a universally accepted definition of terrorism has resulted in divergent definitions in national legislation. Too often terrorism and extremism related offences are crafted in a vague and overly broad fashion, in contravention with the principle of legality in criminal law. **Vague or broad laws create uncertainty regarding what actions are considered criminal. In particular, they hinder individuals' ability to regulate their conduct in accordance with the law.** Additionally, OHCHR research demonstrates that such laws may lead to unnecessary or disproportionate interference with certain rights, such as the rights to freedom of expression, peaceful assembly and association, including in the on-line space.

B. Counter-Terrorism and Civic Space

In some contexts, measures to counter terrorism are applied in a manner that restricts civic space and hinders the work of civil society. **Practices such as arbitrarily depriving people of their liberty; unduly restricting their movement; adding entities and individuals to terrorist watchlists through procedures that lack transparency and due process guarantees; labelling human rights defenders and protesters as terrorists; and criminalizing the work of civil society actors, remain a significant concern.** Ethnic and religious minorities as well as a range of civil society actors and members of the political opposition are disproportionately impacted by such measures.

C. Administration of Justice and the Death Penalty

The report applauds progress made by some States in prosecuting terrorist-related offences, including atrocity crimes committed by Da'esh. Nevertheless, it notes with concern the **persistence of human rights violations in the context of holding suspects of terrorism-related offences accountable, through practices such as torture, coerced confessions, and the use of the death penalty for offences that fail to meet "the most serious crimes" threshold.** These practices disproportionately impact individuals belonging to certain ethnic groups. The failure of many jurisdictions to prioritize the rule of law and human rights in counter-terrorism action can be counterproductive - the Secretary-General asserts that subjecting terrorist suspects to ill treatment while in custody not only fails to achieve the intended objectives, but also undercuts any preventive impact of accountability efforts and serves as a catalyst for violence. The report also highlights that States have taken relatively few measures to prosecute sexual violence, despite it being widespread in contexts of terrorism and counter-terrorism.

D. Use of New Technologies in Counter-Terrorism

The report warns that emerging technologies while potentially useful in combatting terrorism, raise significant concerns given the far-reaching implications for the rights to privacy, freedom of expression, non-discrimination, a fair trial and other human rights.

- **Artificial Intelligence**

There are concerns about using artificial intelligence (AI) to trigger government actions, like searches, questioning, or even arrests, due to the lower evidentiary threshold used by AI to trigger such intervention. **The decision-making process behind AI is often unclear, making it difficult to ensure transparency and accountability, which can negatively affect human rights.** As AI is increasingly used in counter-terrorism efforts, strong human rights protections are essential. Without these safeguards, existing human rights issues linked to counter-terrorism will worsen, and new problems specific to the power and use of AI will emerge. For example, overreliance on AI in counter-terrorism efforts could intensify existing concerns about the disproportionate impact on certain ethnic or religious minorities, due to the inaccuracies or bias in algorithmic decision-making.

- **Surveillance**

Increased surveillance has become a key part of counter-terrorism. **States are expanding law enforcement powers for targeted or bulk surveillance, often raising concerns about rights to privacy and non-discrimination, particularly affecting minorities and marginalized groups.** The UN High Commissioner for Human Rights and Special Procedures have called on all States to impose a global moratorium on the sale and transfer of intrusive surveillance technology, that were used to monitor, intimidate and silence human rights defenders, journalists and political opponents, until they have put in place robust regulations that guarantee its use in compliance with international human rights standards.



- **Biometric Technologies**

Biometric technologies, such as facial recognition, are used to identify suspected terrorists. This is particularly concerning as **facial recognition technology can be used to profile individuals on the basis of their ethnicity, race, national origin, gender, and other characteristics. This is problematic from a human rights perspective as such technology relies on algorithms that may be less accurate for certain racial or ethnic groups.** Despite ongoing efforts to regulate these tools, they are still widely employed - even for purposes such as identifying participants in public assemblies under the justification of counter-terrorism - and often not accompanied with sufficient human rights safeguards to prevent misuse.

- **Information and Communication Technology**

Information and communications technology (ICT) has facilitated global communication, but also allowed terrorist groups to exploit the internet for propaganda, recruitment, and financing. The General Assembly has called on States to be vigilant about the use of ICT for terrorist purposes, stressing the need to cooperate and develop counter-narratives. At the same time, concerns are raised about the potential human rights violations associated with States' misuse or overuse of ICT in the context of countering terrorism. **Especially concerning is the practice of imposing internet shutdowns for maintaining public order and protecting national security. Such measures consist of blocking or reducing Internet connectivity, or the blocking specific ICT services, such as telecommunications services, messaging and social media platforms, which could last anywhere from a few hours to several months or even years.** UN human rights mechanisms have, therefore, called upon States to refrain from and to cease such measures in light of their indiscriminate and disproportionate impact. Freedom of expression online is also impacted by pressure exerted by some States on private companies to moderate or remove "terrorist" or "extremist" content, which can lead to undue restrictions. The problem is worsened by vague definitions of terrorism and insufficient legal oversight, making it hard to distinguish between lawful and unlawful content. Moreover, many platforms use automated systems, such as AI, to filter content, but these tools can mistakenly censor protected speech. As a result, freedom of expression and access to information online are at risk, especially when there is little scrutiny over how private companies

E. Individuals with Alleged Links to Foreign Terrorist Fighters

Thousands of individuals, including foreign women and children, with suspected ties to designated terrorist groups, remain detained in inhumane conditions, in conflict zones, notably in northeast Syria and in Libya. **The situation of children in the detention facilities remains particularly dire, many of whom face a heightened risk of being forcibly disappeared and subject to sale, exploitation, abuse, and torture.** Against this background, the pace of repatriating the foreign population to their countries of origin remains slow and inconsistent. In this regard, UN Human rights mechanisms have clarified that States are responsible for protecting their citizens present abroad in certain situations, including repatriating them when needed. For example, the Committee on the Rights of the Child ruled that States have a duty to protect children within their jurisdiction, either by bringing them home or offering consular support. Similarly, the Committee against Torture found that States must protect their citizens from serious human rights violations, even if they are detained abroad, by taking steps to repatriate them.

Considering the aggravating humanitarian and human rights conditions in detention facilities and the increasing avenues to pursue accountability in some countries of origin for atrocity crimes committed by Da'esh, safe and voluntary repatriation is the most appropriate human rights-based solution to the foreign population stranded in those detention facilities.

III. Conclusions and Recommendations

The report concludes that there is an urgent need to recognize that counter-terrorism measures and respect for human rights are mutually reinforcing rather than conflicting.

To that end, the Secretary General calls on States to:

- 1. Precisely define terrorism-related offences, in line with international law, avoiding overly broad or vague language.**
- 2. Ensure that all counter-terrorism measures comply with the principles of legality, necessity, proportionality, and non-discrimination.**
- 3. Ensure meaningful, inclusive, and safe participation of civil society in developing, implementing, and evaluating counter-terrorism measures.**
- 4. Prevent torture and uphold fair trial guarantees in terrorism-related legal proceedings.**
- 5. Increase accountability for sexual and gender-based violence in terrorism and counter-terrorism contexts.**
- 6. Establish an immediate moratorium on the death penalty for retentionist States, and review relevant legislation to align with human rights norms and standards.**
- 7. Ensure that digital technologies used in counter-terrorism comply with international human rights law. This involves defining terrorism-related offences clearly, implementing oversight and monitoring mechanisms, ensuring transparency, conducting human rights impact assessments, and regulating the use of AI and surveillance by public entities. Technologies that cannot comply with human rights standards should not be used, and those with high risks to human rights should be suspended until proper protections are in place.**
- 8. Take steps to ensure the safe and voluntary repatriation of nationals from conflict zones, respecting the principle of non-refoulement and family unity.**