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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Human rights impact of policies and practices aimed at  
preventing and countering violent extremism****Report of the Special Rapporteur on the promotion and protection  
of human rights and fundamental freedoms while countering  
terrorism\****Summary*

In the present report, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism addresses the global and national effects of the widespread use of policies and practices aimed at preventing and countering violent extremism. The Special Rapporteur acknowledges the social and political imperatives of addressing violent extremism but underscores that only rights-affirming and rights-focused policies will have long-term success in preventing violence. She underscores the lack of a robust scientific basis for the current policies and practices aimed at preventing and countering violent extremism and the complete absence of human rights-based monitoring and evaluation, including by United Nations entities.

The Special Rapporteur cautions against the simplistic deployment of policy aimed at preventing and countering violent extremism in complex conflict and fragile settings, where a broader spectrum of interconnected interventions is necessary to stem violent extremism. She notes in particular the lack of precise legal definitions of extremism and violent extremism and the widespread abuses of human rights that that produces. Violations of derogable and non-derogable rights are experienced particularly by religious groups, minority groups and civil society. The Special Rapporteur notes the persistent lack of meaningful consultation with and participation of communities targeted by measures to prevent and counter violent extremism. She highlights the commodification of women and girls to advance policy aimed at preventing and countering violent extremism, identifying multiple ethical concerns. She reminds United Nations entities of their foundational due diligence obligations when supporting technical assistance in and capacity-building on preventing and countering violent extremism.

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\* The present report was submitted to the conference services after the deadline in order to reflect the most recent developments.

## I. Introduction

1. Preventing and countering violent extremism has become a central and defining dimension of contemporary global counter-terrorism policy and practice. The most recent comprehensive examination of the human rights impact of preventing and countering violent extremism policies and practices on the promotion and protection of human rights was conducted in 2015.<sup>1</sup> The present report is prompted by the acceleration, deepening and scale of programming aimed at preventing and countering violent extremism globally and the measurable effects on human rights protection, enforcement and the promotion of such programming at the national, regional and global levels. An Internet search for “preventing and countering violent extremism” provides 8.2 million results. The global expansion and breadth of increasingly standardized policies and programmes aimed at preventing and countering violent extremism<sup>2</sup> has become evident to the current mandate holder in her substantive and country-specific work. The present report is timely and necessary, in the light of new and emerging practices and trends, as well as of the centralizing role of international and regional organizations in the conceptualization, creation and delivery of such policies and programmes.

2. Preventing and countering violent extremism is found at the root of extensive high-level legal and policy decisions and practices, and the language thereof is pervasive in political, policy and legal settings. Preventing and countering violent extremism as a discourse and the related set of normative standards are ubiquitous in the counter-terrorism and human rights fields. Measures to prevent and counter violent extremism have significant effects on human rights and the rule of law, as well as on the perceived neutrality and evenhandedness of, and the equal treatment afforded by, States and international organizations to individuals, groups and communities. The Special Rapporteur underscores that the target population of the prevention and countering of violent extremism is by nature much broader than that of counter-terrorism measures, which creates a compelling need for States and national and international policymakers to apply a fine-grained human rights and rule of law analysis to the domain. It is also incumbent upon human rights-focused entities and organizations to better understand the impact and effects of the prevention and countering of violent extremism, to take note when States and international organizations substantially shape their policies around the new vocabulary, to ensure the adherence to due diligence obligations in their application and to avoid their being co-opted by security-driven policies aimed at preventing and countering violent extremism that undermine and diminish human rights protections.

3. The analysis of the Special Rapporteur reaffirms the indisputable global challenges posed by violent extremism. As made clear in the report of the Secretary-General on his Plan of Action to Prevent Violent Extremism,<sup>3</sup> there are significant threats that deserve our attention and require national, regional and global responses.<sup>4</sup> From the emboldened marches and violence of neo-Nazi supporters to the fanatical, brutal violence of Islamic State in Iraq and the Levant (ISIL), violent extremist ideology is pervasive across the globe.

4. It is also clear however that, as with any complex matter that engages the production of collective and individual violence, the diagnosis may be simpler than the cure. Preventing and countering violent extremism as a motif, a discourse and a set of policies and interventions does not emerge in a neutral universe. It arrives after almost two decades of post-11 September 2001 counter-terrorism regulation, into a well-defined global counter-terrorism architecture that has entrenched and consolidated since then. The global promulgation of counter-terrorism norms, of which the prevention and countering of violent extremism is a part, should be understood as precisely that: a global and internationalized

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<sup>1</sup> A/HRC/31/65.

<sup>2</sup> Some countries use only the term preventing violent extremism, while in others countering violent extremism also encompasses preventing violent extremism. The Special Rapporteur will refer to preventing and countering violent extremism.

<sup>3</sup> A/70/674.

<sup>4</sup> United Nations Development Programme (UNDP), “Journey to extremism in Africa: drivers, incentives and the tipping point for recruitment”, 2017.

phenomenon.<sup>5</sup> The prevention and countering of violent extremism is playing an increasingly visible role in the consolidation of a globalized security regime post-11 September 2001, led by the Security Council, Security Council resolution 1373 (2001) and subsequent Council resolutions on the subject.<sup>6</sup>

5. It is essential therefore that a human rights analysis not only address the stand-alone structure of preventing and countering violent extremism, but rather engage in a contextual way the broader production of such policy and practice with the wider landscape of counter-terrorism regulation, recognizing what feminist political scientists call “nested institutionalism”.<sup>7</sup> Although policy aimed at preventing and countering violent extremism may appear as entirely new, it is not. The outlines of legal, policy and institutional responses to preventing and countering violent extremism are pathways that have been well trodden by traditional counter-terrorism law, and tracing those pathways and overlaps will be a subject of the present report.

## II. Definition and legal basis of violent extremism

6. Although the language of preventing and countering violent extremism is relatively new, the genesis of addressing violent extremism results in part from seeking broad and strategic responses to address the social consequences and violent manifestations of violent extremist groups and disrupting them.<sup>8</sup> Early programmes and policy interventions were aimed at preventing and containing the expansion of certain extreme ideologies and finding social and broadly progressive integration strategies, as opposed to carceral ones, to contain violence and positively evolve hate-based ideologies.<sup>9</sup> Preventing and countering violent extremism has roots in the “deradicalization” programmes that sprang up in Germany, Norway and Sweden (known as “exit programmes”) in the middle to late 1990s to tackle growing far-right extremist groups.<sup>10</sup>

7. The link between those early ventures and present-day preventing and countering violent extremism policies is found in the following areas: the evolution of the United Nations Global Counter-Terrorism Strategy among States; the impetus of the Security Council by its resolution 2178 (2014); the articulation of the Secretary-General’s Plan of Action to Prevent Violent Extremism; and the development, over the past decade, of prevention strategies at the national level that are primarily focused on the containment of terrorism associated with certain Islamic armed groups. As the prevention and countering of violent extremism evolved after 11 September 2001, it was recognized that the enabling environments in which violent extremism flourished required close attention and that exclusively security and military counter-terrorism measures<sup>11</sup> appeared to be failing and were counter-productive.

8. The contemporary language of violent extremism made its way into the international policy agenda from the mid-2000s, driven by the policy imperatives of the United States of America, drawing on earlier British and French models developed primarily, but not exclusively, in conflict contexts.<sup>12</sup> Governmental endeavours arose from efforts to reframe

<sup>5</sup> Including but not limited to the Group of Friends of preventing violent extremism and through General Assembly resolution 70/262 and Security Council resolution 2282 (2016).

<sup>6</sup> Following 11 September 2001, the Security Council adopted resolutions 1368 (2001) and 1373 (2001) and expanded the targeted sanctions regime set up under resolution 1267 (1999).

<sup>7</sup> Referring to the embedded aspects of certain kinds of policies and practices making revision or reform difficult. See Louise Chappell and Georgina Waylen, “Gender and the hidden life of institutions”, *Public Administration*, vol. 91, No. 3.

<sup>8</sup> Neo-Nazi rehabilitation and root cause types of approaches.

<sup>9</sup> Jessie Blackburn and others, “Understanding and responding to right-wing terrorism”, *Journal of Policing, Intelligence and Counter Terrorism*, vol. 14, No. 3.

<sup>10</sup> Liz Fekete, “Exit from white supremacy: the accountability gap within Europe’s de-radicalization programmes”, Briefing No. 8, September 2014, Institute of Race Relations.

<sup>11</sup> Naureen Chowdhury Fink, “Countering violent extremism: what are the key challenges for UN?”, 3 November 2015, International Peace Institute Global Observatory.

<sup>12</sup> See David H. Petraeus and James F. Amos, *The U.S. Army and Marine Corps Counterinsurgency Field Manual* (Washington, D.C., 2006).

counter-terrorism strategy away from a strictly military approach to an approach that combines hard and soft power,<sup>13</sup> whereby “the battle of ideas would be engaged alongside the battle for territory; the fight against ‘radical Islam’ would be cultural as much as corporeal”.<sup>14</sup>

9. At the United Nations, the words “violent” and “extremism” began appearing in the same sentence beginning in 2010, with Security Council resolution 1963 (2010).<sup>15</sup> “Countering violent extremism” appeared for the first time in 2014, in Security Council resolution 2178 (2014), whereas “preventing violent extremism” appeared in 2015, in the Secretary-General’s Plan of Action to Prevent Violent Extremism. As noted in the Plan of Action, violent extremism is a diverse phenomenon, without a clear definition. It is neither new nor exclusive to any region, nationality or system of belief. As highlighted in the Plan of Action, violent extremist ideologies usually promoted messages of intolerance for differing religious, cultural and social views, that violent extremist groups employed tactics that challenged the values of peace, justice and human dignity and that violent extremism flourished in environments characterized by poor governance and injustice.<sup>16</sup>

10. In its resolution 72/284, the General Assembly recalled that the important work on preventing violent extremism as and when conducive to terrorism was firmly rooted in the United Nations Global Counter-Terrorism Strategy. The Special Rapporteur notes that, although it is conceptually possible to distinguish between countering violent extremism and preventing violent extremism, with the former focused on countering the activities of existing violent extremists and the latter focused on preventing the further spread of violent extremism, in practice, those notions are often blurred and approaches are aligned and combined. Within those categories, increased distinctions can be made between what is envisioned for short-term, medium-term and long-term synergies between countering violent extremism and preventing violent extremism<sup>17</sup> or between interventions specifically aimed at preventing violent extremism that seek to disrupt the radicalization and recruitment processes and those that seek to reintegrate individuals who have already joined a violent extremist organization. Addressing “pull factors” has broadly fallen into the domain of countering violent extremism. Interventions relevant to preventing violent extremism are most usefully defined as those that seek to address the structural drivers of violent extremism, or “push factors”.<sup>18</sup> Where preventing and countering violent extremism includes both security and development, there is a need to ensure a balanced approach that does not privilege the former over the latter.<sup>19</sup>

11. Terminology, policy and practice relating to the prevention and countering of violent extremism is now embedded within the United Nations, national institutions and new and non-institutional international bodies. The Working Group on Preventing and Countering Violent Extremism Conducive to Terrorism of the United Nations Global Counter-Terrorism Coordination Compact is chaired jointly by the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Financial Action Task Force revised its recommendation 8, and the related interpretative note, in 2016, to indicate that the Task Force recognized the intent and efforts to date of non-profit organizations to promote transparency within their operations and to prevent terrorist financing abuse, including through the development of programmes aimed at discouraging radicalization and violent extremism.<sup>20</sup> Similarly, the countering violent

<sup>13</sup> Building on earlier pre-11 September 2001 models of counter-terrorism strategy. See Frank Kitson, *Low Intensity Operations: Subversion, Insurgency and Peacekeeping* (Stackpole Books, 1971); and Constantine Melnik, *Insurgency and Counter-insurgency in Algeria* (RAND, 1964).

<sup>14</sup> Arun Kundnani and Ben Hayes, “The globalization of countering violent extremism policies”, Transnational Institute, February 2018.

<sup>15</sup> See para. 5 above.

<sup>16</sup> A/70/674, paras. 2 and 27.

<sup>17</sup> UNDP, “Assessing progress made and the future of approaches to preventing violent extremism: report of the second global meeting of UNDP on preventing violent extremism (Oslo II)”, May 2018.

<sup>18</sup> UNDP, “Journey to extremism in Africa”.

<sup>19</sup> UNDP, “Report on Oslo II”.

<sup>20</sup> Financial Action Task Force, *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*.

extremism working group of the Global Counterterrorism Forum addresses diminishing radicalization and recruitment to terrorism through relevant approaches to countering violent extremism at the international, regional, national and local levels. It has developed a number of tools, such as the Global Counterterrorism Forum Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to countering Violent Extremism, aimed at guiding the working group's actions, including on matters relating to gender, rehabilitation, reintegration and prisons.

12. The Special Rapporteur is concerned that, almost a decade after the term made its way into United Nations resolutions, and some five years after the Secretary-General<sup>21</sup> made it a priority for United Nations agencies and programmes, as well as Governments, the definition of “violent extremism” remains opaque and deeply contested. She warns against the use of new terminology that, like terrorism, is overly vague and allows for broad discretion in its application.<sup>22</sup> The introduction of new terminology does not in and of itself provide any guarantee against its abusive application and the adoption of sweeping measures to prevent and counter violent extremism. The absence of an international definition contributes to the fact that, across the globe, an ever-expanding range of measures fall under that umbrella. They include, on the one hand, measures that are part of the counter-terrorism apparatus – the “soft tools” available to law enforcement – ultimately aimed at increasing the number of individuals convicted for terrorism-related crimes and, on the other hand, social and economic measures that address the long-term challenges faced by marginalized communities and individuals, substituting social, cultural and economic rights-based entitlements held by individuals and communities under international law. Both approaches come with multiple human rights challenges and must be approached with caution at every step. In that sense, the use of “violent extremism” as a basis for the adoption of new strategies, measures and legislation must be seen as significantly more hazardous for human rights than the term “terrorism”. The Special Rapporteur underscores that the lack of semantic and conceptual clarity surrounding violent extremism is an obstacle to any in-depth examination of the impact on human rights of strategies and policies to counter violent extremism, as well as of their effectiveness in reducing the threat of terrorism.<sup>23</sup>

13. The Special Rapporteur highlights another critical and *prima facie* non-human rights compliant practice, namely, the use and application of the term “extremism” – and not only “violent extremism” – in national law in multiple States. She has grave concerns about the use of the terminology of “extremism” and its expanding ambit,<sup>24</sup> in both policy and law in multiple States.<sup>25</sup> She has serious concerns that the term lends itself to illegitimate judgments about what extremism is, highlighting that this can lead to the inclusion of non-violent groups on executive lists of “extremist” entities, one notable example of which is groups responding to the climate emergency.<sup>26</sup>

14. The category of “extremist” crimes is particularly vague and problematic. Absent the qualifier of “violent extremism conducive to terrorism”, the term remains broad and overly vague and may encroach on human rights in profound and far-reaching ways. The Special Rapporteur takes the view that the term “extremism” has no purchase in binding international legal standards and, when operative as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore *per se* incompatible with the exercise of certain fundamental human rights.

15. The definitional conundrum remains a persistent problem, as policies aimed at preventing and countering violent extremism continue to develop without a clear notion of the phenomenon they are aimed at addressing. Many of the issues addressed in the present

<sup>21</sup> A/70/674, para. 4.

<sup>22</sup> See E/CN.4/2005/103, para. 32; and E/CN.4/2006/98, para. 26.

<sup>23</sup> A/HRC/31/65, para. 55.

<sup>24</sup> *Ibid.*, para. 21.

<sup>25</sup> For example, Shanghai Convention on Combating Terrorism, Separatism and Extremism of the Shanghai Cooperation Organization, of which China, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan are members, and the revised interpretation thereof, 2017.

<sup>26</sup> Vikram Dodd and Jamie Grierson, “Terrorism police list Extinction Rebellion as extremist ideology”, *Guardian*, 10 January 2020.

report are rooted in the absence of a clear definition of almost every word in the phrase “preventing and countering violent extremism”. Making policy measures and regulatory frameworks entirely reliant on a non-defined concept that is by nature context-dependent can never be compatible with the principles of proportionality and necessity in which human rights are grounded. Doing so ultimately allows for a discriminatory or overbroad application of those measures to individuals and groups that legitimately exercise their fundamental freedoms. As with terrorism, overbroad preventing and countering violent extremism definitions and practices are infecting the “ordinary” law, creating new forms of legal exceptionalism, including the retraction of due process rights, the resort to exceptional courts and the imposition of severe penalties for security offences. As with terrorism, the widespread crackdown on human rights defenders and civil society activists under the guise of countering extremism is a predictable feature. In a notable irony, States report their statistics on “terrorism and extremism” charging and processing to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism or other global entities, such as the Financial Action Task Force, promoting such numbers as evidence of their commitment to countering terrorism, and are rewarded for their “good practice” of adhering to global obligations to prosecute, regulate and defeat terrorism, despite the contradictory realities of the human rights and rule of law compromises that are part and parcel of that landscape. The lack of definitional clarity is only one of the reasons that preventing and countering violent extremism challenges human rights in complex and multiple ways.

### III. “Science” of preventing and countering violent extremism

16. The Special Rapporteur has met with many government officials who claim that their programmes aimed at preventing and countering violent extremism work. When they are pressed for evidence, methodology and assessment methods, it quickly becomes clear that there is little or no robust monitoring and evaluation of such programmes and practices,<sup>27</sup> leaving a real gap in assessment of their impact on the ground. The same lacuna is true for projects supported by the United Nations aimed at preventing and countering violent extremism, which implies, at a minimum, a systematic lack of adherence to the United Nations due diligence policy. As one humanitarian non-governmental organization noted: “whether development interventions actually reduce violent extremism is at best unproven. Evidence that conscious [countering violent extremism] approaches have successfully reduced extremism is scarce. This does not prevent exaggerated claims being made as to the likely efficacy of particular interventions, especially in the education sector.”<sup>28</sup> In fact, the Special Rapporteur finds that, despite some increase in the knowledge base on the drivers and tipping point of violent extremism, the debate thereon is often largely dominated by private actors and consultants who are self-proclaimed experts or influenced by government policies that continue to pursue issues that have been scientifically disproven,<sup>29</sup> which highlights the challenge of linking research and evidence to policies and programmes to ensure that they are not ineffective and counterproductive, exacerbating the grievances on which terrorism feeds.<sup>30</sup> Academic experts, professionals and civil society actors who could

<sup>27</sup> Some attempts are being made but are marginal to the sector scale of projects and spending. See UNDP, “Report on Oslo II”.

<sup>28</sup> Norwegian Refugee Council, “Countering violent extremism and humanitarian action”, position paper, August 2017.

<sup>29</sup> D. Elaine Pressman and John Flockton, “Violent extremist risk assessment: issues and applications of the VERA-2R in a high-security correctional setting” in Andrew Silke (ed.), *Prisons, Terrorism and Extremism: Critical Issues in Management, Radicalization and Reform* (Routledge, 2014); Akimi Scarcella and others, “Terrorism, radicalization, extremism, authoritarianism and fundamentalism: a systematic review of the quality of psychometric properties of assessments”, *PLOS ONE*, vol. 11, No. 12; and Allard R. Feddes and Marcello Gallucci, “A literature review on methodology used in evaluating effects of preventive and de-radicalization interventions”, *Journal for Deradicalization*, vol. 5, No. 1.

<sup>30</sup> European Union-funded research; see Kundnani and Hayes, “The globalization of countering violent extremism policies”.

inform policymakers about local drivers and factors are significantly absent from policymaking and programme-designing forums. The communities and individuals who are the subject of programming aimed at the prevention and countering of violent extremism are further excluded in ways that raise a myriad of ethical issues, as well as undermine claims to effectiveness.

17. There is an emerging scholarly and scientific debate concerning whether there is a predictive relationship between radicalization and terrorism. Acknowledging that that debate is ongoing – and recognizing the lack of certainty in the available tools and indication systems being deployed by Governments and private entities – is essential for framing deliberations concerning the widespread use of programming aimed at preventing and countering violent extremism.<sup>31</sup> A number of tools deployed at the regional level, including the Revised Religious Fundamentalism Scale, the Violent Extremist Risk Assessment 2 (VERA-2R), the Extremism Risk Guidelines (ERG22+) and the checklists developed under a project on the recognition of and responses to violent radicalization by professional groups concerned, as well as various tools made available by European agencies, such as the common risk indicators booklet prepared by the European Border and Coast Guard Agency, Frontex.<sup>32</sup> The use of such tools poses a number of ethical and functional challenges. For example, the common peculiarity of psychometric systems, such as VERA-2R and ERG22+, is that they mix structured forensic analysis models, traditionally focused on mental illness and deviance, with other models of intelligence analysis containing strong ideological and political connotations.<sup>33</sup> Those psychometric tools consistently use ambiguous factors in their application, detaching radicalization assessment from criminal and legal practices and mainstreaming psychiatric factors into the preventative criminal justice arena.<sup>34</sup> Moreover, many of the risk assessment tools used in practice for preventing and countering violent extremism function as profiling tools, which expose their users, primarily but not exclusively States, to the pitfalls of using risk models that: (a) are tainted by prejudice, politicization or specific ignorance, particularly in multicultural contexts; (b) generate unpredictability in the monitored subjects and communities; (c) open up wide administrative arbitrariness in the practice of prevention; and (d) entirely lack judicial supervision in most applied contexts.<sup>35</sup> All of those risks are of concern to the Special Rapporteur, and she stresses that they appear to be systematically ignored or discounted in their use in policy arenas.

18. As is now widely recognized, presumptions and assumptions about the drivers of violent extremism and the underlying factors must be robustly challenged.<sup>36</sup> Having reviewed numerous national plans and policies on the prevention and countering of violent extremism, the Special Rapporteur concludes that the importance given to religious ideology in both mapping the pathways to radicalization and devising strategies aimed at preventing and countering violent extremism was done at the expense of appropriately addressing other factors, despite the lack of empirical data to support the assumption that religious ideology supports terrorism.<sup>37</sup> She recognizes evidence of good practice in national plans for the prevention and countering of violent extremism, specifically that of Switzerland, which has the strongest incorporation of a human rights framework, and acknowledges the meaningful incorporation of human rights as a key reference point into the plans of Austria, Canada, Finland and the United Kingdom of Great Britain and Northern Ireland.

<sup>31</sup> Sergio Bianchi, “Radicalization: no prevention without juridicalization”, Security Papers No. 2/2018, Agenfor International; and Cecile Rousseau, Ghayda Hassan and Youssef Oulhote, “And if there were another way out? Questioning the prevalent radicalization models”, *Canadian Journal of Public Health*, vol. 108, No. 5–6.

<sup>32</sup> There are also a range of local products, such as the “Arrel” system used in regional prison systems.

<sup>33</sup> E.D. Pressman, “Risk assessment decisions for violent political extremism” (Public Safety Canada, Ottawa, 2009).

<sup>34</sup> In the findings of the joint settlement process between the New York Police Department and mosques in *Raza v. City of New York*, case No. 1:13-cv-03448-PKC-JO, the New York District Court confirmed that such interventions were intricately connected with legal rights.

<sup>35</sup> Bianchi, “Radicalization: no prevention without juridicalization”.

<sup>36</sup> UNDP, “Report on Oslo II”, p. 15.

<sup>37</sup> A/HRC/31/65, para. 15.

19. In its study on extremism in Africa, UNDP showed that, whereas 51 per cent of people interviewed cited religious grounds as a reason for joining violent extremist groups, as many as 57 per cent also admitted to having limited or no understanding of religious texts. Instead, the empirical data revealed that governance challenges were key drivers of extremism. In particular, the role of the State as a push factor to violent extremism was noted by 71 per cent of respondents, who identified “government action” as being the critical event that finally pushed them to join a violent extremist group. The results also revealed that recruitment was a highly localized process and that the path to extremism was highly personal. Other studies also confirm the significance of individual psychology as an essential component in the turn to extremism, as is a loss of trust in politicians and the political system and security agencies’ repressive approaches.<sup>38</sup> Notably, weak and fragile States, incapable of projecting power and asserting authority within their own borders, can also be factors leading to the proliferation of violent extremism, creating ungoverned spaces exploited by violent extremist groups.<sup>39</sup> The Special Rapporteur notes the extensive literature on policy and practice on fragile States and the lack of the application thereof to the analysis and policy being rolled out in the context of preventing and countering violent extremism.<sup>40</sup>

20. The link with international jihadism is more tenuous on the ground than the global rhetoric suggests. Study after study reveals that the experience or perception of abuse and violations by government authorities are determining factors that contribute to the level of vulnerability to violent extremism, or resilience thereto. In addition, separatist movements and protracted conflicts are central factors to be addressed when examining violent extremism in multiple contexts.<sup>41</sup> The failure of policymakers to take into account the decades of knowledge and data on local political grievances, underlying drivers of conflict, long-term structural instability and political tensions over resource allocation is unforgivable, given the stakes involved. The UNDP conceptual framework highlights eight drivers that can result in violent extremist action: (a) the impact of global politics; (b) economic exclusion and limited opportunities for upward mobility; (c) political exclusion and shrinking civic space; (d) inequality, injustice, corruption and the violation of human rights; (e) disenchantment with socioeconomic and political systems; (f) rejection of growing diversity in society; (g) weak State capacity and failing security; and (h) a changing global culture and the banalization of violence in the media and entertainment.<sup>42</sup>

21. Those findings should inform strategies, policies and programmes to ensure that they are effective, not based on overly simplistic generalizations and stereotypes and not counter-productive or stigmatizing. The key findings highlighted above show that successful programmes should focus on building the resilience of communities and drawing attention to the counter-productive impacts of security-driven strategies to respond to violent extremism and to the lack of respect for human rights. They underscore the importance of restoring trust between marginalized communities and their Governments, prioritizing State accountability, including for corruption, and in particular that of the security sector, governance and justice and creating conditions in which individuals who are marginalized can thrive.

22. The Special Rapporteur generally finds however that programmes, policies and measures do not draw from those findings. Just as studies disprove the idea that poverty or poor economic circumstances in themselves are conditions conducive to terrorism,<sup>43</sup> many measures and programmes tend to place a narrow emphasis on individuals from dire socioeconomic backgrounds, at the expense of recognizing that the effects of relative

<sup>38</sup> Anneli Botha, “Radicalization to terrorism in Kenya and Uganda: a political socialization perspective”, *Perspectives on Terrorism*, vol. 9, No. 5.

<sup>39</sup> UNDP, “Root causes of radicalization in Europe and the Commonwealth of Independent States”, discussion paper, July 2015.

<sup>40</sup> See [www.politicalsettlements.org](http://www.politicalsettlements.org).

<sup>41</sup> International Alert, “If victims become perpetrators”, 2018; UNDP, “Root causes of radicalization”; and UNDP, “Journey to extremism in Africa”.

<sup>42</sup> UNDP, “Preventing violent extremism through promoting inclusive development, tolerance and respect for diversity: a development response to addressing radicalization and violent extremism”, 2016.

<sup>43</sup> Anneli Botha, “Radicalization to terrorism”.

deprivation can be felt at all levels of society, creating a disconnect between the hopes and realities of those in a society,<sup>44</sup> or an emphasis on education, despite evidence that both educated and non-educated young people are potentially vulnerable to violent extremism and that it is the broad societal environment that creates vulnerability to radicalization.<sup>45</sup> Similarly, despite recent research indicating that it remains an unproven assumption that messages, myths, promises, objectives, glamour and other enticements propagated through violent extremism can be replaced with, or dismantled by, an alternative set of communications,<sup>46</sup> many national and international measures to prevent and counter violent extremism are focused on counter-narratives. The Special Rapporteur underscores that there is no robust data showing that that approach works,<sup>47</sup> absent a meaningful commitment to and the delivery of transformed material conditions on the ground. Without that, counter-narratives are little more than exaggerations and are perceptively recognized as such by their target communities. Problematically, the counter-narrative approach is also being pushed by the United Nations, through its comprehensive international framework to counter terrorist narratives, Security Council resolution 2354 (2017) and the Secretary-General's Plan of Action to Prevent Violent Extremism, in which Member States are called upon to develop and implement national communications strategies, in close cooperation with social media companies and the private sector, to challenge narratives associated with violent extremism.<sup>48</sup> The Special Rapporteur is concerned that that approach may be counterproductive, given that it can both appear as a defence of the status quo<sup>49</sup> and contribute to a loss of trust in civil society and in government, in particular where opacity with regard to the genuine nature of the countering voices is tolerated. Similarly, while there is limited and contested evidence on the connection between communication and extremism, including the link between consuming online extremist content and offline violent activity,<sup>50</sup> many measures to prevent and counter violent extremism have ploughed definitively into content regulation, which is directly translated in multiple national contexts into broad, indiscriminate and overreaching limitations on freedom of expression.

#### **IV. Trends in the prevention and countering of violent extremism**

23. The Special Rapporteur recognizes the existence of a broad range of programmes and entrenched and emerging legal and policy measures to prevent and counter violent extremism. They include programmes and plans of actions at the national, regional and local levels, which are developed by Governments, civil society and international organizations, and capacity-building programmes and technical assistance across a range of sectors, such as drivers of extremism, youth, education, the reintegration of disengaged fighters and returnees, the media, de-radicalization programmes in prisons, as well as gender-specific engagement, in particular with women. Measures to prevent and counter violent extremism involve schools, health services, prisons, local communities, religious centres and leaders and law enforcement. The Special Rapporteur highlights some of the main worrying trends across the sector, each of which would benefit from considered and in-depth human rights-centred analysis and assessment.

<sup>44</sup> UNDP, "Root causes of radicalization".

<sup>45</sup> Ibid.

<sup>46</sup> UNDP, "Report on Oslo II", p. 18.

<sup>47</sup> Eric Rosand and Emily Winterbotham, "Do counter-narratives actually reduce violent extremism?", 20 March 2019, Brookings, Order from Chaos blog.

<sup>48</sup> Counter-Terrorism Implementation Task Force working group on the use of the Internet for terrorist purposes, "Summary, follow-up and recommendations adopted at the Riyadh conference on the use of the Internet to counter the appeal of extremist violence", 2011.

<sup>49</sup> UNDP, "Report on Oslo II", p. 23.

<sup>50</sup> Ibid.

## A. Shift to the regulation of the “pre-terrorist” space

24. The Special Rapporteur is profoundly concerned about the increased regulatory focus on thought and action in the so-called “pre-criminal” or, more accurately, “pre-terrorist” space, involving the fluid interaction of the criminal with social, religious and administrative regulation. The shift criminalizes legitimately protected rights under international and domestic law,<sup>51</sup> destabilizes fundamental tenets of the rule of law, including legal certainty, proportionality and non-discrimination and renders groups and individuals as “suspect” often primarily on the basis of stereotypes concerning religious or ethnic groups and geographical location.<sup>52</sup>

25. Enabled or led by the goal of preventing and countering violent extremism, regulatory practices have moved from sanctioning the acts of individuals to anticipating those acts, in a sweep of pre-emptive criminal sanctions supported and extended by multipronged socio-administrative regulation around the globe. Some countries have shifted towards the increased use of administrative measures as the undergirding legal basis for managing and preventing terrorism and the establishment of a posteriori rather than a priori judicial review, a perceptible shift towards the anticipatory prevention of terrorism, with substantial consequences for the protection of individual rights.

26. In targeting acts that are far removed from the commission of an act of terrorism, such problematic law and policy fail to require that the intent to commit an act of terrorism existed. Regulation often solely targets acts that are the legitimate exercise of fundamental freedoms, particularly freedom of expression and freedom of religion. Legislation that criminalizes speech that praises, justifies, excuses, encourages, glorifies, advocates or that is an apologia of terrorism bases liability on the content of the speech, rather than the speaker’s intention or the actual impact of the speech.<sup>53</sup> Similarly, law and practice that forces information and communications technology companies hosting third-party content to take down content deemed to be related to terrorism or extremism, or that allows executive authorities to – even indirectly – block websites, in the absence of any judicial controls or ex post facto judicial recourse, and measures to simply block websites or the entirety of the Internet allow Governments to bypass their own obligations to protect the rights to freedom of expression and opinion and to religious belief, when the banned content is religious material.<sup>54</sup>

27. As noted by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, some of the current approaches, characterized by vaguely worded laws on what is proscribed and draconian intermediary penalties, are likely to be highly counterproductive and to have a chilling effect.<sup>55</sup> The Special Rapporteur recalls that no site or information dissemination system should be prohibited from publishing material solely on the basis that it may be critical of the Government, or the political or social system espoused thereby,<sup>56</sup> or the religious beliefs or lack thereof adopted by the Government. In line with the recommendations of human rights mechanisms and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,<sup>57</sup> the threshold for those inchoate crimes should be the reasonable probability that the expression in question would succeed in inciting a terrorist act, thereby establishing a causal link or actual risk of the proscribed result occurring.<sup>58</sup> Such

<sup>51</sup> Jude McCulloch and Sharon Pickering, “Pre-crime and counter-terrorism: imagining future crimes in the ‘War on Terror’”, *British Journal of Criminology*, vol. 49, No. 5.

<sup>52</sup> A/HRC/28/66.

<sup>53</sup> A/HRC/40/52, para. 37; and A/HRC/31/65, para. 39. See also Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 46; and A/63/337, para. 61.

<sup>54</sup> See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24234>.

<sup>55</sup> A/HRC/40/58, para. 53.

<sup>56</sup> Human Rights Committee, general comment No. 34, para. 43.

<sup>57</sup> A/HRC/22/17/Add.4.

<sup>58</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4), para. 29; and A/HRC/16/51, para. 30 and practice 8.

offences must be strictly circumscribed in both their wording, to comply with the principle of legal certainty, and their application, to comply with the principles of proportionality and necessity, so as to not unduly restrict the rights to freedom of expression and religion.

## B. Focus on religious adherence and behaviour

28. Most strategies for preventing and countering violent extremism clearly state that violent extremism is not exclusive to any region, nationality or system of belief, but it is clear to the Special Rapporteur that, in their implementation, many of those programmes and policies have discriminately targeted certain groups and communities, particularly based on religious grounds, as thoroughly examined by the Special Rapporteur on freedom of religion or belief.<sup>59</sup> The widespread references across multiple countries to specific terrorist groups, including ISIL, Al-Qaida and Boko Haram, in policies have gone a long way towards colouring the debate,<sup>60</sup> notwithstanding the robust evidence from multiple sources that the fastest accelerating terrorism threat globally stems from far right-wing violent extremism.<sup>61</sup> In certain countries, the agenda for preventing and countering violent extremism is focused exclusively on violent Islamist extremism, obscuring other forms of extremism and leading to stigmatization and polarization.<sup>62</sup> An exclusive focus on Islamic extremism belittles the severity of the danger posed by other groups.<sup>63</sup> In parallel, the Special Rapporteur voices unease at theological criteria being used as a stand-in for a broader and scientifically based understanding of the rehabilitation and reintegration of individuals previously engaged in terrorist violence.

29. The Special Rapporteur has expressed her profound disquiet at legislation that criminalizes “extremist” thought, belief and content or “hate speech” on the basis that it is a precursor to terrorism, because it is often used as a placeholder for silencing non-established or minority religious groups or non-majority opinions. Special procedures mandate holders have expressed concern about legislation that enables the widespread use of arbitrary detention and “re-education” as a method of preventing and countering violent extremism.<sup>64</sup>

30. As highlighted by the Special Rapporteur on freedom of religion or belief, States use “hate speech” laws against the very minority groups that those laws have been designed to protect, framed by the justification of preventing and countering violent extremism. In some cases, “hate speech” laws are even used to restrict members of minority groups from promoting their culture and identity or from expressing concern about discrimination against them by the majority.<sup>65</sup> Simply holding or peacefully expressing views that are considered “extreme” under any definition should never be criminalized, unless they are associated with violence or criminal activity. The peaceful pursuance of a political, religious or any other agenda – even where that agenda is different from the objectives of the Government and considered to be “extreme” – must be protected. Governments should counter ideas that they disagree with but should not seek to prevent the discussion of non-violent ideas and opinions.<sup>66</sup> In a State governed by the rule of law, thought and belief can never be limited, let alone criminalized.<sup>67</sup>

31. The Special Rapporteur views with concern legislation aimed at preventing and countering violent extremism, which appears innocuous, but poses a serious cumulative

<sup>59</sup> A/73/362; Sahar F. Aziz, “Losing the ‘War of Ideas’: a critique of countering violent extremism programmes”, *Texas International Law Journal*, vol. 52, No. 2; and Faiza Patel and Meghan Koushik, “Countering violent extremism”, Brennan Center for Justice, 2017.

<sup>60</sup> Department of State of the United States of America and USAID, joint strategy on countering violent extremism, May 2016, p. 4; and A/70/674, para. 2.

<sup>61</sup> Institute for Economics and Peace, *Global Terrorism Index 2019*. Available at <http://visionofhumanity.org/app/uploads/2019/11/GTI-2019web.pdf>.

<sup>62</sup> UNDP, “Report on Oslo II”, p. 20.

<sup>63</sup> UNDP, “Preventing violent extremism through promoting inclusive development”.

<sup>64</sup> See [www.ohchr.org/Documents/Issues/Terrorism/SR/OL\\_CHN\\_18\\_2019.pdf](http://www.ohchr.org/Documents/Issues/Terrorism/SR/OL_CHN_18_2019.pdf).

<sup>65</sup> A/HRC/40/58, para. 33.

<sup>66</sup> A/HRC/31/65, para. 38.

<sup>67</sup> A/HRC/43/46/Add.1.

discriminatory impact on the absolute right to freedom of belief, a universal right and an intrinsic aspect of a person's humanity, which allows everyone to practice their religion or belief, individually and in community with others, in private or in public. Legislation tightly regulating religious exercise, including measures placing burdensome or unattainable requirements on the registration of religious groups, measures criminalizing religious practices and rituals absent registration, measures limiting the possibility of importing religious literature or added sanctions for individuals convicted of "extremism", such as bans on visiting places of worship, praying aloud, consuming religiously sanctioned food or sharing their faith with others, all directly impinge on the right to freedom of religion. They have a disproportionate impact on certain religious groups and individuals exercising their freedom of thought, conscience and religion. The Special Rapporteur recalls that that right exists independently of administrative approval.<sup>68</sup> Limitations do not apply to belief per se and, under article 18 (3) of the International Covenant on Civil and Political Rights, they must be legally prescribed, be clearly necessary (i.e., as a last resort), pursue a legitimate aim and be proportionate (i.e., minimal degree of interference) and non-discriminatory in intention and effect.

32. Many practices for preventing and countering violent extremism involve targeting particular people, communities and groups, giving rise to assumptions about their "suspect", profiling, excluding and compounding structural discrimination and exclusion, including surveillance and harassment.<sup>69</sup> The Special Rapporteur is particularly concerned by the so-called "whole of society" approach, in which responsibilities to detect "signs of radicalization" fall upon various actors in society, including teachers, social workers, medical staff and other health-care professionals, prison staff, neighbours and family members, community leaders and members of faith-based groups.<sup>70</sup> She views the securitization of care professions, including medical professions and social work, as impinging on the unique ethical obligations of professionals in those fields to those they serve.<sup>71</sup> In addition to creating an environment in which the threat of violent extremism is ubiquitous and pervasive, the negative impact cannot be overstated. Not only do those measures break the fragile trust that individuals and communities place in those professionals, whose primary duty is to protect and empower, but, without any reliable scientific understanding of the process that makes individuals turn to violent extremism, accurate identification is largely unattainable. Such policies lead to overselection and overreporting, largely on prohibited discriminatory grounds, having an impact on the rights to freedom of religion and expression and privacy. Furthermore, the lack of transparency about the use of the information generated and its often underregulated sharing across government entities lends credence to a perception that preventing and countering violent extremism is yet another tool of a State intelligence entity's counter-terrorism efforts, rather than a genuine effort at building resistance to the threat of violent extremism.

33. The Special Rapporteur notes that working with recruiters who are responsible for convincing people to join extremist groups using faith-based reasons, rhetoric and critical thinking tools is an effective method to prevent extremism.<sup>72</sup> She agrees with the Special Rapporteur on freedom of religion or belief however that it is not the Government's role to look for the "true voices" of any religion or belief and that the contents of a religion or belief should be defined by the worshippers.<sup>73</sup> She recalls that the perception that a Government can authorize or control the way that individuals think or what they believe, through targeted

<sup>68</sup> A/HRC/28/66/Add.1, paras. 19 and 26.

<sup>69</sup> A/73/362, paras. 19–21.

<sup>70</sup> See United Kingdom, guidance for specified authorities in England and Wales on the duty in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism (available at [www.gov.uk/government/publications/prevent-duty-guidance](http://www.gov.uk/government/publications/prevent-duty-guidance)); A/HRC/43/46/Add.1 and A/HRC/40/52/Add.4.

<sup>71</sup> Note the specific recommendations regarding medical and other professionals in A/HRC/40/52/Add.5.

<sup>72</sup> UNDP, "Report on Oslo II".

<sup>73</sup> A/HRC/7/10/Add.3, para. 76.

ideological or theological interventions, or what authorized thoughts or beliefs are has no place in societies governed by the rule of law and respect for human dignity.

34. The Special Rapporteur on freedom of religion or belief has noted that neither an isolated focus on religion (which neglects the significance of human agency and political and other non-religious factors), nor a denial that religious motives could play a role in committing and supporting acts of violence (which might lead to inadequate responses from religious communities and their leaders) could fully explain the complex phenomenon of “violence committed in the name of religion”, which is sometimes associated with violent extremism.<sup>74</sup> While narrow-minded interpretations of religions can play a role, religious texts can always accommodate different readings. Ultimately, individuals bear the responsibility for the practical consequences that they draw from the interpretation of their faith.<sup>75</sup> The Special Rapporteur recalls the complex factors contributing to and dovetailing with what is viewed as religious violence, including the loss of trust in public institutions caused by endemic corruption and cronyism,<sup>76</sup> policies of exclusion,<sup>77</sup> as well as impunity, trivialization and legal impunity.<sup>78</sup> She affirms the broader analysis concerning the known factors conducive to terrorism and extremism and encourages States to use the resources they have to address deficits in governance, the rule of law and corruption; progress in that regard can be constructive and human rights compliant in combating terrorism and violent extremism.

### C. Preventing and countering violent extremism as a foreign policy tool

35. The Secretary-General’s Plan of Action to Prevent Violent Extremism links measures to prevent violent extremism with development, stressing that one means to address many of the drivers of violent extremism is to align national development policies with the Sustainable Development Goals. In practice, more and more of such work funded by Western States – aid, development, peacebuilding and technical assistance – has increasingly formed part of their security and counter-terrorism agendas, profoundly compromising the impartiality and neutrality of development and humanitarian actors on the ground. The co-opting and securitization of development agendas is short-sighted and distinctly counter-productive in the long-term. One such strategy<sup>79</sup> highlights as strategic objectives employing “foreign assistance tools and approaches, including development, to reduce specific political or social and economic factors that contribute to community support for violent extremism in identifiable areas or put particular segments of populations at high risk of violent extremist radicalization and recruitment to violence” and working with “partner organizations and multilateral institutions to enhance programmes that provide educational and social services in key countries with tools to address drivers of violent extremism”. Another<sup>80</sup> states that “foreign policy makes a contribution towards addressing the causes of and conditions for violent extremism through its foreign policy engagement in [several] areas. Tackling its direct and structural causes requires long-term, sustainable commitment in transitional and fragile contexts, as well as in current conflict zones”. The Special Rapporteur stresses the necessity to stocktake in this critical policy area.

36. With aid budgets shrinking around the world, the prevention and countering of violent extremism has allowed Governments to link humanitarian and development aid to their broader security objectives. For recipient organizations, preventing and countering violent extremism has increased funding opportunities. However, as highlighted by many non-profit organizations and non-governmental organizations around the world, that approach is fundamentally at odds with principled humanitarian action. One non-governmental organization has taken the clear position that “approaches [to countering violent extremism]

<sup>74</sup> A/HRC/28/66, para. 19.

<sup>75</sup> *Ibid.*, paras. 22–25.

<sup>76</sup> *Ibid.*, paras. 26–30.

<sup>77</sup> *Ibid.*, paras. 30–35.

<sup>78</sup> *Ibid.*, paras. 36–38.

<sup>79</sup> United States Department of State and USAID, joint strategy, p. 6.

<sup>80</sup> Switzerland, Federal Department of Foreign Affairs, foreign policy action plan on preventing violent extremism, 2016.

are politicized from the outset and incompatible with principled, needs-based humanitarian action”.<sup>81</sup> Indeed, the direct and indirect impacts of such policies on humanitarian and development interventions can be felt structurally, when programmes are developed with specific “at-risk” target groups and communities in mind, rather than on a needs-based approach, and operationally, when organizations modify their programmes to include a focus on preventing and countering violent extremism, profoundly distorting the relationship with recipients and the outcomes of programmes. Moreover, the increased emphasis on humanitarian organizations as the subcontractors of government security agendas is evidenced by contracts and requirements that such organizations engage in sustained security vetting in the distribution of aid, in ways contrary to the core humanitarian mission.

#### **D. Lack of transparency and accountability**

37. The Special Rapporteur is struck by the lack of openness of Governments and the lack of civil society trust in measures to prevent and counter violent extremism, from the policies and programmes to their funding, impact, scientific underpinning and benchmarks – and even the underlying research. When funding comes from external donors, civil society recipients are often not keen to disclose the origins of the funds, given that it could have an impact on their independence or the genuineness of their action or stigmatize or alienate targeted populations. Programming on preventing and countering violent extremism is often branded or repackaged programming that is unconnected to security imperatives, raising particularly thorny issues for United Nations entities engaged in supporting or funding programming which is deliberately dishonest to its recipients.<sup>82</sup> The lack of transparency can in turn give the impression that preventing and countering violent extremism is yet another tool in a Government’s security arsenal and that behind social services lie intelligence and police agencies.

38. Despite the web of measures adopted, from the global to local levels, there appears to be a complete lack of oversight and very few mechanisms to address the lacunae and promote a rule of law and human rights-based approach to preventing and countering violent extremism. As the Special Rapporteur has noted,<sup>83</sup> global and regional advancement of preventing and countering violent extremism falls under a “soft law” rubric, with little meaningful oversight and virtually no human rights assessment or benchmarking in creation or implementation. Domestically, many of the measures to prevent and counter violent extremism are also “soft law”, meaning that they are not subjected to parliamentary or public scrutiny, nor is there a specific budget allocated, making human rights-based budget analysis challenging. Globally, there are little to no accountability mechanisms, recourse or effective and accessible remedies where allegations of human rights violations have occurred as a result of the application of measures and policies aimed at preventing and countering violent extremism.

### **V. Specific impacts**

#### **A. Gender and preventing and countering violent extremism**

39. In his Plan of Action to Prevent Violent Extremism, the Secretary-General affirmed the importance of gender equality in addressing terrorism, not least because it was no coincidence that societies for which gender equality indicators were higher were less vulnerable to violent extremism.<sup>84</sup> A holistic and intersectional approach to addressing the relationship between gender and violent extremism would include a focus on respect for women’s human rights, and the absence thereof, structural inequality, the gendered drivers

<sup>81</sup> Norwegian Refugee Council, “Countering violent extremism”.

<sup>82</sup> Referring to programming, targeted at women, aimed at the prevention and countering of violent extremism as “for the empowerment of women” is mendacious and ethically suspect.

<sup>83</sup> A/74/335.

<sup>84</sup> A/70/674, para. 53.

of armed conflict and the relationship between violent and hegemonic masculinities and the production of violent extremism.<sup>85</sup>

40. There has been a distinct upsurge in policy and programming addressing the gender dimension of violent extremism,<sup>86</sup> yet there has been no systematic monitoring and evaluation assessing the merits, impacts or human rights compliance of such programming. Regrettably, prioritizing women as both subjects and conduits of the prevention and countering of violent extremism has rarely been premised on their rights to non-discrimination and equality, but rather relies on the strategic rationale that it leads to a more comprehensive understanding of the causes of violent extremism and more localized and credible strategies for countering terrorism, a form of commodification which deeply concerns the Special Rapporteur.<sup>87</sup> The distinct focus on using women as a means of improving counter-terrorism efforts runs the risk of agenda-hijacking, whereby a narrow emphasis on “women” distracts attention from the wider structural realities that produce gender inequality, exclusion and violence.

41. It is all the more ethically problematic when programming aimed at the prevention and countering of violent extremism is advertised as being for the empowerment of women or as being skills training that benefits women, hiding the security rationale driving the engagement and ultimately making any credible evaluation valueless. Equally, there is a distinctly patriarchal element to making women the gatekeepers to the men and boys in their communities – as mothers, wives and sisters – through programming and policies aimed at the prevention and countering of violent extremism. A number of commentators have underscored the risks faced by women and girls when they are made the frontline recipients of such policies, particularly when such policy imperatives are viewed as the foreign policy preferences of powerful States. Increasingly, in highly complex, socially conservative and unstable environments, women are placed in the unenviable position of the frontline delivery of efforts aimed at preventing and countering violent extremism. Such intrusions are now also regularly found in the most intimate parts of life – doctors’ offices, classrooms, family courts, mother and baby centres and family life – formally constituting violations of the rights to privacy, family life, education and health, protected by international law.<sup>88</sup> Women-led non-governmental organizations report that funding sources in multiple fragile and conflict-affected environments are tied to programming related to preventing and countering violent extremism. Compromising the most fundamental rights of women and girls (life and security) should not be a placeholder for broader economic, social and political reform in marginal communities that are at risk of producing terrorism.<sup>89</sup>

## B. Civil society

42. Addressing the pitfalls of preventing and countering violent extremism involves reflecting on the challenges faced by civil society in counter-terrorism contexts. In advancing the promotion and protection of human rights globally, civil society participation paves the way for more effective prevention strategies, through both pathways of resistance to terrorist action and mitigation of the attraction of radical or violent extremism. Civil society engagement brings consistent attention to upholding the rule of law, engaging human rights-based values, protecting the most vulnerable and marginalized and speaking on behalf of the targets of counter-terrorism measures, the individuals and groups who are sometimes reviled and excluded because of their views or the perceived threat that they pose, but whose

<sup>85</sup> Melissa Johnston and Jacqui True, “Misogyny and violent extremism: implications for preventing violent extremism”, United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), policy brief, 2019.

<sup>86</sup> Fionnuala Ní Aoláin and Jayne Huckerby, Gendering counterterrorism: how to and how not to (part II), *Just Security*, 3 May 2018.

<sup>87</sup> Jayne Huckerby, “Feminism and international law in the post-9/11 era”, *Fordham International Law Journal*, vol. 39, No. 3.

<sup>88</sup> Fatima Ahdash, “The interaction between family law and counter-terrorism: a critical examination of the radicalization cases in the family courts” *Child and Family Law Quarterly*, vol. 30.

<sup>89</sup> Katherine E. Brown, *Gender, Religion, Extremism: Finding Women in Anti-Radicalization*, (Oxford University Press, 2020).

humanity equally demands the protection of their human rights and inherent dignity. When civil society organizations give voice to the marginalized and vulnerable, including victims of terrorism, they provide a constructive route to accountability and transparency in counter-terrorism work, including through activism, education, research, oversight and partnership with Governments.

43. However, civic space is shrinking and under sustained pressure in many parts of the world. The prevention and countering of violent extremism increasingly functions as a device to silence, limit the scope of and target civil society actors, when, paradoxically, advocacy for human rights is construed by the State as a form of “extremism”, giving States the leeway – enabled by the lack of a globally agreed definition on what constitutes violent extremism – to target civil society actors and human rights defenders as “extremists”. It is increasingly clear that human rights defenders are targeted in the strategies aimed at preventing and countering violent extremism pursued by Governments that recognize the value of the new nomenclature to be directed against those who disagree with them.

44. Less worrisome, but equally true, is that Governments see civil society actors as a vehicle for advancing policy aimed at countering violent extremism and have co-opted the efforts of civil society into a top-down agenda for preventing and countering violent extremism for political or security objectives.<sup>90</sup> Government targeting particularly applies to women and girls and is entirely oblivious to the vulnerabilities of such co-option or commodification for those who are generally on the margins legally, politically and economically.<sup>91</sup> Notably, failure to cooperate can be read as having a vulnerability to or sympathy for extremism, rarely as a form of independent survival and a commitment to singular, neutral and non-co-opted space.<sup>92</sup>

45. However, we should not abandon the value and roles of local communities and those most vulnerable to and affected by extremism. Not only are local engagements the most effective, but they also involve and engage at the local level, in all its complexity, in the making and implementation of policy, sustaining local communities and civil society in the most fraught and fragile settings. Paradoxically, those are often the communities most at risk of defunding and lack of support through the downstream effect of the risk-based approach to the financing of terrorism and the lack of a comprehensive humanitarian exemption. End users must be placed at the centre of the process, with outsiders playing a supporting role.<sup>93</sup>

## VI. United Nations programming

46. The United Nations has played a significant role in taking forward the agenda for preventing and countering violent extremism. At the national level, a number of United Nations entities, including UNDP, UNESCO, the United Nations Office on Drugs and Crime (UNODC) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), provide direct support and expertise to the creation, implementation and operation of programming aimed at preventing and countering violent extremism. In addition to embracing the concept through resolutions and the Plan of Action to Prevent Violent Extremism, the United Nations has assisted Member States in developing national plans of action and has set up a Working Group on Preventing and Countering Violent Extremism Conducive to Terrorism. There are currently over 400 projects aimed at preventing and countering violent extremism implemented by 18 United Nations entities, benefiting more than 90 Member States in all regions of the world and addressing all seven priority areas recommended in the Plan of Action. As a signatory to the United Nations Global Counter-Terrorism Coordination Compact, the Special Rapporteur is engaged on a

<sup>90</sup> Anne Charbord and Fionnuala Ní Aoláin, “The role of measures to address terrorism and violent extremism on closing civic space”, University of Minnesota Human Rights Center, 2019.

<sup>91</sup> See <https://icsr.info/2018/07/23/from-daesh-to-diaspora-tracing-the-women-and-minors-of-islamic-state/>.

<sup>92</sup> Annemarie van de Weert and Quirine A.M. Eijkman, “Subjectivity in detection of radicalization and violent extremism: a youth worker’s perspective” *Behavioural Sciences of Terrorism and Political Aggression*, vol. 11, No. 3.

<sup>93</sup> UNDP, “Report on Oslo II”, recommendations.

range of issues that touch on preventing and countering violent extremism and a member of the Working Group. She notes however that no stand-alone resources or administrative capacity is provided to enable the mandate holder's participation, and the ability to engage fulsomely in human rights oversight is significantly resource-constrained.

47. The very high number of projects aimed at preventing and countering violent extremism in the United Nations Global Counter-Terrorism Coordination Compact can be explained, in part, by the fact that preventing and countering violent extremism is not entirely new for the United Nations. It encompasses issues that were explicitly addressed in the first and fourth pillars of the United Nations Global Counter-Terrorism Strategy,<sup>94</sup> as well as issues that are among its core values, notably peace, development, education and respect for human rights and the rule of law. Numerous United Nations personnel have confirmed to the Special Rapporteur that many of the issues that were previously addressed individually are now addressed under the banner of preventing and countering violent extremism. UNDP has stressed that it is a new era in the United Nations, in which the United Nations counter-terrorism strategy interacts with the 2030 Agenda for Sustainable Development and the Sustainable Development Goals.<sup>95</sup> Most of the Goals are collectively relevant to promoting durable solutions for the prevention of violent extremism.

48. The Special Rapporteur notes several inherent risks with that approach however. The lens of preventing and countering violent extremism is a security-focused lens. Through the language of preventing and countering violent extremism, new operational imperatives and concepts have crept in institutionally. UNODC defines violent extremism as an ideology which accepts the use of violence for the pursuit of goals that are generally social, racial, religious and/or political in nature. It notes that violent extremism specifically refers to behaviour and thinking which can lead to the commission of acts of terrorism.<sup>96</sup> UNESCO refers to the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals, which can include terrorism and other forms of politically motivated violence.<sup>97</sup> It states that "hard power" is not enough to counter threats drawing on an exclusive world vision and building on false interpretations of faith, fuelled by hatred and intolerance.<sup>98</sup> Such an approach leads to United Nations action on core issues – human rights, development, the rule of law and education – that is securitized. Importantly, it leads to unbiased and impartial legitimate action by the United Nations being tainted by potentially discriminatory, exclusionary and politically charged concepts, rendering such action "United Nations action, infected by overlying security-driven policies on extremism". It can have severe consequences on many programmes, affecting the choice of civil society partners (exclusion), the way in which funding proposals are designed and pitched (securitization) and the beneficiaries of such programmes, both in terms of where the programmes are implemented and how recipients are viewed (stigmatization). An "all of United Nations", "bridge the divide" or "break the silos" approach to the question, in which security is placed on an equal, if not higher, footing than development, human rights and humanitarian action may amount to the securitization of all United Nations action.

49. A further risk lies with the United Nations uncritically embracing the concept together with its myriad understandings on the ground. For some States, preventing and countering violent extremism is a foreign policy tool, deployed through development aid for example, or a tool to affect religious or political ideology or identity, rendering it inherently subjective. Absent any scrutiny or accountability mechanism, it can lead to the United Nations legitimizing, condoning and enabling action aimed at preventing and countering violent extremism that is in clear violation of basic human rights and fundamental freedoms and disregarding its fundamental role in safeguarding international human rights law. The Special Rapporteur has seen first-hand how the United Nations and regional entities are engaging and supporting programmes aimed at preventing and countering violent extremism based on the definition in national law and related practice that are in violation of international human rights treaties and directly impinging on fundamental rights, such as programmes that address

<sup>94</sup> A/70/674, para. 7.

<sup>95</sup> UNDP, "Report on Oslo II".

<sup>96</sup> UNODC, "Guidelines for the Central Asian preventing violent extremism network", 2019.

<sup>97</sup> UNESCO, "Preventing violent extremism through education: a guide for policymakers", 2017.

<sup>98</sup> UNESCO, "UNESCO in action: preventing violent extremism worldwide", 2018.

“extremism” – a direct challenge to the integrity and implementation of the United Nations due diligence policy.

50. The Special Rapporteur continues to underscore that the human rights resources supplied to account for, benchmark or engage in preventing and countering violent extremism are meagre and vastly insufficient to respond to the scale of the human rights challenge. The scale of the programming alone requires sustained, structured and well-resourced human rights oversight and capacity. A part-time Special Rapporteur with no resources is clearly an insufficient human rights bulwark, as are the limited administrative and financial resources given to the Office of the United Nations High Commissioner for Human Rights for the scale, breadth and substance of that programming and policy.

51. The Special Rapporteur acknowledges the invitation of the Human Rights Council, in its resolution 42/18, to reflect on the effects of terrorism in her work, and she continues to reflect in a considered way on how to do so substantively. She notes her ongoing sustained and structured engagement with regard to the rights of victims of terrorism. In the interim, she recalls what she has stated on the subject in her previous report.<sup>99</sup> In addition, the Special Rapporteur notes that, having reviewed a draft of the report of the Human Rights Council Advisory Committee requested by the Council in its resolution 34/8, on the negative effects of terrorism on the enjoyment of human rights, the Special Rapporteur observed that it relied on fundamentally flawed legal analysis concerning the application of human rights law and practice. It contains a range of legal inaccuracies and a number of inconsistencies that appear incompatible with the existing consensus of States on the scope of the application of international human rights law. Working within existing resources, she plans to reflect and pronounce further on the matter.

## VII. Conclusions and recommendations

52. The Special Rapporteur makes the following recommendations:

- (a) All aspects of States national security practice, including those aimed at preventing or countering violent extremism, must comply with international human rights law; preventing and countering violent extremism must never be used to stifle peaceful political dissidence, criticism or non-violent protest or serve as a basis for prosecuting individuals engaged in non-violent expression and advocacy; the absolute right to freedom of religious belief must be respected at all times; religious practice must be protected and never be criminalized;
- (b) States that regulate “extremism” in their laws, policy, programmes or practice should repeal such provisions, which have no purchase in international law, and domestic law must comply with the principles of legality, necessity and proportionality;
- (c) States are encouraged to engage with the broader conditions conducive to violent extremism and terrorism, including weak governance, human rights violations, poor rule of law and corruption; only sustained engagement with the complexity of those conditions will fruitfully address violent extremism;
- (d) All United Nations entities engaged in programming aimed at the prevention and countering of violent extremism must ensure that their practices and programmes are both compliant with international human rights law and the due diligence policies of the United Nations; those obligations are real and must be adequately overseen, particularly by entities engaged in substantial and sustained programming aimed at the prevention and countering of violent extremism, including the Office of Counter-Terrorism, UNODC, UN-Women and UNESCO;
- (e) States must ensure that policies and programmes aimed at preventing violent extremism are evidence-based and scientifically sound and should establish rigorous, systematic and independent monitoring and evaluation mechanisms for such policies

<sup>99</sup> A/HRC/40/52, para. 29.

**and programmes to serve as key tools in measuring effectiveness and enhancing transparency and accountability;**

**(f) All national policies and practices aimed at preventing and countering violent extremism should be governed by a clear and human rights-compliant legal framework and subject to rigorous monitoring and evaluation, including regular, independent and periodic review;**

**(g) The Counter-Terrorism Committee Executive Directorate is encouraged to address the abuse of “extremism” law and practice leading to sustained human rights violations of both derogable and non-derogable rights in country assessments;**

**(h) The United Nations Global Counter-Terrorism Coordination Compact should establish distinct and well-resourced evaluations of the human rights and due diligence impacts of policies aimed at preventing and countering violent extremism;**

**(i) The human rights of women and girls must be fully protected in programming and practices aimed at the prevention and countering of violent extremism;**

**(j) States should establish a clear legal framework governing professional secrecy and other confidentiality obligations in the context of countering terrorism and radicalization towards violence.**

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