

Office of the High Commissioner for Human Rights (OHCHR)

Location:

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Year of Establishment: 1993

CTITF Working Group Membership:

- Protecting Human Rights While Countering Terrorism (lead)
- Border Management Related to Counter-Terrorism
- Countering the Use of the Internet for Terrorist Purposes
- Supporting and Highlighting Victims of Terrorism
- Preventing and Resolving Conflicts

With a staff of 850, including some 240 international human rights officers serving in UN field missions,¹³¹ the Office of the High Commissioner for Human Rights (OHCHR) is tasked with promoting and monitoring adherence to all UN human rights treaties, including the “International Bill of Rights,” which includes the *United Nations Declaration of Human Rights* (UDHR) and the two main international human rights treaties.¹³² Additionally, OHCHR plays a strong role in mainstreaming human rights throughout UN programs and developing relevant international norms. OHCHR also provides expertise and support to UN monitoring mechanisms, including the Human Rights Council, and provides technical and legislative assistance to states upon request.

To assist states in developing more human rights-compliant counterterrorism measures, OHCHR provides technical and legislative assistance and training upon request, develops tools to assist practitioners, reviews reports submitted to the Human Rights Council, conducts research and analysis, and publishes information on human rights and counterterrorism, including information on what constitutes a “public emergency” that allows states to temporarily derogate from their human rights obligations. The office also works closely with the Special Rapporteur on protecting human rights while countering terrorism on many of these issues, and regularly updates the Human Rights Council on its work.

OHCHR has provided advice to states on their obligations in areas such as detention in the context of counterterrorism; issues relating to the absolute prohibition of torture; the impact on counter-

terrorism on economic, social, and cultural rights; and challenges in complying with human rights while countering terrorism, including accountability, ending impunity, and effective remedies.¹³³

The more assertive approach to counterterrorism adopted by the Security Council following the attacks of September 11, 2001—and encapsulated in Security Council Resolutions 1267, 1373, and 1624, for example—prompted a call for greater integration of human rights work in the Security Council’s counterterrorism efforts.¹³⁴ OHCHR observed that “most countries, when meeting their obligations to counterterrorism by rushing through legislative and practical measures, have created negative consequences for civil liberties and fundamental human rights.”¹³⁵ Moreover, critics noted that the sweeping obligations placed on states under Resolution 1373 required far-reaching measures to counter terrorism without offering guidance on compliance with human rights in their implementation and without providing a definition for terrorism.¹³⁶

The strong lobbying for a greater human rights focus in the Security Council body overseeing implementation of these resolutions known as the Counter-Terrorism Committee (CTC) by Mary Robinson and Sergio Viera de Mello, when each served as High Commissioner for Human Rights, was reflected in UN Security Council Resolution 1456 (2003), which stated that

States must ensure that any measures 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.¹³⁷

Though passed under Chapter VI of the UN Charter, and therefore nonbinding on states, this effort by the Security Council improved communication between OHCHR and members of the CTC.¹³⁸

However, many questions remained regarding how human rights would be incorporated into the work of the committee. To some extent, these were addressed through the 2005 appointment of a senior human rights officer within the CTC’s supporting body, the Counter-Terrorism Committee Executive Directorate (CTED), which

has enabled more active engagement between the two regimes and a greater human rights focus in CTED's work.¹³⁹ The importance of incorporating human rights into the council's counterterrorism work was reaffirmed most recently in Security Council Resolution 1963 (2010), which renewed CTED's mandate and urged a greater focus on the issue.¹⁴⁰

Additionally, the 2006 UN Global Counter-Terrorism Strategy made explicit the importance of protecting and promoting human rights in all counterterrorism efforts, highlighting it as a core tenet of the General Assembly's approach to addressing global terrorism. Dedicating its fourth pillar of action to protecting and promoting human rights, the Global Strategy called for "the strengthening of the operational capacity of the Office of the United Nations High Commissioner for Human Rights, with a particular emphasis on increasing field operations and presences."¹⁴¹

An active member of the Counter-Terrorism Implementation Task Force, OHCHR participates in several CTITF working groups (listed above), and leads the Working Group on Protecting Human Rights While Countering Terrorism, whose aim is primarily to assist states in implementing the human rights aspects of the Global Strategy, in particular Pillar IV. This working group has developed a set of Basic Human Rights Reference Guides to support member states in strengthening the protection and promotion of human rights while countering terrorism. In 2010, the working group launched the first two of the reference guides, the first on stopping and searching of persons and the second on protecting security infrastructure. Future guides will cover the principle of legality in national counterterrorism legislation and the proscription of organizations. The reference guides are expected to provide guidance for national action, serve as a checklist, and address capacity-building needs of states.¹⁴²