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Input to Professor Ben Saul, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism:

Suggestions for the mandate's priorities for the three-year term from late 2023 to 2026, concerning new and continuing thematic issues and geographic focus

30 November 2023

The Charity & Security Network (C&SN) thanks the Special Rapporteur for the opportunity to submit input on the mandate's priorities for the three-year term from late 2023 to 2026, to inform your report to be presented at the 55th session of the Human Rights Council (HRC) in March 2024. C&SN would like to extend our sincerest congratulations for your appointment as Special Rapporteur. We look forward to engaging with you on counter-terrorism measures that impact civil society, as we engaged with your predecessor, and as underpins our organizational mandate.

C&SN is a resource and advocacy center working at the intersection of nonprofit rights and national security. Our mission is to promote and protect the ability of nonprofits to carry out effective programs that support peace and human rights, aid civilians in areas of disaster and armed conflict, and build democratic governance. C&SN was launched in 2008 following sweeping counter-terrorism measures legislated in the wake of 9/11 and the resulting Global War on Terror. Comprised of over 500 individual members across 46 countries, our network includes a broad cross-section of lawyers, nonprofit professionals, human rights defenders, and civil society actors working on humanitarian aid, development, peacebuilding, human rights, and civil liberties across the globe. Our members have cited counter-terrorism mechanisms as a major barrier to their ability to operate. Consequently, we are encouraged by the Special Rapporteur's interest in including topics relevant to civil society in your mandate's priorities.

We are particularly encouraged by your commitments to advancing the work of your predecessor on:

- the impact of counter-terrorism (including terrorist financing measures) on civil society;
- interactions between counter-terrorism law and international humanitarian law, and peace operations and peacebuilding;
- human rights in the United Nations counter-terrorism system.

We are also encouraged by your consideration to address:

- **The proliferation of non-criminal, administrative measures in counter-terrorism**, particularly the proscription of terrorist organisations;
- **Compliance with human rights by regional organisations involved in counter-terrorism**, particularly the Global Counter-Terrorism Forum (GCTF) and Financial Action Task Force (FATF);
- **Reparation and accountability for large-scale human rights violations when countering terrorism**, especially historical conflicts where impunity has prevailed.

Suggestions for Continuing Thematic Issues

Intersectional Integration: Encourage United Nations (UN) counter-terrorism entities and agencies to integrate truly intersectional gender, human rights, and rule of law (RoL)-based approaches into their mandates, strategies, policies, and programming. These have traditionally been tick-box exercises at best and have instrumentalized civil society at worst. There needs to be cultural and narrative change within UN counter-terrorism entities for these commitments to be truly upheld.

Implementation of the Global Study: Building on your predecessor's mandate, ensure the implementation of the findings and recommendations of the *Global Study on the Impact of Counter-terrorism on Civil Society and Civic Space*¹. C&SN was privileged to contribute a written submission,² to partner with the Special Rapporteur and her mandate team to co-lead the North America Regional Consultation (Canada and the United States) to inform the Global Study,³ to attend the launch of the Global Study,⁴ and to deliver remarks during the side event, *From Policy to Practice: Implementation of the Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space*, during the 78th session of the UN General Assembly's (GA) Third Committee.⁵ We are committed to civil society ownership to implement the Study's findings and recommendations, in partnership with our members and with fellow civil society organizations (CSOs) across a number of global Coalition and Networks we co-lead and are active members of. We are particularly interested in the implementation of the following recommendations:

- Ensuring independent oversight mechanisms for:
 - National counter-terrorism institutions and legislation;
 - The UN GA counter-terrorism architecture;
 - Countering the financing of terrorism (CFT) measures and compliance assessments, including the FATF mutual evaluation review and follow-up processes;
 - Human rights abuses perpetrated in the name of countering terrorism.
- Continued engagement with women-led and gender-diverse civil society to ensure documentation of the unique and discriminatory harms of overbroad counter-terrorism measures on women and LGBT and gender-diverse communities.
- Establishing methodologies and reporting mechanisms to identify patterns of misuse and abuse of counter-terrorism measures against civil society and human rights defenders.

¹ United Nations Human Rights Special Procedures: Special Rapporteurs, Independent Experts & Working Groups. "Global Study on the Impact of Counter-terrorism on Civil Society and Civic Space." 21 June 2023. <https://defendcivicspace.com/>

² Charity & Security Network. "C&SN Submits Input for UN Study: Counterterrorism Impacts on Civil Society". 2 March 2023. <https://charityandsecurity.org/counter-terrorist-financing/csn-submits-input-for-un-study-counterterrorism-impacts-on-civil-society/>

³ Charity & Security Network. "Launch of the Global Study on the Impact of Counter-terrorism on Civil Society and Civic Space." 21 June 2023. <https://charityandsecurity.org/blog/launch-of-the-global-study-on-the-impact-of-counter-terrorism-on-civil-society-and-civic-space/>

⁴ Ibid.

⁵ Charity & Security Network. "Event Summary – From Policy to Practice: Implementation of the Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space." 26 October 2023. <https://charityandsecurity.org/news/event-summary-from-policy-to-practice-implementation-of-the-global-study-on-the-impact-of-counter-terrorism-on-civil-society-civic-space/>

Equitable Partnerships: Civil society is still not viewed by UN counter-terrorism entities as having expertise and a wealth of experience on the impacts of counter-terrorism measures and integrating human rights therein. Building on your predecessor’s mandate, you could advocate for civil society to be treated as equitable partners within the UN counter-terrorism architecture, and to move away from extractive relationships where civil society is called upon when information is needed, without insight into how – or if – that information is used.

Suggestions for New Thematic Issues

Visas: Include this as a priority under your consideration of **The proliferation of non-criminal, administrative measures in counter-terrorism**. Visa denials are routine and commonplace for partners and colleagues from the Majority World who work on the impacts of counter-terrorism and CFT measures. Your mandate should raise this issue and push for international conferences, convenings, and forums to not be held unless they can ensure equitable inclusion and access for all actors. In accordance, international convenings should be held in countries conducive to Majority World partners’ leadership and participation.

Suggestions for New Geographic Focus

Gaza: We encourage you to focus on Gaza, and to have your mandate raise the issues of continued and sustained violations of international human rights and international humanitarian law (IHL), and the indiscriminate targeting of civilians, which amounts to war crimes.⁶ Likewise, your mandate could look into the U.S. prohibition on material support. U.S. material support statutes prohibit engagement with U.S. Secretary of State-designated foreign terrorist organizations (FTOs), making most engagement with these entities illegal.⁷ With Hamas’ designation as an FTO, this statute hinders humanitarian aid and prevents opportunities for peace initiatives in Gaza.⁸

C&SN makes the above suggestions while taking care to not legitimize the UN counter-terrorism architecture. We thank you again for the opportunity to provide input and congratulate you once again on your appointment. We would be delighted to discuss these suggestions further with you over a meeting.

Kind Regards,

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⁶ Amnesty International. “Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza.” 20 October 2023. <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/#:~:text=Where%20an%20indiscriminate%20attack%20kills,anticipated%2C%E2%80%9D%20also%20are%20prohibited.>

⁷ Charity & Security Network. “Input to Special Rapporteur on Counter-terrorism and Human Rights: Report to the GA77 on the Impact of Counter-Terrorism on Peacemaking, Peacebuilding, Sustaining Peace, Conflict Prevention and Resolution.” October 2022. 8 July 2022. https://charityandsecurity.org/wp-content/uploads/2022/07/Submission-to-SR-on-CT-and-Peacebuilding_July-2022.pdf

⁸ Alliance for Peacebuilding and the Charity & Security Network. “Preventing Peace: How ‘Material Support’ Laws Undermine Peacebuilding.” July 2021. <https://charityandsecurity.org/wp-content/uploads/2021/07/Preventing-Peace-How-Material-Support-Laws-Undermine-Peacebuilding.pdf>