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## **THE CENTRAL ROLE OF HUMAN RIGHTS AND STATE OBLIGATIONS WHEN COUNTERING TERRORISM**

The international community has committed to adopting measures that ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism, through the adoption of the United Nations Global Counter-Terrorism Strategy by the General Assembly in its resolution 60/288. Member States have resolved to take measures aimed at addressing the conditions conducive to the spread of terrorism, including lack of rule of law and violations of human rights, and ensure that any measures taken to counter terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.

In 2004, the High-level Panel on Threats, Challenges and Change reported that recruitment by international terrorist groups was aided by grievances nurtured by poverty, foreign occupation, and the absence of human rights and democracy.

The World Summit Outcome, adopted by the General Assembly in 2005, also considered the question of respect for human rights while countering terrorism and concluded that international cooperation to fight terrorism must be conducted in conformity with international law, including the Charter of the United Nations and relevant international conventions and protocols. The General Assembly and the Commission on Human Rights have emphasized that States must ensure that any measures taken to combat terrorism comply with their obligations under international human rights law, refugee law and international humanitarian law. The Security Council has done the same, starting with the declaration set out in its resolution 1456 (2003), in which the Security Council, meeting at the level of Ministers for Foreign Affairs, stated that “States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.” This position was reaffirmed in Security Council resolution 1624 (2005). In his 2006 report “Uniting against terrorism: recommendations for a global counter-terrorism strategy” (A/60/825), the United Nations Secretary-General described human rights as essential to the fulfilment of all aspects of a counter-terrorism strategy and emphasized that effective counter-terrorism measures and the protection of human rights were not conflicting goals, but complementary and mutually reinforcing ones. Universal and regional treaty-based bodies have likewise frequently observed that the lawfulness of counter-terrorism measures depends on their conformity with international human rights law.

The United Nations Global Counter-Terrorism Strategy reaffirms the inextricable links between human rights and security, and places respect for the rule of law and human rights at the core of national and international counter-terrorism efforts. Through the Strategy, Member States have committed to ensuring respect for human rights and the rule of law as the fundamental basis of the fight against terrorism. To be effective, this should include the development of national counter-terrorism strategies that seek to prevent acts of terrorism and address the conditions conducive to their spread; to prosecute or lawfully extradite those responsible for such criminal acts; to foster the active participation and leadership of civil society; and to give due attention to the rights of all victims of human rights violations.

Not only is the promotion and protection of human rights essential to the countering of terrorism, but States have to ensure that any counterterrorism measures they adopt also comply with their international human rights obligations.

The General Assembly has adopted a series of resolutions concerning terrorism since December 1972, addressing measures to eliminate international terrorism as well as the relationship between terrorism and human rights. It has emphasized that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular international human rights, refugee and humanitarian law.

Under the Charter of the United Nations, the Security Council has primary responsibility for the maintenance of international peace and security, including measures to address terrorism as a threat to international peace and security. The Security Council has undertaken a number of counter-terrorism actions, notably in the form of sanctions against States considered to have links to certain acts of terrorism (primarily in the 1990s) and later against the Taliban and Al-Qaida, as well as the establishment of committees to monitor the implementation of these sanctions. In 2001, it adopted resolution 1373 (2001), which obliges Member States to take a number of measures to prevent terrorist activities and to criminalize various forms of terrorist actions, and calls on them to take measures that assist and promote cooperation among countries including signing up to international counter-terrorism instruments. Member States are required to report regularly to the Counter-Terrorism Committee (see annex) on their progress.

As seen above, the Security Council has called on States to ensure that counter-terrorism measures comply with international human rights law, refugee law and humanitarian law in several of its resolutions.<sup>32</sup> In its report to the Security Council (S/2005/800), the Counter-Terrorism Committee reiterated this call. It also stressed that the Counter-Terrorism Committee Executive Directorate (see annex) should take this into account in the course of its activities.

In addition to the general obligation of States to act within a human rights framework at all times, it should be noted that the universal treaties on counter-terrorism expressly require compliance with various aspects of human rights law. In the context of the International Convention for the Suppression of the Financing of Terrorism, for example, this is illustrated in article 15 (expressly permitting States to refuse extradition or legal assistance if there are substantial grounds for believing that the requesting State intends to prosecute or punish a person on prohibited grounds of discrimination); article 17 (requiring the “fair treatment” of any person taken into custody, including enjoyment of all rights and guarantees under applicable international human rights law); and article 21 (a catchall provision making it clear that the Convention does not affect the other rights, obligations and responsibilities of States).

#### **Список використаних джерел**

1. Human Rights, Terrorism and Counter-terrorism. Fact Sheet No.32 Printed at United Nations, Geneva. GE.08-41872–July 2008.

2. United Nations Human Rights Committee, General Comment No. 22: The right to freedom of thought, conscience and religion, 1993.

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#### **MISDEMEANOUR: HISTORICAL BACKGROUND**

Among words that name crimes, misdemeanour gets off easy. Today it officially designates a minor legal offense, but in the past it had meanings that could refer either to very major acts or things not even punishable by law. A misdemeanour is a criminal offense that is less serious than a felony and more serious than an infraction. Misdemeanours are generally punishable by a fine and incarceration in a local county jail, unlike infractions which impose no jail time. Many jurisdictions separate misdemeanours into three classes: high or gross misdemeanours, ordinary misdemeanours, and petty misdemeanours. Petty misdemeanours usually contemplate a jail sentence of less than six months and a fine of \$500 or less.

The punishment prescribed for gross misdemeanours is greater than that prescribed for ordinary misdemeanours and less than that prescribed for felonies, which customarily impose state prison. Some states, like Minnesota in its state misdemeanour laws, even define a gross misdemeanour as any crime that is not a felony or a misdemeanour.

Misdemeanour comes from demeanour, which means “behaviour toward others” or “outward manner” (as in “his quiet demeanour”), itself derived from the verb demean, which means “to conduct or behave (oneself) usually in a proper manner” —not to be confused with the other and much more common verb demean that means “to lower in character, status, or reputation” as in “I won't demean myself by working for so little