HUMAN RIGHTS

Terrorism poses a serious threat, not only to international peace and security, but also to the enjoyment of human rights and social and economic development. Countering terrorism means, first and foremost, protecting the right to life and to personal security. Member States are therefore under a human rights obligation to safeguard the security of their citizens, including through effective counter-terrorism measures.

At the same time, beginning with its adoption of resolution 1456 (2003), the Security Council has consistently affirmed that States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights, refugee, and international humanitarian law. The Council has also underscored that effective counter-terrorism measures and respect for human rights, fundamental freedoms, and the rule of law are complementary and mutually reinforcing and constitute an essential part of successful counter-terrorism efforts. The Council has in several resolutions reiterated that failure to comply with these and other international obligations, including under the Charter of the United Nations, fosters a sense of impunity and is one of the factors contributing to increased radicalization.

In its resolutions 2178 (2014) and 2396 (2017), the Security Council calls upon States to stem the flow of foreign terrorist fighters (FTFs) and to respond to the evolving threat posed by FTFs, particularly returnees, relocators, and their families, with full respect for human rights and fundamental freedoms. The latter resolution identifies an array of measures to be taken by States, and for these to be tailored and take gender and age sensitive factors into account. The resolution also emphasizes that women and children associated with FTFs require special focus, as they may have served in different roles and may be victims of terrorism, and for children to be treated in a manner that observes their rights and respect their dignity, in accordance with applicable international law.

Security Council resolution 1624 (2005) calls upon States to prohibit and prevent incitement to commit a terrorist act. This resolution also stresses that States must ensure that any measures they take to implement the resolution comply with all their obligations under international law, thus recognizing the particular relevance of human rights to action against incitement. The preamble of resolution 1624 (2005) highlights, among other factors, the relevance of the right to freedom of expression to counter-incitement measures, stating that incitement poses a serious and growing danger to the enjoyment of human rights.
The Security Council Counter-Terrorism Committee (CTC) and its Executive Directorate (CTED) routinely include relevant human rights issues in all their activities, including country visits and assessments, and in their dialogue with Member States, in line with the human rights policy guidance adopted by the Committee in 2006. CTED liaises closely with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in matters related to counter-terrorism, and is an active member of the Counter-Terrorism Implementation Task Force (CTITF), including through its Working Group on Promoting and Protecting Human Rights and the Rule of Law While Countering Terrorism. In 2018, this working group published Guidance to States on human rights-compliant responses to the threat posed by foreign fighters.

CTED further facilitates strengthened engagement with civil society actors, in accordance with the relevant Security Council resolutions and the Committee's guidance, in a manner that respect their rights. The Council has increasingly recognized the role that local communities and non-governmental actors can play in countering violent extremism and addressing the phenomenon of foreign terrorist fighters, including the rehabilitation and reintegration of FTFs. Resolution 2178 (2014) encourages States to engage with civil society actors, including by empowering youth, families, women, religious, cultural, and education leaders, as well as all other concerned groups of civil society. The Madrid Guiding Principles, which were adopted by the Committee in 2015, state that engagement between Government and non-governmental actors should be founded on trust and respect. With respect to civil society and human rights defenders, these principles also stress the importance of safeguarding the ability of non-governmental actors to operate in a secure environment and in full respect for human rights and fundamental freedoms, including the rights to freedom of thought, conscience and religion, expression, peaceful assembly, and association. In terms of victims of terrorism, the Council encourages CTED, in close co-operation with the United Nations Office of Counter-Terrorism (UNOCT), to take into account the important roles victims and their families and networks can play, including through the credibility of their voices, in countering terrorism.

In its Global Surveys of the implementation of resolutions 1373 (2001) and 1624 (2005) by Member States, CTED drew attention to a range of human rights issues relevant to the implementation of the resolutions. For example, CTED observed situations in several States, in various regions, in which terrorism charges or administrative designations have been framed in vague terms, allowing for their misuse against legitimate conduct, such as the expression of political dissent or human rights advocacy. Compliance with international standards of due process and fair treatment, notably wherever counter-terrorism measures are applied preventively, remains an area of concern. CTED has also encouraged States to put in place independent oversight mechanisms to monitor the activities of law enforcement and intelligence bodies, and to ensure accountability in cases of violations. CTED has further explored potential concerns arising when countering incitement to terrorism with regard to the rights to freedom of expression and opinion, freedom of religion and belief; fair, equal and transparent treatment in criminal proceedings, the right to privacy, and the right to freedom from discrimination. In taking relevant actions, States should proceed cautiously, based on clearly and narrowly defined incitement offences.

The protection of human rights is not only a matter of legal obligations of States, but is also crucial in addressing the conditions conducive to terrorism, and essential to ensure that counter-terrorism measures are effective. In its resolution 2395 (2017), the Security Council encourages CTED “to further develop its activities to ensure that all human rights and rule of law issues relevant to the implementation of resolutions 1373 (2001), 1624 (2005), 2178 (2014), and other relevant resolutions are addressed as an important component of CTED’s country visits, assessments, analysis of emerging issues, trends, and developments, and facilitation of technical assistance.”