

24 October 2019

UNGA: Protect Human Rights and Fundamental Freedoms while Countering Terrorism

Excellencies,

Our organisations urge your delegation to categorically reject the approach expected to be adopted in a draft resolution at the UN General Assembly (UNGA) Third Committee on “terrorism and human rights”, led by Egypt and Mexico. This is essential to prevent the further erosion of international human rights law relating to counter-terrorism and to the rights of victims of terrorism, and to safeguard the integrity of the UN system and [UN Global Counter Terrorism Strategy](#) (GCTS). We urge you to instead support the restoration of the approach and text of the Mexico-led [UNGA resolution 72/180](#) (2017) on “protecting human rights and fundamental freedoms while countering terrorism”, which was the culmination of 16 years of considered and consensus-based normative progress.

[UNGA resolution 73/174](#) (2018) on “terrorism and human rights” merged two previously separate initiatives, and followed a similar merger at the Human Rights Council (HRC) in [resolution 37/27](#) (2018). Both mergers resulted in the loss of crucial language on States’ human rights obligations in the context of countering terrorism. Consensus-based commitments from the previous Mexican-led UNGA resolution were removed, including on, *inter alia*, derogation in emergencies, *non-refoulement*, the right to privacy, deprivation of liberty, the rights of minorities and the rights of children, as well as reference to important international treaties, including the Geneva Conventions and the Convention Against Torture.¹ Extensive language on the “negative effects of terrorism”, taken from recent Egypt-led resolutions, was added. The promotion of this overbroad and misleading concept shifts focus away from human rights to the macro-economic impacts of terrorism as harm to the State, providing justification for excessive counter-terrorism measures.

We note that many delegations presented the 2018 mergers at the HRC and UNGA as necessary to maintaining consensus on an issue of global importance, and to containing the advancement of the damaging “effects of terrorism” agenda, of which Egypt was the architect. Developments over the last twelve months demonstrate that this strategy of containment is failing, instead empowering Egypt to reverse normative human rights progress and prevent institutional strengthening through continually escalating demands.

Throughout 2019 at the HRC, Egypt undermined assurances underpinning the 2018 mergers. In particular, Egypt has sought to dilute and distort the scope of the mandate of UN Special Rapporteur on the promotion and protection of human rights while countering terrorism, and distract its work, under the constant threat of creating a competing mandate on “effects of terrorism”. While Egypt’s attempts to take

¹ Paragraphs of resolution 72/180 omitted in Resolution 73/174 include, *inter alia*: OP4 on derogations; OP5(b) on minorities; OP5(c) and (d) on arbitrary detentions; OP5(f) on fair trials; OP5(j) on surveillance and the right to privacy; OP5(k) on economic, social and cultural rights; OP5(l) on border control operations; OP5(m) on non-refoulement; OP5(n) on return to torture in States of origin; OP5(o) on interrogation methods; OP5(s) and OP9 - 10 on relevant international human rights and humanitarian law instruments; OP5(u) on drones; OP5(v) on implementation of UN resolutions and recommendations; OP5(w) on investigations into violations; and OP7 on protections for humanitarian organisations.

shared control of the mandate renewal at the 40th HRC Session in March were ultimately unsuccessful, Mexico and other States then partially acquiesced as a result of Egyptian threats at the 42nd HRC Session in September, resulting in another deeply problematic merged [HRC resolution 42/18](#) on “terrorism and human rights.” Concessions in the resolution gave further prominence to the Egyptian approach, “inviting” the Special Rapporteur to report on the “negative effects” of terrorism.

These concessions were made notwithstanding the present mandate-holder outlining [her concerns](#) that the “effects of terrorism” initiative has a history of “instrumentalising the victims of terrorism in order to bolster the need for greater counter-terrorism measures and thus weaken the international system as a whole.” Even with a stronger focus on the rights’ of victims of terrorism in the mandate renewal resolution, [Egypt expressed dissatisfaction](#), making clear that their focus is not on victims or on human rights, but on broader economic issues outside of the human rights mandates of either the HRC or Third Committee.

Egypt’s international campaign must be understood in the context of President Sisi’s egregious and continuing abuse of counter-terrorism measures at home to suppress civil society and dissenting voices. [In a statement on 18 October](#), the UN High Commissioner for Human Rights raised concerns at the detention and mistreatment of human rights defenders Esraa Abdelfattah, Mohammed El-Baqer, and Alaa Abdel Fattah, accused of “terrorism” solely for the exercise of their rights to peaceful protest and freedom of expression. Their cases are emblematic of Egypt’s frequent abuse of counter-terrorism charges and measures against human rights defenders, lawyers, journalists, peaceful protesters and political opponents, [free media, including online, civil society](#), and others, including prolonged [arbitrary detentions, enforced disappearances, torture and ill-treatment](#) including by rape, and [extrajudicial or arbitrary executions](#), including [mass killings of peaceful protesters](#). [Egypt has legislated to facilitate impunity to military officers for these crimes](#), some of which [may even constitute crimes against humanity](#). The UN Secretary General’s 2019 [report on cooperation with the UN system](#) contain numerous allegations that the Egyptian government engaged in reprisals, including through the abuse of counter-terrorism laws. Moreover, reprisals relating to a 2018 UN expert country visit prompted special procedures to [publicly proclaim](#) that Egypt is not ready to receive further visits.

Egypt has a clear vested interest in undermining international human rights law and accountability mechanisms relating to violations committed in the context of counter-terrorism measures. For States to treat Egypt as a reliable partner in leading this resolution only helps to provide cover for and perpetuate this egregious pattern, with serious consequences on the lives and dignity of Egyptians seeking to exercise their fundamental rights.

States must also consider [the unique position](#) the mandate of the Special Rapporteur on the protection and promotion of human rights while countering terrorism occupies, and therefore the significance of Egypt’s efforts to dilute or otherwise undermine its work. Within the rapidly expanding United Nations Counter-Terrorism architecture, the mandate is the sole entity dedicated exclusively to ensuring counter-terrorism measures and the treatment of victims of terrorism are consistent with the protection and promotion of human rights. We recall that the United Nations has long recognised that the protection of human rights is *essential* to effective counter-terrorism strategies, making this the fourth pillar of the GCTS. Both the GCTS and [the Secretary General](#) have recognised that human rights violations

perpetrated in the name of countering-terrorism can drive individuals to violence. Undermining the mandate therefore has potentially global consequences.

This discussion comes at a crucial time. The GCTS will be reviewed in July 2020, which is an important opportunity for States and other stakeholders to address both the rights of victims of terrorism and those whose rights are violated by counter-terrorism measures. States should be mindful of the consequences of adopting a resolution weaker than resolution A/72/180 during this UNGA, given that resolutions reviewing the GCTS contain limited focus on its fourth pillar, and attention to human rights is mostly through reference to the work of the Third Committee. The Special Rapporteur specifically urged [in her March report](#) that the Assembly must address the deficits of this merger, and restore key human rights aspects from the 2017 resolution. Whatever the risks of Egypt reinstating its separate resolution, States should consider the longer-term costs of accommodating Egypt's escalating demands to be much greater, both to the global protection of human rights and to the GCTS itself.

We strongly urge your delegation to insist on restoring the approach of the 2017 resolution on “the protection of human rights and fundamental freedoms while countering terrorism” at the Third Committee of the 74th UNGA, in place of any merged initiative. Through this, we request that you make your full support to the independence and integrity of the existing Special Rapporteur mandate clear, and set the groundwork for placing human rights at the center of the GCTS 2020 review.

Yours Sincerely,

ARTICLE 19

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Amnesty International

Association for Progressive Communications (APC)

Cairo Institute for Human Rights Studies

CIVICUS

Committee to Protect Journalists (CPJ)

Fair Trials

Freemuse

Human Rights in China (HRIC)

Human Rights Watch

Igarapé Institute

International Commission of Jurists

International Federation for Human Rights (FIDH)

International Movement Against All Forms of Discrimination and Racism

International Service for Human Rights

MENA Rights Group

Reporters Sans Frontières (RSF)

UnidOSC, México

*Due to security concerns, one organisation has endorsed the letter but withheld its name