

Mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

To: Ms. Elizabeth Salmón
Chair of the Advisory Committee

cc. Fatou Houel, Secretary of the Advisory Committee.

The Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism is pleased to offer her views on the Draft Report of the Advisory Committee on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, with a particular focus on economic, social and cultural rights requested by the Human Rights Council in its resolution 34/8 on the Effects of terrorism on the enjoyment of all human rights.

The Special Rapporteur acknowledges the work of the Committee, the complexity of the legal issues and the value of addressing the protection and promotion of human rights in the context of addressing terrorism and counter-terrorism. The Special Rapporteur's comments are primarily focused on issues of legal precision, the nature of the legal obligations engaged by addressing the actions of non-state actors, and the importance of fundamental human rights principles including non-discrimination, proportionality and necessity in all contexts.

The Special Rapporteur concurs that the overall reflection on the enjoyment of economic, social and cultural rights in the terrorism and counter-terrorism arenas has been understated. She recalls the Vienna Declaration and Programme of Action, including its recognition of the indivisibility of all human rights,¹ the important work that has been undertaken by the Committee on Economic, Social and Cultural Rights in underscoring the nature of the obligations owed by states to the enjoyment of economic, social and cultural rights to the lives of individual rights-bearers,² and the variety of tools now available to effectively measure the implementation of State obligations in this context.

Definition of Terrorism

The Special Rapporteur notes the detailed discussion provided on the definition of terrorism in paragraphs 5-8.

¹ Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993 found at <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

² General Comment of the Committee on Economic, Social and Cultural Rights on Article 2, General Comment 3, The nature of States parties' obligations (Fifth session, 1990), U.N. Doc. E/1991/23, annex III at 86 (1991), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 14 (2003)

Para 5. The Special Rapporteur notes the analysis of ‘conventional warfare’ in the Report but would respectfully suggest that the underlying assumption that it “[a]llows for the measure of success in terms of the ability to inhibit and eventually end enemy capacity to wage armed conflict” may be somewhat dated in terms of contemporary practices of warfare, which increasingly involve a variety of asymmetries and new practices.³ It would be a mistake for the Report to affix a somewhat dated presumption of the forms and practices of ‘traditional’ conflicts in contrast to the challenges of terrorism, where both the highly evolving nature of warfare itself creates new legal challenges and where the overlap between situations of armed conflict (common Article 3, Protocol II) have significant intersection with acts of terrorism. The Special Rapporteur would also respectfully note that the assertion that terrorism belongs in a class of acts ‘feebler’ than war may not be solidly empirically based, given the capacity of many non-state actor groups to garner military and other resources that are beyond the capacities of some states.⁴ The Special Rapporteur also strongly advises the Advisory Committee to avoid blurring the lines between terrorism-related regulation and international humanitarian law.

Para 6. The Special Rapporteur concurs with the well-stated proposition that there is no universally agreed definition of terrorism. She points out that it would be helpful for this Advisory Committee to directly and specifically note that the misuse of definition is a serious and systematic problem in State practice. As noted by her Report to the Human Rights Council in March 2019, over 66% of all communications to the mandate since 2005, have involved the use of counter-terrorism law against human rights defenders and civil society activists.⁵ The Special Rapporteur notes that the lack of definition does not have neutral outcomes, rather it is an essential aspect of the misuse and misapplication of counter-terrorism law, which operates to undermine the core goal of addressing and regulating the phenomena of terrorism. The paragraph references broad and (somewhat) vague academic definitions of terrorism but provides no references. Moreover, the references to “guerrilla” and “freedom fighters” seem superfluous and anarchic, and not connected to specific legal standards and analysis. A rather odd unattributed quotation is included in this paragraph which might pose certain challenges for States or political leaders who may have previously been designated as ‘terrorist’ under domestic law,⁶ but whether through process of peace agreement, amnesty or political compact have joined regularly constructed political process. Given the continued use of Amnesty provisions by States, and the recognition of valid Amnesty under Protocol II this reference seems at odds with current State practice and

³ Aaron Clauset, Trends and fluctuations in the severity of interstate war 4(2) *Advance Science* (2018); Cécile Fabre, *Cosmopolitan Wars* (2012); David E. Long *Countering Asymmetrical Warfare in the 21st Century: A Grand Strategic Vision Strategic Insights* found at <https://www.hsdl.org/?view&did=487275>.

⁴ See analysis by noted Egyptian/American scholar, M. Cherif Bassiouni, *The New Wars and the Crisis of Compliance with the Law of Armed Conflict by Non-State Actors* 98(3) *Journal of Criminal Law and Criminology* (2008); David E. Cunningham et al, *Non-State actors in civil wars: A new dataset* 30(5) *Conflict Management and Peace* (2015) found at <https://www.hsdl.org/?view&did=487275>; Alejandro Chehtman, *A Theory of Asymmetric Warfare: Normative, Legal and Conceptual Issues* (2019)

⁵ A/HRC/40/53 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the role of measures to address terrorism and violent extremism on closing civic space and violating the rights of civil society actors and human rights defenders

⁶ “A terrorist is a terrorist no matter whether or not you like the goal /s he is trying to achieve ...”

international law.⁷ The Special Rapporteur recommends its deletion. The Special Rapporteur would strongly encourage the Advisory Committee to reference the multiple suppression conventions agreed by States that provide solid, agreed and irrefutable definitions of acts of terrorism. The Special Rapporteur would also commend the model definition of terrorism provided by her mandate, an appointed entity within the global counter-terrorism architecture as a core reference point on a definition of terrorism in conformity with the international law obligations of States. This definition reflects best practice in countering terrorism, pursuant to an analysis undertaken on the basis of consultations and various forms of interaction with multiple stakeholders, including Governments.⁸ Moreover, the Special Rapporteur notes the specific and definite definition of terrorism referenced by the United Nations Security Council in resolution 1566 (2004).⁹ The Special Rapporteur presses for its inclusion here to reflect the genuine degree of consensus that exists within state practice on certain aspects of the definition of terrorism in practice.

Para 7: This paragraph provides a slew of definitions on terrorism culled from a variety of “soft” law or national sources. While a wide and diverse range of definitions is always a good thing to showcase, the Special Rapporteur was struck by the rather idiosyncratic selection choices made (for example, the choice to open the paragraph with the FBI definition,¹⁰ which she notes has been subject to periodic change over decades and comes via administrative rather than legislative process). It would seem to the Special Rapporteur that a more rigorous and methodologically sound approach would be to address the definitions found in Suppression Conventions,¹¹ to systematically include all regional definitions contained in treaties,¹² to review

⁷ Article 6(5) of Protocol II additional to the Geneva Conventions relating to non-international armed conflicts (NIACs) provides that, at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict.

⁸ See A/HRC/16/51, Practice 7, paras. 26-28, available at <https://undocs.org/en/A/HRC/16/51>.

⁹ <http://unscr.com/en/resolutions/doc/1566>, para. 3.

¹⁰ She notes this is the first definition often produced in a generic google search, but this would not be a per se reason to include it in the Advisory Report.

¹¹ Hague Convention for the Suppression of Unlawful Seizure of Aircraft, Dec. 16, 1970, entered into force Oct. 14, 1971, 22 U.S.T. 1641, 860 U.N.T.S. 105; International Convention Against the Taking of Hostages, G.A. Res. 34/146, UN GAOR, 34th Sess., Supp. No. 46 at 245, UN Doc. A/34/146 (1979) (signed Dec. 17, 1979; entered into force June 3, 1983), reprinted in (1979) 18 *International Legal Materials* 1456; Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 24 U.S.T. 565, T.I.A.S. No. 7570, 974 U.N.T.S. 178 (signed Sept. 23, 1971; entered into force Jan. 26, 1973); Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, 28 U.S.T. 1975, T.I.A.S. No. 8532, 1035 U.N.T.S. 167 (signed Dec. 14, 1973; entered into force Feb. 20, 1977); Others include the Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Mar. 10, 1988, 1678 U.N.T.S. 221, reprinted in (1988) 27 *International Legal Materials* 668; Protocol concerning the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Mar. 10, 1988, reprinted in (1988) 27 *International Legal materials* 685; Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Senate Treaty Doc. No. 101-1 (1989); Convention on the Physical Protection of Nuclear Material, adopted Oct. 26, 1979, 1456 U.N.T.S. 1987, reprinted in (1980) 18 *International Legal materials* 1419; Convention on the Marking of Plastic Explosives for the Purpose of Detection, Mar. 1, 1991, 2122 U.N.T.S. 359, reprinted in (1991) 30 *International Legal Materials* 721.

¹² The Special Rapporteur notes that only definitions from the Arab Convention and the EU are provided. Missing are definitions from the Organization of American States, the African Union and the Council of Europe. She notes that the 2002 EU definition provided in the Framework decision is updated and

definitions contained in Security Council and General Assembly Resolutions,¹³ and to include the model definition of terrorism provided by this mandate as an example of legal definition that is fully in conformity with the international law obligations of States. The Special Rapporteur was also not sure why the definition of one particular country was used without a broader canvass of national definitions. She brings to the attention of the Advisory Committee that the definition of terrorism contained in Russian law has been subject to some critique from a human rights and international law perspective for being overly broad and vague.¹⁴

The Special Rapporteur is of the strong view the Advisory Committee would likely garner more support and engagement by States if it were to work within existing and agreed definitions of terrorism rather than craft a unilateral definition of terrorism. Despite challenges in reaching consensus, there is already a process in place for advancing an agreed multilateral definition of terrorism in the United Nations 6th Committee.¹⁵ The Special Rapporteur also underscores that the lack of an agreed comprehensive definition also affirms the importance of a conservative and considered approach to tackling this issue where there remain significant divisions and points of contestation among States.

Part III: Negative Effects

Para 9. The Special Rapporteur notes that while the focus of the Advisory Report is on the enjoyment of human rights, there was no substantive legal reflection in the introduction to Part III on the structure, principles and legal basis of human rights protections in international law. As a result, the Special Rapporteur notes that the legal analysis of the Advisory Report is under-specified. She notes, for example, that the only legal document cited in this paragraph is the Universal Declaration on Human Rights.¹⁶ To state the very obvious this document is formally a ‘soft’ law standard and not a binding legal Convention. While parts of the Declaration constitute customary international law,¹⁷ these provisions are not specified. In the interests of legal clarity the Special Rapporteur would recommend that the Report explicitly state the nature and form of the legal obligations set out in the Universal Declaration are addressed to States. The Special Rapporteur notes that there was no analysis or reference to any of the core

superseded by the 2008; *See e.g.* Inter-American Convention Against Terrorism, OAS AG Res. 1840, 32nd Sess., OAS Doc. XXXII-O/02 (June 3, 2002), entered into force July 10, 2003; Inter-American Committee Against Terrorism, ‘Declaration of San Salvador on Strengthening Cooperation in the Fight Against Terrorism’, OEA/Ser.L/ X.2.3., adopted Jan. 24, 2003; Protocol Amending the European Convention on the Suppression of Terrorism, *European Treaty Series* No. 190 (May 15, 2003); *See also*, UN Declaration on Measures to Eliminate International Terrorism, annexed to the UN General Assembly Resolution 49/60, 84th Plenary Meeting, UN Doc A/RES/49/60 (9 December 1994), Article 3.

¹³ The Special Rapporteur notes that the reference to Security Council Resolution 1566 in para 7 (e) is useful but it seems incidental lacking a more fulsome overview of SCR and GA Resolutions generally.

¹⁴ Alexander Verkhovsky, *Criminal Law on Hate Crime, Incitement to Hatred and Hate Speech in OSCE Participating States*, (The Hague: SOVA Center, 2016), https://www.nhc.nl/assets/uploads/2017/07/NHC-Criminal-Law_10.pdf.

¹⁵ General Assembly, *Fight Against International Terrorism Impeded by Stalemate on Comprehensive Convention*, Sixth Committee Hears as Seventy-Third Session Begins found at <https://www.un.org/press/en/2018/gal3566.doc.htm>

¹⁶ Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

¹⁷ Hilary Charlesworth, *Universal Declaration of Human Rights* (Oxford, Public International Law) found at <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e887>

legal instruments protecting human rights including the International Covenant on Civil and Political Rights, the Convention Against Torture, the Convention on the Rights of the Child, The Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of Discrimination Against Women.¹⁸ The SR contends that the inclusion of relevant analysis is imperative in a Report which addresses the effects of terrorism on the enjoyment of human rights, and one that might require urgent attention in any revisions. The Special Rapporteur noticed in particular, that while recognizing that pull to rhetorical or emotive language on the challenges of terrorism this paragraph advances a number of broad claims (see e.g. “Compared with other traumatic events, such as natural disasters, terrorist attacks tend to distress people who were nowhere near an incident and who knew nobody caught up in it”; “enemy within”), which have little or no verification, scientific or empirical, to back up the claims. Such language tends to reproduce hyperbolic media reporting on the genuine challenges of terrorism and might best be avoided in a grounded legal analysis. It is particularly important that a Report addressing terrorism be scientifically robust or, if such claims are made, that they are supported by verifiable, peer-reviewed, and forceful evidence. Unfortunately, in the Special Rapporteur’s view, the Advisory Committee Report lacks this kind of compelling analysis and evidence base.

One absolutely critical missing aspect of this Report is any analysis of how the legal basis for the human rights obligations of non-state actors is constructed by the Committee. As written, the Report takes at face-value the highly controversial proposition, that non-state actors (individuals or groups designated as terrorist) are subject to human rights obligations. Given that international law and in particular international human rights treaties function as a form of contract between States, it remains unclear if the Advisory Committee takes the view that non-state actors can be subjects, authors, and rights’ bearers of international law. States have not to the knowledge of the Special Rapporteur ever accepted this proposition, a fundamental legal matter that in the Special Rapporteur’s view should be meaningfully tackled. The Report moves seamlessly in para. 8 to a discussion of human rights effects (right to life, liberty, non-discrimination) under the assumption (it appears) that non-state actors have the same status as states in respect of such obligations. The Special Rapporteur takes the view that there is no such agreement among States concerning the proposition that non-state actors (such as individual terrorists or terrorist groups) have the equivalent status to States in the implementation of human rights norms.¹⁹ She cautions that the lack of sustained legal analysis in the Advisory Report on the legal basis of the claims being made, open the Committee up to significant criticism as well as exposing the lack of legal sufficiency and precision in the arguments being advanced.

¹⁸ American Convention on Human Rights, Nov. 22, 1969, OAS Official Records OEA/ser. K/XVI/1.1, doc. 65 rev. 1 corr. 1, entered into force July 18, 1978, (1970) 9 *International Legal Materials* 673; Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221, entered into force Sept. 3, 1953; International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, 6 *International Legal Materials* 368. A full list of relevant treaties may be found at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

¹⁹ The Special Rapporteur does however note the developing legal literature on the proposition that non-state actors can, in certain defined circumstances, be subject to the application of horizontal human rights norms *see* e.g. ANDREW CLAPHAM, HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS (2006) , but also notes that as a legal matter such propositions are underpinned by the presumption that the obligations are not free-standing and are derivative from the obligations of State Parties to human rights treaties and customary international law (find cite).

Para 9: The Special Rapporteur notes that a number of judicial decision (International Court of Justice, Human Rights Committee, European Court of Human Rights, Inter-American Court of Human Rights) have stressed the legal obligations of States to take reasonable and effective measures to secure the safety, security and right to life of persons within their jurisdiction and under their effective control, including from terrorism.²⁰ These obligations are also outlined in General Assembly Resolution 72/246. The Special Rapporteur would welcome inclusion of references to these obligations and standards which are firmly based in the recognized corpus of international human rights law obligations in this Report. She believes it would strength and deepen the legal basis of the Report. The Special Rapporteur also notes that the Global Counter-Terrorism Strategy,²¹ and multiple expert reports (including Reports issued by her mandate) have stressed the critical importance of observing human rights while countering terrorism.²² She commends the recognition in this Report of the obligations of States to take necessary measures to “prevent or avoid the perpetuation of such violations” consistent with international law.

Para 9: Final bullet point. The Special Rapporteur notes the reference to states of emergency in this paragraph. She makes the following observation based on her Report A/HRC/40/52 to Human Rights Council (https://www.ohchr.org/Documents/Issues/Terrorism/SR/A_HRC_40_52_EN.pdf), which directly and comprehensively addressed the relationship between terrorism,

²⁰ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice Advisory Opinion (Int'l Ct. Justice July 9, 2004), 43 ILM 1009 (2004); the European Court of Human Rights has an extensive jurisprudence on the positive obligations of States to protect their citizens (see e.g. *Osman v. the United Kingdom* (28 October 1998, § 115, *Reports of Judgments and Decisions* 1998-VIII, see also *Opuz v. Turkey* (no. 33401/02, ECHR 2009); *Mastromatteo v. Italy* [GC] (no. 37703/97, ECHR 2002-VIII); and *Maiorano and Others v. Italy* (no. 28634/06, 15 December 2009).and specifically in respect of terrorism see *Tagayeva and Others v. Russia* (no. 26562/07, 9 June 2015).

²¹ The United Nations General Assembly adopted the Global Counter-Terrorism Strategy on 8 September 2006. The strategy is a unique global instrument to enhance national, regional and international efforts to counter terrorism.

<https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy>

²² The Special Rapporteur notes that the following reports from the mandate have addressed the needs and rights of victims of terrorism in the thematic reports:

- A/HRC/34/61 HRC report on recent developments and thematic updates - Ben Emmerson - (2017) in paras 13-16
- A/HRC/20/14 HRC report on State obligations corresponding to the human rights of victims of terrorism - Ben Emmerson - (2012) - entire report
- A/HRC/16/51 HRC report on Ten areas of best practice in countering terrorism - Martin Scheinin - (2010) in paras 24–25
- A/HRC/6/17 HRC report on Economic, social and cultural rights in the context of countering terrorism - Martin Scheinin - (2007) in paras 27 and 72(e)
- A/HRC/4/26 HRC Report on, inter alia, SUICIDE ATTACKS AS A FORM OF TERRORISM - Mr. Martin Scheinin - in paras 69, 82
- E/CN.4/2006/98 Commission on Human Rights report on Reflections on the issue of defining “terrorism” - Martin Scheinin - (2005) in paras 64-66, 69 and 74
- A/71/384 GA report on Impact of counter-terrorism measures on the human rights of migrants and refugees - Ben Emmerson - (2016) in paras 10, 52-54
- A/66/310 GA report on Preliminary outline of areas of interest to the present Special Rapporteur - Ben Emmerson - (2011) in paras 20-28
- A/65/258 GA report on Compliance by the United Nations with international human rights law while countering terrorism - Martin Scheinin - (2010) in paras 26-27
- A/64/211 GA report on a gender perspective on countering terrorism - Martin Scheinin - (2009) in paras 32, 33, 43, 46, 53(d)

counter-terrorism and states of emergency. The Advisory Committee's draft Report states that "it [terrorism] causes situations of emergency". She respectfully submits that this statement requires greater legal precision and accuracy. It is entirely correct that the derogation provisions of multiple human rights treaties enable certain derogable rights to be limited in situation of emergency subject to the requirements of necessity, proportionality and non-discrimination. It would however be legally inaccurate to state that terrorism *per se* causes emergencies. In certain defined circumstances, well established by the jurisprudence of international and regional courts,²³ acts of terrorism, particularly sustained and consistent acts will satisfy the conditions for derogations. However, it would be incorrect to propose that every act of terrorism satisfies the basis to declare a state of emergency, and moreover it remains the case that many states choose not to derogate from their human rights obligation when faced with acts of terrorism. The Special Rapporteur recommends that this sentence be amended to reflect the applicable international law standards. The paragraph importantly notes identifying that where the threshold to declare an emergency is met, States still maintain a range of human rights obligations.

Section V: Effects of Terrorism on Economic Rights

Para 10: This section identifies the economic costs of terrorism and in particular notes (but with reference to the literature identified) the scale of those costs to societies. While entirely acknowledging the abstract value of this proposition, the Report does not however provide a legal analysis on how such costs are related to the legal obligations of States as contained in international human rights law. The mandate is also not clear to whom that legal obligation is to be constructed. Given that individuals are the rights bearers under the relevant international frameworks, the analysis provided here appears to suggest that the State as the primary 'victim' of economic costs is the relevant rights-bearer. The Special Rapporteur respectfully submits that there is no consensus among States on this proposition.

Para 11. The paragraph addresses primary and secondary economic harms of terrorism. This is an important economic distinction, but it is unclear what relevance this distinction has to the application of legal obligations under the auspices of international human rights law.

Para 12. This paragraph provides important data seeking to measure the effects of terrorism on State economies. Again, this is a useful and generic data point, but it is unclear and not specified what the relationship to specific claims of obligation and responsibility under international human rights law entail. It is recognized that international humanitarian law may be directly relevant to the analysis of non-state actor obligations,²⁴ but that legal analysis is also not provided or canvassed here. The bullet points that follow in this section are descriptively powerful but lack any proper

²³ *Se e.g. Lawless v. Ireland*, 1 Eur. Ct. H.R. (ser. B) at 56 (1960–1961) (Commission report); *Lawless (Court)*, 3 Eur. Ct. H.R. (ser. A) (1960–1961); *Brogan and Others v. United Kingdom*, 145-B Eur. Ct. H.R. (ser. A) at 16 (1988); *Brannigan and McBride v. United Kingdom*, 258 Eur. Ct. H.R. (ser. A) at 34 (1993) *Judicial Guarantees in States of Emergency*, 9 Inter-American Ct. H. R. (ser. A) at 40, OEA/ser.L/VI/111.9 doc 13 (1987).

²⁴ Hans-Peter Gasser, 'Acts of Terror, "Terrorism" and International Humanitarian Law' (2002) 84 *International Review of the Red Cross* 547 at 552-54.

legal grounding. It appears that the underpinning, if slightly oblique legal claim, is that States occupy a position of procedural standing to be considered the subjects of human rights violations because they have suffered economic harm (from investment losses, to tourism depletion) as a result of terrorism. It is not demonstrated at all where the legal basis for the shift from the individual as the subject of legal protection in human rights law, to the state as the subject of protection is found. It should again state the obvious that this is a highly contentious legal proposition but made all the more so by the lack of any legal basis for the claims expounded. It would be helpful if this is the case being made, to show some evidence of state practice in this regard, *opinion juris*, or other compelling legal basis to ground a claim in an emerging or established custom of States. The Special Rapporteur takes the view that there is almost no legal evidence to ground such a claim and States generally should be wary of endorsing such positions as a legal matter without a proper legal basis.

The Special Rapporteur notes that the study quoted on intra-state trading by Nitch and Schumacher (2004), is only one among many where the correlation proposed is not consistently sustained.²⁵ The Special Rapporteur warns about the problem of “cherry-picking” random studies that purport to support particular political positions but may in fact not reflect the totality of the relevant social science evidence in the field.

It should also be noted that this section contains a number of expansive empirical claims but adduces no evidence for them (e.g. “Countries that undergo or even face the threat of a terrorist attack, are likely to face a brain drain”). The Special Rapporteur would suggest that States be aware that few robust studies exist to demonstrate such absolute and linear relationships between migration (which is a complex and multifaceted phenomena) and terrorism.

Para 14: This paragraph addresses different types of economic actors affected by terrorism. For a political economy perspective, it is useful to dis-aggregate the economic costs of terrorism. However, economic analysis does not constitute a legal analysis to explain what the precise and functional relationship of human rights obligations involves in this context. The Special Rapporteur is deeply concerned at the lack of legal rigor in the text, where one form of argumentation (non-legal) is apparently used to substitute for legal claim making, without any rigorous analysis of law or State practice.

This section contains to references whatsoever to the relevant international legal standards on economic, social and cultural rights. It provides no link to the obligations found in Article 2 of the ICESCR and the list of economic costs identified in this section. From the perspective of legal doctrine there are appears to be further analysis and data necessary to advance the legal proposition that the economic effects of terrorism are directly implicated in the promotion and protection of economic rights as protected by international law.

²⁵ Generally global studies have found modest impact on trade from terrorism. Where impact is found it is highly specific, See e.g. Subhaya Bandyopadhyay, Todd Sandler, and Javid Yuounas, Trade and terrorism: A disaggregated approach 55(5) *Journal of Peace Studies* (2018)[using a dyadic dataset and allowing for dis-aggregation by primary commodities and manufactured goods. Here a specific finding on manufactured goods was found, but importantly this is not the same across all trade].

IV. Effects of Terrorism on Social Rights

The Special Rapporteur notes that much of the emphasis of this section (and the Report as a whole) is focused on economic costs. Economic analysis of terrorism is valuable and informative for states and other actors, but it should not be mistaken for a legal analysis or the advancement of a legal position that engages rights and obligations. The Special Rapporteur would point out that an evaluation of economic cost is not the same as, and should not in any rigorous analysis substitute for, an analysis of economic rights.

Para 17(a) onwards, addresses social costs and acknowledges that the assessment presents “a partial picture of this issue”. The partiality of the assessment is evident. The Special Rapporteur would note a couple of important methodological matters not addressed by this Report. First, the method for assessing the economic cost of terrorism is disputed. Second, the Report makes no attempt to address the economic costs of abusive counter-terrorism measures and practices. As such, the Report can only be viewed as flawed both in its economic analysis as well as in its approach to addressing the economic costs of terrorism in any comprehensive sense.

The Report rightly notes the trauma and psychological costs of terrorism. The Special Rapporteur would also note the importance of acknowledging the positive role that survivors and societies play and avoid the essentialization of painting victims in negative stereotypes only, and pay attention to the resilience, capacity and contributions of victim and survivor communities.

Para 17(b), the Special Rapporteur would simply note as a methodological matter that PTSD remains a complex concept in theory and practice. The blanket application of a presumption that all “people” experience PTSD is highly prescriptive and scientifically unproven. The Special Rapporteur notes the broader expert discussions whereby PTSD diagnosis has been critiqued for its culturally specific bias,²⁶ and she would caution against culturally determinative approaches to trauma and at least be aware of the kind of appropriation and misapplication of labels to culturally, socially and religiously diverse communities and individuals. To underscore a rather consistent thread of this analysis, asserting the experience of trauma does not advance a rights analysis but may, in fact, serve to obfuscate it. She notes that her mandate has considered the rights of victims at some length and would commend her human rights-based analysis to the Advisory Committee.²⁷

Para 17(c) address the experiences of children. The Special Rapporteur makes the obvious legal point that there is no reference to the Convention on the Rights of the Child,²⁸ and no reference to the extensive legal standards and guidance addressing the protection of children in armed conflict.²⁹ The oversight suggests that the paragraph is

²⁶ Joshua Breslau, Cultures of Trauma: Anthropological Views of Posttraumatic Stress Disorder in International Health 28(2) Culture, Medicine and Psychiatry 113 (2004)

²⁷ Victim focused report cited *supra* note 21.

²⁸ The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

²⁹ International Humanitarian Law contains a number of standards in respect of children in armed conflict. The 1977 Additional Protocols to the Geneva Conventions were the first international treaties to try and tackle these situations. They prohibit the recruitment and participation in hostilities of children

simply descriptive, or that there is some legal impediment to the claim that non-State actors have specific rights and obligations under the prism of international human rights law. If the Committee takes the view that international humanitarian law, with its multiple provisions in respect of children,³⁰ is relevant to this analysis that should also be clearly stated.

Para 17(d) addresses public “risk perceptions, security sentiments, value formation, policy preferences, political preferences, and political self”. All of these are important political, social and philosophical concepts. There are very important political spaces to engage in such broad reflections bringing the full wealth of intellectual and policy analysis to bear on them, but the Special Rapporteur was not clear that these highly complex matters were best placed in a document which seeks (at least from its stated objectives) to address the legal dimensions of a theory regulatory issue in a very practical way.

Para 17(g), reflects on the costs to women of terrorism. There is no reference in this paragraph to the Convention on the Elimination of All Forms of Discrimination Against Women or to the Women, Peace and Security Agenda.³¹ There is a wealth of legal analysis concerning the legal issues concerning terrorism and women, (including substantial work by the Special Rapporteur).³² The Special Rapporteur recommends addressing the obligations of states as well-defined by treaty law and jurisprudence under this subpoint.

Para 17(h), the Special Rapporteur notes her deep concern at the use of the term “innocent victims” of terrorism. This phrasing creates a new hierarchy of victims of terrorism, “innocent victims” and presumably other victims who may not be innocent? She would strongly encourage the deletion of this language, as it undermines the universality of victims’ protection, a position the mandate holder defends strongly.³³ The Special Rapporteur also takes the view that a gendered analysis of terrorism requires us to see men, boys, women and girls equally as victims of terrorism without a gender-based discrimination being brought into this category from this Report.

Para 17(k): The Special Rapporteur welcomes the acknowledgment of resilience and capacity-building in contexts of exigency. She notes that there is a reference to “threat theories” but no reference provided, but would caution that these

under the age of 15. In international armed conflicts, the first Additional Protocol also requires military recruitment of 15- 18 year olds to prioritize the oldest. Numerous Security Council Resolutions address the protection of children in situations of armed conflict. A comprehensive list is found here: <https://www.securitycouncilreport.org/un-documents/children-and-armed-conflict/>; Note also the Working Group on Children in Armed Conflict created by UNSCR 1612 (2005)

³⁰ Note also the customary law standards in respect of children, Rule 135. Children affected by armed conflict are entitled to special respect and protection found at ICRC Rule 135: Children https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule135

³¹ General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 8 April 2019]

³² Fionnuala Ní Aoláin, *Situating Women in Counterterrorism Discourses: Undulating Masculinities and Luminal Femininities* 93 *Boston University Law Review* 1085 (2013)

³³ Noting that the Special Rapporteur’s mandates was re-authorized in HRC Resolution 16/40 and includes a specific recognition and encouragement to the ongoing work of the mandate in respect of victims of terrorism.

totalizing position that posit the view that following terrorist events “people tend to cling to their cultural view more closely”, is over-stated. She would encourage the Advisory Committee to be aware of other scholarship and analysis that focused on the value of courageous political leadership in the aftermath of terrorist attacks and its correlation to the avoidance of discrimination, xenophobia, intolerance and suspicion,³⁴ the relationship between reactions by government and positive, socially cohesive responses that avoid scapegoating and marginalization. She points out that there has been a deficit of leadership in this regard in many countries,³⁵ and that States may be in breach of their positive obligations to prevent discrimination and violence against minority and vulnerable groups.

VII: The effect of Terrorism on the Enjoyment on Cultural Rights

Para 18: While descriptively “cultural rights are related to art and culture”, the Special Rapporteur draws attention to the substantial jurisprudence and legal analysis that links cultural rights to the right to life,³⁶ and the legal connection between cultural rights and rights to freedom of expression, assembly and political participation.³⁷ The Special Rapporteur is pleased that the Advisory Committee affirms the value of cultural rights *as* rights.

With respect to the legal analysis, the Special Rapporteur would like to make the following observations. For example, the phrase “particular forms of terrorism ... all showed relationships with cultural dimensions”, does not explain as a legal matter what the relationship engaged precisely involves. Is the claim being advanced that non-state actors engaged in terrorism have specific cultural rights obligations? The term “showed relationship” has no clear legal meaning, and the Special Rapporteur encourages its deletion. However, more generally this section would benefit from some clearer legal analysis, so that the claim that cultural *rights* are infringed be linked to rights bearers and define to whom and how such obligations are constructed, and how precisely they would be engaged.

A similar form of legal looseness connects to the description of the “freedom to create art”. Again, descriptively there is much to like in the concept of a ‘freedom to create art’, but the Advisory Committee does not make clear which treaty or even “soft law” sources affirm this freedom. The Special Rapporteur would encourage legal clarity in the Advisory Committee’s positioning.

The Report does for the first time articulate the provision of a specific legal right under international law (“freedom of expression is an essential prerequisite for all artistic activities”). She notes however that this right is generally understood to be the contracted to by the State under its international human rights treaty obligations. It is

³⁴ Noting the example of New Zealand’s Prime Minister in the aftermath of right-wing, white nationalist attack <https://www.cnn.com/2019/03/15/asia/new-zealand-jacinda-ardern-full-statement-intl/index.html>

³⁵ Report of Special Rapporteur on Freedom of Religion and Belief Ahmed Shaheed to the General Assembly 2019 A/73/362

³⁶ Notably the Genocide Convention whether the destruction of culture has been understood as a facet of “destruction, in whole or in part” of a group. *See e.g.*, The Prosecutor v. Jean Paul Akayesu Case No OCTR-96-4-T, 2nd September 1998.

³⁷ *See also*, OHCHR, Protection of Cultural Rights and Cultural Heritage found at <https://www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx>

unclear if the Advisory Committee is suggesting that terrorist actors are rights bearers and have obligations in respect of freedom of expression to artists and cultural heritage. The Special Rapporteur would cautiously suggest that many States would have legal difficulty with this formation, and strongly encourages the Committee to be exceptionally cautious in moving to the pronouncement of such status.

Para 19: The Special Rapporteur is pleased to note that the Advisory Committee encourages States to protect the human rights of artists. She notes as outlined in her recent report to the Human Rights Council, that a number of states have consistently applied counter-terrorism measures against artists, musicians, bloggers and persons engaged in various artistic and cultural practices.³⁸ The Advisory Committee's acknowledgement of such abuses is an important step to addressing these issues.

The Special Rapporteur notes that an oddly placed question, "What are the motivations and the effects of destroying cultural sites?" frames the next set of bullet points. It seems disjuncture and not in keeping with a Report mandated to undertake concrete legal analysis. She notes that the following paragraphs provide a catalogue of harms to cultural sites and art, which is an important documentary service. However, as noted above it does not make clear what legal argument is being advanced, whom is given obligations of human rights protection and promotion and how this is grounded in the relevant legal standards including the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights.

The Report gives two important and tragic examples of the loss of cultural sites through acts of terrorism (Palmyra and the destruction of the Buddha's Bamiyan). The Special Rapporteur would ask the important and essential question, as to whether the claim of the Report is that ISIL/Daesh and the Taliban are rights holders in the same manner of States and subject to human rights treaties obligations, responsibilities and status in the same manner as States? The Special Rapporteur would respectfully submit that these groups are not in the same category of human rights obligation as States,³⁹ and that there is no consensus among States that such groups have the same legal responsibilities (and status) as States. She would also note doctrinally and pedantically that the position of both these groups differ, and one group (the Taliban) is currently engaged in formal peace talk with the United States government, and previously functioned as the government of Afghanistan.⁴⁰

The Special Rapporteur would point out that the reference to the International Criminal Court in the Report is doctrinally incorrect, in respect of the implied presumption that the Court is the criminal enforcer of human rights obligations. Rather, the Court proceeds on the basis of its Statute, and has the specific legal capacity to

³⁸ A/HRC/40/52

³⁹ Note legal status of ISIL/Daesh under international law and measures taken to address the threat posed by such groups. Letter dated 17 January 2018 from the Chair of 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 addressed to the President of the Security Council. https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2018/14

⁴⁰ Oxford Public International Law, Christiane E Phillips, Taliban <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1479> [addressing the legal status of the Taliban under International Law]

prosecute individuals whether belonging to State or non-state entities providing that the requirements of jurisdiction, standing, evidence and legal basis are satisfied.⁴¹

The Report also subsequently addresses the ‘radicalization of youth’. As the Global Counter-Terrorism Strategy acknowledges, radicalization is a significant challenge to be managed in a number of proactive and co-operative ways by States. In this context, beyond the descriptive agreement that radicalization of youth should be prevented (a position to which the mandate concurs), the human rights dimensions of the issue are neither fleshed out nor entirely obvious. If radicalization is a human rights violation, does it fall in the Committee’s view under prohibitions related to freedom of expression? The legal locale of the analysis and how the human rights obligations suggested fall is not made clear. The remainder of this section has a number of examples (Peshawar and Beslan), but it is not clear other than providing a catalogue of agreed reprehensible acts what human rights analysis is engaged.

Para 20: The Special Rapporteur notes the importance of the Security Council Resolutions referenced in this paragraph. She does however note that those Resolutions, while critical articulations of condemnation providing much needed regulatory capacity to address the operation of terrorist groups, does not engage the position that non-State actor groups including ISIL in Iraq and the Levant, Al-Nusrah front, and all other individuals or groups associated with Al-Qaida have human rights obligations.

Para 21: The Special Rapporteur affirms that the destruction of cultural heritage can constitute a war crime. She points out that a war crime is not the same a human rights violation, a legal point not made clear in this paragraph. A war-crime can, without any doubt, be committed by a non-state actor.

VIII Recommendations

The Special Rapporteur fully agrees that all counter-terrorism legal measures taken at national and international levels must be compatible with a State’s obligation under international human rights and humanitarian law and that, as a matter of international law, States are obligated to prevent human rights and humanitarian law violations, including in the context of countering terrorism.

The Special Rapporteur commends the position that coordination among countries must be taken without infringing upon non-derogable rights. She would also suggest that a reference to the legal position that coordination take account of rights generally and be based on the obligations of necessity, proportionality, and non-discrimination.

The Special Rapporteur voices some concern about the proposal to establish a National Disaster Risk and Management Process. It is entirely unclear how such a body would fit within a national-international nexus, and advance the goals of the Global Counter-Terrorism architecture including but not limited to the role of the Counter-Terrorism Committee (as supported by CTED), the UN Office of Counter-Terrorism

⁴¹ The Rome Statute of the International Criminal Court adopted on 17 July 1998 and it entered into force on 1 July 2002.

and the work of Global Compact entities including working groups that address critical infrastructure and other preventative needs. She also notes that many states have effective disaster management structures that function to address a wide variety of disasters and challenges (weather, epidemics). There would be very real concerns about securitizing the humanitarian sector in ways that are counter-productive and ineffective. The Special Rapporteur suggests that many States might find such a proposal highly problematic.

There is no mention of the role of the Global Counter-Terrorism framework and its multiple bodies (including the role of the Special Rapporteur as a UN Global Counter-Terrorism Coordination Compact Entity). There is a singular reference to “consolidate the international cooperation with the United Nations Anti-Terrorism Center”. The Special Rapporteur suggests that it would be far more in keeping with the Global Counter-Terrorism Strategy to encourage deeper engagement and support to Geneva based human rights mechanisms, particularly OHCHR, to engage with the already existent counter-terrorism structure.

The Special Rapporteur strongly supports the reference to victims of terrorism and notes the role and commitment of her own mandate to this endeavour. She would welcome a direct reference to the work of the mandate in this regard.

The Special Rapporteur is very concerned at the use of the phrasing “role of the media to provide the right information”. This suggest a heavy-handed role in State determination of what is the ‘right’ information, particularly in States that have a poor record in protecting freedom of expression. This recommendation may itself impinge of the freedom of expression of the media, as contained in the International Covenant on Civil and Political Rights.

The recommendation on financing should take account of the newly agreed Security Council Resolution⁴² and note that financing regulation must be in conformity with international law obligations of States, including human rights law, humanitarian law, and refugee law.

The Special Rapporteur cautions against the vagueness of the phrase “involved in terrorism”. She notes that these matters are well (and precisely) regulated by Security Council Resolutions. These should be appropriately referenced in the Report. She welcomes the language on fair trial and non-derogable rights in this recommendation.

The Special Rapporteur recognizes, in parallel with the Secretary-General’s Plan on Action to Prevent Violent Extremism, that prisons and places of detention are extremely relevant to addressing and managing violent radicalization in all its forms.⁴³ She recalls that there is no globally agreed definition of radicalization, and encourages the Advisory Committee to be aware, that loose definitions of ‘radical’ and ‘radicalization’ can be extended by certain States to define legitimately protected expression under international law. She encourages the Committee to link its discussion of ‘radicalization’ to the existing international legal framework, as captured

⁴² Resolution 2462 adopted under Chapter VII of the UN Charter on March 28, 2019

⁴³ The United Nations Secretary General’s Plan of Action to Prevent Violent Extremism <https://www.un.org/counterterrorism/ctitf/en/plan-action-prevent-violent-extremism>

by the Secretary-General's Plan of Action. She cautions that a requirement to "prevent radicalization" assumes that governments are able to absolutely prevent, and that sites of detention alone are responsible for violent radicalization. Rather, a cross-cutting and multi-factoral analysis of violent radicalization is best placed to address its challenges.⁴⁴ More broadly, this Advisory Committee Report would be a much stronger and more coherent document if it were firmly rooted in the expansive and rigorous work carried out by numerous entities within the UN system, and would affirm the fundamental importance of an "all of UN approach" to addressing terrorism.

The Special Rapporteur strongly endorses the recommendation to ensure that persons are in fact being arrested and detained for 'terrorist offences', and not as has been evidenced in her recent report being arrest and detained on the pretext of terrorism, when exercising rights protected by international law.⁴⁵

The recommendations rightly address the 'conditions conducive to terrorism'. The Special Rapporteur affirms the value of acknowledging discrimination, social security and job opportunities, all highly important aspects of conditions conducive. But the Committee should be aware that the clearest tipping points to extremism and radicalization in the empirically stringent studies that have examined this matter are poor governance and human rights violations by States. It would short-sighted (but also inconsistent with a data and empirically sound approach) to ignore this aspect.⁴⁶

The Special Rapporteur welcomes the reference to civil society in preventing and addressing the negative effects of terrorism. However, she notes that civil society space is shrinking globally, and civil society is being threatened, marginalization, and its members are being killed often in the name of 'countering terrorism'.⁴⁷ She encourages the Advisory Committee not only to instrumentalize civil society in 'countering terrorism' but to recommend the inclusion, protection and enablement of civil society in the context of addressing terrorism holistically.

The Special Rapporteur is deeply concerned at the language of refusal to grant asylum contained in the recommendations of this Report. She recalls that many States

⁴⁴ See e.g. UNDP, Journey to Extremism in Africa found at <https://journey-to-extremism.undp.org/content/downloads/UNDP-JourneyToExtremism-report-2017-english.pdf>

⁴⁵ A/HRC/40/52, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the role of measures to address terrorism and violent extremism on closing civic space and violating the rights of civil society actors and human rights defenders (February 2019) para

⁴⁶ Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point to Recruitment <https://journey-to-extremism.undp.org/content/downloads/UNDP-JourneyToExtremism-report-2017-english.pdf>. As Secretary-General Guterres has unequivocally stated: "I am convinced that the creation of open, equitable, inclusive and pluralistic societies, based on full respect of human rights and with economic opportunities for all, represents the most tangible and meaningful alternative to violent extremism". *Id*

⁴⁷ According to CIVICUS, civic space is closed, repressed or obstructed in 111 countries across the world, and only four per cent of the global population live in areas where civic space is open. *See*, Civicus, People Power Under Attack, 27 November 2018. This trend has accelerated in recent years, with the International Center for Not-for-Profit Law recording the adoption of 64 restrictive laws on civil society from 2015- 2016 alone. *See*, ICNL Global Trends in NGO Law, Survey of trends affecting civic space, volume 7 issue. According to Front Line Defenders, at least 321 HRDs were killed in 2018. *See*, Front Line Defenders, Global Analysis 2018.

have vague, broad and ill-conceived definitions of terrorism.⁴⁸ In many parts of the world any form of expression that articulates a view contrary to the official position of the state, addresses human rights violations and opines on ways to do things better in accordance with international human rights obligations, constitutes a form of terrorist activity, violent extremism, or a very broad “threat to national security”, which often encompasses both terrorism and extremism. No region of the world is immune from this trend. In some regions, the instrumentalisation of counter-terrorism, PCVE and national security is brutal, with members of civil society arrested and detained on spurious grounds, with some States even using counter-terrorism laws to silence LGBTI rights defenders,⁴⁹ and others investigating individuals involved in peaceful protests against climate change as a form of terrorism or branded as “eco-terrorists”.⁵⁰ Journalists have been particularly targeted by counter-terrorism and extensive security legislation.⁵¹ In a global context, where security claims have been used to undermine the fundamental rights of “non-refoulement”, and absent a globally agreed definition of terrorism the call to enable “refusal of asylum” is highly problematic. The Special Rapporteur has examined this issue of the mis-use of security in the context of refugee and asylum claims in depth and commends its recommendations to this Committee.

The Special Rapporteur strongly endorses the proposal to undertake period review of domestic counter-terrorism legislation to assess its effect on the enjoyment of human rights. She suggests that this recommendation also be directed to the United Nations Counter-Terrorism Committee, taking advice and support from the Office of the High Commission on Human Rights, and supported by the United Nations Counter-Terrorism Committee Executive Directorate, which has significant and highly professional human rights expertise.

The Special Rapporteur endorses the following recommendations:

- Support all governments in their efforts to combat terrorism, and strengthening their capacities in this regard within the framework of their international human rights obligations;
- Underline in all communications with governments the need to take all measures to prevent terrorist acts while protecting human rights, in particular non derogable human rights;
- Call on countries to rescind vague and overly broad definitions of “terrorism” in their legislation;
- Call on all countries to take **legally based, proportionate and non-discriminatory** judiciary measures against perpetrators of terrorist acts who are depriving civil citizens from their basic human right, their right to life;
- Take measures to stop xenophobic and discriminatory policies;

⁴⁸ A/HRC/40/52, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the role of measures to address terrorism and violent extremism on closing civic space and violating the rights of civil society actors and human rights defenders (February 2019), para 8

⁴⁹ SIS, “Counterterrorism measures and civil society, Changing the will, finding the way”, March 2018, p.6; Communication 12-2018

⁵⁰ Adam Federman, “Revealed: FBI kept files on peaceful climate change protesters”, The Guardian, 13 December 2018.

⁵¹ Mapping Media Freedom, “Targeting the Messenger: Journalists ensnared by national security legislation 2014-2018”, Special Report, January 2019

- Make full use of alert and information analysis to keep the flow of information provided to the states, assisting them to prevent any crisis situation leading to the breach of human rights;
- Call on countries not to invoke threats to national security as a basis for establishing a permanent status of emergency without periodic review;
- Call on countries to respect and ensure the basic human rights of migrants, asylum seekers and refugees, without making use of terror as a pretext for the curtailment of fundamental rights and liberties of these migrants, asylum seekers and refugees;
- Provide all sorts of technical assistance to the states confronting terrorism, including capacity building programs, awareness campaigns about human rights and specific training of public officials in this respect;

The Special Rapporteur recommends that further stand-alone recommendations be added

- Ensure the promotion of and respect of their rights to civil society actors and human rights defenders to enable their full participation in advancing just and gender just societies that are the basis for preventing terrorism
- Ensure that States apply the existing framework of human rights to victims of terrorism without discrimination or delay

The Special Rapporteur hopes these comments are of assistance to the Advisory Committee. She offers her ongoing expertise and assistance to the Committee as they take the Report forward.
