

ISSN: 2788-8037

Publication details, including guidelines for submissions:

<https://rowaq.cihrs.org/submissions/?lang=en>

Views: Global Trends and Regional Consequences of the Growth of Counter-Terrorism after 9/11

Fionnuala Ní Aoláin

To cite this article: Ní Aoláin, Fionnuala (2021) 'Views: Global Trends and Regional Consequences of the Growth of Counter-Terrorism after 9/11', *Rowaq Arabi* 26 (2), pp. 9-18. DOI: 10.53833/TKAY7623

To link to this article: <https://doi.org/10.53833/TKAY7623>

Disclaimer

This article may be used for research, teaching and study purposes, as long as it is properly referred to. The Rowaq Arabi editors make every effort to ensure the accuracy of all the information contained in the journal. However, the editors and the Cairo Institute for Human Rights Studies make no representations or warranties whatsoever as to the accuracy, completeness or suitability for any purpose of the content. Any views expressed in this publication are the views of the authors and not necessarily the views of the editors of Rowaq Arabi or the Cairo Institute for Human Rights Studies.

Copyright

This content is published under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 Licence.



Views: Global Trends and Regional Consequences of the Growth of Counter-Terrorism after 9/11

Fionnuala Ní Aoláin

Keywords: Counter-Terrorism; 9/11; MENA; UN; Human Rights

Terrorism is paradoxically both an epiphenomenal and constant phenomenon. The ubiquity of terrorism is predictable yet simultaneously its pathways are inconsistent, capricious, and defy easy capture. Terrorism has consistently woven across national borders, and terrorism has long been associated with various forms of armed conflict from high to low intensity, making disaggregation and conflation of applicable legal regimes challenging in practice.¹ States, scholars, and commentators have consistently struggled to define precisely what constitutes the conditions which produce violence that, *inter alia*, primarily targets civilians and civilian objects to achieve its objectives.² The mandate I hold as United Nations Special Rapporteur has advanced a model definition of terrorism,³ and others including then Secretary General Kofi Annan in the report, *In Larger Freedom* sought to progress a narrow and tailored definition consistent with existing international conventions.⁴ There is little evidence of traction in these efforts, as states continue to adopt egregiously broad national legislation with broad definitional contours exercising little restraint on what kinds of acts or views are considered ‘terrorism’ under domestic law.

Despite decades of labelling the acts of various groups and organisations as ‘terrorist’ in multiple parts of the globe, a comprehensive and agreed definition of terrorism by states is still elusive. That noted, states have moved closer to an agreed consensus on acts of terrorism,⁵ and a significant list of treaties and security council resolutions attest to agreed language and frameworks in that regard.⁶ In the aftermath of 9/11, I distinguish a number of distinct trends applicable to the global regulation of terrorism. First, following 9/11, states agreed that a global framework was necessary and mandated, and would be rooted in Chapter VII of the United Nations Charter. This was a regulatory departure.⁷ Second, the UN Security Council took the lead role in orchestrating and shaping that framework with broad support from the Permanent 5 (P5) members of the council.⁸ Third, where the Security Council’s limits proved cumbersome to establishing global regulation, alternative fora were established or co-opted to advance the work involved.⁹ Fourth, the post 9/11 framework leaves considerable latitude and discretion to states in defining what

constitutes ‘terrorism’ domestically, placing few effective constraints on states’ self-chosen definitions or national regulatory responses.¹⁰ In establishing a global counter-terrorism architecture post-9/11, human rights considerations were markedly side-lined, and remain profoundly marginal to state considerations particularly in the international, regional and co-operative spaces where global security regimes dominate.

My contribution will reflect on these trends with an emphasis on the costs to the rule of law and human rights protection wreaked by the emergence of a dominant global counter-terrorism architecture allied with complete latitude to states in defining the phenomena of ‘terrorism’ (and more recently ‘extremism’) with no limits at the domestic level.

The Architecture of Counter-Terrorism

The architecture of counter-terrorism involves the intersection of national, regional and global institutions. While that architecture has elements that pre-date 9/11, including the interest of the Security Council in some situations involving terrorism, the consolidation of the normative and institutional content of global counter-terrorism was birthed in the days immediately following the attacks in New York and Washington.

On 12 September 2001, the Security Council adopted resolution 1368, which called upon the international community to ‘redouble its efforts’ to prevent and suppress terrorist acts.¹¹ Close on its heels came resolution 1373 which was adopted by the Security Council on 28 September 2001 under Chapter 7 of the UN Charter.¹² It requires states, among other things, to criminalise terrorist activities, to freeze the funds and financial assets of terrorists and their supporters, to ban others from making funds available to terrorists, and to deny safe haven to terrorists. It can be described as one of the most wide-ranging Security Council resolutions ever passed, placing mandatory obligations upon states with an enormous weight of international political consensus behind it.¹³ Human rights was markedly absent from this resolution, with one fleeting reference acknowledging the relevance of refugee law.

Most importantly, with these resolutions came the formation of a weighty centralised architecture, including the establishment of the Counter-Terrorism Committee (CTC) serviced by a special political mission in the form of the United Nations Counter-Terrorism Executive Directorate (CTED).¹⁴ Resolution 1566 (2004) called upon states to cooperate with CTED and to continue to comply with the Al-Qaida/Taliban Sanctions Committee and the 1540 Committee. Resolution 1566 also directed the CTC to take specific initiatives to facilitate state cooperation with the committee, including direction to ‘develop a set of best practices to assist States in implementing the provisions of resolution 1373 (2001) related to the financing of terrorism,’ and to ‘start visits to States, with the consent of the States concerned, in order to enhance the monitoring of the implementation of resolution 1373 (2001) and facilitate the provision of technical and other assistance for such implementation.’¹⁵ The creation and work of this special political mission remains controversial, particularly its closed and non-transparent working processes, as well as its expanding role on a range of regulatory issues historically engaged by

inter-state negotiations in treaty form, or by the General Assembly and other formal decision-making bodies within the UN system.

States report to the Counter-Terrorism Committee, a process shrouded in secrecy and almost entirely non-transparent. After 2006, the state reporting and outcomes to the CTC were no longer publicly available. Only one country, Finland, has made its report of a country visit public since 2006. More recently, UNCTED has made its recommendations on country visits available to the UN Global Counter-Terrorism Coordination Compact, made up of 43 UN entities,¹⁶ but without the underlying report assessment. This selective data sharing is deeply unsatisfactory in that there is no information publicly available on the underlying conditions and assessments that produce country-specific recommendations. Moreover, as this information is ‘confidential’ within the UN system human rights entities, even if UN entities are aware that the recommendations fail to comport with parallel recommendations made by courts, treaty bodies, or peer review processes for states, they are not in a position to point out the obvious discrepancies they discern. For example, in the Middle East and North Africa (MENA) region where a number of countries have been consistently abusive of their counter-terrorism powers,¹⁷ there is no available institutional security space within or without the UN to point out the discrepancies. One might view this as the optimal situation for states governing by security or counter-terrorism powers, where one part (New York) of the UN system appears to validate and affirm their use of exceptional legal measures as being in conformity with the requirements of supranational counter-terrorism obligations; and the other, human rights part (Geneva), finds their exercise of power and law wanting and in breach of international law norms. The Global Counter-Terrorism architecture is designed to avoid the two meeting, fostering an advantageous situation for states wishing to avoid the meaningful intrusion of human rights on their counter-terrorism agenda.

In parallel, country visits by UNCTED have been marked by low to no engagement with civil society and human rights stakeholders, as the terms of reference for such visits essentially excluded the possibility of meaningful, systematic and open engagement with civil society and other (non-security) stakeholders. This means that in countries where human rights defenders or dissenters are systematically targeted by counter-terrorism laws and security practices, there is no head-on collision between the practice on the ground and the formal Counter-Terrorism Committee review process. Where the scale of counter-terrorism violations at the national level reaches the threshold of systematic violation, it again is entirely unclear how and if the scale of such abuses is addressed within the confines of counter-terrorism visits and reviews. It was and remains impossible to discern if UNCTED’s visits and the reports on country visits systematically comport with - or even take integrated account of - recommendations on human rights protection and rule of law enforcement in the context of counter-terrorism made by UN treaty bodies (e.g., Human Rights Committee), regional human rights courts or even the Universal Periodic Review process. Given, for example, multiple findings by the European Court of Human Rights that security/counter-terrorism law and practice involve systemic violation of human rights¹⁸ in certain countries, a ‘neutral’ approach to assessing security and counter-terrorism practice would seem intellectually and practically disingenuous within the global counter-terrorism architecture. Yet, it is precisely

this ‘gap’, this contrived ‘veil of ignorance’, between the counter-terrorism arena and the human rights assessment mechanisms that enable and sustain the continued legitimacy of human rights violations in the name of counter-terrorism worldwide.

This gap persists despite the language which has crept into specific Security Council resolutions to recognise the value of human rights and international law compliance. For example, Resolution 1456 (2003) holds that ‘states must ensure that any measure taken to combat terrorism comply with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law’.¹⁹ This additional language is significant at the meta level, where it positively affirms the logic of the UN Charter, that steps taken by states to conform to Security Council resolutions must also be consistent with any of states’ other obligations under international law. In actuality though, these generic statements have had little meaningful effect not least because they lack the specificity to guide states as to their real-time human rights obligations while meeting the new requirements put in place by counter-terrorism focused UN Security Council resolutions. As a result, though there is the appearance of human rights presence in an increasing number of UN Security Council CT resolutions, in reality, there has been little tempering of the push to greater securitisation with a corresponding *de minimis* approach to human rights protection.

The CTC and CTED are but one co-joined element of the United Nations’ Counter-Terrorism architecture. In 2005, the Secretary-General established the Counter-Terrorism Implementation Task Force (CTITF) which was endorsed by the General Assembly in the United Nations Global Counter-Terrorism strategy.²⁰ Its formal role was to strengthen coordination and coherence of counter-terrorism within the United Nations.²¹ It was made up of thirty-eight entities.²² In 2017, mindful of the ongoing criticism that there was a lack of coherence and joined-up policy on counter-terrorism in the United Nations system, the Secretary-General established the Office of Counter-Terrorism headed by a new Under-Secretary General.²³ The CTITF entities and committees, now renamed the Global Counter-Terrorism Coordination Compact, and is supported by the United Nations Office of Counter-Terrorism (UNOCT).²⁴ The Compact and UNOCT is also remarkably, but not unexpectedly, human rights ‘lite’.

This architecture has grown exponentially since 2001, and despite much criticism of the UN’s effectiveness as a whole, close review of the CT architecture reveals a significant degree of compliance with its requirements by states.²⁵ This compulsion to compliance can be explained by intersecting factors including the institutionalism benefits conferred by engagement in these bodies to states,²⁶ the high value placed on compliance by P5 states - creating a social solidarity network among states in the context of countering terrorism,²⁷ and access to certain goods for states including technical, military, policing and data expertise when compliance is limited by technological or material factors. In national and regional settings, this means that states pushing strong security and counter-terrorism agendas can expect to be seen as ‘good’ and ‘reliable’ actors in this arena, even if their domestic counter-terrorism practices are highly repressive and abusive of the most fundamental human rights. This is an aspect clearly demonstrated in the MENA region, where despite serious concerns about the use of counter-terrorism measures against human rights

defenders, protesters, civil society actors and dissenters,²⁸ many states continue to benefit from the immunity charm offered by deploying permissive and legitimising counter-terrorism rhetoric and practice.

It is also clear that CT compliance serves certain states' interests. Deference to state practice in the counter-terrorism sphere has been a boon for states seeking to strengthen their national security apparatus.²⁹ It has enabled states to legitimately (and without external interference) crack-down on domestic dissenters, troublesome insurgents (even if those internal conflicts reach the threshold of self-determination claims under international law or the thresholds of Protocols I and II of the Additional Protocols to the Geneva Conventions), and to modify domestic law on the basis of terrorism even if the proportionality and necessity for fundamental recalibration of legal norms at the domestic level remain empirically unproven.³⁰

In parallel, pressed by the deep-reliance of one of the permanent members (the United States), listing has emerged the preferred form of counter-terrorism regulation and has led to the emergence of what has been named 'the law of the list'.³¹ I have described listing (whether UN-designated lists or nationally compiled lists) as a form of 'civil death',³² a highly opaque set of legal and political processes that lack the bare minimum of due process protections. There has been a veritable expansion of highly problematic listing practices emerging in national legal systems. Listing and designation constitute a highly irregular set of state practices that are in dire need of close scrutiny and overhaul, with little apparent interest in either by the United Nations Counter-Terrorism Committee and the United Nations Office of Counter-Terrorism.

The Human Rights Costs of Global Counter-Terrorism's Ascendancy

Clearly then counter-terrorism effectiveness does not necessarily engage human rights protection or place a high premium on adherence to the rule of law dimensions of counter-terrorism practice. The counter-terrorism architecture has been consistently critiqued for its lack of attention to the human rights implications of counter-terrorism.³³ Despite increasing references to human rights treaties in the most recent slew of Security Council resolutions,³⁴ human rights are in practice 'minimized to a generic line in a resolution, reduced to a few questions on a country visit survey, comprised of a small staff sprinkled throughout the Secretariat and Security Council bodies, securitized in the PVE agenda, and under-funded in its programming'.³⁵

One can track the early assault on human rights in the immediate aftermath of 9/11, including: the lack of any formal institutional counter-balance to ensure the mainstreaming of human rights oversight of country action, reporting and assessment through the CTC and CTED;³⁶ the lack of access in any meaningful and systematic way for civil society actors and human rights defenders to the counter-terrorism architecture; the minimal capacity of existing human rights entities within the counter-terrorism architecture including the cogent reality that the United Nations Special Rapporteur on the Promotion and Protection of Human Rights While Countering Terrorism is a part-time, expert office holder who functions with meagre administrative support.³⁷

The core problem of a lack of agreed treaty definition, combined with deference to state articulations of what constitutes terrorism, has laid the foundations for weakening human rights

protections globally. What can be observed of state practice is an increasing tendency to lump various disaggregated experiences of violence under the banner of terrorism and the practice of numerous states in defining many forms of peaceful dissent as terrorism.

The use of counter-terrorism law to stifle domestic dissent is a persistent facet of the post-9/11 landscape. By way of example, the Kingdom of Saudi Arabia's counter-terrorism law is so broadly and vaguely drafted that it raises substantial concerns about the scope and content of the law.³⁸ Saudi Arabia's 2014 Law, the Law of Terrorism Crimes and its Financing, has a very broad definition of terrorist crimes, which encompassed any act 'directly or indirectly intended to disturb the public order of the state, or to destabilise the security of society, or the stability of the state, or to expose its national unity to danger, or to suspend the basic law of governance or some of its articles, or to insult the reputation of the state or its standing, or to inflict damage upon one of its public utilities or its natural resources'.³⁹

Anyone, whether Saudi Arabian or a foreign national, whether inside the country or abroad, who was accused of such conduct could be prosecuted as a 'terrorist' inside Saudi Arabia. This included those who attempted to 'change the ruling system in the Kingdom' or 'harmed the interests, economy, and national and social security of the Kingdom'.⁴⁰ Under such a broad definition, anyone challenging the authority or policies of the state could qualify as a terrorist.⁴¹

It is also evident that the Kingdom's Special Criminal Court has emerged as the locale of choice for the trials of human rights defenders and dissenters. The Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms While Countering Terrorism considers that the definition of terrorism in the 2014 Law on Counter Terrorism and its Financing is objectionably broad and fails to comply with international human rights standards.⁴² Similar concerns about vagueness and imprecision have arisen in respect to various counter-terrorism related provisions in Egypt.⁴³ Another data point is the comprehensive report by the Washington D.C. based Center for Strategic and International Studies, which has forcefully demonstrated that the pattern of targeting civil society, imprisoning human rights defenders, limiting the speech, movement and assembly of those who critique repressive states has been enabled by national counter-terrorism regimes, which are in turn enabled and facilitated by the regulatory dictates of the global counter-terrorism architecture.⁴⁴

The insidious costs of an ever-expanding global security regime to human rights are in dire need of independent monitoring and evaluation. Some costs are easier to define than others. For example, it is relatively easy to undertake an institutional assessment of the global counter-terrorism architecture and point out its human rights lacunae.⁴⁵ This is illustrated by a lack of sustained human rights hardwiring in the New York-based institutional structures.⁴⁶ It is demonstrated by the closed spaces in which counter-terrorism policy and law is developed with virtually no access for civil society actors. The messaging that counter-terrorism regulation has a higher and more sustained value for states is both obvious and subtle. It states the obvious to say that a lack of concern about state adherence to the promotion and protection of human rights while countering terrorism has short, medium and long-term consequences. As states grapple with the reality that military and hard legal responses to terrorism have hit a ceiling in addressing causes

conducive to terrorism and may in fact contribute to these causes, there is an obvious disjunction between the human rights rhetoric contained in the global strategy on counter-terrorism with the repressive practices of counter-terrorism on the ground.

I conclude by reflecting on one aspect of conditions conducive to terrorism, namely the denial of the rule of law in general and in counter-terrorism strategies as well as the resultant systematic violations of human rights that can be experienced by individuals and populations at the national level. There is increased international recognition that combatting terrorism must be done in a way that affirms the enjoyment of human rights and secures rather than undermines both derogable and non-derogable rights.⁴⁷ Some international and regional institutions recognise (implicitly if not explicitly) that sustained deprivations of fundamental human rights may have significant implications for sustaining and nurturing terrorist violence.⁴⁸ Moreover, even as there is an emerging recognition that development and inclusion might be the genuine, practical and sustainable path to counter conditions conducive to terrorism, there is concern that this may prescience yet another co-option of a human rights space by the global CT apparatus.

Indeed, human rights violations have been demonstrated in multiple studies to provide a measurable incentive for mobilisation towards political violence. The nexus of abuse of state power, neglect of legal process or ill-treatment at the hands of state agents shape the individual and community's responses in ways that can mobilise protest, anomie, and violence.⁴⁹ In an obvious sense, this is entirely counter-productive to the goal of preventing and eradicating conditions that produce and sustain violence.

Human rights protection while countering terrorism has both an ethical and efficiency component. The ethical arguments have been well canvassed in debates concerning the use of torture, rendition, exceptional trial, and deployment of the death penalty.⁵⁰

The efficiency arguments are equally compelling. Short-term gains from abuses of human rights create long-term distrust between the state and individuals. The festering of grievance and the deep hurts that follow when groups (particularly ethnic, religious and cultural minorities) are targeted under the guise of national security provoke deeper hostility and long-term animus for states. Moreover, when we view the conflation of legitimate governance grievances (whether involving internal or external self-determination) with state security crackdowns, we enter the complex realm of fragile states, state insecurity, and cyclical violence driven by fundamental challenges to the legitimacy of the state. Here counter-terrorism does not offer a panacea for managing complex violence, but rather the opposite: a pathway that may well prove to exacerbate and extend cycles of violence rather than prevent them.

We are, it would appear, in a truly alarming spiral which requires a profound rethink as we move towards the twentieth anniversary of 9/11. We must be clear-eyed about the costs of marginalising human rights from the security and counter-terrorism arena globally, regionally and nationally. A different path forward would start with the simple recognition that human rights and human dignity are at the heart of solving complex global challenges, and their absence inevitably makes things worse. This is true globally, and true of counter-terrorism practice in the MENA region.

Acknowledgements

The author thanks Sarani Rangarajan Millican for research assistance in the completion of this article.

About the Author

Fionnuala Ní Aoláin is Regents University Professor, University of Minnesota, and Professor of Law, The Queens University of Belfast, Northern Ireland. United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism since 2017.

¹ Examples of terrorism and armed conflict being interwoven (*e.g.*, El Salvador, PII conflict is not recognised until the end as Protocol II, state holds it is terrorism throughout). See Bianchi, Andrea (2011) ‘Terrorism and Armed Conflict: Insights from a Law & Literature Perspective’, *Leiden Journal of International Law* 24 (1), pp. 8–12.

² Acharya, Upendra D (2009) ‘War on Terror Wars: The Problem in Defining Terrorism’ *Denver Journal of International Law and Policy* 37, p. 655.

³ Model definition of terrorism at paragraphs 26–50, 72. Scheinin, Martin, (2005) ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’, *UN Doc E/CN.4/2006/98*, accessed 1 July 2021, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2006/98&Lang=E>.

⁴ See paragraph 91. United Nations Secretary General (2005) ‘In larger freedom: towards development, security and human rights for all’ *UN Doc A/59/2005*, accessed 1 July 2021, <https://undocs.org/A/59/2005>.

⁵ For example, from the 1970s, states articulated the need to cooperate to address the challenges of terrorism. See paragraphs 11, 17. United Nations General Assembly (1979) ‘Declaration on Measures to Eliminate Terrorism’, *UN Doc A/RES/34/145*, 17 December, accessed 1 July 2021, <https://undocs.org/en/A/RES/34/145>.

⁶ United Nations Security Council (2001) ‘Resolution 1373’, *UN Doc S/RES/1373(2001)*, 28 September, accessed 1 July 2021, [https://undocs.org/S/RES/1373\(2001\)](https://undocs.org/S/RES/1373(2001)). ; United Nations Security Council (2014) ‘Resolution 2178’, *UN Doc S/RES/1373(2014)*, 24 September, accessed 1 July 2021, [https://undocs.org/S/RES/2178\(2014\)](https://undocs.org/S/RES/2178(2014)). ; United Nations Security Council (2017) ‘Resolution 2349’, *UN Doc S/RES/2349(2017)*, 31 March, accessed 1 July 2021, [https://undocs.org/S/RES/2349\(2017\)](https://undocs.org/S/RES/2349(2017)). ; United Nations Security Council (2017) ‘Resolution 2368’, *UN Doc S/RES/2368(2017)*, 20 July, accessed 1 July 2021, [https://undocs.org/S/RES/2368\(2017\)](https://undocs.org/S/RES/2368(2017)). ; Organization of American States (2003) ‘Inter-American Convention Against Terrorism’, accessed 1 July 2021, <https://www.oas.org/juridico/english/treaties/a-66.html>. ; Council of Europe (2003) ‘Protocol Amending the European Convention on the Suppression of Terrorism’, *ETS 190*, 15 May, accessed 1 July 2021, <https://www.coe.int/en/web/conventions/full-list/>.

⁷ See paragraph 8. United Nations Security Council (2001) ‘Resolution 1373’, *UN Doc S/RES/1373(2001)*, 28 September, accessed 1 July 2021, [https://undocs.org/S/RES/1373\(2001\)](https://undocs.org/S/RES/1373(2001)).

⁸ See paragraph 6. United Nations Security Council (2001) ‘Resolution 1373’, *UN Doc S/RES/1373(2001)*, 28 September, accessed 1 July 2021, [https://undocs.org/S/RES/1373\(2001\)](https://undocs.org/S/RES/1373(2001)).

⁹ See *e.g.*, the expanded role of the Financial Action Task Force (FATF), including an open-ended mandate in 2019. ‘FATF: What We Do’, accessed 1 July 2021, <https://www.fatf-gafi.org/about/whatwedo/>.

¹⁰ Young, Reuven (2006) ‘Defining Terrorism: The Evolution of Terrorism as a Legal Concept in International Law and Its Influence on Definitions in Domestic Legislation’, *Boston College International and Comparative Law Review* 29, p. 71.

¹¹ See paragraph 4. United Nations Security Council (2001) ‘Resolution 1368 (2001)’, *UN Doc S/RES/1368(2001)*, 12 September, accessed 1 July 2021, [https://undocs.org/S/RES/1368\(2001\)](https://undocs.org/S/RES/1368(2001)).

- ¹² United Nations Security Council (2001) 'Resolution 1373', *UN Doc S/RES/1373(2001)*, 28 September, accessed 1 July 2021, [https://undocs.org/S/RES/1373\(2001\)](https://undocs.org/S/RES/1373(2001)).
- ¹³ Kassa, Wondwossen (2015) 'Rethinking the No Definition Consensus and the Would Have Been Binding Assumption Pertaining to the Security Council Resolution 1373', *Flinders Law Journal* 17, p. 127 ('The Resolution has been a primary factor in setting the roadmap of the post 9/11 global counter-terrorism push.')
- ¹⁴ United Nations Security Council (2004) 'Resolution 1535', *UN Doc S/RES/1535(2004)*, 26 March, accessed 1 July 2021, [https://undocs.org/S/RES/1535\(2004\)](https://undocs.org/S/RES/1535(2004)); and note the additional powers and requirements for CTED in United Nations Security Council (2017) 'Resolution 2395', *UN Doc S/RES/2395(2017)*, 21 December, accessed 1 July 2021, [https://undocs.org/S/RES/2395\(2017\)](https://undocs.org/S/RES/2395(2017)).
- ¹⁵ United Nations Security Council (2004) 'Resolution 1566', *UN Doc S/RES/1566(2004)*, 8 October, accessed 1 July 2021, [https://undocs.org/S/RES/1566\(2004\)](https://undocs.org/S/RES/1566(2004)).
- ¹⁶ United Nations, 'UN Global Counter-Terrorism Coordination Compact Entities', accessed 1 July 2021, <https://www.un.org/counterterrorism/global-ct-compact/entities>.
- ¹⁷ United Nations Office of the High Commissioner of Human Rights (2020) 'Egypt's updated terrorism law opens the door to more rights abuses, says UN expert', 9 April, accessed 1 July 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25787>.
- ¹⁸ European Court of Human Rights (2021) 'Turkey: Press Country Profile', June, accessed 1 July 2021, https://www.echr.coe.int/Documents/CP_Turkey_ENG.pdf.
- ¹⁹ See paragraph 6. United Nations Security Council (2003) 'Resolution 1465', *UN Doc S/Res/1465(2003)*, 13 February, accessed 1 July 2021, [https://undocs.org/S/RES/1465\(2003\)](https://undocs.org/S/RES/1465(2003)).
- ²⁰ This Task Force no longer exists and has been replaced by a Global Counter-Terrorism Coordination Compact. United Nations, 'Global Counter-Terrorism Coordination Compact', accessed 1 July 2021, <https://www.un.org/counterterrorism/global-ct-compact>.
- ²¹ United Nations General Assembly (2006) '60.288. The United Nations Global Counter-Terrorism Strategy', *UN Doc A/Res/60/288*, 20 September, accessed 1 July 2021, <https://undocs.org/A/RES/60/288>.
- ²² United Nations, 'UN Global Counter-Terrorism Coordination Compact Entities', accessed 19 March 2021, <https://www.un.org/counterterrorism/global-ct-compact/entities>.
- ²³ United Nations, 'Office of Counter-Terrorism: About Us', accessed 19 March 2021, <http://www.un.org/en/counterterrorism/>.
- ²⁴ The Compact and its work is described on its website. United Nations, 'Global Counter-Terrorism Coordination Compact', accessed 1 July 2021, <https://www.un.org/counterterrorism/global-ct-compact>.
- ²⁵ Ní Aoláin, Fionnuala (2007) 'The No-Gaps Approach to Parallel Application in the Context of the War on Terror', *Israel Law Review* 40, p. 567.
- ²⁶ Meyer, John W. (1980) 'The World Polity and the Authority of the Nation-State' in A Bergesen (ed) *Studies of the Modern World-System* (Academic Press).
- ²⁷ Goodman, Ryan, and Derek Jinks (2013) *Socializing States: Promoting Human Rights through International Law* (Oxford University Press).
- ²⁸ United Nations (2019) 'UN human rights office urges Egypt to immediately release detained protestors', 18 October, accessed 1 July 2021, <https://news.un.org/en/story/2019/10/1049581>.
- ²⁹ Parker, Tom (2006) 'Fighting an Ancient Enemy: How Democratic States Unintentionally Sustain the Terrorist Movements They Oppose', *Terrorism and Political Violence* 19, p. 173.
- ³⁰ 'Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977' (1986) *United Nations Treaty Series* 1125, p. 3; 'Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted 8 June 1977' (1986) *United Nations Treaty Series* 1125, p. 609.
- ³¹ Sullivan, Gavin (2020) *The Law of the List: UN Counterterrorism Sanctions and the Politics of Global Security Law* (Cambridge: Cambridge University Press).
- ³² See paragraph 16. Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 'Human Rights Impact of Counter-Terrorism and Countering (Violent) Extremism Policies and Practices on the Rights of Women, Girls and The Family', *UN Doc A/HRC/46/36*, accessed 1 July 2021, <https://undocs.org/A/HRC/46/36>.
- ³³ Reports of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism. Ní Aoláin, Fionnuala (2021) 'Human Rights Impact of Counter-Terrorism and Countering (Violent) Extremism Policies and Practices on the Rights Of Women, Girls and The Family', *UN Doc A/HRC/46/36*, 22 January, accessed 1 July 2021, <https://undocs.org/A/HRC/46/36>. ; Ní Aoláin, Fionnuala (2020) 'Human Rights Impact of Policies and Practices Aimed at Preventing and Countering Violent

Extremism', *UN Doc A/HRC/46/36*, 21 February, accessed 1 July 2021, <https://undocs.org/A/HRC/43/46>. ; Ní Aoláin, Fionnuala (2019) 'Impact of Measures to Address Terrorism and Violent Extremism on Civic Space and the Rights of Civil Society Actors and Human Rights Defenders', *UN Doc A/HRC/46/36*, 1 March, accessed 1 July 2021, <https://undocs.org/A/HRC/40/52>.

³⁴ United Nations Security Council (2017) 'Resolution 2396', *UN Doc S/RES/2396(2017)*, 21 December, accessed 1 July 2021, [https://undocs.org/S/RES/2396\(2017\)](https://undocs.org/S/RES/2396(2017)). ; United Nations Security Council (2014) 'Resolution 2170', *UN Doc S/RES/2107(2014)*, 15 August, accessed 1 July 2021, [https://undocs.org/S/RES/2170\(2014\)](https://undocs.org/S/RES/2170(2014)).

³⁵ See p. 78. International Federation of Human Rights (2017) 'The United Nations Counter-Terrorism Complex: Bureaucracy, Political Influence, and Civil Liberties', September, accessed 1 July 2021, https://www.fidh.org/IMG/pdf/9.25_fidh_final_compressed-2.pdf.

³⁶ Human Rights Advisors have been appointed to UNCTED, but overall this special political mission does not appear to adopt a human-rights mainstreaming approach.

³⁷ Ní Aoláin, Fionnuala (2016) 'Report of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism', *UN Doc A/HRC/31/65*, 29 April, accessed 1 July 2021, <https://undocs.org/A/HRC/31/65>. ; United Nations Commissions on Human Rights (2005) 'Protection of Human Rights and Fundamental Freedoms While Countering Terrorism Human Rights Resolution 2005/80', *UN Doc E/CN.4/RES/2005/80*, 21 April, accessed 1 July 2021, https://ap.ohchr.org/documents/dpage_e.aspx?si=E/CN.4/RES/2005/80.

³⁸ United Nations Office of the High Commissioner for Human Rights (2017) 'Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism Concludes Visit to Saudi Arabia', *United Nations Human Rights*, 4 May, accessed 1 July 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21584&LangID=E>.

³⁹ See article 1.

⁴⁰ See article 3.

⁴¹ The introduction of new provisions by the Kingdom of Saudi Arabia in 2017 further expanded the scope of terrorist offences, criminalising describing, directly or indirectly, the King or the Crown Prince in 'any way offensive to religion or justice' (Article 30).

⁴² United Nations Office of the High Commissioner for Human Rights (2017) 'UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism Concludes Visit to Saudi Arabia', *United Nations Human Rights*, 4 May, accessed 1 July 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21584&LangID=E>.

⁴³ Amendments to the Terrorist Entities Law (Law 8 of 2015) and the Anti-Terrorism Law, (Law 94 of 2015), approved by the Parliament's Legislative Committee on 10 February 2020; effect and application of The Right to Public Meetings, Processions and Peaceful Demonstrations Law No. 107/2013; the Law no.70/2017 on Associations and Other Foundations Working in the Field of Civil; and Law No. 149/2019 OL EGY 4/2020.

⁴⁴ Mooney, Lauren (March 2018) 'Introduction' in Baydas, Lana and Shannon Green (eds.), *Counter-Terrorism Measures and Civil Society* (Center for Strategic and International Studies).

⁴⁵ Ní Aoláin, Fionnuala (2018) 'Report of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism', *UN Doc A/73/361*, 3 September, accessed 1 July 2021, <https://undocs.org/A/73/361>.

⁴⁶ Ní Aoláin, Fionnuala (2016) 'Report of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism', *UN Doc A/HRC/31/65*, 29 April, accessed 1 July 2021, <https://undocs.org/A/HRC/31/65>.

⁴⁷ Guterres, António (2017) 'Speech at SOAS, University of London, on "Counter-Terrorism and Human Rights: Winning the Fight While Upholding our Values"', *United Nations Secretary General*, 16 November, accessed 1 July 2021, <https://www.un.org/sg/en/content/sg/speeches/2017-11-16/speech-soas-university-london-counter-terrorism>.

⁴⁸ United Nations Development Programme (2017) 'Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment', accessed 1 July 2021, <https://journey-to-extremism.undp.org/en/reports>.

⁴⁹ Gurr, Ted Robert (1970) *Why Men Rebel* (Princeton University Press).

⁵⁰ Reding, Anaïs, Anke Van Gorp, Kate Robertson, Agnieszka Walczak, Chris Giacomantonio, and Stijn Hoorens (2014) 'Handling Ethical Problems in Counterterrorism: An Inventory of Methods to Support Ethical Decision Making' (Rand Europe), accessed 1 July 2021, https://www.rand.org/content/dam/rand/pubs/research_reports/RR200/RR251/RAND_RR251.pdf.