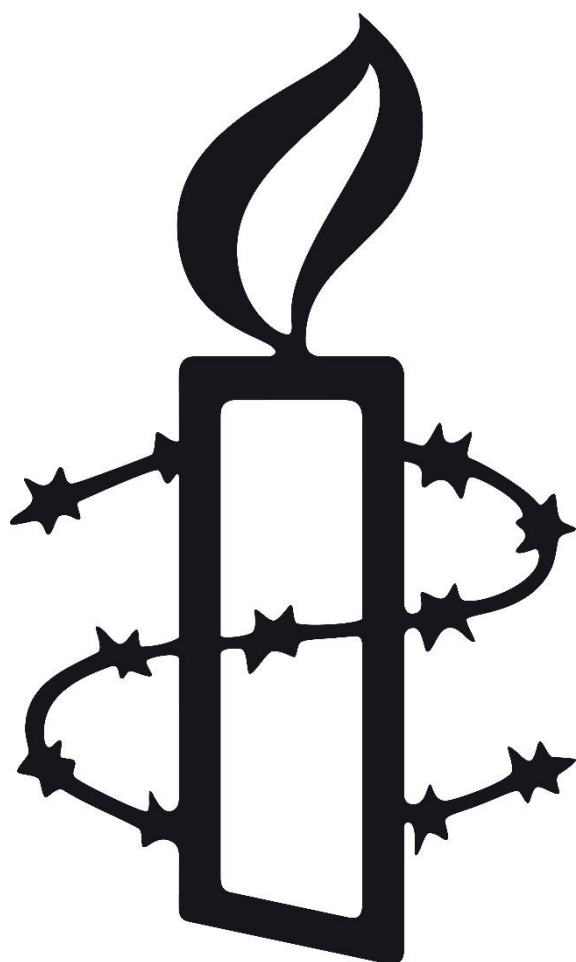


GLOBAL STUDY ON THE IMPACT OF COUNTER TERRORISM MEASURES ON CIVIL SOCIETY AND CIVIC SPACE

**SPECIAL RAPPORTEUR ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS WHILE COUNTERING TERRORISM**



**AMNESTY
INTERNATIONAL**



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Amnesty International welcomes the opportunity to provide this submission to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in order to aid her Global Study into the impact of counter terrorism measures on civil society and civic space.

INTRODUCTION

Amnesty International welcomes the opportunity to provide this submission to the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in order to aid her *Global Study into the impact of counter terrorism measures on civil society and civic space*. Globally we all too often see counter terrorism measures being used as pretext to restrict civic space. National security is often misused by states as a 'blank cheque' – that is, an excuse by which they can implement measures that would otherwise be subject to closer domestic and international scrutiny and criticism. Such measures are deemed more acceptable in the name of countering terrorism.

Moreover, Amnesty International is concerned that an international counter terrorism architecture has emerged, namely the UN Office of Counter Terrorism and the UN Counter Terrorism Executive Directorate, that encourages states to take counter terrorism measures, often without adequate consultation with, or cognisance of the impact on, civil society.

This submission covers parts of the questions posed in the questionnaire provided by the UN Special Rapporteur. It is not an exhaustive analysis of the impact of counter terrorism measures on civil society and civic space.

DESCRIPTIONS, EXAMPLES, OR ASSESSMENTS OF ANY INSTANCES WHERE YOUR ORGANIZATION HAVE BEEN POSITIVELY OR NEGATIVELY AFFECTED BY LOCAL, NATIONAL, REGIONAL, AND/OR INTERNATIONAL COUNTER-TERRORISM OR PREVENTING/COUNTERING VIOLENT EXTREMISM LAWS, POLICIES, OR PRACTICES.

Amnesty International has been directly impacted by the use of counter terrorism powers in a number of countries, either because the organization can no longer safely carry out research on the ground, to avoid exposing local partners to risks of retaliation if they collaborate with it, or because operations and in-country presence have had to be reduced or completely halted.

On 25 October 2021, Amnesty International announced the closure of its two offices in Hong Kong, Amnesty's local Hong Kong section and Hong Kong regional office.¹ This decision was a direct result of Hong Kong's National Security law and the drastic impact it has had on the civic space. The law created an environment of repression and uncertainty for civil society organizations, that prevented Amnesty from identifying which activities might lead to criminal sanctions, or how long it could still perform its human rights work effectively and safely from Hong Kong.

As a result of Israel's isolation of Gaza on purported national security grounds, Amnesty International and other human rights organizations cannot gain access to conduct in-person fieldwork. The last time Amnesty International staff were able to obtain an Israeli permit for access was in 2012.² During a parliamentary question regarding the official status of the separation policy in 2014, then deputy defence minister Danny Danon said: "Starting in the summer of 2007, following the takeover of the Gaza Strip by terrorist organizations, Israel has been implementing a separation policy between the Gaza Strip and Judea and Samaria [West Bank excluding East Jerusalem]. This policy is backed by the decisions of the Government of Israel."³

In addition, there are a number of countries in which Amnesty International is unable to operate for fear of reprisals against staff on the ground. In many of these countries the organisation fears that counter terrorism powers would be used against it if it were to have an in-person presence. As a general trend, the

¹ <https://www.amnesty.org/en/latest/news/2021/10/amnesty-international-to-close-its-hong-kong-offices/>

² <https://www.amnesty.org/en/documents/mde15/024/2014/en/>

³ See <https://www.amnesty.org/en/documents/mde15/5141/2022/en/> p.80

organisation has observed that counter terrorism powers are the ‘weapon of choice’ of those governments that wish to clamp down on civic space.

DESCRIPTIONS, EXAMPLES, OR ASSESSMENTS OF ANY INSTANCES OF MISUSE OF TECHNOLOGY USED FOR TERRORISM, COUNTERTERRORISM, PREVENTION OF (VIOLENT) EXTREMISM LAWS, POLICIES, OR PROCESSES. THIS MAY INCLUDE MISUSE OF ARTIFICIAL INTELLIGENCE, BIOMETRIC COLLECTION, ADVANCED PASSENGER INFORMATION AND PASSENGER NAME RECORD DATA, DIGITAL SURVEILLANCE, ELECTRONIC MONITORING, UNMANNED AIRCRAFT SYSTEMS OR DRONE TECHNOLOGIES, ETC.

Amnesty International has carried out extensive research on unlawful targeted digital surveillance, documenting abuses involving cyber surveillance companies and exposing how digital surveillance has been misused to target human rights defenders, including Amnesty International staff.

In December 2022, Amnesty International Canada decided to make public that they had been the target of a sophisticated cyber-attack with suspected links to a government-backed hacking group.⁴ In 2019 Amnesty International Hong Kong also revealed it has been the target of a sophisticated state-sponsored cyber-attack, consistent with those carried out by hostile groups linked to the Chinese government.⁵ In June 2018, an Amnesty International staff member received a suspicious WhatsApp message in Arabic. The text contained details about an alleged protest outside the Saudi embassy in Washington D.C., followed by a link to a website. Investigations by Amnesty International’s technology team revealed that clicking the link would have installed the Pegasus spyware.⁶

Amnesty International has highlighted the global scale of human rights abuses involving cyber surveillance companies, like NSO Group, and its government clients.⁷ The findings of [The Pegasus Project](#) confirm the use of cybersurveillance tools on potential targets that include world leaders, politicians, human rights defenders and journalists.⁸

While NSO Group claims its spyware is only used for criminal and counter terrorism investigations, it has become clear that its technology facilitates systemic abuse. As reported, while this tool may be marketed for legitimate purposes – to “collect data from the mobile devices of specific suspected major criminals”⁹ – there is a simultaneous parallel use of the tool against civil society and other people in violation of international human rights law.

Although States may justify their use of spyware citing national security reasons, evidence shows a widespread misuse of these technologies for illegitimate purposes, using “national security” as an excuse to justify targeting critical voices, including journalists, human rights defenders and politicians. In a recent study commissioned by the European Parliament’s Committee of Inquiry to Investigate the Use of Pegasus and Equivalent Surveillance Spyware (PEGA), it is stated that although the concepts of “security” and “national security” may be defined in broad terms by different legal instruments and institutions, “[t]his should not, however, be understood as implying that states can label any initiatives they undertake as pertaining to national security, in such a way as to provide such initiatives with a legal and moral justification. There is indeed strong evidence, coming from different countries, including

⁴ <https://www.amnesty.ca/news/news-releases/cyber-breach-statement/>

⁵ <https://www.amnesty.org/en/latest/press-release/2019/04/state-sponsored-cyber-attack-hong-kong/>

⁶ <https://www.amnesty.org/en/latest/news/2018/08/staff-targeted-with-malicious-spyware/>

⁷ <https://www.amnesty.org/en/latest/news/2021/07/pegasus-project-spyware-digital-surveillance-nso-2>

⁸ <https://www.amnesty.org/en/latest/news/2021/07/the-pegasus-project/>

⁹ NSO Group, Transparency and Responsibility Report 2021, 30 June 2021, [nsgroup.com/wpcontent/uploads/2021/06/ReportBooklet.pdf](https://www.nsgroup.com/wpcontent/uploads/2021/06/ReportBooklet.pdf), p. 7.

some Member States, that spyware is misused, serving completely different purposes under the pretence of its necessity for national security.”¹⁰

The lack of proper regulation and oversight of the use of targeted surveillance technologies is not only undermining the full enjoyment of individuals’ human rights, including the right to privacy and of freedom of expression, but it is also shrinking both online and offline spaces for human rights work.

ASSESSMENT OF FUNDAMENTAL FREEDOMS AND HUMAN RIGHTS, INCLUDING GENDER-RELATED, IMPACTED AS A RESULT OF TERRORISM, COUNTER TERRORISM AND PREVENTING/COUNTERING (VIOLENT) EXTREMISM LAWS, POLICIES, OR PROCESSES.

Amnesty International has long documented the use of counter terrorism powers in a manner that restricts civic space in violation of international human rights law and standards. A list of examples of such practice would be lengthy, so in the interests of concision this response will focus on two areas: (a) raids and shutdowns of CSOs, (b) targeting of activists and protesters.

(A) RAIDS AND SHUTDOWNS OF CSOS

In our experience counter terrorism powers are frequently used to target groups that are unpopular with or inconvenient to those in power – but which fall well short of constituting a threat to national security under accepted international standards.¹¹

Since the enactment of the National Security law in **Hong Kong**, nearly 100 civil society organizations and a dozen independent media outlets operating there have been forced to disband or relocate. UN human rights experts, civil society organizations and scholars have commented extensively on how the law has given the government a free rein to repress civil society actors and the devastating human rights violations enabled by this law.¹²

On 19 October 2021, **Israel’s** Defense Ministry issued a military order declaring six Palestinian civil society organizations that promoted human rights as “terrorist” entities. The designation effectively outlawed them from operating and allowed the Israeli authorities to close their offices, seize their assets and arrest or jail their staff members. It also prohibited publicly expressing support for their activities or funding the organizations.¹³

Türkiye has exploited a 2019 Financial Action Task Force (FATF) assessment report to supplement its arsenal of tools to suppress civil society, including many counter terrorism regulations which are routinely used to target human rights groups. In response to the FATF’s conclusion that **Türkiye** was not in full compliance with their recommendation on terrorism financing and potential risks associated with

¹⁰ European Union, *The impact of Pegasus on fundamental rights and democratic processes*, December 2022, [The impact of Pegasus on fundamental rights and democratic processes | Think Tank | European Parliament \(europa.eu\)](#), p. 36-37

¹¹ In making this assessment Amnesty International draw upon the definition of national security provided by the ‘*Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*’ para 29: “29. National security may be invoked to justify measures limiting certain rights only when they are taken to protect the existence of the nation or its territorial integrity or political independence against force or threat of force.”

¹² <https://www.amnesty.org/en/documents/asa17/4197/2021/en/>
hkba.org/uploads/20200701%20HKBA%20statement%20on%20Safeguarding%20National%20%20Security%20in%20HK SAR.pdf; Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on minority issues (OL CHN 17/2020), 1 September 2020, spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25487; Johannes M M Chan, “National Security Law in Hong Kong: One year on”, 25 October 2021, 30 Academia Sinica Law Journal, University of Hong Kong Faculty of Law Research Paper No. 2022/01, dx.doi.org/10.2139/ssrn.3956272

¹³ Amnesty International, *Israel/OPT: The stifling of Palestinian civil society organizations must end*, <https://www.amnesty.org/en/latest/news/2022/08/israel-opt-the-stifling-of-palestinian-civil-society-organizations-must-end/>

the not-for-profit sector, the Turkish Parliament rushed through Law No. 7262 on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction in the final days of 2020, without any consultation with civil society. The law goes far beyond what is required by the FATF, undermines the principle of legality with its overly broad and vague provisions, and threatens to further undermine particularly the rights to freedom of association and expression. Law No. 7262 contains several provisions that are likely to be used in the government's ongoing attacks on human rights defenders and independent civil society groups.

(B) TARGETING OF ACTIVISTS AND PROTESTERS

Counter terrorism measures are frequently misused as a state response to activists and protest movements.

In **Belarus** the State Committee for Security has significantly expanded the "List of organisations and individuals involved in a terrorist activity," which by the end of 2022 included 958 individuals, including leading exiled opposition figures Sviatlana Tsikhanouskaya and Pavel Latushka, and prisoners of conscience Maryia Kalesnikava and Maksim Znak.¹⁴ The authorities continued to arbitrarily brand organisations, information resources and other material as "extremist," and hundreds of individuals were prosecuted for any form of association with the above, such as 'liking' an "extremist" social-media post or wearing a t-shirt with an "extremist" logo.

More than a hundred people from **Cameroon's** Anglophone regions and its main political opposition party, arrested over the past five years for exercising their rights to freedom of expression and peaceful assembly, are still languishing in jail, where some have been subjected to torture or other ill-treatment. Most of the jailed individuals were tried before military courts — in violation of international human rights law — and many were sentenced under the country's repressive 2014 anti-terror law following their participation in largely peaceful demonstrations in late 2016 that called for greater rights in the two Anglophone regions.¹⁵

In **Russia**, the authorities have extensively used counter terrorism and counter extremism legislation to clamp down on opposition activists, human rights defenders and independent journalists. A clampdown on civic space has resulted in anti-war protesters and supporters of the imprisoned opposition leader Aleksei Navalny being accused of 'extremism' and 'justification of terrorism'.¹⁶ LGBTI and political activists Salekh Magamadov and Ismail Isaev stand falsely accused of "aiding illegal armed groups".¹⁷

In **Sri Lanka** the authorities used the draconian powers contained within the Prevention of Terrorism Act to arrest and detain activists – in some cases holding individuals for months without charge or trial.¹⁸

Amnesty International are concerned that in many states counter terrorism powers are used in a manner that targets marginalised groups and limits their civic participation. We have documented extensively how discriminatorily applied powers are used to target Muslim organisations and protesters in **France**, such as women protesting in Paris against a headscarf ban for footballers¹⁹ or the disbanding of the Muslim anti-racist organisation 'Collective Against Islamophobia in France' (CCIF) in the name of republicanism.²⁰ In the **UK** we are concerned that the so called 'de-radicalisation scheme,' known as PREVENT, has a chilling effect on activism, disproportionately impacting racialised and Muslim communities.

¹⁴ Belarus' State Committee for Security website where the list including the abovementioned exiled opposition figures can be found: <http://www.kgb.by/ru/perechen-inf-ru/>

¹⁵ <https://www.amnesty.org/en/latest/news/2022/01/cameroon-more-than-a-hundred-detainees-from-anglophone/>

¹⁶ <https://www.amnesty.org/en/latest/news/2023/01/russia-two-years-after-aleksei-navalnys-arrest-russian-opposition-figures-suppressed-jailed-or-exiled/>

¹⁷ <https://www.amnesty.org/en/latest/news/2022/10/russia-court-upholds-lengthy-prison-sentences-for-chechen-lgbt-siblings-2/>

¹⁸ <https://www.amnesty.org/en/documents/asa37/6353/2023/en/>

¹⁹ <https://www.amnesty.org/en/wp-content/uploads/2022/02/EUR2152262022ENGLISH.pdf>

²⁰ <https://www.amnesty.org/en/latest/press-release/2020/11/france-shutting-down-antiracist-organisation-risks-freedoms/>

ANY DOCUMENTATION OR ASSESSMENTS REGARDING RECOMMENDATIONS TO NATIONAL GOVERNMENTS, MEMBER STATES, THE INTERNATIONAL COMMUNITY, AND/OR UN ENTITIES REGARDING THE INTERFACE BETWEEN COUNTER-TERRORISM MEASURES, CIVIL SOCIETY AND CIVIC SPACE.

To national governments/member states

- Cease using national security and counter terrorism as pretext to enable or commit human rights violations, not least through restricting access to civic space for individuals, communities and organizations;
- Cease circumventing the criminal justice related safeguards guaranteed under international human rights law through the use of administrative counter terrorism powers;
- Ensure criminal offences comply with all requirements under international human rights law, including by being precisely formulated, and can never be used to target or otherwise adversely impact on conduct protected by human rights;
- Respect the human rights of civil society groups and individuals that are critical of their conduct, through respect for the rights to freedom of expression, freedom of peaceful assembly and freedom of association;
- Fully guarantee fair trial rights in criminal and civil proceedings relating to alleged terrorist offenses;
- Cease the discriminatory use of counter terrorism powers, not least through misguided CVE/PVE programmes;
- Ensure that all initiatives in the sphere of counter terrorism are preceded, and their impact subsequently assessed, by extensive and meaningful engagement with civil society.

To the UN

- Ensure a cultural change takes place so that when states misuse counter terrorism powers that have been introduced at the behest of the UN, or via an enabling environment created by it, recognises its responsibility to respond publicly and critically. This should include measures introduced under the cover of Security Council resolutions or under programmes conducted by UNCTED or UNOCT;
- Ensure that the UN no longer promotes counter terrorism measures that violate human rights, or creates an enabling environment for the violation of human rights in the name of countering terrorism. This will require a more astute analysis of unintended consequences and the possibilities for the malign misuse of most counter terrorism initiatives and powers;
- Cease the promotion of discriminatory CVE/PVE programmes, and ensure that rehabilitation programmes are evidence-based;
- Monitor and challenge the misuse of counter terrorism powers that violate human rights law and standards;
- Ensure meaningful consultation with civil society regarding all proposed counter terrorism programming.

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

Contact



info@amnesty.org



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amnesty.org



Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW, UK

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