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**Report of the Secretary-General on**

**Assessing the impact and progress of implementation of the United Nations Global Counter-Terrorism Strategy by the United Nations system**

**The report is being drafted pursuant to OP 83 of General Assembly Resolution**

OP83:Requests the Secretary-General to submit to the General Assembly, during its seventy-third session, no later than May 2019, a report containing concrete recommendations and options on ways to assess the impact and progress of implementation of the Strategy by the United Nations entities with a view to informing discussion among Member States in advance of the seventh review of the Strategy during the seventy-fourth session of the General Assembly;”

This input is prepared by the mandate of the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism, Ms. Fionnuala Ní Aoláin.

1. **Introduction**

* Report pursuant to OP 83 of GA resolution 72/284.
* An overview of the thematic focus of the Global Counter-Terrorism Strategy and its six review resolutions

1. **Important Highlights of the UN Global Counter-Terrorism Strategy Implementation efforts by the Global Compact entities since 2006**
2. How your entity conceptualized implementation of the Strategy within its given mandate?

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism is an independent expert appointed by the UN Human Rights Council. The mandate holder has been invited to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council and General Assembly about *inter alia* identified good policies and practices, as well as existing and emerging challenges and present recommendations on ways and means to overcome them. The mandate is also one of the entities included in the Global Compact. The mandate is an active member of a number of the Compact’s Working Groups and views mainstreaming human rights as an essential objective for its work within the Compact. The mandate’s efforts are primarily focused on the realization of the objectives contained in Pillar IV. The mandate works closely with States, non-governmental organizations and experts to advance the broader goals of the Global Counter-Terrorism Strategy. By giving direct advice and assessments to states on the compatibility of their national counter-terrorism laws and practices with their obligations under international law, the mandate supports State realization of their Pillar IV obligations. By fully engaging with civil society actors and independent non-government organizations the mandate is working to create the broader conditions of a healthy, vibrant society that address the conditions conducive to terrorism. By providing expert advice to specialized international and regional entities (CTC, CTED, EU) the Special Rapporteur supports the realization of expertly based, empirically justified, effective and accountable counter-terrorism policy and practice in line with the broad objectives of the Global Counter-Terrorism Strategy. The mandate remains concerned at the marginalization of human rights in the implementation of global, regional and national strategies to counter-terrorism and advocates for an increased attention to and practical support of human rights mainstreaming across all counter-terrorism activities in the UN system.

1. **What were the key highlights of your entity’s efforts to implement the Strategy?**

The Special Rapporteur took up the position of United Nations Special Rapporteur in August 2017 which coincided with the last year of the implementation of the 5th review as endorsed in UN General Assembly Resolution A/RES/70/291. The mandate has actively contributed to a number of Working Groups including the Human Rights and Rule of Law Working Group, the Gender Working Group, the Critical Infrastructure Working Group, the Victims Working Group, the UN Interagency Working Group on National and Regional Counter-Terrorism Strategies and the Foreign Terrorist Fighters WG. In particular, the Mandate made particular contributions to the Guidance to States on Human Right-Compliant responses to the Threat Posed by Foreign Fighters (<https://www.un.org/sc/ctc/wp-content/uploads/2018/08/Human-Rights-Responses-to-Foreign-Fighters-web-final.pdf>), and the Compendium of Best Practice on the Protection of Critical Infrastructure from Terrorist Attack (<https://www.un.org/sc/ctc/wp-content/uploads/2018/06/Compendium-CIP-final-version-120618_new_fonts_18_june_2018_optimized.pdf>). The mandate contributed to the High Level Conference on Counter-Terrorism (June 28-29). The mandate maintains a strong working relationship with the Office of Counter-Terrorism and Under-Secretary General Voronkov. The mandate consults regularly with OCT and its specialized staff on a range of human rights and counter-terrorism interfaces including (Returning FF’s and dependent family members, protection of victims, civil society inclusion as well as other specific and technical issues in CT/CVE/PVE). The mandate maintains a close and productive working relationship with CTED and regularly exchanges views with its specialized staff, and in particular the human rights experts at CTED.

The mandate was actively engaged with States during the 6th Review of the Global Counter-Terrorism Strategy providing technical and expert advice.

In 2017-2018, the Special Rapporteur’s mandate received invitations from Australia, Belgium, Bosnia, France, Kazakhstan, Kenya, Tajikistan, Mali, Uganda, Qatar and the United States of America to conduct country visits. Country reports will be shared at the 40th Session of the Human Rights Council in respect of Tunisia, Saudi Arabia and Sri Lanka completing the commitments of my predecessor Special Rapporteur Ben Emmerson. Country visits were undertaken to Belgium and France in May 2018 and will be shared at the 40th Session of the Human Rights Council. All reports are available on the Special Rapporteur’s website (<https://www.ohchr.org/en/issues/terrorism/pages/srterrorismindex.aspx>).

The Special Rapporteur presented her thematic report on *de facto*, permanent and complex states of emergency occasioned by terrorism to the Human Rights Council in March 2018 ([A/HRC/37/52](https://undocs.org/A/HRC/37/52)). That report urged States to ensure that the resort to counter-terrorism regulation was commensurate with State obligations, specifically identifying the high cross-over between terrorism regulation and *de facto* states of emergency. In October 2018, the mandate presented her thematic report on the super-legislative role of Security Council thematic resolutions in the counter-terrorism sphere to the General Assembly (A/73/361). She urged States to play close attention to the sovereignty and human rights consequences of this consolidating practice by the Security Council, and made concrete recommendations on the kinds of transparency and accountability measures that could be taken in the creation and adoption of Security Council resolutions to avoid such effects (<http://undocs.org/en/A/73/361>).

The Special Rapporteur contributed to a number of national debates concerning national security/terrorism legislation by offering expert views on draft legislation including in the United Kingdom (July 2018) and Australia (February 2018), and Sri Lanka (November 2018). The Special Rapporteur has issued/co-issued multiple communications concerning the use of national security/terrorism legislation against civil society activists in multiple countries. The Special Rapporteur has had ongoing and constructive engagement with the Financial Action Task Force (FATF) and the EU Counter-Terrorism Coordinator’s Office and EU institutions on EU CT measures (<https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=24234>). The mandate has also been deeply engaged with Facebook concerning content regulation on the internet (<https://www.ohchr.org/Documents/Issues/Terrorism/OL_OTH_46_2018.pdf>).

**What was the impact of your entities’ efforts?**

The Special Rapporteur has had significant ongoing dialogue with countries visited including Sri Lanka, Tunisia, Saudi Arabia, France and Belgium including but not limited to on legislative revisions to counter-terrorism, the challenge of Foreign Fighters, the protection of victims of terrorism, the efficacy of PVE strategies and the protection of HRDs and civil society activists. The mandate has also welcomed positive efforts by government to comply with the human rights obligations while countering terrorism. The mandate’s interventions on permanent and de facto states of emergency occasioned by the use of counter-terrorism and CVE measures has prompted significant engagement by States, non-governmental organizations and other UN entities. The mandate assessment on the global legislative role being played by the Security Council in the counter-terrorism sphere has also occasioned significant debate and discussion with States. The work of the mandate has deepened Pillar IV involvement with States, and has also engaged states on the human rights dimensions of Pillar I of the strategy, especially encouraging attention to the push-pull relationship between abrogation of human rights and the rule of law and factors conducive to terrorism.

1. **Priorities for the UN Counter-Terrorism work to enhance the Impact of the Strategy**

**What more needs to be done to support better implementation of the Strategy?**

The Special Rapporteur underscore the absolute importance of implementing Pillar IV consistently and effectively. This includes deepening the application of Pillar IV work by meaningful mainstreaming of human rights across all aspects of the strategy, the work of the Compact entities, and ensuring that human rights is meaningfully engaged by the Counter-Terrorism Committee. The Special Rapporteur notes that her entity is the only entity explicitly and exclusively dedicated to the protection and promotion of human rights while countering terrorism within the UN system. As a part-time expert, her office is insufficiently resourced and lacks sufficient operational authority to provide a meaningful, permanent and sustained oversight role and the kind of consistent, forthright and expert advice that is needed on a day to day basis to meaningfully engage human rights. The Special Rapporteur acknowledges the work of the OHCHR in the CT arena, and underscores the lack of resources and capacity given to that entity. In short, if Pillar IV is to be meaningfully implemented, sustained resources and new provision in the counter-terrorism architecture needs to be made for human rights. Ongoing reforms of the CT architecture needs to augment and support greater human rights capacity including supporting defined and set aside resources to OHCHR, providing greater resource and expert capacity within OCT, and providing greater support for the Special Rapporteur’s mandate.

1. **Progress since the reform of the UN counter-terrorism architecture**

Reform of the UN CT architecture has been substantially addressed by the Special Rapporteur mandate (A/HRC/34/61 paras. 43-60). The mandate welcomed the establishment of the OCT and the appointment of an Under-Secretary General to ensure and advance coherency and co-ordination to meaningfully deliver and “all of UN” approach to countering terrorism. But unless and until adequate resources and specialized staff are appointed to address the human rights deficits of the global counter-terrorism architecture, the successful implementation of the Global Counter-Terrorism Strategy is at risk in its entirely. Human rights and rule of law are not distinct from addressing conditions conducive, preventing and combatting terrorism and building state capacity. Rather and more precisely, human rights and rule of law are absolutely necessary to the success and delivery of each of the four pillars, and increased empirical benchmarking of the failure to protect rights, rule of law deficits and abuse of counter-terrorism law and practice underscore this reality.

1. **Concreate Recommendations and Options to assess the impact and progress on the implementation of the Strategy**

Here entities are requested to share, based on their experience, concrete **Recommendations and options on ways to assess the impact and progress of implementation of the Strategy** by the United Nations entities with a view to informing discussion among Member States in advance of the seventh review of the Strategy during the seventy-fourth session of the General Assembly.

The Special Rapporteur recommends the following practices, commitments and changes to ensure the meaningful realization of Pillar IV of the Global Counter-Terrorism strategy

1. That adequate resources and capacity be provided to support the specialized role of her mandate and the OHCHR in providing distinct, specialized expert advice on the intersection of human rights and counter-terrorism to States, civil society, and other UN entities. This provision is most urgently required in New York, but adequate resources to Geneva are also necessary to ensure that both entities have a meaningful, sustained and effective presence and can adequately discharge the wide range of tasks they are entrusted with in the fulcrum of the counter-terrorism architecture. The Special Rapporteur notes that her mandate is specifically required to consider all human rights that might be affected by counter-terrorism measures. By HRC Resolution 31/3 the mandate’s responsibilities include communicating and exchanging information with all relevant sources on alleged violations of human rights and fundamental freedoms while countering terrorism, undertaking country visits and reporting to the Council and to the General Assembly. In addition, the mandate’s obligations include the provision of advisory services or technical assistance to States at their request; to identify, exchange and promote best practices; as well as to work in close cooperation and develop a regular dialogue with all relevant actors, particularly those within the United Nations that deal with counter-terrorism issues. These tasks are essential to engage Pilar IV, but simply cannot be carried out by a part-time expert with virtually no resources at her disposal.
2. That specialized expert capacity be expanded within the OCT on human rights to enable strengthened application of Pillar IV. The appointment of a human rights officer is an important and expert resource within OCT. One human rights officer is not a sufficient commitment of expertise to meet all the demands if Pillar IV is being fully and meaningfully implemented.
3. Budgetary analysis of human rights commitments within projects supported by OCT. At the domestic level, government budgeting has increasingly been recognized as an important tool to advance human rights and state compliance Models for such benchmarks can be found in human rights budget analysis tools.[[1]](#footnote-1) Human rights budgeting is “a process of developing and executing a public budget in a way that is sensitive to human rights standards and the government’s human rights obligations, a process which aims to arrive at a budget that is designed to effectively realize people’s human rights.”[[2]](#footnote-2) The Special Rapporteur recommends that in the assessment of budgetary spending within the Compact entities, human rights budgeting tools be adapted to enable tracking and assessment of Pillar IV commitments, and to encourage mainstreaming of human rights in strategy by budgetary incentives to engage human rights. There is explicit Guidance available on best practices from UN Human Rights bodies including CRC General Comment 5.[[3]](#footnote-3) The Special Rapporteur offers the technical support of her office to support any efforts in this regard.
4. That benchmarks are developed on all projects supported by the Compact to assess whether and to what degree they are advancing or engaging Pillar IV. Such benchmarks can be adapted from best national practice on engaging human rights in a range of public policy activities.[[4]](#footnote-4)
5. That a new Inter-Agency Working Group on Resource Mobilization and Monitoring and Evaluation be established and structurally include human rights and rule of law evaluation tools in its operating imperatives. The effectiveness of counter-terrorism measures and practice must be explicitly assessed through human rights and rule of law impacts both positive and negative.
6. That specialized human rights capacity building be explicitly supported across all entities engaged in counter-terrorism within the UN Compact Framework. This includes the adoption and implementation of the Human Rights Due Diligence Policy (HRDDP) and its effective application in CT work.
7. That a Civil Society Unit as recommended by OCT be adopted and supported to engage the commitment to civil society, as well as transparency and accountability within UN regulatory frameworks on counter-terrorism. It is essential that civil society inclusion be inclusive, involving a broad and diverse range of independent civil society groups. In parallel, mirroring good practice across the UN system, and the commitments to civil society contained in the Global Counter-Terrorism Strategy, consultation with civil society should be encouraged and supported by all entities as well as by Compact Working Groups. There is strong evidence of good national consultative practices that can be drawn upon to engage this work.[[5]](#footnote-5)
8. That consideration be given when establishing a practice of regular High Level Conferences on Terrorism to mainstreaming human rights and rule of law issues in the scope of such gatherings and their defined outcomes. In parallel, thematic regional conferences in the run-up to next High-level Conference in June 2020 should explicitly include human rights and rule of law mainstreaming.
9. That good practice of entity collaboration on human rights mainstreaming be encouraged and recognized (e.g. The work of the WG on Human Rights and Rule of Law, Victims Working Group).
10. State engagement and state support must consistently and unequivocally include human rights including but not limited to national counter-terrorism strategies, preventing violent extremism strategies, security sector training and workshops.

1. Diane Elson, *Budgeting for Human Rights: Monitoring Government Budges for Compliance with CEDAW*. United Nations Development Fund for Women 1 (May 2006), <https://www.internationalbudget.org/wp-content/uploads/Budgeting-for-Women%E2%80%99s-Rights-Monitoring-Government-Budgets-for-Compliance-with-CEDAW.pdf>; or good model practice at national level includes Government Offices of Sweden, A Strategy for National Efforts for Human Rights. Government Offices of Sweden (Nov. 2017), https://www.government.se/4ab459/contentassets/08bcf332d33e40908f918f0cd29a13ae/a-strategy-for-national-efforts-with-human-rights; Scottish Human Rights Commission, Strategic Plan 2016-2020. [↑](#footnote-ref-1)
2. Ann Blyberg, *Human Rights Budgeting and Budget Analysis*. Scottish Human Rights Commission (May 2018), http://www.scottishhumanrights.com/economic-social-cultural-rights/human-rights-budgeting/. [↑](#footnote-ref-2)
3. UN Doc. CRC/GC/2003/5 [↑](#footnote-ref-3)
4. Scottish Human Rights Commission, Strategic Plan 2016-2020. Scottish Human Rights Commission (March 2016), http://www.scottishhumanrights.com/media/1165/3rdstrategicplan2016-2020pdf.pdf. [↑](#footnote-ref-4)
5. *See e.g.*, Australian Human Rights Commission, *National Human Rights Institutions and National Implementation and Monitoring of the Convention on the Rights of Persons with Disabilities*. Australian Human Rights Commission (2007), https://www.humanrights.gov.au/national-human-rights-institutions-and-national-implementation-and-monitoring-convention-rights; Foreign Department of Foreign Affairs FDFA, *FDFA Human Rights Strategy 2016–2019*. FDFA 22–23 (Feb. 2016), https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Strategie-Menschenrechte-160224\_EN.pdf. [↑](#footnote-ref-5)