

Third Committee

Topic Area B: Protecting Human Rights and Fundamental Freedoms while Countering Terrorism

Terrorism is not a new phenomenon. Protecting human life and security within the context of terrorism presents a two-fold, and potentially contradictory, challenge: first, States have an obligation to ensure the security and well-being of their citizens by providing protection from terrorist threats, and second, they must enact counter-terrorism measures that do not violate human rights or the rule of law.

One of the first and most concrete endorsements from Member States of the significance on protecting human rights while countering terrorism came in 2005 with the creation of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Special Rapporteur, who operates under the Human Rights Council, is charged with promoting best practices and investigating allegations of human rights violations that occur during the course of counter-terrorism actions.

In 2006, the General Assembly adopted the Global Counter-Terrorism Strategy. The Strategy was the first international agreement on a common approach and plan of action to prevent and respond to global terrorism threats. The Fourth Pillar of the Global Strategy addresses measures intended to ensure that respect for human rights and the rule of law remain the cornerstone of global counter-terrorism strategies. Specifically, it calls upon member states to Member States to implement strategies that are not in conflict with their obligations to international human rights law, refugee law, or international humanitarian law. By committing to the Global Counter-Terrorism Strategy, Member States recognized that “effective counter-terrorism measures and the protection of human rights were not conflicting goals but complementary and mutually reinforcing aims.”

The Fourth Pillar of Action of the Global Strategy also calls upon Member States to develop criminal justice systems guided by the rule of law, so the fundamental freedoms and human rights of persons being extradited or prosecuted for terrorist acts are protected. Finally, the Fourth Pillar commits to providing technical assistance to Member states through the United Nations Office of Drugs and Crime.

The Counter-Terrorism Implementation Task Force created a Working Group on Protecting Human Rights While Countering Terrorism. The Working Group supports Member States’ efforts to promote and protect human rights in the context of counter-terrorism. To that end, the Working Group hosted an expert seminar on the effects of terrorism and counter-terrorism measures on the enjoyment of economic, social and cultural rights. The Working Group is developing a series of ten Basic Human Rights Reference Guides, that have guidelines for Member States on how to protect human rights in the context of counter-terrorism activities.

While there is broad general agreement on the need for protecting human rights while countering terrorism, there is still debate over specific standards Member States should be expected to uphold. For example, some rights, such as the protection against torture, are non-derogable (i.e. they are absolute and cannot be reduced), while others like freedom of expression, can be suspended by states for fixed

periods of time to deal with unrest and potentially destabilizing events. Some states have claimed that combating terrorism is such a circumstance and have sought to restrict speech and other rights.

Despite these challenges, the General Assembly and the United Nations remain engaged in the topic and committed to supporting Member States in their efforts to ensure human rights are protected as they implement counter-terrorism measures. The General Assembly continues the work on the draft comprehensive convention on international terrorism. The convention will aid in reducing the credibility gap in the field of human rights. However, the lack of a coherent human rights strategy remains one of the top challenges of Member States.

Questions to consider from your government's perspective on this issue include

- What restrictions of rights may be justifiable to combat terrorism and under what circumstances?
- What can Member States do to ensure that counter terrorism is more compatible with fundamental human rights?
- How can the reinforcement of human rights support the aims of countering terrorism?

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Sageman, Marc, Understanding Terrorist Networks. University of Pennsylvania Press (2004).

UN Documents

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A/RES/60/158

A/RES/56/160

A/RES/48/122

S/RES/1373

S/RES/1624

A/HRC/13/37 and Add.1

International Convention for the Suppression of Terrorist Bombings

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

Vienna Declaration and Programme of Action

Universal Declaration of Human Rights

Additional Web Resources

<http://www.amnesty.org/en/library/asset/IOR40/008/2011/en/9b5494ce-e049-45d0-8c91-788f7c24b89a/ior400082011en.pdf>

<http://www.hrw.org/en/news/2005/04/17/protecting-human-rightswhile-countering-terrorism>

<http://www.un.org/en/sc/ctc/rights.html> - Protecting Human Rights While Countering Terrorism, UN Security Council Counter-Terrorism Committee

<http://legalfight.wordpress.com/> - Legal Issues in the Fight Against Terrorism

<http://www.ohchr.org/EN/Issues/Terrorism/Pages/SRTerrorismIndex.aspx> - Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism