Call for Inputs: Definitions of “terrorism”, “terrorist organisation” and “violent extremism”

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Special Rapporteur on counter-terrorism and human rights

Purpose: To inform the United Nations Special Rapporteur’s thematic report on the definitions of "terrorism", “terrorist organisation” and “violent extremism” to be presented to the Human Rights Council in March 2026.

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Alkarama is a Geneva-based non-governmental human rights organisation established in 2004 to assist all those in the Arab world subjected to or at risk of extrajudicial execution, enforced disappearance, torture, and arbitrary detention. Acting as a bridge between individual victims and international human rights mechanisms, Alkarama works towards an Arab world where all individuals live in freedom and dignity, and are protected by the rule of law. In Arabic, Alkarama means dignity.

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EXECUTIVE SUMMARY

This submission addresses the Special Rapporteur's call for inputs on defining terrorism, terrorist organisations and violent extremism, drawing on Alkarama's extensive experience across MENA (Middle-East and North Africa), European and US jurisdictions. The analysis reveals that vague and overbroad terrorism definitions have systematically enabled human rights violations, including the criminalization of dissent, repression of civil society, and discriminatory targeting of minority communities.

Building on the Special Rapporteur's model definition, this submission identifies critical human rights risks posed by current frameworks, including drafting flaws that enable arbitrary application, misuse to restrict fundamental freedoms, and discriminatory impacts particularly affecting Muslim communities and political opponents. Case studies demonstrate how terrorism laws are weaponized through cross-border cooperation, to serve state security based policies that are dangerously eroding fundamental rule of law and democratic principles across the world.

Our contribution attempts to thematically cover all the questions raised by Rapporteur. First, the analysis examines what physical conduct elements should define terrorism, concluding that the *actus reus* must be strictly limited to intentional killing or serious bodily injury, excluding property damage, economic disruption, and non-violent conduct that has been increasingly criminalized under counter-terrorism frameworks. Similarly, the mental element requires specific intent both to commit violent acts and to cause death or serious injury, with narrow special terrorist aims that avoid broad notions such as "destabilising structures" that could legitimate repression of legitimate demand for radical change of unjust political, social or economic structures.

This submission also critically evaluates the Draft Comprehensive Convention against International Terrorism (hereinafter “Draft Comprehensive Convention”), identifying dangerous shortcomings that risk enshrining in international conventional law highly problematic standards designed by states to serve security agendas at the detriment of, and sometimes directly in defiance of, international human rights law, international humanitarian law and refugee law.

The analysis then turn to the issue of defining "terrorist organisation" for listing purposes, recommending strict criteria must be tied to actual terrorist acts rather than mere ideological affiliation, coupled with robust procedural safeguards against political misuse. Last but not least, the submission concludes that "violent extremism" and "extremism" cannot be adequately defined under international human rights law due to their inherent vagueness and subjective nature, making their incorporation into legal frameworks incompatible with the principles of legality and non-discrimination.

Key recommendations align directly with the objectives of identifying a best practice international definition consistent with international law including *inter alia*: adopt a narrow, violence-based terrorism definition excluding non-violent conduct; prohibit motivation elements based on religion or ideology; establish independent human rights review mechanisms for designations; reject codification of "violent extremism" and "extremism"; and ensure that any future treaty explicitly incorporates as superior standards human rights, humanitarian and refugee law safeguards. These steps are essential to restore the distinction between terrorist violence and divergent thought, protect pluralism, and ensure counter-terrorism frameworks serve legitimate security aims without eroding the rule of law.

INTRODUCTION AND CONTEXT

Alkarama welcomes the Special Rapporteur's initiative to address the long-standing absence of international legal consensus on defining terrorism. This gap has persisted since negotiations began on the Draft comprehensive convention. The absence of an agreed, binding and human-rights-compliant definition has facilitated the proliferation of vague and overbroad domestic frameworks, making counter-terrorism laws one of the most prevalent sources of serious human-rights violations documented by Alkarama over the past two decades, particularly against civil society organisations, various forms of dissent, as well as minorities and marginalised communities.

Drawing on our work across all countries of the Arab League and in several Western jurisdictions, including direct engagement with various domestic legal systems, this submission identifies several shared patterns. Counter-terrorism legal regimes are built as “regimes of exception” often itroducing in ordinary law dispositions taken under state sof emergencies. They are based on maleable and elastic terms allowing States to over-police its population, restrcut fundamental rights and freedoms, criminalise unwanted dissent and protest, put the independence of media, humanitrian as well as legal work and human irghts advocacy in jeopardy, all under the guise of countering terrorism. While these risks are particularly acute in authoritarian and military-dominated political contexts, they are nonetheless increasingly visible in democracies, where exceptional counter-terrorism and "prevention" powers have migrated into ordinary law and administrative police practice.

Alkarama shares the Special Rapporteur's assessment that efforts to build consensus on a narrow, precise and rights-compliant international definition of terrorism remain essential to mitigate this global source of abuse. Based on more than 20 years of documenting individual cases, patterns of violations and reprisals—including those affecting Alkarama itself, its partners and the victims it represents—this submission addresses systemic effects of the post-11 September international counter-terrorism framework, including the role of Security Council-driven agendas, global counter-terrorism platforms and transnational information-sharing in empowering abusive domestic practices.

This submission also highlights the many dangerous shortcomings in the Draft Comprehensive Convention against International Terrorism and urges the Special Rapporteur to highlight them in his report in order to avoid the enshrinement in international conventional law of legal standards that serve state security agendas at the detriment of, and sometimes directly in defiance of, international human rights law, international humanitarian law and refugee law.

A central concern running through this analysis is the dangerous conflation between extremism, Islam, Islamism and terrorism, and the parallel rise of ill-defined notions such as "violent extremism," "radicalisation" and "subversion." What began in political discourse has migrated into legislation, administrative practice and judicial language, as illustrated by

Algeria's article 87 bis, France's "radicalisation" frameworks, and the UK Prevent strategy. This conflation has systematically led to the over-securitisation of Muslim minorities in Western countries, exposing them to disproportionate surveillance, profiling, administrative and criminal measures based on perceived identity or belief rather than demonstrable involvement in violence. While Muslim minorities are disproportionately affected, this practice has recently extended to other actors labelled as "radical" such as environmental activists. In Muslim majority countries comprising most of the Arab world, authoritarian regimes have conveniently used identical discourses to justify domestic crackdowns on all forms of dissent from human rights activism to religious "unorthodoxy."

We believe it is crucial for the preservation of international and domestic rule of law that the Special Rapporteur clarifies the definition of terrorism in order to end current widespread abuses identified in this contribution which have become common state practice across different regions and political systems and may now with the Draft Convention migrate into conventional law. As the UN mandate specifically tasked with addressing this definitional gap and identifying best practice standards consistent with international human rights law, the Special Rapporteur occupies a unique and critical role that no other UN actor can fulfill. This report represents an opportunity to prevent the entrenchment of abusive practices in international law and to establish clear, rights-compliant parameters that will guide counter-terrorism frameworks globally in the future.

1. HUMAN RIGHTS RISKS PRESENTED BY DEFINITION(S) OF TERRORISM, VIOLENT EXTREMISM AND EXTREMISM (Referring to Q 1, Q 6)

Position

The definition of "terrorism" must be strictly confined to conduct of a genuinely terrorist nature, understood in line the model proposed by the Special Rapporteur: intentional killing or serious bodily injury, committed with the specific aim of provoking terror in the population or compelling a government or international organisation to act or abstain, and corresponding to a serious ordinary crime.

Broad and vague formulations have been purposefully crafted to weaken – or even suppress – judicial or democratic control over security policies carried out under the pretext of fighting or preventing ever-expanding notions of "terrorism" and associated threats such as "extremism". Such definitions contain imprecise and ambiguous definitions contrary to the principle of legal certainty, prescribed in article 11 of the Universal Declaration of Human Rights which requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense.[1]

Ill-defined and/or overly broad laws are open to arbitrary application and abuse. While authoritarian and semi-authoritarian regimes have deliberately crafted expandable definitions as tools for an arbitrary application of counter-terrorism laws against political opponents, civil society actors, human rights defenders and journalists, many democratic states have used the counter-terrorism framework to normalise exceptional "state of emergency" measures, arguing for "stronger" security policies in discriminatory discourses linking terrorist threats to migrants and other "racialised" communities, feeding in and fuelling anti-Muslim sentiment.

1.1 Drafting flaws: vagueness and overbreadth

Position

Counter-terrorism legal regimes remain the main source and common thread causing, directly or indirectly, human rights violations across the countries in which the Alkarama conducted its activities, which included not only the MENA region but also the United States of America and several European countries.

On the basis of more than 20 years of documenting human rights violations in counter-terrorism policies, we observe that such abuses are not accidental side-effects of said policies. Rather, malleable legal definitions of terrorism are meant to serve varying political conceptions of "state security" and of what may constitue "threats" (such discrourses may

[1] A G/SO 218/2 Terrorism, A/73/361, para. 34

focus on migration , on the increase of religious miinority or on quashing the expression of demands for radical changes in power structures …)

Overbroad definitions of what constitute terrorism may stem from non-exhaustive lists of actus reus combined with the criminalisation of bare "threats" to commit any listed act. Such acts hinge on open-textured notions such as "destabilising political, constitutional, economic or social structures"; "destabilising public order" or on acts that "may seriously damage" a country's reputation or even its relations with other countries. These formulations typically fail the legality and foreseeability requirements under international law .

Such definitions purposefully leave wide discretion to authorities, especially by referring to expressions such as "any act" that may cause the above-listed results, allowing in effect an ex post facto expandable qualification of conduct as "terrorism".

Case studies: Violations of the principle of legality in broad or vague definitions of terrorism

Violations of the principle of legality in broad or vague definitions of terrorism can take various forms. They can associate the terms "terrorism" with notions such as "national security or order" or even other unrelated notions integrated into the anti-terrorism legal corpus through laws regulating foreigners such as “posing a threat to international relations of the state”.

France's implementation of UNSC Resolution 2178 (2014):

France's implementation of UN Security Council Resolution 2178 (2014) on foreign terrorist fighters provides a compelling example. Article 8 of the Resolution invites States to prohibit the entry or transit of persons based on reliable information. France used this as a basis for administrative sanctions on non-nationals' right to enter and reside in France (articles L. 321-1 et seq. of the Code of Entry and Residence of Foreigners and the Right to Asylum) .

These sanctions, such as entry bans or expulsion orders, justified by France's international obligations to prevent terrorism, have an internal scope that is broader than the Resolution itself. The French provisions are not restricted to conduct linked to terrorist organizations but encompass more extensive grounds including "national security" and "international relations" – concepts neighbouring notions of state security or fundamental national interests.

In practice, this article—which does not precisely define the terms used nor specify whether the three grounds are cumulative—has been used to forbid entry to political activists, human rights defenders, or environmental activists on the basis of vague facts. Authorities have sometimes used all three "threats" in a confusing manner against foreign political opponents, demonstrating how such expansive interpretations of international counter-terrorism obligations in domestic laws undermine legal certainty.[2]

United Arab Emirates Law No. 7 on Combating Terrorism Offences (2014):

[2] Réf. : AL FRA 12/2025, 30 September 2025 “concernant l’interdiction administrative entrée du territoire prise à l’encontre de M. Abbas Aroua sur la base d’une note blanche”

The UAE Law No. 7 on Combating Terrorism Offences (Law 7) of 2014 represents another striking example of definitions that violate the principle of legality. Nowhere in the law does the term "terrorism" is defined, while "terrorism offences" are given an unlimited scope of application by being described as "**every criminal action or inaction** criminalized under the present Law and every action or inaction constituting a felony or misdemeanour referred to in any other law, if **committed for terrorist purpose**".

When attempting to identify "terrorist purpose" the same circular logic or tautology is used through wording such as "intention to commit a criminal action or inaction in order to cause the occurrence of a direct or indirect terrorist result or whenever the offender is aware that the action or inaction is intended to cause the occurrence of a terrorist result."

In a letter addressed to the UAE authorities, your mandate has expressed concern over the "imprecise, ambiguous, and uncertain scope of these terms, which essentially remain undefined, as one definition refers or defers to another without clearly providing a concrete and constrained definition of the activities they encompass"[3] .

In both cases, as in other laws analysed by your mandate[4], such broad and vague definitions are not fortuitous but rather translate a political will to integrate into ordinary law, legal regimes of exception that could be malleable enough to serve broad state-security agendas.

It is for this reason that we express our concerns regarding the impact of the second motive of "coercing a state or an organisation to do or abstain from doing any act" on legal certainty and human rights. This part of the dual motive in the current international definition remains, according to our analysis, the main source of problematic non-exhaustive actus reus lists and overbroad mens rea interpretation.

Furthermore, the equal criminalisation of mere "threats" to commit those vaguely defined acts, or definitions including acts which "may" cause serious damage, - without requiring actual or clearly imminent harm and a tight proximity link between conduct and harm—, risks criminalising conduct remote from any concrete danger to life or physical integrity. Such practices are incompatible with legal certainty and with the principle that remoteness must be limited in criminal law.

Moreover, the criminalisation of over-broad "association" or "support" to already vague core definitions, combined with far-reaching preparatory offences, have also enabled the criminalisation of remote or non-violent conduct.

In fine, these dynamics have shifted counter-terrorism away from a harm-based model of criminal law towards a permanent state of exception, characterised by anticipatory and discriminatory repression. By coupling counter-terrorism provisions with elastic notions

[3] OL ARE 6/2020, 13 November 2020 concerning *Law No. 7 on combating terrorism offences of 2014 (Counter-Terrorism Law), United arab emirates*

[4]

such as "extremism" and "violent extremism", States have equipped their security policies with largely unchecked tools of control and coercion. In this context, vagueness and overbreadth are no longer accidental flaws to be avoided in terrorism definitions, but have become deliberate features that ensure the malleability and adaptability of these frameworks against any person, group or conduct perceived as a "threat" to State security.

These concerns align with the Special Rapporteur's position that terrorism definitions must be limited to conduct that meets a high threshold of seriousness—namely intentional killing, serious bodily injury or hostage-taking—and that all constitutive elements (a serious violent act, a specific intent to terrorise the population or coerce a government or international organisation, and an underlying serious offence) must be interpreted cumulatively. They also support the view that preparatory, inchoate or ancillary offences should not be used in a way that lowers this threshold or allows ordinary public-order and political offences to be absorbed into terrorism law.[5]

From our perspective, the Special Rapporteur could go further by recommending even stricter standards, in particular: reconsidering whether hostage-taking should be treated as a standalone actus reus of terrorism; limiting, as far as possible, the qualification as "terrorism" of acts directed solely at State or institutional property where there is no intent to cause serious harm to individuals; and cautioning against an over-reliance on motives or ideological labels to transform otherwise ordinary violent offences into terrorism.[6] These issues are developed in greater detail in the following sections.

1.2 Misuse to restrict fundamental freedoms and civic space

Vague and over-inclusive terrorism definitions have had serious, well-documented consequences for the enjoyment of fundamental rights. Overly broad formulations facilitate the arbitrary application of criminal law and administrative sanctions with far-reaching interferences in the rights to private life, freedom of expression, freedom of peaceful assembly and association, freedom of religion or belief, political participation, liberty and security, and fair trial guarantees.

These definitions also tend to be applied in a discriminatory manner on the basis of, inter alia, national or ethnic origin, religion or belief, political opinion, migration or minority status and socio-economic situation. In Western countries, the disproportionate impact falls particularly on Muslim communities, migrants and racialised groups, who face heightened surveillance, profiling and restrictive measures based on identity rather than on any demonstrable

[5] Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, report containing the 2010 model definition of terrorism, drawing on Security Council resolution 1566

[6] Global Study on the Impact of Counter-Terrorism Measures on Civil Society, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, https://www.ohchr.org/en/special-procedures/sr-terrorism/global-study-impact-counter-terrorism-measures-civil-society-and-civic-space

involvement in violent conduct. However, it must be emphasised that even in Muslim-majority countries, this stigmatisation is similarly used to justify “anti-extremism” measures under counter-terrorism laws against political opponents, religious minorities, as well as scholars and clerics deemed to hold “unorthodox” religious views, as illustrated by the practices documented in the United Arab Emirates and Saudi Arabia (see infra Section 6, UAE and KSA).

Country studies presented in this report show that, once such definitions are in place, they are rapidly mobilised outside genuinely terrorist contexts. Rather than being confined to addressing actual terrorist threats, these broad legal frameworks are increasingly deployed against peaceful political opposition, social movements and civil-society actors that challenge state policies or expose human rights violations. This pattern demonstrates how vague terrorism provisions serve as tools for suppressing legitimate dissent rather than addressing genuine security concerns.

Case study: Use of counter-terrorism and P/CVE laws against peaceful political opponents in Algeria and religious minorities in France

Algeria: Criminalization of the Hirak movement through expanded terrorism provisions

In May 2021, while the country was experiencing nationwide peaceful protest against military control over the state ("Hirak" movement), the Algerian Government amended Article 87 bis of the Penal Code. This article already defined terrorism in “overly broad and vague terms that would allow for the prosecution of actions that might constitute exercise of the freedom of expression or peaceful assembly" according to the Human Rights Committee .[7]

To the already extensive list of 13 vaguely defined potential "terrorist" acts contained in Article 87 bis (such as "obstructing traffic or freedom of movement on the roads", "occupying public places by assembly" or "attacking the symbols of the nation and the republic"), the presidential decree added the provision criminalising “working or inciting, by any means, to gain access to power or to change the system of government by non-constitutional means”.

Moereover, Algeria's amended Article 87 *bis* deliberately blurs the line between "terrorism" and "subversion," further criminalising peaceful criticism of the government and army. Importantly, this was done in the context of the Hirak movement which preciseley demanded radical change form a military-conteolled state to an effectvie civilian-run one.

The Special Rapporteur on counter-terrorism emphasised in communication OL DZA 12/2021 that the phrase "non-constitutional means" would have a negative impact on freedom of expression, association and peaceful assembly and would be used against peaceful political opponents and demonstrators .

Cases documented by Alkarama demonstrate that this concern was fully justified, revealing systematic use of the counter-terrorism legal framework against peaceful opponents. The

[7]

broad scope of Article 87 bis allows for the systematic application of the Criminal Procedure Code (CPC) provisions pertaining to suspects of "terrorism" and "subversion" (Articles 51 and 51 bis) .

Procedural abuses and systematic denial of due process

In Algeria, practically all persons arrested for expressing dissenting opinions, considered "subversive" in the context of the Hirak, are detained under Articles 51 and 51 bis of the CPC specific to terrorism-related cases. These provisions allow the legal police custody period of 48 hours to be extended five times – for a total of 12 days – without guaranteeing habeas corpus rights. Access to a lawyer is only granted after the 12-day period and only sporadically.

This practice has created a breeding ground for short-term enforced disappearances and heightened risks of torture, with a marked chilling effect on civil society. The systematic denial of procedural guarantees demonstrates how the expansion of counter-terrorism frameworks serves a specific purpose: bypassing common judicial oversight.

France: Discriminatory application against religious minorities

In France, counter-terrorism and prevention/countering violent extremism (P/CVE) frameworks have been systematically applied against religious minorities, particularly Muslim communities. The broad interpretation of terrorism-related offences and administrative measures has facilitated discriminatory profiling, surveillance, and restrictions that disproportionately affect individuals based on their religious identity and perceived political beliefs.

French authorities have utilized expansive counter-terrorism provisions to impose travel bans, asset freezes, and association dissolutions against individuals and groups associated with Muslim communities, often based on vague intelligence assessments rather than concrete evidence of involvement in violent activities . These measures have been justified under the guise of national security while effectively targeting legitimate religious practices and peaceful political expression.

Global patterns and implications

This pattern, common to multiple countries on which Alkarama has worked, reveals a crucial insight: the expansion of counter-terrorism frameworks through broad definitions serves a specific purpose of bypassing judicial guarantees. Whether through the application of exceptional administrative procedures or the denial of common procedural safeguards, the counter-terrorism legal regime is frequently used to deny due process.

States have conveniently employed counter-terrorism as a tool to implement exceptional or "state of emergency like" measures outside situations that would qualify as actual states of emergency, and a fortiori, without the limitations specific to such derogatory legal regimes.

These patterns reflect a broader global trend noted by the Special Rapporteur and other human rights experts: the expansion of terrorism labels to cover non-violent protests, labor actions, social movements, NGO work, academic research, journalism and legal assistance, especially when these activities challenge dominant policies or expose abuses.

In this context, the "terrorism" label does not merely justify exceptional measures; it delegitimizes dissent itself, with a chilling effect that is incompatible with the role of pluralism and contestation in a democratic society, (see infra section 5 on Associations).

1.3 Discriminatory impact and the role of "religious motive"

Discriminatory impacts of counter-terrorism and counter "extremism" laws are not accidental by-products of vague definitions; they are structurally embedded in the discourses, laws, and policing practices through which terrorism is applied in ways that single out certain groups, especially religious minorities (see our analysis under section 6).

In Europe, the Council of Europe's work on Islamophobia and anti-Muslim racism documents how counter-terrorism and anti-radicalisation policies, framed in terms of "Islamist extremism", "separatism" or "parallel societies", have reinforced ethnic and religious profiling. These policies, combined with broad pre-criminal offences and expansive surveillance, have contributed to the general application of a "presumption of dangerousness" to persons or groups perceived as Muslim. They have also led to the normalization of the idea that Muslim identity itself constitutes a security threat.

Comparative analysis of counter-terrorism and anti-extremism policies across several countries—including France, the United States, the United Kingdom, and Australia—reveals a consistent pattern: political discourses and narratives equate real or perceived religious practice and adherence with "radicalisation", "extremism" (used as extension notions or "branches" of the notion of "terrorism"), without providing clear definitions of such terms and using them interchangeably .

We have observed, however, that such discourses conflating terms such as "terrorism", "extremism" or "radicalisation" have progressively migrated from purely political language into the legal and judicial lexicon.

Australian practice: Religious motive as a discriminatory tool

A recent study of Australian practice demonstrates how terrorism laws that include "religious cause" as a specific motive element have contributed to judicial reasoning that effectively puts Islamic religious practice or adherence itself on trial, conflating it with violent extremism and "terrorism" .

While "religious motive" is neither necessary nor required under international law, the conflation of words such as "Islam", "Islamist", "radical" or "extremism" born in opportunistic

political discourses has made its way into courts where judges are drawn into contentious theological assessments to prove “religious cause” as sufficient evidence of criminal intent .

As a result, courts tend to infer terrorist intent from religiosity and identity, while neglecting the core intent element of violence and coercing government or intimidating the public.

This slow transfer of problematic political discourses stigmatising Muslim minorities into law and judicial practice under counter-terrorism regimes can also be found in other states, pointing to a disturbing pattern of systemic discrimination.

French practice: Administrative removals and discriminatory profiling

Human Rights Watch's detailed study of security-based removals from France shows how administrative expulsions of people labelled "islamistes fondamentalistes", including imams, have been carried out on the basis of opaque intelligence assessments and broad notions of "extremism", with limited procedural safeguards. From accelerated asylum procedures to removals without suspensive remedies to closure of religious schools and mosques and an over-reliance on secret intelligence files, individuals deemed “radical” have been exposed to removals in violation of non-refoulement, and to serious infringement of their rights such as interferences with family life and undue restrictions on their rights to peacefull assembly and assocation as well as religious freedom.[8]

French practice has actively fed into EU debates on a "common" approach to security-based expulsions as a tool of counter-radicalisation, illustrating how one state's expansive understanding of terrorism and security can become a problematic template within wider regional cooperation .

In parallel, Council of Europe and OSCE work has flagged that, in practice, terrorism and "violent extremism" labels facilitate the use of migration law, security cooperation and pre-criminal instruments against racialised minorities and human-rights defenders, bypassing ordinary criminal-law safeguards and judicial scrutiny .

In her report following her Visit to France, the former special Rapporteur alos highlighted her conerns over the lack of “clarity” on “what constitutes the legal bases for the categorization of radicalization, how such criteria conform to best practice and, ultimately, how such criteria function to suppress the legitimate and protected arenas of civic expression and religious practice”. She added that the French counter-terrorism policy “has an unrelenting emphasis on Islamic radicalization (…) with a significant risk that the approach to identifying

[8] “Au nom de la prévention. Des garanties insuffisantes concernant les éloignements pour des raisons de sécurité nationale”, Human Rights Watch, Juin 2007 Volume 19, No. 3 (D, https://www.hrw.org/reports/france0607fr.pdf

radicalization conflates genuine and protected religious practice with terrorist radicalization, and there appear to be few safeguards against this”[9].

1.4 Cross-border human rights risks: international cooperation, administrative removals and export of abusive practices

Given the international character of counter-terrorism, non human rights compliant terrorism definitions and the security practices they underpin also tend to spill over from one state to another; through extradition, deportation, intelligence sharing and other mutual legal and security assistance, they shape—and dangerously affect—international legal practice of States.

Alkarama has identified a dangerous increase in expulsions and other sanctions by European countries against foreign peaceful political opponents seeking political asylum, based on mere suspicion of links with entities listed in their home countries as "terrorist" or "extremist." These measures are carried out in the name of international counter-terrorism cooperation and in violation of the non-refoulement principle .

It is worth highlighting that in its current form, the Draft Comprehensive Convention does not address the risks to fundamental human rights, humanitarian and refugee law of internatioanal counter terrorism cooperation. It is therefore crucial that the Special Rapporteur addresses such risks to avoid their entrenchment in any future convention.

Case study: Interpol and the exploitation of international cooperation mechanisms

The case of Mr. Rachid Mesli a lawyer, human rights defender and the co-founder and legal director of Alkarama arrest in Italy illustrates how Interpol systems can be abused to export non-human-rights-compliant definitions of terrorism.

Mr. Mesli left Algeria in 2000, fearing risk of harm to his family. Mesli was subsequently charged by Algeria in 2002, after two men were allegedly tortured to make statements associating Mesli with a terrorist group.

In 2012 Fair Trials failed in their request for deletion of data related to the Red Notice and subsequently, in August 2015, while in vacation with his family, his was arrested by the Italian border patrol on the basis of the Interpol internatoinal arrest warrant submitted by Algeria. He was later released as the algerian authorities failed to provide information necessary for an

[9] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, **Visit to France, A/HRC/40/52/Add.4, 8 May 2019, para 43.

extradition to the Italian judical authorities.[10] It was only in 2016, after this arrest that the Red Notice was deleted by Interpol after a request to apply Interpol's "refugee policy"[11].

Judicial cooperation and the limits of equivalence

Cases handled by Alkarama – including those concerning its own members – show that when Algeria submitted requests to States such as France, Italy and Switzerland on the basis of international arrest warrants grounded in its counter-terrorism framework, courts systematically found that the condition of "double incrimination" or equivalence was not met. The conduct described by the Algerian authorities was either too vague or could not be characterised as a serious offence under the requested State's domestic law, leading judges to refuse extradition on both legality and human-rights grounds.[12]

While INTERPOL Red Notices were initially an important vector for exporting overly broad and human-rights-incompatible terrorism definitions through judicial cooperation, subsequent institutional reforms – in particular the strengthening of the Commission for the Control of INTERPOL's Files (CCF) and the adoption of clearer human-rights safeguards – have begun to generate corrective precedents.[13] The MESLI case, among others brought by Alkarama to Interpol's CCF, illustrates that where robust judicial review and effective access to the CCF exist, abusive Red Notices or extradition requests based on unlawful terrorism charges can be challenged and cancelled, mitigating the risks posed by expansive and politicised terrorism frameworks.

Administrative cooperation: circumventing judicial oversight of counter-terrorism cooperation

States increasingly resort to non-judicial channels, particularly administrative migration or security procedures under counter-terrorism related dispositions, to avoid the constraints of judicial cooperation and independent review in the requested State. Alkarama has documented cases in which Algerian dissidents were expelled from Spain to Algeria following

[10] Misuse of Interpol's Red Notices and impact on human rights – recent developments, STUDY Requested by the DROI committee, Policy Department for External Relations Directorate General for External Policies of the Union PE 603.472 - January 2019

[11] In May 2015, INTERPOL announced a new policy on recognised refugees which confirmed that the General Secretariat will remove a Red Notice or Diffusion if it can verify that the person has been recognised as a refugee under the 1951 Convention. See: Fair Trials (2018), 'Dismantling the Tools of Oppression: Ending the Misuse of INTERPOL', at https://fairtrials.org/publication/dismantling-tools-oppression-1

[12] JUA 10/02/2012 Case No. FRA 1/2012 State reply: 08/05/2012 Allégation d"un risque crédible d"extradition et de risque de torture ou de mauvais traitement (A/HRC/22/53/Add.4, para 41; JUA ITA 4/2015, Italy, Freedom of expression; Freedom of peaceful assembly and of association; Human rights defenders; Torture, "Allegations concerning the arrest and risk of imminent extradition of a human rights defender to Algeria.

[13] Fair Trials, 'Submission – Reform of the Commission for the Control of INTERPOL's Files and itsdata processing procedures' (10 December 2015) Available at: https://www.fairtrials.org/wp-content/uploads/Fair-Trials-Submission-to-GTI-Dec-2015.pdf?platform=hootsuite

expedited administrative procedures, with no effective access to a court and in clear disregard of the principle of non-refoulement and basic due-process guarantees.[14]

Case Analysis of Spanish administrative decisions

In August 2021, two Algerian whistle-blowers and peaceful opponents, Mohamed Abdallah[15] and Mohamed Benhalima[16], were removed from Spain to Algeria on the basis of expeditive administrative decisions denying their applications for political asylum. The administration relied uncritically on information provided by Algeria, according to which the two peaceful activists were part of a terrorist group. In both instances, the authorities invoked a selective reading of UN counter-terrorism obligations to justify returns despite the real risk of torture, ill-treatment and unfair trial upon arrival – which all were proved to be true.

The Spanish administrative decisions in these cases reveal several deeply problematic features:

First, uncritical acceptance of foreign allegations: The authorities accepted at face value the Algerian government's allegations that the individuals were linked to a "terrorist" and "subversive" political movement, without any meaningful effort to verify their accuracy or assess the arbitrariness of such designations, despite well-documented concerns about Algeria's misuse of terrorism labels .

Second, conflated terminology and discriminatory reasoning: The reasoning of the administration in their decisions of removal conflated terms such as "Islamist," "terrorist," and "subversive" to construct an appearance of dangerousness based on the perceived religious affiliation of the two men, while failing to identify any concrete conduct suggesting involvement in or incitement to serious violence .

Third, erroneous legal approach to protection: Most disturbingly, the Spanish authorities argued that, in the absence of evidence of violence, they were unable to determine whether the individuals' activities amounted to "legitimate peaceful political opposition" or instead "represented a danger" to Spain's security and its relations with Algeria. Rather than resolving this doubt in favour of protection, as required by international refugee and human-rights law, they treated the individuals' perceived religious and political opinions as sufficient to justify

[14] See : «A Web of Intimidation» Algerian Government's Global Crackdown on Dissenters, New Report Exposes Disturbing Trends in Repression Against Exiled Activists », Cairo Institute for Human Rights Studies (CIHRS), Nov. 2024, https://cihrs.org/a-web-of-intimidation-new-report-reveals-algerian-governments-global-crackdown-on-dissent/?lang=en

[15] Alkarama, ALGERIA-SPAIN: The UN Special Rapporteur on Torture seized of the case of the military whistleblower Mohammed ABDELLAH, 28 Jan 2022, https://www.alkarama.org/en/articles/algeria-spain-un-special-rapporteur-torture-seized-case-military-whistleblower-mohammed

[16] Alkarama, Former Algerian military officer, Benhalima M. AZZOUZ, tortured in detention, Alkarama urgently appeals to the UN Special Rapporteur on Torture, 13 Mar 2024, https://www.alkarama.org/en/articles/former-algerian-military-officer-benhalima-m-azzouz-tortured-detention-alkarama-urgently

"preventive" expulsion, in breach of the non-refoulement obligation and the requirement that limitations on rights be necessary, proportionate and non-discriminatory .

Fourth, deliberate recourse to administrative measures to avoid any judicial supervision: In both cases, after unofficial requests by the Algerian authorities, Spanish police opened urgent administrative procedures allowing for arrest and expulsion, utilizing Article 54.1.a. of Spanish Immigration Law 4/2000, which is designed as part of the country's counter-terrorism legal arsenal allowing to expel foreigners who take part in "activities contrary to public security or which may be harmful for Spanish relationships with foreign states." This administrative approach was deliberately employed to circumvent judicial oversight and ensure rapid removal without meaningful review. In both instances, the authorities immediately opened administrative expulsion files upon arrest without providing any concrete evidence of violent conduct or threats to public security, disregarded UNHCR recommendations regarding the risk of torture, coordinated the simultaneous notification of asylum denial and expulsion decisions to prevent proper legal challenge, and executed the removals immediately thereafter—using specifically chartered planes—before any suspensive measures could be effectively considered by judicial authorities.

1.5 Need for explicit exclusions and safe harbours (Question 6)**

Position

Given the ever-expanding range of conduct that can be drawn—sometimes *ex post facto*—into terrorism or ancillary offences under definitions of terrorism that are deliberately vague or explicitly liberty-restrictive, explicit exclusion or "safe harbour" clauses are indispensable to safeguard fundamental rights and due process.

In many counter-terrorism and P/CVE frameworks, just like in the Draft Genreral Convention, one can only highlight the absnce of of clauses ensuring that human-rights work, humanitarian action, academic and scientific research, legal assistance, journalistic activity or artistic expression are not swept into terrorism provisions.

Such exclusions are not a substitute for narrow, precise terrorism offences and robust legality safeguards, but they remain a necessary additional protection against the chilling criminalisation of civic space.[17]

Alkarama therefore echoes the Special Rapporteur's recommendation that definitions of "terrorism" and "violent extremism" must be drafted so as not to include members of civil society or non-violent acts carried out in the legitimate exercise of fundamental freedoms.

[17] In this respect, the EU Directive 2017/541 is often cited because, at minimum, its recitals affirm that academic, scientific or reporting activities, and radical or controversial views in public debate, should not be criminalised as terrorism, even though these safeguards are non-binding and incomplete.

They should explicitly exclude, at a minimum, peaceful protest, advocacy, strikes, trade-union action, impartial humanitarian work, litigation and human-rights defenders' activities from terrorism-related offences.

Existing regional and national models demonstrate that clear safe harbours for human-rights, humanitarian and civic activities are practically feasible and, far from weakening security, actually enhance the legitimacy and effectiveness of counter-terrorism frameworks.

Recommendations

On the basis of the above, and in line with existing UN and regional guidance, any UN-level definition of "terrorism" proposed by the Special Rapporteur should:

On the basis of the above, and in line with existing UN and regional guidance, any UN-level definition of "terrorism" proposed by the Special Rapporteur should:

- Confine terrorism to conduct that cumulatively meets the three elements endorsed by the Special Rapporteur: intentional killing, serious bodily injury ; specific intent to terrorise the population or coerce government/international organisations; and correspondence to a serious ordinary offence. This excludes property-only offences, economic loss alone, or abstract threats to "structures" unconnected to lethal or seriously violent acts.
- Avoid "catch-all" aims such as "seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation", which are vague, unforeseeable and prone to abusive use against protests, social movements and NGOs. Terrorism aims should be limited to seriously intimidating a civilian population.
- Question of the actual need for an aim to "unduly compelling a government or international organisation to act or abstain from acting" as it is precisely this part of the definition that allows for a "state-security based" analysis of threat instead of a "human security based" analysis
- Exclude motive elements based on religion, ideology or politics, focusing instead on clearly defined intent and harm to the population, and thus avoiding definitions that conflates religious identity and belief, particularly Islam, as proxies for dangerousness. This is consistent with international instruments, which condemn terrorist acts regardless of motivation.
- Integrate human-rights and non-discrimination guarantees into the definitional framework itself, recognising the documented discriminatory effects of over-broad and security-centred definitions on racialised and religious minorities, and on civil society actors. Such guarantees should expressly affirm that counter-terrorism

measures must comply with international human rights, humanitarian and refugee law and may not be applied based on, or result in dany form of iscrimination.

- Provide explicit, binding exclusion clauses safeguarding the lawful exercise of human rights and legitimate activities, including but not limited to peaceful protest, trade-union activity, advocacy and dissent, human-rights and humanitarian work, academic and scientific research, journalism, artistic expression, legal representation and advice, and religious practice. Existing national models demonstrate that such clauses can be drafted in a precise, workable manner and can co-exist with effective counter-terrorism.
- Require that international cooperation in criminal matters, migration control and security (including extradition, deportation, information-sharing and listing) only be triggered by conduct that meets this narrow terrorism definition. International cooperation must be subjected to judicial supervision and conditioned by robust safeguards against torture, persecution and serious human-rights violations, in light of the documented risks posed by security-based removals carried out in a discriminatory way and on the basis of broad, opaque and maleable notions of “terrorism” or “extremism” .

2. SUGGESTIONS AND LIMITATIONS ON THE ACTUS REUS ELEMENT (Q2, Q6)

As Section 1 has shown, vague and overbroad conduct elements have enabled the criminalisation of peaceful expression, assembly, association, religion and legitimate civil disobedience, including human-rights activism and political dissent. This section therefore focuses on what physical conduct elements should, and should not, form part of a terrorism definition (Q2 and the *actus reus* aspects of Q6).

Position

Terms used to define the reprehensible acts falling within “terrorism” must be narrowly framed so that only conduct passing a high threshold of seriousness is captured. Formulae such as “any act” and the standalone criminalisation of vague “threats” to commit listed acts should be removed, as they have repeatedly provided an entry point to repress non-violent protest, political opposition and civil society under counter-terrorism laws.

Physical elements of terrorism should be restricted to the maximum extent possible. Since all conduct that could compose the *actus reus* of terrorism is already prosecutable under ordinary criminal law in most legal systems, re-dimensioning the definition of terrorism necessarily implies limiting the material acts to the intentional infliction of death or serious bodily injury likely to cause death. Any broader catalogue of acts carries an excessive risk of expansive interpretation, widening the scope of counter-terrorism powers with cascading

consequences for due process, civic space, the protection of persons in armed conflict and asylum seekers wrongly associated with "terrorism".

By analogy with the strict conditions applicable to states of emergency, the exceptional nature of counter-terrorism regimes requires a logic of restriction, not expansion: terrorism definitions should be narrower, not broader, than ordinary criminal law, since they trigger derogatory legal frameworks that have become, in practice, a normalised state of exception.

In this light, the classical inclusion of hostage-taking as a standalone *actus reus* should be re-examined, as existing treaty definitions may encompass certain forms of disruptive political contestation or protest that do not reach the gravity of terrorism.

Paradigmatic example Algeria's reform of terrorism0s definition to counter Hirak's demand for radical sytem change

Article 87 bis of the Penal Code, as amended by Ordinance 21-08, defines terrorism to include conduct such as "obstructing circulation", "occupying public spaces", "damaging installations" or seeking to "access power or change the system of governance by non-constitutional means", without any requirement of lethal means, an intent to terrorise, or a clearly articulated ideological objective.

The Special Rapporteur and other UN experts have warned that this conflation of "terrorism" and "subversion", and the failure to require the three cumulative elements of the model definition, enables the prosecution of non-lethal offences and peaceful political activity as terrorism, in breach of legality, necessity and proportionality.[18]

2.1. Core physical conduct: intentional killing and serious injury

The core *actus reus* of terrorism should be confined to:

- Intentional killing;
- Serious bodily injury, including conduct that is highly likely to cause death or long-term physical harm.

This core aligns with the Special Rapporteur's model definition and Security Council resolution 1566 (2004), and reflects the gravity that alone can justify the exceptional legal consequences attached to terrorism offences. It avoids overlap and confusion with lesser public-order or property offences that should remain within ordinary criminal law, rather than being elevated to "terrorism" with all its procedural and political implications.

[18] **Algeria** JOL DZA 12/2021 , Commentaires et suggestions à propos de certains textes de loi en rapport avec le domaine sécuritaire et la lutte antiterroriste récemment approuvés, en particulier l'Ordonnance n° 21-08 modifiant et complétant l'Ordonnance n° 66-156 du 8 juin 1966 portant Code pénal et la loi n° 20-06 du 22 avril 2020 modifiant également le Code pénal.

We invite the Special Rapporteur to question the inclusion of hostage-taking as a standalone act as defined in existing sectoral conventions, given the risk that certain hostage-taking scenarios involving political protest or industrial action could be labelled “terrorism” despite an absence of lethal intent or serious violence.[19] At minimum, where hostage-taking is retained, it should be linked to an intent to cause death or serious bodily injury and assessed cumulatively with the other elements of the definition.

2.2 Conduct that should not be included

By contrast, several types of physical conduct should be excluded from the *actus rei* of terrorism, and their exclusion should be made explicit in international best practice:

- Non-violent acts such as damage to honour or reputation, non-cooperation with authorities, civil disobedience or purely symbolic disruptions.
- Ordinary public-order offences such as unauthorised assemblies, minor property damage or occupation of public spaces, even where they cause temporary disruption, as seen in the global misuse of terrorism provisions against dissenters and human rights defenders.[20]

Including such conduct within terrorism definitions has allowed States to frame peaceful protests, strikes, sit-ins or online advocacy as acts that “seriously destabilise public order” or “threaten national security”, with severe human-rights impacts. In Algeria, for example, the vague reference in Article 87 bis to attempts to “change the system of governance by non-constitutional means” has been used to prosecute Hirak protesters, journalists and human-rights defenders as “terrorists” or “extremists” despite their commitment to non-violence and reliance on peaceful demonstrations and speech, and to classify movements such as Rachad and MAK as “terrorist entities” on the national list.

Broad “threat” or “preparation” offences defined without a close nexus to the imminent commission of core terrorist acts should likewise be excluded. Where the criminalisation of “threats” cannot be avoided, it should be narrowly drafted, requiring a demonstrable connection to a real and imminent danger as well as evidence of the perpetrator’s capacity and concrete readiness to carry out the offence.

[19] For example, Between 2009 and 2012, in the aftermath of the Global Financial Crisis, French workers engaged in an extreme form of political protest, known as "bossnapping". Faced with the prospect of lay-off with little or no compensation, frustrated employees resorted to taking their employers hostage in their own offices, to force them to enter a negotiation and accept (at least part of) the workers' demands. While "kidnapped", employers were treated with care, provided with water and food and allowed to make phone calls: nonetheless, they were literally kept prisoners for up to 48 hours. This type of act could be potentially criminalised as an act of terrorism under current international definition including hostage taking as a standaone act. See : Moraro, P. (2018). Is Bossnapping Uncivil? Raisons politiques, 69(1), 29-44. https://doi.org/10.3917/rai.069.0029.

[20] Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space, op.cit, p. 38

Similarly, references to acts "endangering" or "creating serious risks" to life, health or public safety, when left undefined, have often been used to expand the reach of counter-terrorism legislation to non-violent conduct and should therefore be avoided or tightly constrained. Psychological harm should only be considered in close connection with physical harm, not as a stand-alone trigger for terrorism offences.

In order to prevent the exorbitant application of counter-terrorism frameworks, the definition should also exclude the destruction or damage of property (whether public or private) where such acts are not carried out with the intent to inflict death or grave bodily harm. Under this logic, damage or destruction of property is not an *actus reus per se* but a possible means used to achieve lethal or seriously violent outcomes. It is therefore unnecessary to enumerate types of property or thresholds of damage; what matters is the intent and likelihood of causing death or serious bodily injury.

For the same reasons, acts targeting financial or electronic systems, or "critical infrastructure", should not qualify as terrorism in the absence of an intent and realistic capacity to cause death or serious bodily injury. Purely economic loss, disruption of services, or interference with data or networks, without such lethal risk, should remain within ordinary criminal, regulatory or cyber-crime frameworks.

2.3. Recommendations on the actus reus

Any human-rights-compliant definition of terrorism should:

Concerning Death or serious bodily injury

- Be limited to the intentional causing of death or serious bodily injury to one or more persons.
- Not include purely mental or psychological harm without associated physical injury.
- Not include mere endangerment or abstract risk creation, absent a close and evidenced link to imminent lethal or seriously violent acts.

Concerning Hostage-taking

- Not be treated as a sufficient actus reus at the same level as intentional killing or serious bodily injury.
- If retained, be considered only in conjunction with evidence of intent to cause death or serious bodily harm, and with proof that hostages are being used as leverage to compel authorities under threat of such harm.

Property damage and critical infrastructure

- Exclude property damage, including against "critical infrastructure", where there is no intent to cause death or serious bodily injury.

- Reject economic loss, disruption of financial or electronic systems, or damage to "structures" as primary qualifying harms for terrorism.

Explicit lists of excluded *actus rei*

- Embed clear safeguards excluding from the material element of terrorism: acts of criticism or disobedience to the authorities; peaceful protest and strikes; environmental and human-rights activism; cyber-attacks without realistic potential for physical harm; and economic disruption without violence or threat of violence.
- These limitations on *actus rei* are essential to ensure that terrorism definitions are constructed to ensure that the application of counter-terrorism dispositions remain exceptional, targeted at genuinely grave violence, and fully compliant with States' obligations under international human-rights, humanitarian and refugee law.

3. SUGGESTIONS AND LIMITATIONS ON THE MENS REA ELEMENT (Q1, Q3, Q4, Q5, Q6)**

This section addresses the mental element of terrorism and related concepts, focusing specifically on Q3–Q5 (intent, purpose and motivation), and on exclusions concerning the mental element under Q6. It builds on Section 1's analysis of human-rights risks posed by vague or overbroad, discriminatory intent formulations (Q1), and translates that analysis into concrete guidance on general intent, special terrorist aims and the role of "purposes" such as political or religious motivation.

Section 1.3–1.4 have demonstrated how vague intent and purpose elements, including the use of "religious" or "ideological" motives and demands for regime change, have been systematically employed to target regilious minorities, dissidents as well as political and social movements. This section addresses Q3–Q5 (and the mens-rea aspect of Q6) by establishing the general intent, special terrorist aims and motivation elements that are compatible with international human-rights law.

3.1. Human rights risks and issues identified with the general intent to act and to cause harm (Q3(1)–(2)

This subsection addresses Q3's first two bullet points (scope of intent and harmful outcome).

Position

International law should define the general mental element of terrorism in a way that requires specific intent both to commit the violent act and to cause the relevant harmful outcome (death, serious bodily injury), rather than leaving this to national discretion and thus limiting abusive use of counter-terrorism legislation worldwide.

This requirement is consistent with the Special Rapporteur's model definition and with general principles of international criminal law, which treat terrorism as an aggravated form of serious violence rather than a strict-liability or "risk-creation" offence. It reduces the risk that ordinary crimes, riots or clashes with law-enforcement can be relabelled as "terrorism" solely because they occur in a charged domestic political context or are attributed to a stigmatised group, as documented in several regions.

One important element of vagueness concerning the *mens rea* part of the definition of terrorism is the lack of clarity as to whether the perpetrator must intend the consequences (danger to life, serious injury) or whether it is enough that these might occur “in the ordinary course of events”. This ambiguity allows States to punish people who did not aim to cause the harms that justify the terrorism label.

The Special Rapporteur's model definition is built on intentional killing, serious bodily injury or hostage-taking, not merely foreseeable or likely harm. Aligning the mental element with this model means requiring proof that the actor intended both the conduct and the resulting serious harm.

Where national law recognises concepts like dolus eventualis (acceptance of risk), such doctrines may be appropriate for ordinary serious-crime offences, but should not lower the mental threshold for terrorism in international guidance.

Recommendations

The definition should state that, for core terrorism offences, the perpetrator:

- Intends to commit one of the core acts as defined in Section 2; and
- Intends the consequence of causing death or serious bodily injury.

Thus, knowledge or recklessness alone should not suffice to establish core terrorism acts; where lesser mental states are used (e.g. for some preparatory offences), this must be tightly limited and never applied to conduct falling within scope of protests and dissent.

3.2. Special terrorist intent (Q3(3) & Q4)

This subsection aims at responding to Q3's third question and to Q4 (about aims like "intimidating a population" etc.).

Position

The 2010 model definition and Security Council resolution 1566 both identify two specific aims: provoking a state of terror in the public, or compelling a government/international organisation. This "special intent" is what distinguishes terrorism from other serious violence.

Terrorism should remain a dual-intent crime: beyond the intention to commit a serious violent act, there must be a specific intent to seriously intimidate a population. Serious concern arises, however, with regard to the traditional purpose of "unduly compelling a government or an international organisation to act or abstain", which has often been relied upon to repress dissent and civil disobedience and to shift the focus of the definition from human security to a State security based interests.

Any special aims should therefore be defined in a strictly narrow manner and should expressly exclude broader, indeterminate formulations such as "seriously destabilising or destroying political, constitutional, economic or social structures" that could encompass legitimate defiance of the State, social movements or struggles for political change and self-determination. The specific intent must relate to the impact on the population or on decision-makers (seeking to instil terror or to coerce a concrete decision), not to the perceived legitimacy or illegitimacy of the underlying political project.

Other analyses concur with our own finding that broadly defined aims of "seriously destabilising" or "destroying" the "fundamental political, constitutional, economic or social structures of a country" is vague, unforeseeable and facilitates the abusive use of terrorism laws against political dissent, social movements and NGOs.[21]

As Section 1 shows, such broad aims have been used to criminalise movements seeking constitutional change, autonomy or secession, and to stigmatise protests that challenge the existing order.

It is imperative to clarify that advocating radical political, constitutional, or social and economic change, even when such change would transform existing structures, and even when such demands are made using disruptive means, does not in itself evidence terrorist intent.

The Special Rapporteur may take these elements into consideration when answering Q4's parts on how to treat "seriously intimidating a population" and "seriously destabilizing political, constitutional, economic, or social structures." We believe that while the definition should clarify and affirm the first; it should reject—or, at the very least, seriously restrict including via explicit exceptions—the second.

[21] See for example : NOTE ON THE PROPOSED REVISION OF THE DEFINITION OF TERRORIST OFFENCES IN ARTICLE 1 OF THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM, Warsaw, 28 September 2023 Note-Nr: TERR-All/479/2023 [NR], para. 19, Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice, 11th November 2025, Bingham Centre for the Rule of Law, https://binghamcentre.biicl.org/publications/report-of-the-independent-commission-on-uk-counter-terrorism-law-policy-and-practice , p 92-93 ; **Algeria** JOL DZA 12/2021 , Commentaires et suggestions à propos de certains textes de loi en rapport avec le domaine sécuritaire et la lutte antiterroriste récemment approuvés, en particulier l'Ordonnance n° 21-08 modifiant et complétant l'Ordonnance n° 66-156 du 8 juin 1966 portant Code pénal et la loi n° 20-06 du 22 avril 2020 modifiant également le Code pénal.

Recommendations

A human-right compliant definition of terrorism should limit the special intent to:

- Intending to provoke a state of terror in the general public or a segment of it;
- The second special intent to "unduly compel a government or international organization to do or abstain from doing something", should be critically assessed to include in best practices guarantees ensuring that legislation intended to prevent or repress terrorism is not applied to all forms of contestation of social, environmental or political movement aiming precisely at asking states or organisations to act or avoid certain behaviour.

It is essential to limit the scope of intent under this section. This maybe achieved by avoiding references to "compelling a government or organization to do or refrain from doing “any act”, or by precising that this sould be exlcude in situations legitimate contestation of power structures

- Furthermore, broader aims that are explicitly described as "seriously destabilizing" or "destroying" fundamental political, constitutional, economic, or social structures should be excluded from the definition of terrorism. These broader aims effectively allow for the criminalization of political or social action intended to radically alter unfair political, social, or economic structures.

3.3. On the use and misuse of the motivation element (political, religious, ideological) (Q5)

This subsection addresses Q5 on whether terrorism should require purposes such as political, ideological, philosophical, religious or racial motivation.

Position

Motivation ("for political, religious or ideological purposes") should not be a constitutive element of terrorism at the international level. At most, a neutral "public purpose" or "public-oriented purpose" formula may be used as an optional narrowing tool, but specific references to motivations—especially to a "religious cause"—and to particular ideologies should be avoided.

From a conceptual standpoint, the Special Rapporteur's 2010 report notes that reference to motives is not necessary: many international instruments condemn terrorist acts regardless of motivation; the cumulative elements are the serious violence and the coercive aim vis-à-vis the population or authorities. Requiring proof of motive adds complexity, invites

speculation about beliefs and identity, and increases the risk of bias, without adding clarity to the boundary between terrorism and other serious crimes.

In practice, as explained in section 1 inserting purposes such as political, ideological, philosophical, religious or racial motivation directly into terrorism definitions has enabled disproportionate targeting of certain groups – especially Muslims, migrants and racialised minorities and now environmental activists – based on presumed beliefs or identities, rather than on individual conduct.

It has also fostered a hierarchy of victims and perpetrators, in which violence driven by "political" or "religious" motives is punished more harshly than comparable violence driven by misogynistic, racist or purely criminal motives, despite similar harms to those affected. Int his regard, the Global Study on the Impact of Counter-Terrorism Measures on Civil Society, produced by the former Special Rapporteur documents how motive-based “extremism” and "violent extremism" frameworks have been used to stigmatise women and minorities as "radicalised" or "suspect" communities, entrenching intersectionnal gendered and racialised patterns of surveillance and repression.[22]

Accordingly, any reference to the 1994 General Assembly Declaration's purposes list should be placed, if at all, in an interpretive clause that stresses: motivation cannot be inferred from ethnicity, religion, nationality, migration status or association alone; and counter-terrorism measures based on such inferences are incompatible with the principles of legality and non-discrimination.

Over-reliance on motive language, particularly when coupled with criminalisation of "extremism" or "violent extremism", transforms these contested notions into core elements of terrorism and has repeatedly underpinned discriminatory enforcement in both criminal justice and asylum/migration contexts.

As shown in section 1 above, cases documented in European countries or in legal debates concerning the fate of Guantanamo detainees, as well as comparative analysis of Australian , French and UK terrorism law, show the same shifting of security policies over securitising Muslim communities into serious legal consequences for members of this community that may be deemed too "religious" or politically active.

It seems that the over-reliance on the religious motive element has led courts to treat Islamic religiosity itself as evidence of existing or foreseeable "criminality" or creating a greater "risk" in the context of prevention measures under both counter terrorism and counter extremism paradigms. This common phenomenon of conflation between the perceived religious affiliation associated with political or social activism on one hand, and violent "extreme" or

[22] Global Study on the Impact of Counter-Terrorism Measures on Civil Society, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, op.cit., p. 23-24

"radical" ideology on the other has led to a legally problematic situation where religious or political motive overshadows the question of specific terrorist act and intent – to the point of replacing them in the qualification of acts.[23]

As shown in cases described in section 1.5, this has serious implications for legality, equality and fair trial and put human rights defenders and political activists perceived as Muslims at a greater risk of being subjected to violations of their fundamental rights including removal in violation of non-refoulement. As highlighted by the former special rapporteur this stigmatisation is increasingly being used against more groups criminalised on the basis of stigmatized "ideology".[24]

Moreover, motive-centred frameworks have fed into and contributed to a global structural Islamophobia, fuelling public narratives that equate Islam with terrorism and encouraging profiling of Muslims and Muslim civil society organisations.

International guidance should not require proof that terrorism is committed "for a political, religious or ideological purpose". The focus should remain on the objective act and the special terrorist aim (terrorising the public / coercing governments in certain circumstances).

If any motive clause is used, it should:

- Be framed in neutral terms ("for a political or public purpose"), without singling out religion;
- Be clearly presented as an optional narrowing criterion, not a mandatory element in all offences; and
- Be accompanied by an explicit warning that States must not interpret motive in ways that target specific religions or belief systems.
- The Special Rapporteur should explicitly discourage formulations that include "religious cause" as a separate element, in light of the documented discriminatory impacts against specific religious communities worldwide.

3.4 Terrorism and armed conflict (lex specialis)

In situations of armed conflict, the designation of parties to the conflict as "terrorist" should be avoided and the use of force should instead be regulated by the existing jus ad bellum and jus in bello frameworks, including the UN Charter and international humanitarian law (IHL).

[23] Jabri Markwell, Rita. "Religion as a Motive – Does Australian Terrorism Law Serve Justice?" *International Journal for Crime, Justice and Social Democracy*, ahead of print, March 29, 2023. https://doi.org/10.5204/ijcjsd.2686.

[24] "Labelling and stigmatization of civil society remains ubiquitous. Moreover, the range of civil society actors caught by the reach of counter-terrorism and P/CVE misuse appears to be expanding, including trade unionists, environmental activists, indigenous peoples defending water and land rights, advocates for migrants and refugees, peace negotiators, and beyond", Global study, op.cit., p. 24.

Allowing war-related discourse to merge with counter-terrorism narratives is precisely what enabled the paradigm of a "global war on terror", characterised by open-ended exceptionalism and the erosion of temporal, geographical and legal limits on the use of force.

State designation of adversary non-State armed groups as "terrorist organisations" has often served to place such groups—and by extension persons associated with them—outside the protection of both humanitarian and human-rights law, including in contexts of struggles for self-determination and armed resistance against occupation that are already regulated by the law of armed conflict.

The deployment of counter-terrorism frameworks in these settings has facilitated the creation of "no-law" zones in which captured fighters are labelled "enemy combatants" and denied even the minimum guarantees of common article 3 of the Geneva Conventions on the pretext that these protections do not apply to "terrorists", while at the same time ordinary human-rights obligations are displaced by invoking the "exceptional" nature of the situation. This practice of using "terrorism" to carve out a virtual legal vacuum where neither IHL nor human-rights law fully applies has had particularly adverse consequences for NGOs, lawyers and humanitarian or medical actors, whose impartial assistance to all sides in a conflict has been chilled or criminalised under counter-terrorism and "material support" offences, contrary to the requirements of principled humanitarian action.

Case srudies . from Yemen, to Lybia and Palestine – the use of "terrorism" labels to create legal void

Applying "counter-terrorism" labels to military operations in armed conflicts—such as those conducted by the UAE and Saudi Arabia in Yemen[25], or by para-state militias like the RADA Special Deterrence Forces in Libya—has blurred the line between counter-insurgency and counter-terrorism and served a strategic purpose: to de-legitimise adversary armed groups and reframe them as criminals or "terrorists" rather than parties to a conflict regulated by international humanitarian law. [26]

In Yemen, coalition actions against the Houthis are routinely framed as "counter-terrorism" or "countering terrorist militias", a discourse that has helped justify expansive targeting, blockade measures and security restrictions while sidelining the civilian/combatant distinction and aggravating an already catastrophic humanitarian crisis.[27]

[25] Congressional Research Service, Yemen: Civil War and Regional Intervention R43960 (16 August 2018). Christian Koch and David B. Roberts, The Strategic Alliance of Saudi Arabia and the UAE (Sciences Po Kuwait Program, 2019

[26] Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report to the General Assembly, UN Doc. A/77/345 (2022) (on the logic of terrorism discourse aimed at destroying the "terrorist group" and the implications for legal protections

[27] OHCHR, "Special Rapporteur urges Security Council to renew humanitarian exemption to counter-terrorism sanctions" (press release, 19 November 2024) (on how counter-terrorism measures and sanctions can obstruct

The same securitised logic is visible in the expansion of US drone operations and targeted killings in Yemen under a counter-terrorism paradigm, where force is used against alleged "terrorist" targets outside traditional battlefields without integrating the restrictive elements of international humanitarian law or fully applying human-rights-based constraints on the right to life. UN Special Rapporteurs and regional bodies have repeatedly raised concerns that such lethal remotely piloted aircraft operations, conducted as part of a global counter-terrorism campaign, risk normalising a parallel regime in which the geographic and temporal limits on the use of force are blurred, accountability is weakened and the threshold safeguards of both IHL and human-rights law are diluted.[28]

Empirical studies, including Alkarama's report Traumatising Skies – U.S. Drone Operations and Post-Traumatic Stress Disorder (PTSD) among Civilians in Yemen[29] and the Stanford/NYU report Living Under Drones,[30] document how civilians living under constant drone surveillance and recurring strikes suffer severe psychological trauma, fear and disruption of everyday life, amounting in many cases to cruel, inhuman or degrading treatment. These findings underscore that the counter-terrorism framing of drone warfare not only bypasses existing legal constraints on the use of force but also produces long-term harm to civilian populations, reinforcing the need for any use of armed drones to be strictly assessed under both IHL and international human-rights law, with full transparency, accountability and access to remedies.

As a matter of best practice, international guidance should therefore: (i) affirm that targeted killings outside clearly defined armed-conflict situations are governed in the first instance by international human-rights law, particularly the right to life and the principles of necessity and proportionality; (ii) require States to publicly clarify the legal framework they rely on in any drone operation, including how they apply IHL and human-rights norms cumulatively where both are relevant; and (iii) call for independent investigations, disclosure of civilian-casualty data and effective reparations mechanisms in cases of unlawful or arbitrary deprivation of life.

In **Libya**, militias such as RADA explicitly brand themselves as "Deterrence Forces for Combating Terrorism and Organised Crime", using counter-terrorism rhetoric to criminalise

humanitarian assistance in conflicts including Yemen and Libya, and that CT measures can never justify denying humanitarian relief).

[28] Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Report to the Human Rights Council, UN Doc. A/HRC/25/59 (2014), paras 27–30, 59–60 ; Parliamentary Assembly of the Council of Europe, Resolution 2051 (2015), Drones and targeted killings: the need to uphold human rights and international law (expressing concern about drone use for targeted killings in Pakistan, Yemen, Somalia, and emphasising right-to-life and IHL constraints)

[29] Alkarama Foundation, Yemen: Traumatising Skies – U.S. Drone Operations and Post-Traumatic Stress Disorder (PTSD) among Civilians in Yemen (2015)

[30] Stanford Law School / NYU School of Law, Living Under Drones: Death, Injury, and Trauma to Civilians from US Drone Practices in Pakistan (2012)

opponents, social deviance and political dissent, thereby masking the reality that they operate as powerful armed actors within a fragmented conflict landscape.[31]

This securitised framing undermines the civilian/combatant divide at the heart of IHL and places access to impartial humanitarian and legal assistance to both fighters and civilians in jeopardy, as contact with proscribed groups or their perceived constituencies can be cast as "support" to terrorism.

The same dynamics are visible in the treatment of Hamas and the wider population of Gaza, where decades of "terrorism" discourse and, more recently, war-on-terror framings have contributed to the dehumanisation of Palestinians and to narratives that implicitly exclude them from the circle of those protected by "human" or "humanitarian" law, helping normalise indiscriminate attacks, siege tactics and obstruction of humanitarian corridors.[32] Such dehumanising labelling—presenting entire communities as collectively tied to "terrorism" or as "no innocents"—erodes restraints on violence, legitimises derogations from both human-rights and humanitarian law, and exposes NGOs, medical personnel and lawyers to criminalisation for providing impartial assistance in line with IHL principles.[33]

The application of counter-terrorism frameworks in the Palestinian context has particularly severe consequences for several reasons:

1. Collective punishment and collective guilt: The conflation of Hamas with all Palestinians creates a dangerous framework of collective responsibility, where the entire population is treated as potentially complicit in "terrorism." This directly violates the fundamental principle of individual criminal responsibility and the prohibition of collective punishment enshrined in international law .

2. Erosion of the civilian/combatant distinction: Counter-terrorism discourse in Palestine often deliberately blurs the civilian/combatant distinction, leading to practices that disregard the principle of distinction in IHL. When entire populations are labelled "terrorists" or sympathisers, it becomes easier to justify disproportionate attacks and collective punishment against civilians .

3. Obstruction of humanitarian assistance: Counter-terrorism measures have been systematically used to obstruct humanitarian access to Gaza and the West Bank. The

[31] "Report of the Independent Fact-Finding Mission on Libya, A/HRC/52/83, 3 March 2023 Wolfram Lacher, "A Network of Insecurity and Violence – the Issue of Militias Operating in Libya", Wilson Center (31 March 2025)

[32] Sara Dehm, "The wretched of Gaza: the law and political economy of discourses in dehumanisation", Overland (23 October 2023). Institute for Strategic Dialogue (ISD), "'No Innocents': The collective blame of Palestinians online" (23 July 2025). Zeeshan Ali and others, "Framing Resistance: Western Discourse, Double Standards and the Construction of Terrorism" Journal of International and European Relations (2023).

[33] Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space, UN, 2023 (especially chapters on exceptional regimes, conflict settings and humanitarian access) ; Lana Baydas and Shannon N. Green, Counterterrorism Measures and Civil Society: Changing the Will, Finding the Way (CSIS, 2018)

designation of Hamas as a terrorist organisation has been invoked to justify restrictions on humanitarian aid, medical supplies, and reconstruction materials, directly impacting civilians who are not parties to the conflict .

4. Criminalisation of solidarity and advocacy: The use of terrorism designations has extended beyond armed actors to encompass civil society, human rights defenders, and solidarity activists who advocate for Palestinian rights. As documented in recent crackdowns on Palestine solidarity activism in the UK and other Western countries, individuals and organisations supporting Palestinian causes face accusations of "supporting terrorism" simply for engaging in legitimate political advocacy and human rights work .

5. Normalisation of exceptional measures: The counter-terrorism framework has been used to justify exceptional legal measures that would be unacceptable in ordinary circumstances, including mass surveillance, administrative detention without trial, and restrictions on freedom of movement that amount to apartheid practices .

6. Impact on education and academic freedom: Universities and educational institutions in Palestine have been targeted under counter-terrorism frameworks, with restrictions on academic exchange, funding cuts, and accusations of "incitement" or "radicalisation" against legitimate academic discourse on Palestinian rights and self-determination .

The case of Palestine exemplifies how terrorism designations can create a legal vacuum where both IHL and human rights law are effectively suspended. This not only violates international legal standards but also undermines the possibility of peaceful conflict resolution by de-legitimising political actors and criminalising dissent .

Recommendations

Best practice at international level should therefore:

- affirm that in situations of armed conflict, the applicable frameworks are jus ad bellum and jus in bello, as well as human rights law and that non-State armed groups must not be placed outside IHL and human rights law protection by terrorism designations;
- require States to ensure that counter-terrorism measures do not impede principled, impartial humanitarian action or legal assistance to any party to a conflict; and
- discourage the use of terrorism rhetoric and legal frameowrks that ascribes collective guilt or dehumanises entire populations, emphasising instead the individualisation of responsibility and strict respect for the civilian/combatant distinction.

3.5. Exclusions: Non-lethal harm and mens rea (Q6 as applied to intent)

This subsection addresses Q6 insofar as it concerns the mental element for non-lethal harms (property damage, economic loss, disruption of infrastructure, psychological effects), building on the conduct analysis in Section 2.3.

Position

Where non-lethal harms (property damage, economic loss, disruption of infrastructure, psychological effects) are addressed in terrorism-related frameworks, the mental element must not be extended in a way that wrongly encompasses the exercise of fundamental freedoms, including protest, civil disobedience and disruptive political contestation.

As Section 2.3 explains, including property-only or purely economic harms within the core terrorism definition as standalone actus reus is inconsistent with the 2010 model definition and creates a breeding ground for abusive use of terrorism laws against strikes, social movements and other forms of dissent.

Experience from multiple jurisdictions shows that when definitions include elements such as "major economic loss" or "serious damage" to "political, economic or social structures", States tend to infer terrorist intent from the disruptive effects on the economy or governance rather than from any specific aim to terrorise the public.

In such cases, the second limb of the core intent—"compelling a government or international organisation to act or abstain"—becomes particularly problematic: where violence against the public is absent, a focus on "State security" rather than on the protection of persons has led authorities to treat intent as "inferred" from the perceived radicalism of the cause (for example, "radical Islam" or so-called "eco-terrorism" applied to environmental activists) or from the scale of disruption, with serious implications for civic space and for the rights to assembly, association and expression.

Recommendations

- Non-lethal harms against the population such as economic disruption or property damage should be excluded from the definition of terrorism.

In cases where such acts are taken into account, the specific mental element must still be proven: it should not be enough that the actor intends disruption or economic loss, or that such outcomes are foreseeable. Thus, the definition should make clear that:

- Intending to cause economic disruption, property damage or political pressure through protests, strikes or blockades does not amount to terrorist intent; and
- Tin any case, terrorist intent requires the specific purpose of terrorising the population;
- Thus the specific purpose of coercing a government or international organisation should be critically assessed by the Special Rapporteur and subjected to sufficient limitations such as the use of serious violence against the population or certain parts of it instead of merely requiring economic political or institutionnal disruption.

- Any inference of intent from the nature of the target (e.g. "critical infrastructure") must be carefully limited to situations where the actor aims to cause death or serious bodily injury via attacks on such infrastructure, not simply to disrupt its functioning.

4. EVALUATING THE DRAFT COMPREHENSIVE CONVENTION DEFINITION (Q8 AND LINKS TO Q1–Q4)

This section answers Question 8 by assessing the adequacy of the definition of terrorism in the Draft Comprehensive Convention against International Terrorism ("Draft Convention") and identifying core elements that must be revised or added in light of the human-rights, IHL and refugee-law concerns outlined above.

Draft Convention definition:

Article 2(1) of the Draft Convention defines terrorism as any unlawful and intentional act that either: (a) causes death or serious bodily injury to any person; or (b) causes "serious damage" to State or government facilities, public transportation, communication systems or infrastructure, with the intent to cause extensive destruction or where such destruction "is likely to result in major economic loss"; when committed for the purpose of intimidating a population or compelling a Government or an international organisation to do or abstain from doing any act.[1] Articles 2(2)–(3) extend liability to attempts, accomplices, organisers, instigators, and anyone who "in any other way" contributes to such offences when acting with the aim of furthering the group's criminal activity or in the knowledge of its intention.

4.1 Main shortcomings of Article 2 defining terrorism

Overbroad actus reus and economic-loss limb

While the reference to intentional killing or serious bodily injury is compatible with the core elements proposed in Sections 2–3, Article 2(1)(b) expands terrorism to "serious damage" to facilities and infrastructure and to acts "likely to result in major economic loss", even in the absence of lethal intent or risk.

This formulation reproduces the problematic trend, documented in national laws and Security Council practice, of equating serious property damage or economic disruption with terrorism, thereby legitimising the use of extraordinary counter-terrorism regimes against strikes, protests and other forms of non-lethal dissent. It also conflicts with the Special Rapporteur's model, which explicitly excludes property-only offences and economic loss alone from the definition of terrorism.

Vague special intent and "any act" formula

The special intent clause—"to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act"—uses the same open-ended

“any act” language that many States have employed to criminalise a wide spectrum of political contestation, social movements and advocacy work.

As shown in Sections 1–3, such formulations allow authorities to infer terrorist purpose from the disruptive impact of protests or from the political goals pursued, rather than from an intent to instil terror or use lethal violence against civilians. The Draft Convention also leaves intact the broad “compelling” specific intent without safeguards to prevent its application to non-violent civil disobedience, boycotts or other legitimate efforts to pressure public authorities.

Ancillary liability and association-based offences

Article 2(3)(c) criminalises “in any other way” contributing to the commission of one or more offences by a group of persons acting with a common purpose, where the contribution furthers the group’s general criminal activity or is made in the knowledge of the group’s intent.

Without explicit safeguards, this clause risks replicating expansive “material support” or “membership” provisions that have been used to criminalise a wide range of associative conduct, humanitarian engagement and legal assistance, in contradiction with the requirements of legality and foreseeability.

It is particularly problematic in situations of armed conflict and occupation, where labelling parties as “terrorist groups” has been used to marginalise IHL and to penalise impartial humanitarian action.

Absence of explicit human-rights, IHL and refugee-law safeguards

The Draft Convention’s definition is not accompanied, within Article 2 itself, by explicit clauses safeguarding the exercise of fundamental freedoms or clarifying the relationship with IHL and international refugee law.

There is no safe-harbour provision excluding peaceful protest, advocacy, trade-union action, impartial humanitarian work, legal assistance or journalistic activity from its scope, contrary to the guidance developed by the Special Rapporteur and other UN mechanisms. Nor does the definition include a clear clause preserving the application of IHL in armed conflict and preventing terrorism labels from eroding the protection afforded to combatants and civilians under the Geneva Conventions and refugee law.

4.2 Required minimal amendments to align with human-rights and IHL standards

In light of the analysis developed in Sections 1–3, at least the following amendments or clarifications are necessary:

1. Narrow the core actus rei elements

- Limit Article 2(1) to intentional killing and serious bodily injury, including conduct highly likely to cause death or long-term physical harm, and remove economic-loss-only scenarios and purely property-based offences as standalone actus reus.
- Delete or substantially narrow the reference to "serious damage" and "major economic loss" in Article 2(1)(b), or condition any inclusion of infrastructure damage on an intent and realistic capacity to cause death or serious bodily injury.

2. Refine the special intent clause

- Retain "intimidating a population" but clarify that this must involve a serious intent to instil terror in the public or a segment thereof, not mere disruption or political pressure.
- Replace "to compel a Government or an international organization to do or abstain from doing any act" with a more precise formulation limited to coercion through core terrorist violence, and exclude its application to non-violent protest, strikes, boycotts or advocacy campaigns.
- Remove any reference to broader aims such as "seriously destabilising or destroying fundamental political, constitutional, economic or social structures" if such language is introduced at a later stage.

3. Tighten ancillary and association-based liability

- Amend Article 2(3)(c) to limit liability to substantial, intentional contributions that have a clear and direct link to the commission of a specific terrorist offence, and explicitly exclude purely humanitarian, medical, legal, journalistic or other impartial activities protected under IHL and human-rights law.
- Add a clause clarifying that membership, association or contact alone, without individual participation in or contribution to terrorist acts as narrowly defined, does not amount to an offence.

4. Insert explicit human-rights, IHL and refugee-law safeguard

- Incorporate, either within Article 2 or in a dedicated article cross-referenced to it, a safe-harbour clause stating that nothing in the definition shall be interpreted to include: peaceful protest, advocacy, strikes, trade-union action, humanitarian assistance, legal representation, academic or journalistic work, or other non-violent exercise of fundamental freedoms.
- Add a provision explicitly affirming that, in situations of armed conflict, the applicable legal framework is IHL (and, where relevant, international human-rights law), and that

terrorism designations cannot be used to deny parties or persons the protections of the Geneva Conventions, common Article 3, or refugee-law guarantees.

- Ensure that the Convention contains a robust human-rights clause affirming that all measures taken to implement it must comply with States' obligations under international human-rights, humanitarian and refugee law.

5. Clarify motivationelements and avoid discrimination risks

Avoid incorporating motives such as "political, religious or ideological purposes" into the core definition, or, if referenced, confine them to an interpretive clause stressing that motivation cannot be inferred from ethnicity, religion, nationality, migration status or association alone, and that discriminatory enforcement is incompatible with the Convention.

Recommendations

On this basis, it is recommended that the Special Rapporteur advise that:

- The Draft Convention definition should be revised to confine terrorism to intentional lethal or seriously violent acts against persons, coupled with a narrowly defined special intent, in line with the 2010 model definition
- Property damage, economic loss and broad "infrastructure" offences should not constitute terrorism in the absence of an intent and realistic capacity to cause death or serious bodily injury.
- The "any act" language in the coercion element and the broad contribution clause in Article 2(3)(c) should be redrafted to prevent the criminalisation of peaceful protest, social movements, humanitarian engagement and legal assistance.
- Explicit safe-harbour, human-rights and IHL-preservation clauses should be incorporated directly into the Convention text, not left to later interpretation, to ensure foreseeability and to protect civic space, humanitarian action and refugee protection.

These changes are essential if a comprehensive convention is to strengthen, rather than undermine, the rule of law, human-rights protection and the integrity of IHL in both peace and conflict settings.

5. DEFINING THE MEANING "TERRORIST ORGANISATION" FOR THE PURPOSE OF THE INTERNATIONAL OR NATIONAL LISTING OR DESIGNATION

This section addresses Question 9 of the Call for Input: "Should international law define the meaning of 'terrorist organisation' for the purpose of the international or national listing or designation of such organisations (e.g. to impose sanctions or trigger additional criminal law

liabilities)? If so, what additional elements (beyond the underlying definition of 'terrorism') are necessary to define 'organisation' and to articulate the link between terrorism and the organisation?"

As analysed in Sections 1–3, terrorism itself must be narrowly defined as intentionally lethal or seriously violent conduct, committed with the purpose of terrorising a population or—under strict limitations—coercing a government or international organisation, and must not rely on motivation by ideological, political or religious objectives. Any definition of "terrorist organisation" must therefore be strictly derivative of this core offence and cannot extend to groups whose activities do not meet this threshold. This is essential to prevent the abusive designation of broad social, religious or political milieus as "terrorist organisations" in ways that transform vague and irrefutable accusations—such as "association", "belonging", "support" or "entrisme"—into triggers for exceptional criminal, administrative and financial consequences that fall squarely on protected civic, humanitarian or political activity.

Position.

International law should define "terrorist organisation" for listing and designation purposes to avoid leaving such definition entirely to the discretion of States and to ensure a narrow, rights-compliant framework incorporating strict substantive and procedural safeguards. Without such constraints, organisational designations amplify the harms of overbroad terrorism definitions by attaching exceptional legal consequences—criminal, administrative, financial and reputational—to entities and persons whose activities often fall within the protection of international human-rights law, including civil-society, humanitarian and political work.

5.1 Substantive Definition of "Terrorist Organisation"

For the purposes of listing and designation, "organisation" should be understood as a group of persons structured around a certain degree of permanence, coordination and decision-making—such as command structures, internal rules or recognisable leadership—rather than loose networks, social movements or informal communities. This distinction is essential to avoid the designation of broad social, religious or political environments as "terrorist organisations" and to ensure that the organisational label is strictly tied to entities that plan, direct or systematically carry out conduct amounting to terrorism as narrowly defined above.

On this basis, a "terrorist organisation" in international law should be defined as an organised group which:

- Exhibits a certain permanence, internal coordination and leadership or decision-making structure.

- Plans, directs, orders, commits or attempts to commit acts that meet the narrow definition of terrorism (intentionally lethal or seriously violent conduct, aimed at terrorising a population or coercing a government or international organisation under strict conditions).
- Systematically uses or endorses such conduct as a method of operation, rather than sporadically or through isolated acts attributable to individual members acting ultra vires.

Conversely, entities whose activities consist primarily of advocacy, charity, social services, religious or political work, including robust criticism of State authorities or calls for systemic reform, must not be labelled as “terrorist organisations” in the absence of proof that their leadership structures intentionally plan, direct or endorse conduct that meets the core terrorism threshold. This requires explicit exclusion clauses to prevent States from designating political opposition movements, civil-society organisations, human-rights defenders, humanitarian actors or religious associations as “terrorist organisations” solely on the basis of ideology, alleged “entrisme”, “subversion” or non-violent contact with proscribed groups.

5.2 Procedural safeguards and cascading effects of designations

Embbed Protection of fundamental rights principles. Best practives must ensure in the definition that listing and designation procedures fully respect the fundamental principles of individual criminal responsibility and presumption of innocence. Collective punishment or guilt by association must be explicitly prohibited, and designation procedures must not create de facto categories of individuals who are presumed guilty based on their association with or support for listed organisations, rather than on proven individual criminal conduct.

In the same vein, mere ideological affinity, shared grievances, overlap in support base or unproven allegations of "inspiration" cannot, in themselves, justify organisational designation. The dangers of over-reliance on ideological or religious motivation in the definition of terrorism—documented throughout this submission—constitute a clear warning against extending the "terrorist organisation" label to groups solely because they espouse radical views, belong to a stigmatised community or are associated, in public discourse, with contested political projects.

Because organisational listing decisions routinely trigger far-reaching criminal, administrative, financial and reputational consequences, international law should require robust procedural guarantees: prior or prompt judicial review by an independent and impartial tribunal; strict evidentiary standards focused on verifiable conduct; access to sufficient information to enable an effective challenge; periodic review and sunset clauses; and clear de-listing procedures. These safeguards are not only necessary at the national level, but also at the UN level and in regional regimes, given the dynamic of “cascading” or “copy-paste” designations once an initial listing has occurred in one jurisdiction.

Lessons learned by Alkarama

The experience of Alkarama illustrates how the designation or stigmatisation of an organisation in one State can produce cross-border and multi-layered impacts that go far beyond the initial decision. Following the decision of the United Arab Emirates to list Alkarama as a "terrorist organisation", this national designation was rapidly echoed and operationalised through non-judicial channels in other jurisdictions, including the denial of ECOSOC Status, the closure or refusal of bank accounts in Switzerland under "know your customer" and de-risking policies; and a wider pattern of financial exclusion that directly affected the organisation's ability to pay staff, receive donations and maintain basic operations.

These consequences were compounded by coordinated media campaigns in European outlets such as Heidi.news—which relied on leaked Abu Dhabi documents (the so-called "Abu Dhabi Papers")—that presented Alkarama as linked to terrorism or to the Muslim Brotherhood without any judicial finding to that effect, thereby reinforcing risk-averse behaviour by banks, donors and authorities.

At the UN level, Alkarama also faced serious obstacles in obtaining or maintaining consultative status before ECOSOC as a result of politically motivated objections built on these foreign listings and media accusations rather than on any evidence of wrongdoing. The net effect was to restrict the organisation's access to UN human-rights mechanisms and to reduce its ability to submit information and support victims—thus transforming a national listing into a de facto reprisal that undermines the UN's own protection mandate. Internally, staff have had to devote significant time and resources to defending the organisation's reputation, responding to bank inquiries and legal challenges, and managing risk assessments, rather than focusing on their core mandate of documenting violations and assisting victims in the MENA region. These cumulative impacts mirror the dynamics documented in other reprisal cases, such as that of Ebtisam Al-Saegh in Bahrain, where counter-terrorism narratives and the UAE designtaion were used to punish her engagement with Alkarama to doocument cases of violations to UN mechanisms.[34]

This case underlines why international standards on listing and designation must explicitly regulate:

- The evidentiary threshold for designating "terrorist organisations", excluding mere ideological affinity, political opposition or human-rights advocacy.
- The use of listings by financial institutions and regulators, ensuring that KYC and de-risking policies cannot automatically treat political designations as proof of terrorist conduct.

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- The obligation of States and UN bodies to prevent and remedy reprisals, including those arising from abusive use of “terrorist” labels against NGOs engaging with the UN.

5.3 Risks of Current Listing Practices

In practice, many national and international listing regimes operate on the basis of opaque, intelligence-driven procedures, with low evidentiary thresholds, broad discretion and limited avenues for effective legal remedy.

Case study: Algeria: broad terrorism definitions and non-judicial listing

Algeria offers a stark example of how expansive terrorism definitions and non-judicial listing mechanisms can be deployed against peaceful political opposition and civic actors. Since the 2021 amendment of article 87 bis of the Criminal Code, the offence of terrorism encompasses a long list of vaguely defined acts—such as “obstructing traffic”, “occupying public places by assembly” or “attacking the symbols of the nation and the republic”—and now also “working or inciting, by any means, to gain access to power or to change the system of government by non-constitutional means”.

At the administrative level, the 2021 presidential order also introduced a national list of “terrorist persons and entities” under article 87 bis, to be compiled by a Commission for the Classification of Terrorist Persons and Entities composed exclusively of members of the executive, mainly from the security and military apparatus, and devoid of any judicial or parliamentary representation.

The first designations under this mechanism targeted political movements which challenged political and power structure such as Rachad and the MAK, as well as exiled peaceful opponents and human-rights defenders, despite their non-violent advocacy and, in Rachad’s case, an explicit commitment to democratic non violent change.

The former Special Rapporteur underlined that, because listing is imposed by the State and carries consequences akin to a criminal sanction (asset freezes, travel bans, severe stigmatisation), it should not be possible without prior judicial determination of individual responsibility; yet article 87 bis allows the mere opening of a preliminary investigation to trigger listing, in clear tension with the presumption of innocence under articles 11 of the UDHR and 14 of the ICCPR.

This Algerian practice demonstrates the structural dangers of defining terrorism so broadly that it absorbs “subversion” and peaceful contestation of constitutional arrangements, and then linking such a definition to non-judicial listing and exceptional procedural regimes. It shows how, once the law equates dissent with terrorism at the definitional level, listing bodies and prosecutors can treat political affiliation, speech or association as sufficient evidence of “terrorist” status, without ever proving involvement in violent acts or serious criminal

conduct, thereby undermining legality, fair-trial rights and the protection of civic space that any future comprehensive convention on terrorism is meant to preserve.

In relation to Algeria, both Sppain and France have given direct legal effect to this listing in their territory : in the cases of the adminstrative expulsion of Mohamed Abdllah and Mohamed Benhalima (cf section 1 above) as well as in the entry ban against Abbas Aroua by France .

Case study: France

French counter-terrorism administrative practice illustrates how ideologically charged notions elaborated at the political level can migrate into the legal lexicon and be operationalised through intelligence-based evidence such as notes blanches. The political and media construction of “entrisme fréristе” has drawn heavily on the 2020 parliamentary information report on the Muslim Brotherhood in France, whose alarmist theses—depicting the Brotherhood as pursuing a concealed strategy of “subversion” of the Republic through associations, schools and charities—have been widely criticised by scholars and NGOs for conflating conservative religiosity, associative engagement and legal political activism with a threat to national security.[35] In parrallel of this report and subsequent government speeches, references to “entrisme” and “soutien aux Frères musulmans” increasingly appear in counter-terrorism administrative files and ministerial submissions, functioning as shorthand for a diffuse ideological risk rather than as evidence of involvement in violent activities.

In France, the use of "notes blanches"—anonymised intelligence summaries without identified sources or verifiable factual detail—to support association dissolutions, asset-freezes and other measures shows how organisational labelling can rest almost entirely on undisclosed intelligence, with no judicial scrutiny. In cases documented by Alkarama, administrative courts have accepted as legal arguments a simple affirmation in a "note blanche" that an organisation is "terrorist" to apply its legal consequences on individuals accused of being "affiliated" or "supporting" such group (such as denial of asylum status, entry bans).

Within this context, French administrative courts have normalised the use of notes blanches emanating from the intelligence services as principal—and sometimes virtually exclusive—evidence to support adminsitrative measures such as residence bans, mosque closures, freezing of assets, visa refusals or naturalisation withdrawals. These notes are unsigned, de-classified intelligence summaries, often drafted in highly general terms, which may simply assert that an individual “supports” the Muslim Brotherhood, “maintains relations” with persons reputedly linked to it, or “benefits from their support”, without specifying concrete acts, dates, financial flows or operational contributions. Courts tend to accepts such a note as “precise and detailed”, providing them with *de facto* presumption of accuracy and shifts the

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burden of proof onto the person concerned. The latter is placed in a logically impossible situation of having to demonstrate that they do not support, and are not supported by, a loosely defined transnational movement on the basis of information to which they have no access.

Scholars have shown that, especially in terrorism-related and "radicalisation" cases, this system generates what they explicitly describe as a "zone grise" where administrative policing and intelligence merge, and where the individual is trapped in a Kafkaesque evidentiary dilemma, unable either to access the underlying material or to disprove broad claims of ideological affinity such as alleged "entrisme fréristе". In this way, the French example complements the Algerian case: while Algeria expands terrorism at the definitional level and then uses non-judicial listings, France demonstrates how politicised organisational narratives (such as "Muslim Brotherhood entrism") and intelligence-based evidence (notes blanches) can erode principles of legality, equality of arms and effective judicial protection even without formally redefining terrorism or "terrorism entity".

Together, these case studies support the core recommendation of this submission: any comprehensive convention on terrorism must strictly delimit both the individual offence of terrorism and the derivative concept of "terrorist organisation", and must require rigorous procedural and evidentiary safeguards for listing and designation, in order to prevent the kind of cascading, transnational harms exemplified by the Alkarama case and the structural civic-space restrictions seen in Algeria and France.

Case study: Egypt

On February 17, 2015, Law No. 8/2015 on "Regulating Lists of Terrorist Entities and Terrorists" was adopted by presidential decree in the absence of a parliament.16 The law defined both "terrorist" and "terrorist entities" so broadly that it allowed for the listing of peaceful human rights activists and journalists.17 Article 1 of the law defines terrorist entities as:

"any association, organization, group or gang that attempts to, aims to or calls for destabilizing public order; endangers society's wellbeing or its interests of safety; harms individuals or terrorizes them, or endangers their lives or freedoms or rights or safety; endangers social unity; harms the environment or natural resources or monuments or communications or transportation or funds or buildings or public or private property, or occupies them; obstructs the work of public authorities or the judiciary or government entities or local municipalities or houses of worship or hospitals or scientific institutions or diplomatic missions or international organizations; blocks public or private transportation, or roads; harms national unity or national peacefulness; obstructs the implementation of the constitution or laws or bylaws; uses violence or power or threats or acts of terrorism to achieve one of its goals."

Egypt offers a clear illustration of how vague “belonging” and “support” offences, combined with exceptional courts, facilitate arbitrary terrorism prosecutions in the absence of material evidence.[36]

In Egypt, Emergency and Supreme State Security Courts routinely rely on blanket terrorism charges such as “belonging to a terrorist group” or “supporting a terrorist organisation”, often with a generic or shifting reference to the Muslim Brotherhood and sometimes without specifying any organisation at all. Judges commonly treat uncorroborated assertions by State Security officers as sufficient to establish both organisational “belonging” and the terrorism offence itself, dispensing with any need to prove concrete acts of participation, contribution or violent conduct. This practice operates within a broader counter-terrorism framework—Law No. 8/2015 on terrorist entities and Law No. 95/2015 on terrorism—that already define “terrorist entities” and “terrorist acts” in extremely broad and vague terms, enabling the designation and prosecution of peaceful activists, journalists and human-rights defenders solely on the basis of alleged association or support.

Alkarama’s report on Egypt documents numerous cases in which defendants before State Security or terrorism circuits were convicted on charges of “joining a banned group” or “supporting a terrorist organisation” without any individualised evidence of violent activity, with courts relying almost exclusively on “investigation reports” or oral statements by security agents and disregarding allegations of torture or enforced disappearance used to extract confessions.

UN Special Procedures and treaty bodies have repeatedly criticised these patterns, highlighting Egypt’s systematic use of torture, enforced disappearance and unfair trials in terrorism cases, and noting that mass trials and terrorism listings rest on presumptions of guilt by association rather than proof of specific criminal acts.

These findings exemplify the core risk addressed in this submission: when “belonging” or “supporting” offences are loosely defined and evidentiary standards are not rigorously regulated, counter-terrorism law becomes a vehicle for collective stigmatisation, status-based punishment and the suppression of peaceful dissent under the guise of combating terrorism.In effet, ony individual found to belong to the “terrorist entity”, or any individual found to “promote or raise its slogans” can, in turn, be listed as a terrorist and prosecuted. The law was also extended to lawyers who defended listed individuals, as well as journalists who reported on violations committed against listed individuals and entities, as such activities can be interpreted as a form of “support”.[37]

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[36] Egypt: Special Rapporteur concerned about use of anti-terrorism legislation against human rights defenders, 15 January 2025; Alkarama, making silence the law of the land. Egypt’s crackdown on freedom of expression, January 25, 2018 https://www.alkarama.org/sites/default/files/2018-01/Making%20Silence%20the%20Law%20of%20the%20Land%20-%20Egypt%27s%20crackdown%20on%20freedom%20of%20expression.pdf

[37] Alkarama, Egypt: Human Rights Activist Missing After Arrest Tortured, Raped and Prosecuted Under Anti-

Global impact of designations

The global study on the impact of counter-terrorism on civil society and documentation of transnational repression demonstrate that once an entity is listed—whether nationally, regionally or under UN or partner-state regimes—the consequences are far-reaching: criminalisation of membership and support, travel bans, asset-freezes, financial de-risking, loss of consultative status and long-term reputational stigma.

NGOs and human rights defenders associated—sometimes only in media or intelligence narratives—with listed entities, as in the case of Alkarama and its work on detainees accused of terrorism or support to Rachad, become collateral targets of restrictions and reprisals, despite engaging in activities clearly protected under international human rights law.

Thus, the impact of such a designation can amount to a slow "death" of the NGO by imposing restrictions to their activities—including financial and banking—and capturing the working time and efforts of legal teams in the defense of the organisation rather than on its actual work.

Furthermore, Alkarama has observed that as a result of designations in the Gulf region or accusations of links to the "Muslim Brotherhood" in Egypt, victims were wary of having their cases submitted by the NGO while lawyers and human rights defenders would hesitate to cooperate in documenting cases of violations. For example, in its XXX Report, the UN Assistant described the consequences on Ebtissam Al Sayegh, accused of providing information that could hurt the image of Bahrain to a "terrorist organisation," namely Alkarama—while the NGO had not even been listed in Bahrain but in the UAE only—showing that the publication of a list by media release without any judicial procedure could impact the work of an NGO with large spill-over effects.[38]

5.4 Recommendations on Safeguards for Listing and Delisting

Given these stakes, any international definition of "terrorist organisation" must be coupled with detailed procedural guarantees for listing and delisting that operationalise the principles outlined in Section 4.

Procedural safeguards should include:

- **Clear, public criteria** tied to the narrow terrorism definition, requiring evidence of organisational responsibility for specific terrorist acts, not merely general references to "extremism," "radicalisation" or "subversion."

Terrorism Law, https://www.alkarama.org/en/articles/egypt-human-rights-activist-missing-after-arrest-tortured-raped-and-prosecuted-under-anti , April, 27, 201

[38]

- **Notification to listed entities**, with sufficient disclosure of reasons and underlying material, subject only to strictly necessary and proportionate confidentiality, so that they can understand and effectively challenge the basis of the designation.
- **Access to an independent and impartial review mechanism** with full jurisdiction—preferably judicial—that can examine both law and fact, order disclosure, receive exculpatory evidence and quash or amend listings.
- **Regular, time-bound review (sunset clauses)** requiring the designating authority to demonstrate that the legal criteria continue to be met, failing which the organisation must be delisted.
- **Explicit protection for human rights and humanitarian actors**, ensuring that engagement with listed entities for purposes of legal representation, documentation, advocacy or humanitarian assistance is not, in itself, treated as support or membership.

International review mechanism:

In order to avoid a political use of listings by States, an independent, expert-based review mechanism should be provided either by international conventional law through the Convention or based on Customary law through the Human Rights Council under the mandate of the Special Rapporteur or the General Assembly with another Assistant to the Secretary General. We believe the Special Rapporteur should call for an explicit addition in its mandate and adequate means to carry out such review as long as the Convention fails to establish such a mechanism.

Transnational repression and safeguards:

In accordance with international standards, listing regimes should incorporate robust safeguards against the misuse of designations for political or diplomatic purposes. These safeguards should be implemented in the context of transnational repression and interstate relations.

The use of counter-terrorism labels by Algeria in its dealings with partner States, and the reliance by Countries such as Spain or France on alleged links to listed Algerian entities to justify administrative measures such as entry bans or expulsions, exemplify how organisational designations can be instrumentalised beyond any genuine counter-terrorism need, to the detriment of freedom of movement, expression and association and in ways that conflict with obligations of non-refoulement and protection of human rights defenders.

When articulated with precision, an international definition of "terrorist organization" has the potential to contribute to the limitation of such practices by anchoring organizational designations in a constrained, violence-based conception of terrorism and by integrating enforceable procedural safeguards. In our view, in light of the present circumstances, the

mandate of the Special Rapporteur constitutes the most efficient mechanism for review in the absence of an effective and independent treaty-based review mechanism.

6. RISKS TO HUMAN RIGHTS FROM CONFLATING TERRORISM, "VIOLENT EXTREMISM" AND "EXTREMISM" (Q10, WITH LINKS TO Q1–Q5)

This section addresses the issues raised by Question 10 on whether or not international law should define "violent extremism" and "extremism", or if these are incapable of adequate legal definition in a manner consistent with international human rights law.

Position

International law should not define "violent extremism" or "extremism", and these notions should not be incorporated into international, regional and domestic laws, because they are incapable of adequate legal definition in a way that complies with the requirements of legality, foreseeability and non-discrimination under international human rights law .

In practice, adding "violent extremism" and "extremism" to the counter-terrorism toolbox has operated as a catch-all, stretching actus reus, mens rea and purpose beyond even broad terrorism definitions and enabling the almost unlimited extension of counter-terrorism measures to peaceful dissent, civil society activity and stigmatised groups. Discriminatory policies and severe human rights abuses have been particularly prevalent in the proliferation of administrative and preventive measures aiming at preventing "terrorism" and the associated vague notion of "extremism" .

6.1 Overbreadth and vagueness

As set out in Sections 1–3, in line with the model elaborated by the Special Rapporteur, terrorism offences should be strictly limited to intentionally lethal or seriously violent conduct, committed with the specific purpose of terrorising a population or coercing a government or international organisation, without any need for additional motivation based on an ideological, political or religious objective, and by Security Council resolution 1566 .

By contrast, "violent extremism" and "extremism" categories have developed in parallel to “terrorism” within counter-terrorism legal frameworks and without any guarantees to limit overly broad and vague definitions. Our experience shows that these categories have typically covered conduct and expression already addressed by ordinary criminal law (such as acts falling under Article 20 of ICCPR) or that fall entirely within the realm of protected rights, such as non-violent protest, advocacy for institutional change, the expression of unpopular opinions or certain religious conduct.

Beyond their over-inclusive reach, notions such as "violent extremism", "extremism", "radicalisation" or "subversion" are inherently subjective and malleable, inviting assessments

of perceived dangerousness that turn on beliefs, opinions or identities rather than on clearly defined conduct.

In practice, States attach these labels to an ever-expanding range of behaviours which share a common feature: they are *prima facie* protected by fundamental rights and freedoms, including freedom of expression and of the media, freedom of religion or belief, and freedom of association .

The UN Special Rapporteur on counter-terrorism has underlined that related concepts used in national frameworks, such as "radicalisation" in France[39] or "subversion" in Algeria[40], are not capable of meeting the legality requirement under international human rights law, yet are nonetheless linked to counter-terrorism and benefit from exceptional legal regimes .

As documented in the global study on the impact of counter-terrorism on civil society, while these notions have been deployed primarily in relation to Muslim communities, their open-ended nature has facilitated their extension to other targets, including environmental and other social movements, revealing their potential as unlimited tools to securitise and repress thought and belief in contradiction with basic democratic principles of pluralism, minority rights and religious freedom [41].

The recent report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice highlights similar expansionary dynamics in the evolution of the "Prevent" strategy. The 2011 Prevent review moved from "violent extremism" to a definition of "extremism" as "vocal or active opposition to fundamental British values", thereby bringing non-violent ideas within the ambit of counter-terrorism policy and casting a very wide net over lawful political or ideological positions, including "left-wing" motivations that Home Office training materials have, at times, suggested could meet the "threshold of terrorist intent or action" . These examples confirm that "violent extremism" and "extremism" lack the precision required of criminal-law concepts and invite the policing of belief and association rather than clearly defined conduct.[42]

6.2 Discriminatory and politicised application

The open-textured nature of "violent extremism" and "extremism" has facilitated their discriminatory and politicised application, particularly against Muslims, racialised communities, political opponents and social movements. In France, intelligence "notes blanches" and administrative measures frequently conflate "radical Islam", "Islamism", the Muslim Brotherhood and terrorism, treating bare assertions of "radicalism" as sufficient to

[39] UN Special Rapporteur visit to France, op.cit.
[40] OL DZA 12/2021
[41] Global study, op.cit., p. 24
[42] Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice, op.cit.

qualify associations and NGOs as extremist and to justify dissolution or other preventive measures, without disclosure of any concrete involvement in violence .

This practice has directly affected organisations working in or with Muslim communities, as well as figures associated, even tenuously, with alleged "Brotherhood" networks.

In the UK, the Independent Commission's analysis of Prevent confirms that, notwithstanding subsequent expansion to cover all forms of terrorism, the policy has had a disproportionate impact on Muslim communities, particularly during its earlier phase when it focused almost exclusively on Al-Qaeda-related threats and effectively securitised relationships with Muslim communities. The reliance on contested radicalisation theories, the statutory Prevent duty imposed on teachers, healthcare professionals and social workers, and the focus on "extremist" ideas have generated patterns of over-referral, mistrust and chilling effects on freedom of expression and religion, especially for Muslims and racialised youth .

In France, the Special Rapporteur on counter-terrorism has similarly expressed concern about overly broad terrorism-related offences and the use of counter-terrorism and "radicalisation" frameworks in ways that facilitate racial and religious profiling, particularly of Muslims, and shift the regulation of liberties into a "pre-criminal" space. Academic analysis of intelligence "notes blanches" confirms that such anonymised intelligence summaries are now routinely used to justify a wide range of administrative measures—during the 2015–2017 state of emergency, under the SILT law, and in areas such as expulsions, visa refusals, de-naturalisation, asset-freezes and association dissolutions—despite the absence of identified sources or verifiable facts .

The recent joint communication concerning the interdiction d'entrée du territoire against Abbas Aroua illustrates how these tools, combined with vague references to "threats" to national security and relations with Algeria, facilitate decisions that rely on unsubstantiated allegations of "Islamist extremism" and presumed links to proscribed Algerian entities, with serious consequences for freedom of movement, expression and association .

French counter-terrorism administrative practice shows how the political and media construction of “entrisme fréristе” has migrated into the legal lexicon to justify preventive measures on the basis of mere alleged sympathies or contacts with the Muslim Brotherhood.[1] This narrative draws heavily on the 2020 parliamentary information report on the Muslim Brotherhood in France, whose alarmist theses have been widely criticised by scholars and NGOs for conflating conservative religiosity, associative engagement and legal political activism with a strategy of “subversion” incompatible with the Republic. In the wake of this report and subsequent government speeches, references to “entrisme” and “soutien aux Frères musulmans” have increasingly appeared in counter-terrorism administrative files and ministerial submissions as a shorthand for diffuse ideological risk rather than evidence of involvement in violent activities.

Within this context, French administrative courts have normalised the use of “notes blanches” emanating from the intelligence services as principal – and sometimes virtually exclusive – evidence to support measures such as residence bans, mosque closures, freezing of assets, visa refusals or naturalisation withdrawals. These notes are unsigned, de-classified intelligence summaries, often drafted in highly general terms, which may simply assert that an individual “supports” the Muslim Brotherhood, “maintains relations” with persons reputedly linked to it, or “benefits from their support”, without specifying concrete acts, dates, financial flows or operational contributions. Once the court accepts such a note as “precise and detailed”, it benefits from a de facto presumption of accuracy and shifts the burden of proof onto the person concerned, who is placed in a logically impossible situation of having to demonstrate that they do not support, and are not supported by, a loosely defined transnational movement on the basis of information to which they have only partial access.

The doctrinal literature on notes blanches in French administrative law has underlined how this evidentiary regime structurally disadvantages applicants: the intelligence note is produced in a sanitised form that protects sources and methods, is often the sole substantive basis of the measure, and yet can only be “seriously contested” if the applicant produces numerous, concordant and detailed attestations capable of overturning a presumption built on anonymous allegations.

Scholars have shown that, especially in terrorism-related and “radicalisation” cases, this system generates what they explicitly describe as a “zone grise” where administrative policing and intelligence merge, and where the individual is trapped in a Kafkaesque evidentiary dilemma, unable either to access the underlying material or to disprove broad claims of ideological affinity.

In this way, the French example demonstrates how an ideologically charged category such as “Muslim Brotherhood entrism”, first elaborated in a parliamentary report and contested in academic debate, can be transformed into an operative legal label through notes blanches, thereby eroding the principles of legality, equality of arms and effective judicial protection that any comprehensive convention on terrorism ought to safeguard.

6.3 Slippery slope toward policing thought under counter terrorism laws

The global study on the impact of counter-terrorism on civil society and reports on transnational repression document how the language of "extremism" has been used not only against Islamist currents but also against pro-democracy activists, environmental defenders and independence or autonomy movements whose actions do not meet any plausible terrorism .

Once "extremism" is introduced into law and policy, the threshold for deploying counter-terrorism tools tends to slide from clearly violent conduct to non-violent ideology and dissent across a broad spectrum of actors in what dangerously resembles an Orwellian thought police.

Case study: Munasaha "rehabilitation centres" in Saudi Arabia and the United Arab Emirates

This effect can be seen in a paroxysmal manner with the establishment of Munasaha "rehabilitation centres" for "extremists" and "terrorists" in Saudi Arabia and the United Arab Emirates. Such centers have been established as part of the two countries' counter-terrorism frameworks as institutions of thought-reform, where detainees are held once they serve the entirety of—often arbitrary—sentences and "re-educated" to abandon religious and political views and beliefs that are not endorsed by the authorities .

United Arab Emirates: criminalisation of dissent and necessary "rehabilitation"

On 31 August 2014, Federal Law No. 7/2014 for the purpose of countering terrorism (the Counter-Terrorism Law) was promulgated in the United Arab Emirates, providing for the detention of individuals who "pose a terrorism threat" in "Munasaha" centres.

Article 1 of the Counter-Terrorism Law defines these Munasaha centres as: "Administrative units aiming at the enlightenment and reform of persons deemed to pose terrorist threat or those convicted of terrorist offences." The functioning of such centres is regulated by the "Munasaha Centre Decree" which extends the mandate of the centre to the counselling and rehabilitation of holders of terrorist, extremist or deviant thought" (Article 4(2)). The State Security Prosecutor has power to place someone in a Munasaha centre while such decision can be challenged before the State Security Chamber of the Federal Supreme Court, which does not meet the standard of an independent review mechanism according to the UN Working Group on Arbitrary Detention .

In practice, since in the UAE criticising the ruling family or advocating for reforms is criminalised as terrorism, human rights lawyers and defenders as well as political opponents are held in these centres after serving lengthy arbitrary sentences, until their political or religious beliefs are deemed in line with those of the ruler. Cases brought by Alkarama to the UN human rights mechanisms include human rights lawyer Mohamed Al Roken who was transferred to the Munasaha centre in the prison where he had already served a 10-year arbitrary sentence for denouncing fair trial violations in mass political trials. In effect, Mr Al Roken can be kept indefinitely as long as he is still deemed a threat to state security, the threat being his defense of human rights.

The UN WGAD also raised the issue of detentions in "rehabilitation" centres ordered by the State Security courts at the request of the prosecution. The anti-terrorism law does not clearly specify the maximum duration of detention in these centres nor the obligation to renew the detention order. According to Article 40(3) of the anti-terrorism law and Article 11 of the law on rehabilitation centres, the centre must send a quarterly report to the prosecutor, who transmits it to the court along with his opinion on the detainee's possible dangerousness. The court can then decide on release if the detainee's "situation" allows . It is important to underline that the UAE continues to detain over 60 prisoners of conscience, most of whom

have served their sentences since July 2022 but remain imprisoned under the pretext of "rehabilitation" (Munasaha), despite numerous violations, torture, and ill-treatment.

Saudi Arabia: criminalisation of dissent as "deviant religious views"

The use of such centres in Saudi Arabia follows the same logic, established by the anti-terrorism law the establishment of counselling centres (Munasaha Centre or "مركز المناصحة") "to provide educational awareness to the detainees and convicts in the crimes set out in the law" and aimed at "[correcting] their ideas and [deepening] their national affiliation" (Article 88).

The case of Saudi Arabia is however illustrative of a particularly concerning practice linked to the nature of the Saudi State. As a Monarchy and as a theocracy , the Kingdom has an official Islamic doctrine—Wahhabism—which governs its political and social policies and strongly emphasises obedience to the ruler as a cornerstone of its religisous belief system. [43]

Furthermore, Wahhabi doctrine treats criticism of the ruler as a religious offence; public criticism of royal power is therefore construed simultaneously as a political and, above all, a religious transgression, an "extremist" and "deviant view" criminalised under the 2014 Anti-Terrorism Act[44]. As a result, political detainees, human-rights defenders and other prisoners of conscience are transferred to such centres after serving their sentences, and remain there until the authorities consider that they have "reformed" their beliefs to align with the absolute obedience to the ruler imposed by State-sanctioned religious doctrine.

In practice, a human-rights defender or any opponent sentenced under the Anti-Terrorism framework for openly criticising or disobeying the King or Crown Prince will remain in detention and be subjected to "counselling" unless and until they commit to revoking their previous beliefs and to never again criticise the ruler; in some cases, they are expected to publicly renounce their criticism and to express support for the King or Crown Prince. This practice amounts to the use of counter-terrorism powers to enforce ideological conformity and to punish the exercise of core rights to freedom of thought, conscience, religion and expression, in clear contradiction with articles 18 and 19 ICCPR and with the Special Rapporteur's consistent position that counter-terrorism measures must never be used to regulate belief or non-violent political dissent.

[43] The official religious doctrine in Saudi Arabia considers the refusal to obey or the public criticism or the attempt to overthrow a ruler ("Khrurooj 'an al-hakim") even under tyranny as a form of "religious deviance", regardless of whether or not this opposition takes a peaceful or violent form. This would be prosecuted generally under the charge of "breaking allegiance to the King". See for a definition of this concept, its Saudi origin and its exportation in post-revolution Libya: Anas Al Gomati, « Libya's Arab Spring: Revolution against a 42-Year Dictatorship », in Larbi Sadiki (dir.), Routledge Handbook of the Arab Spring: Rethinking Democratization, Routledge, 2014, p. 120.
[44] Alkarama, "SAUDI ARABIA'S 2017 ANTI-TERRORISM LAW, AN ANALYSIS OF THE LAW ON COMBATING TERRORISM AND ITS FINANCING ADOPTED BY THE SAUDI COUNCIL OF MINISTERS ON 31 OCTOBER 2017",

The same risks arise in countries that are formally committed to democratic values of pluralism and freedom of speech and belief, highlighting the dangerousness of associating categories such as “extremism”, “radicalism” or “subversion” with “terrorism” without any requirement of violent acts. The latest Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice documents an analogous drift: Prevent’s shift from “violent extremism” to “extremism”, and its anchoring in an expanded notion of “fundamental British values”, have broadened the range of speech and belief that can trigger referrals to Channel and other interventions, including views categorised as “left-wing” or generally “anti-establishment”. This confirms the core insight of your draft: “violent extremism” operates as a catch-all that stretches actus reus, mens rea and purpose so that what is targeted is no longer violence, but deviation from State-sanctioned norms.

6.4 Impact on civil society, education and social services

The conflation of terrorism with “violent extremism” and “extremism” has particularly serious consequences for civil society, education and social services, which are increasingly enlisted as frontline actors in security policy. As illustrated by the Alkarama case study, NGOs that document abuses against people accused of supporting proscribed groups, or that litigate on behalf of political movements labelled “extremist”, are themselves portrayed as “supporting” or “being supported by” those movements. This exposes them to national listings, media smear campaigns, banking de-risking and restrictions on accreditation, and isolates them from potential partners who fear guilt by association, thereby shrinking civic space and undermining access to justice for victims.

In France and the UK, teachers, academics, medical staff and social workers are required or strongly encouraged under Prevent-style duties or national-security policies to identify signs of “radicalisation” or “extremism”, often on the basis of subjective and culturally loaded indicators such as changes in dress, religious practice or political opinions. This not only risks undermining trust within schools, universities, hospitals and social-service institutions, but also incentivises over-reporting of members of already stigmatised communities, entrenching structural discrimination and reinforcing a climate of fear and self-censorship.The same risks arise in countries expected to comply with democratic values of pluralism and freedom of speech and belief, highlighting the dangerousness of associating categories such as "extremism", "radicalism" or "subversion" to "terrorism" without any need for violent acts.

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rea and purpose, so that what is targeted is no longer violence but deviation from state-sanctioned norms.[45]

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Recommendations

These patterns support a clear answer to Question 10: international law should not define "violent extremism" or "extremism" or otherwise endorse these notions as legal categories at risk of encouraging criminalisation of thoughts and beliefs.

Instead, any future standards should:

• **Confine terrorism offences** to a narrow, rights-compliant definition centred on intentionally lethal or seriously violent acts, coupled with the specific terrorising or coercive purpose element identified in the Rapporteur's model definition.

• **Require States to repeal** domestic "extremism" and "violent extremism" frameworks that criminalise non-violent thought, belief or association, or that are demonstrably used in a discriminatory or political manner.

• **Ensure that any preventive or rehabilitative programmes** (such as Channel or "rehabilitation centres") are clearly delinked from coercive criminal consequences and are

[45] Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice, op.cit., p.
[46] Visit to France, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,op.cit.

grounded in evidence, with robust safeguards for privacy, non-discrimination, due process and freedom of conscience.

FINAL CONCLUSION AND RECOMMENDATIONS

Current definitions of terrorism, "terrorist organisations" and "violent extremism" in many domestic and regional instruments remain vague, overbroad and structurally discriminatory. They remain one of the main sources of widespread violations of the rights to liberty, fair trial, non-discrimination, asylum, expression, association and participation in public affair documented by Alkaramain the past 20 years of practice.

More than two decades of practice documenting cases of violations to the right to life, liberty and security in the MENA region under counter terrorism and "extremism" led us to conclude that the absence of a narrow, human-rights-compliant definition has been instrumental in the criminalisation of dissent, the shrinking of civic space, the disproportionate targeting of Muslim communities and racialised groups.

The use of terrorism frameworks to repress social movements, human-rights defenders and NGOs is not restricted to authoritarian or semi-authoritarian contexts but constitutes a major risk to societies expecting their authorities to abide by due process. It has also led to the normalization of exceptional regimes in areas that should remain governed by ordinary criminal and administrative law by incorporating into ordinary law dispositions inherited from states of emergency under the pretext of countering terrorism.

Meanwhile, international cooperation in counter-terrorism has allowed authoritarian countries to export problematic definitions of terrorism and illegal measures taken against opponents and activists who seek asylum abroad.

The Special Rapporteur's 2010 model definition of terrorism still offers the most promising foundation for a rights-compliant approach. Terrorism should be confined to intentional killing, serious bodily injury or hostage-taking, coupled with a specific intent to terrorise a population or coerce a government or international organisation, and motivated by ideological, political or religious objectives, while explicitly excluding legitimate protest, civil disobedience and humanitarian or human-rights activities.

Any derivative concepts—such as "terrorist organisation"—must be strictly linked to this narrow definition and surrounded by robust safeguards that prevent the use of terrorism laws and listings for purposes unrelated to genuine terrorist violence.

By contrast, the practice analysed in this submission demonstrates that attempts to build legal frameworks around "violent extremism" and "extremism" have proved incompatible with legality and equality and have intensified, rather than mitigated, structural Islamophobia and the repression of social movements.

These inherently subjective notions have migrated from bigoted political rhetoric into policy, law, and judicial reasoning, enabling the policing of beliefs, identities and non-violent ideas under the guise of prevention. Any renewed normative effort at UN level should therefore resist codifying "violent extremism" and "extremism" and instead re-centre counter-terrorism frameworks on narrowly defined violent conduct.Against this background, and building on the detailed analysis and case studies set out in Sections 1–6, Alkarama proposes the following final recommendations.

1 Recommendations on the terrorism definition (Sections 1–3)

- Adopt a narrow, violence-based definition of terrorism confined to intentional killing or serious bodily injury, combined with the specific purpose of terrorising a population.
- Question the inclusion of hostage-taking as a standalone *actus reus* element,
- Question the unconstrained specific purpose of "compelling a government or international organisation to act or abstain," and its role in shifting counter-terrorism policies from protecting public safety to advancing state security interests, potentially diluting the focus on actual threats to human life and security.
- Avoid specific motives such as ideological, political or religious ones, particularly reference to religious motives, since practice has shown an over-reliance on such motives that overshadows even core *actus reus* and *mens rea* elements and favors a discriminatory application of counter-terrorism frameworks.
- Explicitly exclude from the definition of terrorism: non-violent expression and association; disruptive protest and civil disobedience; trade-union activity; humanitarian, medical, legal and human-rights work; as well as ordinary public-order offences such as obstruction of traffic or occupation of public spaces.
- Incorporate binding safeguards against discriminatory application, including explicit prohibitions on profiling based on religion, ethnicity, political opinion or other protected grounds, and requirements of necessity and proportionality in all counter-terrorism measures.

2 Recommendations on "terrorist organisations" and listings (Sections 4–5)

- Define "organisation" as a structured group with a degree of permanence and decision-making, and "terrorist organisation" strictly as an organisation that directs, plans or systematically carries out acts meeting the narrow terrorism definition, or bears clear institutional responsibility for such acts, excluding members who do not engage in such activities directly as well as entities that merely share ideas, constituencies or grievances.
- Prohibit the use of vague labels such as "support", "affiliation", "inspiration" or "subversion" as stand-alone grounds for designation, and bar reliance on undisclosed

or uncorroborated intelligence documents as the sole basis for listings or association dissolutions.

- Establish detailed procedural guarantees for listing and delisting, including: public criteria; notification and reason-giving; meaningful disclosure of evidence; access to an independent review mechanism with full jurisdiction; regular time-bound review and sunset clauses; and explicit protection for engagement by legal, medical, human-rights and humanitarian actors with listed entities.
- Recognise and address the use of designations and terrorism narratives as tools of reprisal against NGOs and defenders, and ensure effective remedies including protection and reparation measures in such cases.

3 Recommendations on treaty-making and international frameworks (Sections 3–5)

In relation to any future comprehensive convention on international terrorism and to the broader UN counter-terrorism architecture, States and UN organs should:

- Use a clarified, narrow definition of terrorism as a ceiling rather than a floor, expressly forbidding States from expanding the offence through concepts such as "extremism", "radicalisation" or "subversion" in treaty implementation.
- Integrate into the treaty text, or into an attached interpretive instrument, explicit cross-references to superior norms of international human-rights, humanitarian and refugee law, including non-derogable rights, non-refoulement, the right to a fair trial and the right to an effective remedy.
- Establish an independent oversight mechanism to monitor both State and international or regional organisations to ensure that their policies and programming do not incentivise abusive domestic and cross-border practices.
- Establish an independent international expert-based review mechanism to receive information on potentially non-compliant counter-terrorism legislation as well as arbitrary or unlawful designation of entities and individuals and provide binding interpretation.

4 Recommendations on "violent extremism" and "extremism" (Section 6)

Finally, States and UN bodies should:

- Refrain from introducing or consolidating definitions of "violent extremism", "extremism" or similar notions in international legal instruments, recognising that such concepts are inherently subjective and cannot be reconciled with the principles of legality, foreseeability and equality before the law.
- Review and repeal domestic offences and administrative regimes based on "extremism" and "violent extremism" that criminalise beliefs, associations or non-

violent conduct, and replace them with measures that target only conduct meeting the narrow terrorism definition or other clearly defined violent crimes.

- Explicitly affirm, in any future UN standards or guidance, that freedom of thought, conscience, religion, opinion and expression protect even deeply contested or "radical" ideas, and that counter-terrorism and prevention policies must focus on acts of serious violence rather than on identities, beliefs or advocacy.

5 Additional Recommendations

Based on the comprehensive analysis throughout this submission, we recommend the following additional measures:

- **Enhanced due process protections**: Ensure that the definition of terrorism explicitly incorporates due process guarantees, requiring that all counter-terrorism measures—including preventive measures and administrative sanctions—provide full due process protections. These must include access to effective judicial review, legal representation, and presumption of innocence. To achieve this, the definition should explicitly prohibit the establishment of derogatory legal regimes in ordinary criminal and administrative laws and procedures for counter-terrorism and prevention purposes.
- **Protection of human rights defenders**: Establish specific protections for human rights defenders, journalists, and civil society organizations working on counter-terrorism issues, including safeguards against designation based on their legitimate activities.
- **Gender-sensitive approaches**: Ensure that counter-terrorism frameworks account for gender-specific impacts and do not disproportionately affect women, particularly Muslim women who face intersectional discrimination.
- **Victim-centered approaches**: reinforce the mandate of the SR on counter terrorism as a mechanisms for victims of counter-terrorism abuses to seek effective remedies, including reparation, and ensure that victim participation is integrated in counter-terrorism policy development.
- **Regular review mechanisms**: Create periodic independent and expert-.led review processes to assess the human rights impact of counter-terrorism measures and ensure ongoing compliance with international standards.

These recommendations would help restore the distinction between actual terrorist violence and freedom of thought, to re-open civic space, and re-center counter-terrorism frameworks on human-security preserving both the universality and indivisibility of human rights, and the capacity of States and the international community to address genuinely serious terrorist threats.