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**House Foreign Affairs Committee  
Tom Lantos Human Rights Commission**

**Hearing  
on  
Counter-terrorism and Human Rights: Striking the Right Balance**

October 26, 2021 - 10:00 a.m.  
Virtual, via Cisco WebEx

**Statement of Fionnuala Ní Aoláin  
United Nations Special Rapporteur on the promotion and protection  
of human rights and fundamental freedoms while countering terrorism**

**I. Introductory Remarks**

Good morning, Chairman McGovern, Chairman Smith, and distinguished members of the Tom Lantos Human Rights Commission. Thank you for inviting me to testify at this critically important hearing.

By way of introduction, my mandate was established by the UN Human Rights Council in 2005 to gather information on alleged violations of human rights while countering terrorism; to present regularly to the Human Rights Council and General Assembly on emerging challenges and recommendations; and to provide technical assistance and substantive expertise to Member States and other entities upon request. The Special Rapporteur is also an entity within the New York counter-terrorism architecture and a member of multiple UN Working Groups within the UN Global Counter-Terrorism Coordination Compact engaging with States, the Security Council, the General Assembly, and a range of UN entities.

As Special Rapporteur, I have seen firsthand the rising abuse of counter-terrorism and countering violent extremism measures, particularly by authoritarian States seeking to crack down on civil society, democracy advocates, human rights defenders, humanitarians, and religious minorities.

## **I. Observations on Global Trends of Abuse**

In 2019, I presented a report to the Human Rights Council on the scale of abuse. I request that this [report](#) be made part of the record.

As I explain there, since 9/11, counter-terrorism laws and regulations have dramatically proliferated. From 2001 to 2018, at least [140 Governments](#) adopted counterterrorism laws. This trend has been heightened as Governments have invoked emergency powers and adopted sweeping national security laws amidst the COVID-19 pandemic.

At the same time, Governments have increasingly adopted measures restricting civic space. Over the past five years, [91 countries](#) have proposed or enacted more than 260 legal measures affecting civil society. Of these measures, 72% have been restrictive.

The concurrence of these two trends is no coincidence. The overwhelming evidence from across the globe is that the constriction of civil society follows from the convergence of an unaccountable global counter-terrorism architecture, weakening in the rule-of-law frameworks governing counter-terrorism, and the systemic domestic exploitation of counter-terrorism frameworks that emerged in the aftermath of 9/11 to repress and violate rights domestically. As the international community took draconian measures and a security-first, “human rights lite” approach to counter-terrorism, human rights protections and obligations fell to the wayside.

Around the world, civil society questioning the legitimacy of counter-terrorism measures on human rights grounds have been silenced. They have been labeled terrorists, extremists, or a broad “threat to national security.” Such practice undermines the rule of law, distorts governance, and make us less safe and less secure.

Since my mandate's inception (2005), 66% of all relevant communications sent to Governments have related to the misuse of counter-terrorism policies on civil society. Fundamental and precious rights to express, assemble, participate in public affairs and practice one's religious faith are now under ferocious attack from counter-terrorism around the globe. In the most egregious instances, civil society actors have been subject to torture, arbitrary and secret detention, enforced disappearance, and illegal deportation.

One striking trend is that Governments have adopted overly broad and vague definitions of terrorism and violent extremism that are then invoked to arbitrarily designate and silence individuals or groups at their choosing. The absence of internationally agreed-upon definitions for terrorism and violent extremism exacerbates such abuse.

Expansive definitions have been coupled with the criminalization of a wide range of acts construed as support to terrorists, often without requiring intent or danger that the act will lead to the actual commission of violence. Some States consider mere verbal criticism of the State as terrorism. Others consider defending human rights or protecting women's and children's rights as terrorism.

Increasingly, States are turning their regulatory focus on the "pre-criminal" or "pre-terrorist" space, involving the fluid interaction of the criminal with social, religious and administrative regulation. This has led some, under the guise of countering violent extremism, to systematically target religious and ethnic minorities, including members of the Church of Scientology, Jehovah's Witnesses, Baptists, Uighurs, and Ahmadis.

The human cost of this abuse cannot be overstated. It can cause rupture, displacement, and transformation in the family and private lives of individuals, groups, and communities who are the secondary victims of these practices.

At bottom, these measures are also ineffective. There is absolutely [no evidence](#) that legal restrictions on civil society reduce the number of terrorist attacks within a country. Rather, any effective counter-terrorism strategy needs to strengthen civil society. Civil society is our most

valuable partner in the fight against terrorism. Civil society partnership upholds the rule of law, engages our core values, protects the most vulnerable and marginalized and in doing so, and paves the way for more effective prevention strategies.

## **II. A Path Forward**

So what can be done here in the United States to mitigate such abuse?

*First*, the United States must explicitly recognize the vast consequences that twenty years of the U.S.-led securitization of counter-terrorism policy has had on civil society and democracy advocates across the globe, and structurally, on the multilateral counter-terrorism architecture. This hearing is a vital start, and I sincerely hope that Congress will continue to document and grapple with these issues going forward.

*Second*, the United States must ensure that domestic counter-terrorism and countering violent extremism measures do not feed into the trend of closing civic space. Congress should be careful to adopt precise and sufficiently narrow definitions of terrorism and violent extremism that do not include members of civil society or non-violent acts carried out in the exercise of fundamental freedoms. Legitimate expression of opinions or thought as guaranteed under international law and by the First Amendment must never be criminalized, and sufficient avenues for oversight, accountability, and redress must be provided. In this regard, Congress also plays a critical role in engaging with the Executive, promoting the mainstreaming of human rights across counter-terrorism programs and policies, and taking particular care to include rather than marginalize or co-opt our diverse and vibrant civil society.

*Lastly*, the United States must not just set a positive example at home, but it must also ensure its partners abroad are equally committed to promoting and protecting human rights in counter-terrorism. Congressional oversight and human rights due diligence are critical to prevent support to rights-abusing Governments and mitigate the ramifications of such abuse here at home. So too is Congress's sustained engagement with the Executive and its role within the multilateral counter-terrorism architecture.

The United States must call out its friends and allies who misuse their counter-terrorism powers against civil society, reminding them of its values and underscoring how counter-productive such abusive practices are. The United States must also be trenchant and vocal with authoritarian regimes who abuse the language and practice of counter-terrorism in the repression of civil society. The strength of bi-partisan voices on this issue has never been more important.

Thank you for the opportunity to appear before you and for this Commission's continued commitment to human rights. I remain at your disposal.

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