

Human rights must always be protected, even when countering terrorism – UN experts

GENEVA (16 April 2015) – Human rights and freedoms should not be sacrificed for political convenience in the fight against terrorism, two United Nations human rights experts have said today.

“It is only by strict adherence to international human rights standards that counter-terrorism strategies can ultimately succeed,” said Ben Emmerson, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief.

“Just as much as we condemn terrorism, particularly at a time when the international community reaffirms its unreserved commitment to combat it, we must demand that human rights be respected in the context of such a challenge,” the experts said, directing their comments at Governments currently engaged in counter-terrorism campaigns.

The human rights experts described the recent attack at Garissa University College in Kenya, which killed at least 147 students and lecturers, as “a savage act of extreme brutality,” which “shows the urgent need to rethink counter-terrorism responses based only on law enforcement and military force.”

“Many observers of such violence tend to underestimate the complexity of these phenomena by using the label “religion” broadly and loosely while it is important to take also non-religious factors more seriously,” said Mr Bielefeldt and Mr Emmerson.

“This is particularly true when confronting challenges such as armed conflict, poor governance, environmental degradation, endemic corruptions, intricate historic legacies of a country, extreme poverty, social, cultural, economic and political discrimination, as well as marginalisation of large sections of the population, or prolonged periods of State collapse,” the experts highlighted. “These circumstances provide fertile soil for recruitment to movements that promise a prospect for change, but resort to the unacceptable means of acts of terrorism to achieve their goals.”

The experts underlined that while there cannot be a single response to those questions, it is clear that a sustainable approach is needed in counter-terrorism that tackles not only the manifestations of terrorism but also its root causes.

UN Member States have unanimously recognised that the protection of human rights and freedoms is a prerequisite to any effective counter-terrorism strategy. Security Council resolution 1963 states that terrorism would not be defeated by military force, law enforcement measures, and intelligence operations alone.

“By actively promoting and protecting human rights, States contribute to preventing terrorism in an effort to address its root causes and risk factors,” the experts said, noting that this is the spirit of the 2006 UN Global Counter-Terrorism Strategy, which was recently reaffirmed in 2014. The strategy emphasises that any measure adopted by States to counter terrorism must comply with

their obligations under international law, in particular international human rights, refugee and humanitarian law.

“This is not solely a question of legitimacy; it is also a question of effective prevention,” the independent experts stated. “Respect for the rule of law, and the protection of human rights and fundamental freedoms are essential to offer a viable alternative to those who could otherwise be susceptible to terrorist recruitment and to radicalisation.”

The UN experts emphasised that any sound, sustainable, and comprehensive strategy to combat terrorism also requires recognition of the suffering of victims of terrorist acts. States should accept a special obligation to victims of terrorism that aims to provide adequate reparation to the victims of all acts of terrorism occurring on their territory, irrespective of whether public officials are found to have been at fault in some way.

“To require the victims to bear the burden of proving fault on the part of a public authority, when all of the evidence is in the hands of the State, and much of it will be classified, is unfair, unjustified and inhuman”, the experts noted.

“The suffering of victims should not be misused as a pretext to deny the human rights of those suspected of terrorism, to justify emergency measures including excessive and disproportionate executive powers, repression of legitimate peaceful opposition activities or for other restrictive political purposes,” they added.

“This adds to the vicious circle of terrorism by contributing to the dehumanization of victims of terrorism,” the expert noted. “Genuine respect for the humanity of the victims requires that the protection of human rights is not invoked to curtail human rights,” the independent experts said, recommending that States move towards the adoption of a specific international instrument setting out the rights of victims of terrorism and the corresponding obligations on States.

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