

As delivered



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HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE
COUNTERING TERRORISM***

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Honourable Chair,

Excellencies, Distinguished delegates,

It is my honour to present my first report and I thank the Council for its confidence in appointing me as Special Rapporteur. I look forward to engaging constructively with all states in promoting respect for human rights while countering terrorism.

Effective counter-terrorism laws are essential to fulfill the duty of states to prevent violations of the right to life and to protect the victims of terrorism. Much progress has been made by many states in adopting principled measures which ensure security while safeguarding human rights.

Regrettably, overall, the past two decades of prolific global counterterrorism efforts have not been matched by an equally robust commitment to human rights everywhere. The global counterterrorism landscape is strewn with human rights violations, including unlawful killings, arbitrary detention, torture, unfair trials, privacy breaches from mass surveillance, and the criminalization of freedoms of expression, assembly, association and political participation.

The misuse of counterterrorism measures not only violates the rights of suspected criminals but can also jeopardize the freedoms of the innocent. In some places there has been a rampant weaponization of overly broad terrorism definitions and offences against civil society, including political opponents, environmental activists, human rights defenders, journalists, minorities and students. Measures to counter the financing of terrorism have restricted legitimate non-profit activity and impeded humanitarian relief.

Unjustified and protracted states of emergency continue to undermine human rights. Excessive military violence in response to terrorism also destroys fundamental rights, including through violations of international humanitarian law and international criminal law. Other states have sometimes been complicit in such violence, for example, through the transfer of weapons. Cross border military violence is increasingly used by some states even when it is not justified under the international law of self-defence.

Many states have also failed to seriously address the root causes of terrorism, including state violations of human rights like poverty, inequality and other violations. Impunity for state violations in counterterrorism is endemic and is driving more grievance and more violence.

Regrettably, the United Nations itself has sometimes been part of the problem by encouraging authoritarian regimes to strengthen counterterrorism laws in the absence of a rule of law culture or effective human rights safeguards. The United Nations must also do better in meaningfully consulting civil society on counterterrorism and ensuring compliance with human rights in its own activities.

Excellencies,

My first report announces my **priorities** over the next three years. These include ensuring:

- That regional organizations respect human rights when countering terrorism;
- That coercive administrative measures to prevent terrorism comply with human rights;;

- That non state actors involved in counterterrorism, respect human rights, including technology, finance and security companies, armed groups and non-profits;
- That international civil, aviation and maritime transport organizations mainstream human rights in their work;
- That new technologies to counterterrorism are effectively regulated, including spyware, facial recognition, and measures to protect critical infrastructure;
- That states are held accountable for large scale violations of human rights resulting from counterterrorism; and
- Finally, that victims of terrorism receive full and effective remedies.

Over the next three years, I will also continue the efforts of my predecessor on preventing the abusive counterterrorism measures against civil society; protecting the 70,000 people arbitrarily detained in non-state detention in northeast Syria; protecting detainees at and transferees from the detention facility at Guantanamo Bay, Cuba; and ensuring that the United Nations itself safeguards human rights in its work.

In the current climate, human rights in counterterrorism are at increased risk because of rising authoritarianism, surging domestic polarization and extremism, geopolitical competition, dysfunction in the Security Council, and new tools, like social media, for fuelling dehumanization, vilification, incitement and misinformation.

Double standards and selectivity by major powers in the enforcement of human rights is also eroding public confidence in the credibility of the international human rights system.

States must also do better in funding the protection of human rights in counterterrorism - human rights do not come for free.

I urge all states to move beyond rhetorical commitment to human rights and to instead place them at the heart of all of their counterterrorism measures.

Country Visits

Excellencies, Distinguished delegates,

It is now my honour to present the reports of my predecessor on her country visit to Bosnia and Herzegovina and her joint thematic visit to Germany and North Macedonia. I thank all three states for their extensive cooperation on the visits.

The report on **Bosnia and Herzegovina** addresses counterterrorism in a tense complex post-conflict society bearing deep divisions from mass atrocity crimes. The report commends the state's positive work on prison infrastructure, rehabilitation of prisoners and reintegration. Another positive is the willingness of the state to return men who have travelled to northeast Syria and to treat them with dignity, including in legal proceedings and prison, and in providing child-centred social welfare for returned families.

The report reminds all levels of government in that country of their human rights obligations to effectively address the legacy of the past. Contemporary nationalist politics are driving insecurity, stigmatizing communities, and turbo-charging antagonism between ethnic and social groups. There is a risk of fuelling violent extremism conducive to terrorism. The report recommends: 1) putting in place a probation system after imprisonment; 2) urgently

repatriating citizens detained in northeast Syria; 3) ensuring civil society is protected from harassment, defamation, exclusion from public affairs, and being designated as high risk in the terrorist financing context; and 4) providing remedies to Bosnian citizens transferred to the detention facility at Guantanamo Bay.

The report on **Germany and North Macedonia** is a good model for a joint thematic country visit. The focus was on good practices and challenges in the repatriation, return, reintegration and prosecution of people returning from the conflicts in Syria and Iraq, where detainees today face grave violations of human rights and international humanitarian law.

Both countries have made positive efforts to locate and repatriate many nationals. Returns have been well managed and generally compliant with international law. Reintegration efforts reflect good practices for other states to emulate. Prosecutions are well advanced and rule of law compliant.

In relation to **Germany**, the report recommends as models for other states: 1) its expert coordinated approach to reintegration or disengagement, including sustained engagement with civil society; 2) its leadership on cumulatively prosecuting international crimes and terrorism in fair trials; and 3) the positive use of consular mechanisms to facilitate repatriation.

The report encourages Germany to: 1) revisit gender-based criteria for crimes of membership of terrorist organizations; 2) avoid isolating people detained on terrorism charges and 3) maintain family relationships even where individuals are prosecuted.

On **North Macedonia**, the report commends: 1) the political decision to repatriate all nationals including men; 2) the development of an integrated holistic and community-based approach to reintegration led by social workers and; 3) the engagement of civil society in prevention and 4) well established prosecution and sentencing policies for returnees.

The report encourages North Macedonia to: 1) continue positive efforts on reintegration and to widen participation beyond the current families; 2) to adopt a holistic approach to counterterrorism and avoid stigmatization of particular groups; and 3) to improve prison conditions.

In closing, the urgent repatriation of all nationals including from more than 60 countries of nationality detained in northeast Syria is the only international law compliant response to the precarious human rights, humanitarian and security situation faced there. The joint report demonstrates that where there is political will from governments, repatriation can be successful, it can respect human rights, and it can address security concerns.

Thank you.