**Office of the High Commissioner for Human Rights (OHCHR) questionnaire on the use of administrative measures in combating terrorism**

**Submitted to:** Office of the High Commissioner for Human Rights (OHCHR)

**Submitted by**: Maat for Peace, Development and Human Rights (holds consultative status with the United Nations Economic and Social Council).

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| **Introduction** |  |

Maat for Peace, Development and Human Rights submits this report to contribute to the High Commissioner for Human Rights’ report (OHCHR), which the OHCHR will submit to the Human Rights Council at the 57th session, in implementation of Human Rights Council Resolution No. 24/51. This resolution emphasizes addressing the negative effects of terrorism on human rights and fundamental freedoms, alleged human rights violations during counter-terrorism actions, and to submit regular reports to the Human Rights Council.

Maat has observed that human rights are increasingly at risk in combatting terrorism, as government actions to prevent and combat terrorist activities often result in severe violations of human rights. These violations include unlawful killing and arbitrary detention, torture, unfair trials, privacy infringements due to extensive surveillance, and restrictions on freedom of expression; assembly; association; and political participation. For instance, administrative measures adopted by states and governments outside the criminal justice system in the context of counter-terrorism, including surveillance measures, travel bans, terrorist listings, asset freezing, deportation orders, deprivation of nationality, and administrative detention can lead to serious violations of individual's rights, particularly concerning freedom of movement, nationality, liberty, due process, fair trials, and privacy.

In light of the above, **Maat in this report provides detailed information and observations to OHCHR on the use of administrative measures in combatting terrorism by answering the main questions attached with the invitation as follows:**

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| **Key questions:** |  |

**Please provide information about the application of administrative measures in combating terrorism. This includes, for instance, the use of administrative - or security - detention, travel bans or entry restrictions, movement restrictions, deportation orders, combating terrorism financing, listing entities and individuals on the terrorism list, monitoring, and deprivation of citizenship.**

Countries worldwide use a variety of measures to prevent and combat terrorist and extremist activities, including administrative measures adopted by governments outside the criminal justice system. These measures may involve surveillance, travel restrictions, asset freezes, and detention for security reasons. Maat acknowledges that administrative measures can offer authorities a swift way to address security threats without lengthy legal procedures, such as obtaining court orders or conducting trials. Nevertheless, Maat has observed that the use of such administrative measures in counter-terrorism efforts raises significant human rights concerns. These include worries about potential misuse and arbitrary application of these measures by the authorities, leading to the violation of individuals’ fundamental rights such as the rights to liberty, privacy, due process, and fair trial. In light of the above, Maat reviews the types of administrative measures used in the context of combating terrorism and their impact on human rights as follows:

**Administrative or security detention:** this is one of the most prominent administrative measures employed by authorities worldwide in combating terrorism. Despite the important role that administrative detention can play in preventing and combating terrorism and extremist activities, Maat has noted that Administrative or security detention is often misused by governments globally, leading to a significant impact on individuals' rights to freedom, due legal procedures, and a just trial. For instance, the USA holds many people suspected of belonging to terrorist groups for long periods without granting them a fair trial. Reports show that approximately 30 men are currently detained at Guantanamo Bay Naval Base in Cuba by the US, without charging 19 of them with any crimes or granting them a fair trial. This denial of fair trial rights violates due process and the right to a fair trial[[1]](#footnote-1). In Ethiopia, as of early November 2021, the Ethiopian authorities are detaining thousands of Tigrayan ethnic group members suspected of affiliating with the Tigray People's Liberation Front, which is classified as a terrorist organization in Ethiopia. These extensive detentions come under a state of emergency without a judicial order, which violates due process and the right to a fair trial[[2]](#footnote-2).

**Banning travel or entry into the country and imposing restrictions on movement:** are crucial administrative actions used globally to combat terrorism by preventing and addressing extremist activities. For instance, the United States has placed a ban on citizens from seven countries with active terrorist groups from entering the US[[3]](#footnote-3). Additionally, the US maintains a travel bans or (terrorist Screening Database) that prohibits individuals suspected of terrorism involvement from flying to or from the US[[4]](#footnote-4), impacting the right to movement when authorities misuse these measures.

**Listing entities and individuals on the terrorist list**: this is one of the prominent administrative measures used by governments around the world to prevent and combat terrorist and extremist activities. For example, several countries including the UK, the UN, and Germany publish a list of prohibited terrorist and extremist individuals and organizations according to their national laws[[5]](#footnote-5).

**Surveillance**: Monitoring communications and activities to detect potential terrorist threats is one of the most prominent administrative measures that governments worldwide resort to in the combating terrorism. While monitoring activities can be crucial in preventing terrorism and extremism, Maat has observed that governments worldwide often misuse surveillance to monitor political opponents and human rights defenders, leading to a violation of the right to privacy. In the US, the National Security Agency conducts a mass surveillance program on Americans' international communications, including phone calls, texts, emails, social media messages, and web browsing without judicial approval under Section 702 of the Foreign Intelligence Surveillance Act. This has sparked worries regarding privacy rights[[6]](#footnote-6).

**Deprivation of nationality:** A number of countries have taken administrative measures in combating terrorism related to withdrawing nationality from individuals suspected of involvement in committing terrorist acts. In recent years, UK government authorities have increasingly resorted to depriving individuals who may be involved in fighting, extremist activities, or terrorist training abroad of British citizenship and withdrawing passport privileges. This has led to worries about potential statelessness[[7]](#footnote-7).

**Please tell me more about the rules and regulations that are used to enforce administrative measures in combatting terrorism, and describe how these measures are connected to the use of the criminal justice system to prevent and combat terrorism.**

Administrative measures are used in many countries around the world alongside the criminal justice system to prevent and combat terrorism. These measures are based on a number of national regulations and laws aimed at combating terrorism and protecting national security. For example, the communication and internet monitoring measures detecting potential terrorist threats in Saudi Arabia are based on the Anti-Terrorism Law of 2017[[8]](#footnote-8). The mass surveillance programs conducted by the US National Security Agency on international communications of Americans to detect terrorist activities are also based on Section 702 of the Foreign Intelligence Surveillance Act[[9]](#footnote-9). Additionally, the indefinite administrative detention measures used by US authorities against suspected terrorists are also based on The Patriot Act. (2001) which gives US law enforcement agencies increased powers to surveil and detain suspected terrorists without charge or trial[[10]](#footnote-10).

Maat highlights that administrative measures are utilized alongside the criminal justice system worldwide to swiftly address perceived security threats without the delays of traditional legal procedures like obtaining court orders or conducting formal trials. These measures enable authorities to take action against individuals suspected of terrorism even with insufficient evidence for criminal prosecution, aiming to prevent terrorist activities and counter extremist ideologies. The synergy between administrative measures and the criminal justice system is evident, with administrative actions such as intelligence gathering intelligence information and surveillance, and thwarting terrorist actions before they occur, as well as assisting in building criminal cases and providing criminal evidence against suspects, while the criminal justice system ensures accountability for those involved in terrorist acts within the confines of the law.

**Regarding the assumed administrative measures mentioned above, please provide information on the challenges and benefits resulting from the use of these administrative measures. In this regard, please explain how the administrative measures are used effectively to address the threat posed by terrorism.**

As previously mentioned, while administrative measures can be an effective tool in preventing and combating terrorism, their excessive use can raise serious concerns and pose serious challenges to human rights. Below, we will discuss the most important challenges and benefits resulting from the use of administrative measures in combating terrorism.

**The challenges arising from the use of administrative measures in combating terrorism:** Maat noted that the excessive use of administrative measures in counter-terrorism efforts usually raises significant human rights concerns, including concerns about the possibility of misuse of these measures and their arbitrary application by authorities, leading to violations of individuals' fundamental rights such as the right to freedom, privacy, due process, and fair trial. As we mentioned before, administrative detention measures, used without judicial oversight in counter-terrorism efforts, are frequently exploited to target political opponents, thereby violating their rights. As mentioned earlier in Ethiopia, thousands of Tigrayan individuals have been detained by Ethiopian authorities since early November 2021, which constitutes a breach of due process and the right to a fair trial[[11]](#footnote-11). Moreover, Maat found that surveillance activities are often misused by governments worldwide to track political opponents, which violates the right to privacy. As previously mentioned, reports obtained by Maat indicate that US authorities are implementing mass surveillance programs of Americans' international communications, which also raises concerns about the right to privacy[[12]](#footnote-12).

**Benefits resulting from the use of administrative measures in combating terrorism:** Maat believes that administrative measures play an important role in preventing and combating terrorism and extremist activities, and contribute effectively if used properly in addressing the threat posed by terrorism. In this regard, Maat notes Administrative actions such as surveillance, travel restrictions, asset freezes, and security detentions enable swift responses to emerging terrorist dangers without the delays associated with traditional legal processes like obtaining court orders or conducting formal trials. These measures also serve as a proactive strategy by helping to disrupt terrorist plans in their early stages and dissuading potential attackers, allowing authorities to intervene before any harm is caused.

**Please indicate whether human rights impact assessments are conducted before designing and implementing administrative measures in the field of counter-terrorism, and whether monitoring and evaluation are regularly conducted to assess the effectiveness of the administrative measures in achieving their stated objectives. Please also provide information on how civil society organizations participate in these monitoring and evaluation processes.**

Maat acknowledges that there is a lack of global practice with regard to human rights impact assessments and monitoring the effectiveness of administrative measures in preventing and combating terrorism in all countries that use these measures. Additionally, Maat has not identified any evaluations conducted to assess how the use of administrative measures in countering terrorism impacts human rights before their design or implementation. Maat also found no evidence of countries engaging with civil society to monitor and evaluate the effectiveness of these administrative measures in achieving their intended objectives. In the United States of America For example, despite the widespread use of administrative measures in combating terrorism, especially measures of administrative detention, surveillance, asset freezes, and travel bans, the impact of the use of these measures on human rights was not evaluated before they were designed and implemented. Furthermore, US authorities did not collaborate with civil society to establish methods for monitoring and evaluating the effectiveness of these measures in preventing and addressing terrorist activities.

1. Guantánamo Bay detainees continue to face 'inhuman' treatment, U.N. investigator finds, NPR, June 27, 2023, link: <https://n.pr/3K6hh7z> [↑](#footnote-ref-1)
2. Mass Detentions of Civilians Fan ‘Climate of Fear’ in Ethiopia, the New York Times, Nov. 17, 2021, link: <https://tinyl.io/ATD6> [↑](#footnote-ref-2)
3. Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States, The White House, : March 6, 2017, link: <https://tinyl.io/ATDF> [↑](#footnote-ref-3)
4. DHS Traveler Redress Inquiry Program, An official website of the U.S. Department of Homeland Security, link: <https://tinyl.io/ATDD> [↑](#footnote-ref-4)
5. Proscribed terrorist groups or organizations, GOV.UK , 19 January 2024, link: <https://tinyl.io/ATDK> [↑](#footnote-ref-5)
6. Five Things to Know About NSA Mass Surveillance and the Coming Fight in Congress, ACLU, April 11, 2023, link: <https://tinyl.io/ATDZ> [↑](#footnote-ref-6)
7. Deprivation of British citizenship and withdrawal of passports, House of Commons, 19 May, 2023, link: <https://tinyl.io/ATDf> [↑](#footnote-ref-7)
8. 2022 Country Reports on Human Rights Practices: Saudi Arabia, Us department of state, link: <https://tinyl.io/ATHn> [↑](#footnote-ref-8)
9. Five Things to Know about NSA Mass Surveillance and the Coming Fight in Congress, previous reference. [↑](#footnote-ref-9)
10. How the Anti-Terrorism Bill Permits Indefinite Detention of Immigrants, aclu, October 23, 2001, link: <https://tinyl.io/ATIF> [↑](#footnote-ref-10)
11. Mass Detentions of Civilians Fan ‘Climate of Fear’ in Ethiopia, the New York Times, Nov. 17, 2021, link: <https://tinyl.io/ATD6> [↑](#footnote-ref-11)
12. Five Things to Know About NSA Mass Surveillance and the Coming Fight in Congress, ACLU, April 11, 2023, link: <https://tinyl.io/ATDZ> [↑](#footnote-ref-12)