




2022

CIVIL SOCIETY WORKSHOP OUTCOME DOCUMENT

This outcome document was produced by civil society from 43 countries through a series of consultations, including the Civil Society Workshop on 9 May 2022 co-organized by the Kingdom of Spain and the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.



Introduction

On 9 May 2022, in advance of the High-Level International Conference on Human Rights, Civil Society, and Counter-Terrorism, the Kingdom of Spain and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism co-hosted a Civil Society Workshop on Enhancing Civil Society Leadership and Promotion and Protection of Human Rights in Counter-Terrorism.

The Civil Society Workshop included over 90 civil society organizations in-person and online and was preceded by a month-long exercise of global and regional virtual consultations with civil society from 43 countries and five continents carried out by Fionnuala Ní Aoláin, U.N. Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Kingdom of Spain.

The purpose of the Civil Society Workshop is to elevate existing recommendations and joint findings from civil society on the implementation of the UN Global Counter-Terrorism Strategy—including those of the Global Digital Consultations hosted by UN Women [1]— particularly on the meaningful participation of civil society and the promotion and protection of human rights. Synergizing the obligations between gender equality and normative frameworks on women's rights, specifically, the Convention on the Elimination of All forms of

Discrimination Against Women (CEDAW) and the United Nations Security Council Women, Peace and Security Agenda (WPS Agenda) remains imperative.

Since that time, the UN General Assembly has adopted resolution 75/291 on the Seventh Review of the United Nations Global Counter-Terrorism Strategy and through the efforts of civil society, the United Nations, and Member States, elevated issues of civil society's meaningful participation, protection, and promotion of inclusion, as well as on the mainstreaming of human rights, gender equality, and women's empowerment, seeking to move away from models of "instrumentalization" and cooption.

This outcome document reflects the discussions presented during the Civil Society Workshop, and those expressed in the consultations held in the lead-up to the Workshop in 43 countries. A preliminary framing of the issues was presented as a discussion paper, and workshopped and revised on 9 May 2022

This document will be made available as an official conference document of the United Nations Malaga Conference. It will serve as an important advocacy document in the lead up to the Eighth biennial Global Counter-Terrorism Strategy Review in 2023.

[1] The consultations were hosted on behalf of the Gender Working Group of the United Nations Global Counter-Terrorism Coordination Compact, organized the global digital consultation on "Voices and perspectives of civil society on the gendered dimensions of violent extremism and counterterrorism responses", from 25 May to 5 July 2020.

The misuse of counter-terrorism measures to crack down on civil society and repress fundamental rights and freedoms – and complicity therein – is well-documented and must be meaningfully addressed.

The international community has repeatedly expressed concerns about the documented misuse of counter-terrorism measures against civil society organizations (CSOs). In his latest report on terrorism and human rights, the Secretary-General found that “[i]n some countries, [counter-terrorism] laws are routinely misused to label civil society actors, including human rights defenders, as terrorists and to prosecute them for terrorism-related offences, with a view to hindering their human rights work” and that “[r]eprisals against human rights defenders and the stigmatization of civil society actors (see A/HRC/43/70, para. 64) for having engaged with the United Nations are of particular concern, as they are frequently applied through the misuse of counter-terrorism legislation” (A/76/273, para. 22). He also noted that such misuse “may disproportionately affect women’s civil society organisations that often take on the role of peacebuilders and human rights defenders.”[2]

In its Seventh Global Counter-Terrorism Strategy Review resolution (“Seventh Review”), the General Assembly acknowledged “the potential negative impacts when counter-terrorism legislation and other measures are applied contrary to international law ... including by impeding the work [of] and endangering ... civil society.” This builds on a prior General Assembly resolution in which Member States expressed “grave[] concern[s] that national security and counter-terrorism legislation and other measures, such as laws regulating civil society organisations, are in some instances misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law.”[3]

The linkage between counter-terrorism and preventing violent extremism measures and the widespread crackdown on civic space has grown increasingly evident in recent years, with abusive tools being exported and imported across countries and regions. As the Special Rapporteur on the promotion and protection of human rights while countering terrorism documented in her 2019 report to the Human Rights Council on closing civic space, 66% of all relevant communications sent to Governments since the mandate’s inception in 2005 have related to the misuse of counter-terrorism or broadly defined security-related measures against civil society and human rights defenders, with a discernible uptick in more recent years.[4] Such misuse includes the overbroad criminalization of the legitimate exercise of fundamental freedoms, like the freedoms of expression and opinion, peaceful assembly and association, and religion or belief, as well as minority rights. States have also increasingly adopted administrative measures under the pretext of counter-terrorism. Such measures range from undue non-profit organisation registration and reporting requirements to penalties like involuntary non-profit dissolution and extreme restrictions on movement. Civil society actors and human rights defenders have also been subject to physical, digital, and judicial harassment on the basis of countering terrorism. Women human rights defenders and women’s rights organisations are often disproportionately impacted in this regard. The evidentiary record of counter-terrorism misuse is mounting and warrants immediate attention, mitigation, and prevention.

[2]A/RES/75/291, p. 4.

[3]A/RES/74/247 (2020), preambular text.

[4]A/HRC/40/52, para. 4.

Counter-terrorism measures may infringe on protected humanitarian action and the full range of civil society actors playing critical roles in conflict, including human rights, development, peacebuilding, and the delivery of essential services. Express humanitarian exemptions and exceptions are required.

The General Assembly also recognized in the Seventh Review the “potential effect of [counter-terrorism financing] measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors”[5] and urged States to ensure that counter-terrorism measures “do not impede humanitarian and medical activities or engagement with all relevant actors as foreseen by international humanitarian law.”[6] The UN Secretary-General has similarly recognized that “[i]n some cases, particularly in armed conflict settings, counter-terrorism measures are adversely affecting principled humanitarian and human rights action.”[7] Counter-terrorism measures can contribute to further securitization and politicization of aid, and risk stigmatizing and excluding groups by, among others, gender, religion, race and/or displacement status.[8] Inequalities, poverty, and socio-economic exclusion can drive extremism, violence, and terrorism—further underscoring the value of humanitarian actors working in tandem with human rights, development, and peacebuilding actors. The potential impediment to or delay of protected humanitarian operations due to counter-terrorism measures, particularly targeted sanctions, is well-documented, including by the UN Special Rapporteur on counter-terrorism and human rights, International Committee of the Red Cross (ICRC), Office of the High Commissioner for Human Rights (OHCHR), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and other civil society and academic institutions.[9]

Documented instances include criminal, civil, and administrative penalties for direct or indirect support to listed individuals and entities, donor conditionality, and bank de-risking. In response, international and State actors have started to adopt limited case-specific exceptions or exemptions for humanitarian action.[10]

Measures to mitigate the impact of sanctions must not only address the impact on humanitarian action, but further address the impact on the full range of civil society actors playing critical roles in conflict, including in human rights, development, peacebuilding, and the delivery of essential services while also ensuring conflict sensitivity. However, the lack of systematic exemptions still poses serious challenges for humanitarian actors, particularly when it comes to local ownership as smaller organisations may not have the capacity to conduct the requisite due diligence. The patriarchal and colonial nature of humanitarian systems must be acknowledged, and the international law requirement of non-discrimination principle carefully applied to ensure that counter-terrorism measures contribute to positive humanitarian system changes.

[5] A/RES/60/288, para. 60.

[6] A/RES/60/288, para. 109.

[7] A/74/677, para. 36.

[8] UN Deputy Secretary-General's remarks to the Security Council on behalf of the Secretary-General on the protection of civilians and the preservation of humanitarian space, 16 July 2021. Oxfam, *Whose Aid Is It Anyway? Politicizing aid in conflicts and crises*, 10 February 2011.

[9] See, e.g., UN Special Rapporteur, 2021 Position Paper on the Impact of Counter-Terrorism Targeted Sanctions on Human Rights.

[10] See Emanuela –Chiara Gillard, *IHL and the humanitarian impact of counterterrorism measures and sanctions*, 3 September 2021, Chatham House Research Paper.

All efforts to promote and protect the rights of victims of terrorism and counter-terrorism measures must address long-term accountability and the immediate needs of survivors in participatory, inclusive, and equitable processes.

The focus on the human rights of victims/survivors of terrorism goes hand in hand with the rights of victims/survivors of human rights abuse in counter-terrorism. In the Seventh Review, the General Assembly emphasized the need “to ensure that victims of terrorism are treated with dignity and respect, [and] that their right to access to justice and redress mechanisms, as provided for in applicable domestic law and in accordance with principles of international law, is fully respected.” [11]

The General Assembly further “welcome[d]” the ongoing efforts within the UN system, including the Global Congress of Victims of Terrorism convened by the Secretary-General, and encouraged the continued raising of “awareness on victims of terrorism and the promotion and protection of their rights, including in the criminal justice process.” [12]

The promotion and protection of the rights of victims/survivors of terrorism and counter-terrorism requires a human rights-based approach to criminal justice and investments in long-term accountability mechanisms underpinned by robust abidance by the rule of law and in accordance with the international law requirements of proportionality, necessity, legality, and non-discrimination.[13]

Only such an approach will render effective and fulsome justice and redress to victims/survivors of terrorism.



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- A/RES/75/291, PARA. 116

At the same time, safeguards against the misapplication of the justice system against individuals subject to counter-terrorism efforts, particularly baseless prosecutions and judicial harassment must be addressed. Further, any individual subject to human rights abuse in the context of terrorism, whether stemming from terrorist acts or counter-terrorism efforts therein, must be granted the requisite access to effective remedy, redress, and holistic, psycho-social, and trauma-informed care, as required under international and human rights law.

[11] A/RES/75/291, p. 7.

[12] A/RES/75/291, para. 116.

[13] A/HRC/20/14.

Open civic space, effective counter-terrorism, and the advancement of security are complementary and mutually reinforcing objectives.

As recognized by Member States in the Seventh Review, CSOs play a “vital role . . . in national economies and social systems” and “can play [a role] in working with affected individuals and communities.”[14] In particular, civil society actors, especially local, community-based organisations and women’s-based organisations may “enhance dialogue and broaden understanding, in promoting pluralism, tolerance and co-existence,” a reality that must be addressed to realize the objectives of Our Common Agenda’s aim for “more inclusive multilateralism.”[15]

However, despite the common invocation of counter-terrorism as a justification for cracking down on civic space, researchers have found zero evidence to date to support the proposition that legal restrictions on civil society reduce the threat of terrorism.[16] In fact, independent experts and scholars have repeatedly found that civil society participation and civilian oversight play an invaluable role in strengthening the effectiveness of counter-terrorism efforts. [17]

Evidence demonstrates that conflict is one of strongest predictors of the impact of terrorism, so too are deficiencies in human rights protections, socio-economic factors related to disenfranchisement, deficient rule of law and equality, and more.

[14] A/RES/75/291, para. 59; id., pp. 14–15, paras. 44–7.

[15] [United Nations Common Agenda](#).

[16] See A/HRC/40/52, para. 10 (citing Jeong-Woo Koo and Amanda Murdie, “Liberty or security: do civil society restrictions limit terrorism?”, Center for Strategic and International Studies blog post, 4 June 2018).

[17] See id.; see also Statement by Maina Kiai, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, at the Financial Action Task Force Consultation and Dialogue Meeting with Non-Profit Organisations held on 18 April 2016.



A STRONG, RESILIENT AND VIBRANT CIVIL SOCIETY HELPS TO BUILD PUBLIC TRUST AND SQUARELY TACKLE THE CONDITIONS CONDUCTIVE TO TERRORISM AND VIOLENT EXTREMISM IN THE FIRST PLACE.

Only such an approach will render effective and fulsome justice and redress to victims/survivors of terrorism—and at the same time, safeguard against the misapplication of the justice system against individuals subject to counter-terrorism efforts, particularly baseless prosecutions and judicial harassment. Further, any individual subject to human rights abuse in the context of terrorism, whether stemming from terrorist acts or counter-terrorism efforts therein, must be granted the requisite access to effective remedy, redress, and holistic, psycho-social, and trauma-informed care, as required under international and human rights law.

Significant civil society, human rights, gender, and accountability deficits remain within the existing UN counter-terrorism architecture, including synergizing the obligations between gender equality, women's rights, and counter-terrorism.

The 2006 General Assembly resolution adopting the UN Global Counter-Terrorism Strategy “encourage[d] non-governmental organisations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy.” The resolution also called for “support” to the Human Rights Council, the “strengthening of the operational capacity of the Office of the United Nations High Commissioner for Human Rights,” and the “role of the Special Rapporteur” on the protection of human rights while countering terrorism.[18]

In the Seventh Review, the General Assembly further recognized “that civil society actors should be further enabled to contribute to the goals of the Strategy, and in this regard not[ed] the Secretary-General’s guidance to the United Nations system” (citing the UN Guidance Note on the Promotion and Protection of Civic Space); and encouraged Global Counter-Terrorism Coordination Compact entities to “support the role of civil society actors in the design, implementation, and monitoring of the Strategy.”[19] Member States also called upon the Secretary-General to assess the “need for internal advisory or monitoring and evaluation capacity”; the assessment will be made available in a report to be issued no later than February 2023.[20]

Despite these provisions, significant challenges remain for meaningfully and regularly engaging with CSOs, integrating a coordinated, one-UN approach, and mainstreaming human rights and gender within the UN counter-terrorism architecture and more broadly in national, regional and global security fora. Independent experts and CSOs have expressed concerns regarding the inadequate, ad hoc, and opaque nature of UN counter-terrorism entities’ engagement with CSOs to date.[21] They have also observed human rights and rule of law deficits in UN counter-terrorism programming and policies, particularly in the absence of any independent monitoring and evaluation or oversight.[22]

”[I]N SOME COUNTRIES, [COUNTER-TERRORISM] LAWS ARE ROUTINELY MISUSED TO LABEL CIVIL SOCIETY ACTORS, INCLUDING HUMAN RIGHTS DEFENDERS, AS TERRORISTS AND TO PROSECUTE THEM FOR TERRORISM-RELATED OFFENCES, WITH A VIEW TO HINDERING THEIR HUMAN RIGHTS WORK.”

- A/HRC/43/70, PARA. 64

[18] A/RES/60/288, p. 9, paras. 7-8

[19] A/RES/75/291, p. 4; id., p. 9, para. 10; see also Secretary-General 2020 Call to Action for Human Rights and UN Guidance Note on the Promotion and Protection of Civic Space.

[20] A/RES/75/291, p. 22, para. 86; id., p. 27, para. 118.

[21] Special Rapporteur, A/76/261, paras. 39-42; A/HRC/34/61, para. 63; IPI, Engagement with Civil Society: The Missing Piece in UN Counterterrorism Efforts, 23 June 2021; Global Center, A Blueprint for Civil Society-Led Engagement in UN Counterterrorism and P/CVE Efforts, March 2022.

[22] A/76/261, Sec. V.

Recommendations

The following recommendations align with existing recommendations produced by the United Nations and civil society and in the context of the next Eighth Review of the Global Counter-Terrorism Strategy, present key opportunities to advance key human rights, gender equality, and civic space issues within the United Nations counter-terrorism architecture. The recommendations are informed by consultations with civil society around the world, the Outcome of the Global Digital Consultation: Voices and perspectives of civil society on the gendered dimensions of violent extremism and counter-terrorism responses, the Secretary-General's Call to Action on Human Rights and to leave no one behind, the goals of Our Common Agenda, and the United Nations Guidance Note on the Protection and Promotion of Civic Space.

Recommendations to the United Nations Secretary-General

1 - Facilitate a process for the next Secretary-General's report that robustly engages civil society, including through dialogue with the Executive Office of the Secretary-General (EOSG) to meaningfully address the issues of monitoring and evaluation, human rights due diligence, independent oversight, UN coordination and coherence, and increased integration of human rights norms and recommendations within UN counter-terrorism, as outlined in A/RES/75/291. Such a practice would follow the leadership and practice of the co-Chairs of the Seventh biennial review by encouraging and supporting similar practice of inclusion and listening to civil society in advance of the forthcoming Eighth biennial review of the Global Counter-Terrorism Strategy Review.

2 - Implement the existing commitment to allocate a minimum of 15 per cent of all UN managed funds on counter-terrorism to human rights and gender equality. Commitments to mainstreaming gender and human rights throughout peace and security within the United Nations should fully apply in the counter-terrorism context. In addition, support should be allocated from existing discretionary funds to the Global Compact Working Group on Human Rights, Rule of Law and Victims of Terrorism and the Working Group on Gender to undertake this planned process.

3 - Establish a standing committee for the biennial Secretary-General's report, which accounts for meaningful CSO engagement in the process. Following UN Women's model for the annual report on women, peace and security, the EOSG and UNOCT should establish a standing committee of United Nations entities and include early and transparent consultation and integration of inputs received throughout the processes for drafting and revision. Such processes should meaningfully include civil society participation and contribution including through formal decision-making spaces, formal acknowledgement of their leadership role, incorporation of their recommendations in the eventual outcome, and fulsome engagement in monitoring, evaluation, and accountability mechanisms.

Recommendations

Recommendations to the United Nations Office of Counter-Terrorism, including in its role as secretariat to the United Nations Global Counter-Terrorism Coordination Compact

1 - Adopt a revised Civil Society Engagement Strategy within the next year and in advance of the next Strategy Review that includes civil society in the development process. The Strategy should be made public and should demonstrate compliance with and next steps towards implementation of the United Nations Guidance Note on Protection and Promotion of Civic Space. The United Nations existing Guidance Note exemplifies good practice in promoting and protecting civic space and safeguarding the rights of civil society members. It should serve as the baseline for all United Nations Global Compact entities and their work with civil society.

2 - Standardize a set of required implementation measures for human rights due diligence. Ensure the full application of the United Nations Human Rights Due Diligence Policy by creating standard procedures for programme and project inception within the United Nations Global Counter-Terrorism Coordination Compact and member entities, including for capacity-building and technology transfer programmes involving cyber surveillance technologies, drones, weapons, and new technologies, and programme monitoring and evaluation over the full life span of a programme or project.

3 - Together with civil society, initiate transformative approaches to the civil society inclusion, listening to and addressing the evidence produced by civil society engagement, including through the creation of concrete methods to report back to civil society on key milestones or benchmarks reached towards shared objectives and progress on recommendations made. The United Nations must hold itself to greater levels of accountability to civil society, many of whom assume great risk, including threats of reprisal, to share their expertise and recommendations. Models for meaningful participation of civil society in counter-terrorism exist within the United Nations, such as those included in the UN Guidance Note or as modeled by the UN Secretary-General's report on women, peace and security (S/2017/861) and UN Women's work in this area.

Recommendations

In advance of the Eighth Review of the Global Counter-Terrorism Strategy Review in 2023, Member States should advocate for the following key recommendations, engaging with the Special Rapporteur and this group of civil society organisations through key exercises in 2023.

Recommendations to Member States of the United Nations

1 - Establish independent and adequately resourced internal oversight of the United Nations counter-terrorism architecture and call upon the United Nations Secretary-General to meaningfully address this issue and set forth concrete recommendations in his forthcoming 2023 report to the General Assembly as mandated by A/RES/75/291.

2 - Strengthen domestic legal and policy frameworks that promote and protect fundamental freedoms and human rights in the counter-terrorism context, including freedom of expression, peaceful assembly and association, religion and belief and rights to privacy, and due process in accordance with international law—including pursuant to customary international law and treaty law.

3 - Support significant increases in the direct financial commitments to independent national level civil society organisations to carry out dedicated human rights, civic space, and gender equality programming in counter-terrorism and beyond. Civil society should not be relegated to the role of the United Nations' implementing partners and Member States should increase direct funding to civil society organisations to work on identified peace and security priorities as locally-defined, including in contexts affected by terrorism and misuse of counter-terrorism measures.

4 - Strengthen the roles of entities mandated to lead the UN system on human rights and gender equality and women's empowerment through increased financial support, specifically the Office of the United Nations High Commissioner for Human Rights, UN Women, and the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism.

Recommendations

In advance of the 8th Review of the Global Counter-Terrorism Strategy Review in 2023, Member States should advocate for the following key recommendations, engaging with the Special Rapporteur and this group of civil society organisations through key exercises in 2023.

Member States should commit to and advocate for:

Recommendations to Member States of the United Nations

5 - Meaningfully engage independent civil society and affected communities as partners at the national level in the design, development, implementation and evaluation of counter-terrorism measures, including the criminalization of terrorism, terrorist financing, and violent extremism offenses and preventative administrative measures, in line with the principles of do no harm and the right to take part in public affairs. Such meaningful and equal participation requires inclusion in formal decision-making spaces, formal acknowledgement of their leadership role, incorporation of their recommendations in the eventual outcome, and fulsome engagement in monitoring, evaluation, and accountability mechanisms.

6 - Implement the recommendations of civil society and independent women and women-led civil society organisations through the Global Digital Consultation, specifically addressing the realization of the rights of women under CEDAW, promoting and protecting women human rights defenders, and supporting their work through flexible and long-term resources. Member States must align their commitments and obligations on women's human rights and the women, peace and security agenda with their actions in countering terrorism and preventing and countering violent extremism conducive to terrorism.

7 - Ensure that counter-terrorism measures comply with international requirements of legality, proportionality, necessity, and non-discrimination and do not negatively affect civil society, including by only implementing counter-terrorism measures necessary for and narrowly tailored to an empirically and inclusively identified risk and instituting independent, civilian oversight mechanisms to remedy human rights violations resulting from measures adopted in the name of countering terrorism, violent extremism, and threats to national security.

8 - Unambiguously exempt humanitarian action from measures criminalizing terrorism support. Efforts to limit the effect of counter-terrorism measures, including sanctions, should also extend to the full range of civil society actors playing critical roles in conflict, including human rights, development, peacebuilding, and the delivery of essential services. Work collaboratively with all entities funding and/or delivering humanitarian assistance, as well as banks and private sector actors, to ensure that counter-terrorism measures do not unlawfully stigmatize or restrict the legitimate, protected activities of women-led and women's rights organisations, refugee/displacement-lead networks, rural communities and other groups often excluded from security policy spaces.