



September 12, 2023

United Nations Human Rights Committee

Via electronic mail: [ohchr-ccpr@un.org](mailto:ohchr-ccpr@un.org)

*Re: Letter from global civil society organizations providing information for the UN Human Rights Committee's upcoming review of the United States of America under the International Covenant on Civil and Political Rights*

Dear Members of the Human Rights Committee:

On the occasion of the the Human Rights Committee's review of the United States of America (US) for its compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR), we, the undersigned human rights and civil society organizations from around the world, submit this letter for the Committee's consideration alongside the shadow reports provided by US civil society. As we countenance a progressively shrinking civic space for organized protest, dissent, and accountability worldwide, we believe it necessary to take this opportunity to highlight the US' particular role in propagating policies that have influenced how civil society is treated elsewhere in the world. The US' historic self-appropriated role as the "leader of the free world" has meant that as the US itself backslides on its obligations to protect the civil and political rights of its people, authoritarian-leaning regimes may be emboldened to follow suit. Indeed, the spread of the US' counter-terrorism framework beyond its borders (the US dimension of which is elaborated in a shadow report submitted by the Center for Constitutional Rights *et al.*) is emblematic of how local policies can influence policy making abroad, resulting in concrete human rights impacts. These range from the misuse of such frames to crack down on movements, to heightened penalties, elimination of due process guarantees for common crimes and general restrictions on civil society's access to funding. Though examples abound about how repressive policies or diplomatic pressures from the US work to the detriment of civil society based in other parts of the world, we will focus on five specific examples to illustrate this harmful dynamic.

**a. UN Counter-terrorism - Financial Action Task Force.**

In different parts of the world, laws and practices have proliferated that are similar to those enabled in the United States by the U.S. PATRIOT Act, passed during George W. Bush's presidency, just over a month after the attacks on the World Trade Center's Twin Towers. Among other measures, the law allows US security and intelligence agencies to intercept telephone calls and emails from organizations and people allegedly involved in terrorism, without the need for any authorization from the courts, whether foreign or American.



In the immediate aftermath of September 11, 2001, the UN Security Council adopted resolution 1373 under Chapter VII of the UN Charter, requiring States to, among other things, criminalize terrorist activities, ban the financing of terrorists, and bring terrorists to justice. In turn, Member States speedily enacted national counter-terrorism legislation based on the compulsory nature of Security Council resolution 1373. In addition, due to the Security Council resolution 1373, allied with the implementation of the Financial Action Task Force Standards, many States have passed counter-terrorism financing legislation and sanctions laws and frameworks in the name of fighting terrorism.

According to the Independent Global Study on the Impact of Counter-Terrorism Measures on Civil Society, produced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, called "[Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space](#)" (2023), many counter-terrorism enactments are currently misused against civil society, as they generally contain overly broad and ambiguous definitions of terrorism, operating in such a way as to impinge on the principles of legality, freedom of expression and opinion, freedom of thought, conscience and religion, freedom of association, and other fundamental rights and freedoms. The study also states that many of these laws have their roots in legislation and practice directed at native and indigenous peoples by colonial powers. This overall scenario illustrated the side effects of the war on terrorism on civil society.

Multilateral initiatives and institutions have been key actors in disseminating the US counter-terrorist framework, such as the UN Security Council, the Financial Action Task Force (FATF) and other informal global governance bodies like the Global Counterterrorism Forum (GCTF), created in 2011 by the United States and Turkey, with 28 other members, to establish security policy guidelines and recommendations. The toolkit this forum offers aims to assist states to build and implement watchlists and databases of "known and suspected terrorists" (KSTs) and "foreign terrorist fighters" (FTFs), and was co-led by the United States and the U.N. Office of Counterterrorism. This initiative has been widely criticized by human rights bodies, civil society organizations (CSOs), academics, and states for the asymmetries it generates between member and non-member countries, in addition to the weakening of human rights and its discriminatory effects (see more [here](#)).

In what follows, we will mention just a few examples of how the United States security policies and the fight against terrorism have been exported worldwide, particularly in countries of the Global South, restricting civil and political rights of protesters and human rights and environmental defenders all over the world.

## **b. Argentina.**



In Argentina, in the majority of cases to date, alleged "terrorist threats" have been used politically and in the media as a justification for restrictive or criminalizing measures. The "Anti-Terrorist Law", passed at the end of 2011, consists of an aggravating circumstance included in Art. 41 of the Argentine Criminal Code for all crimes if committed with the purpose of terrorizing the population or forcing national public authorities (or foreign governments, or agents of an international organization) to perform an act or omission. The law was passed due to the requirement of the Financial Action Task Force (FATF) and presents many problems regarding its legality (which can be read [here](#)).

On the other hand, since 2010, territorial claims of communities belonging to the Mapuche indigenous people have been intensifying in the provinces of Patagonia, after decades of state non-compliance with commitments made, such as Law 26.160. Protest measures against this situation involved a variety of formats, including the recovery of some of the lands considered ancestral. Among the strategies of the Argentine State to respond to this conflict, was one that designated Mapuche groups as "terrorists" and applied security and criminal measures of exception against them, as has been happening in Chile since the 1990s. These [repressive policies](#) have resulted in two deaths, arbitrary detentions and violent evictions in the last seven years, in addition to a persistent stigmatization campaign against the Mapuche people.

Likewise, another example worth mentioning is the use of the "terrorism" framework to restrict the participation of civil society in multilateral meetings of the World Trade Organization (WTO) and the Group of Twenty (G20), which were held in the City of Buenos Aires in 2017 and 2018, respectively. The Federal Intelligence Agency of Argentina (AFI) coordinated "previous research, analysis and surveillance work" to "detect and prevent terrorist and urban riot threats."<sup>1</sup> However, the information collected was used to deny 60 people accreditation to participate in civil society spaces during the WTO meeting in 2017. This means that the information was used for political purposes, clearly different from those of ensuring the security of the WTO and the G20. Finally, it is worth highlighting the problems arising from the rules on money laundering and combating the financing of terrorism, which are having significant impacts on the performance of NGOs. In the case of the Centro de Estudios Legales y Sociales (CELS) of Argentina, they had three bank accounts in the US at Bank of America that were closed in 2016 unexpectedly and without further explanation, affecting their operations and development of activities. The unilateral decision was based on the fact that non-profit organizations are at risk for money laundering and terrorist financing. Since then, they have made attempts to open new offshore accounts without success. This situation particularly limits the organization's financial protection and its capacity to organize international activities and lead transnational work. Domestically, as a

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<sup>1</sup> "MC 11 Buenos Aires 2017 Security Guidelines", document of the Ministry of Security of Argentina.



consequence of FATF requirements, in 2011 the Financial Information Unit of Argentina (UIF) of the Executive Branch, drafted a regulation that includes non-profit organizations as "regulated entities" in a generic manner, without any risk assessment.

### **c. Brazil.**

As in Argentina, Brazil also passed an Anti-Terrorism Law (No. 13,260), enacted in March 2016, with similar content and also promoted by the FATF. The Anti-Terrorism Law in force defines that "terrorism consists of the practice by one or more individuals of the acts provided for in this article [art. 2], for reasons of xenophobia, discrimination or preconception of race, color, ethnicity and religion, when committed with the purpose of provoking social or generalized terror, exposing people, property, public peace or public safety". This generated a wave of new bills (at least 36) that seek to [broaden the criminal type of terrorism](#), and signal concrete dangers for Brazil's social movements. This legislation has served to [facilitate political and media discourses](#) that connect the political practice of certain social movements, such as the Movimento dos Trabalhadores Rurais Sem Terra (MST), with acts of terrorism. In this sense, land occupations as a way of intervening in rural areas targeted by land speculation by large landowners are criminalized and repressed.

It is worth remembering that Brazil recently issued a new national security law that defined crimes against the Democratic Rule of Law ("Estado Democrático de Direito"). The new law, passed during Jair Bolsonaro's government in 2021 (Law 14.197/21), contains worrying provisions such as art. 23, which talks about "inciting subversion of the political order", a word that was very present in dictatorial speeches to qualify expressions of disagreement with the regime. It is important to note that during Bolsonaro's administration, the Federal Police opened more than 77 investigations into alleged crimes against national security, which corresponded to a 285% increase in the use of the law compared to previous administrations.

In Brazil, this context is compounded by the militarization of police and the lack of efficient supervision and control of their actions by internal and/or external bodies, as well as the lack of regulation of the media, that today serve to spread fake news and build narratives that criminalize people who defend human rights.

### **d. Colombia.**

In 1999, the United States and Colombia signed the so-called "Plan Colombia", whose main objective was to promote the so-called war on drugs and, incidentally, to combat terrorism represented by the guerrillas. Since then, the U.S. Congress has approved a budget to support military forces, rural development and anti-drug policy. U.S. and Colombian human rights organizations have been denouncing for more than two decades that



the resources allocated to the military forces have contributed to human rights violations, and that the main victims have been civilian populations stigmatized and falsely accused of collaborating with the insurgency. Recently, the Special Jurisdiction for Peace (JEP) indicted General (r) Mario Montoya for the commission of 130 extrajudicial executions of civilians in the department of Antioquia<sup>2</sup>. In its decision, the JEP stated that the resources of "Plan Colombia" would have contributed to generate a new system for measuring results (body counting), which favored the forced disappearance and assassination of at least 6,402 civilians in the framework of the democratic security policy (2002-2010).

Also under the framework of this agreement, the anti-riot police group ESMAD (Escuadrón Móvil Antidisturbios) was created, founded with the objective of "modernizing the police" but also to contain the protests of coca growers in the department of North Santander. Since its creation, ESMAD has been responsible for numerous human rights violations. According to the report [Silencio Oficial](#) by Temblores Ong, during the first 20 years of ESMAD's existence, it was allegedly responsible for at least 34 homicides, with the peasant, student and indigenous movements being the most affected social sectors. In addition to the above, during the last few years the lethality of the ESMAD has increased and in the protests of 2021 they were allegedly responsible for 8 homicides in only 3 months. Finally, it has also engaged in practices such as inflicting eye trauma. According to the report [Tiros a la vista](#) by Temblores Ong, Pais Uniandes and Amnesty International, during the social uprising of 2021 it was documented that there were at least 103 cases of eye trauma committed by the ESMAD in which the main affected were young people.

On the other hand, the National Security Doctrine (NSD) implemented in the continent since the sixties, contributed to the construction of a concept of "internal enemy" that covers organized sectors of the population<sup>3</sup>, and that has been the central element of the intelligence system as established by the Truth Commission in 2022<sup>4</sup> and that has not been overcome. For instance, the Intelligence and Counterintelligence Law passed in 2013 allows the monitoring and collection of personal data from the electromagnetic spectrum without judicial intervention, affecting human rights of activists, human rights defenders and environmental defenders. Some of the organizations that sign this letter, such as the human rights organization CAJAR, have suffered serious threats and have been included in reports from intelligence organizations for their work defending human rights.

<sup>2</sup> [JEP imputa crímenes de guerra y lesa humanidad al general \(r\) Mario Montoya y ocho militares más por 130 'falsos positivos' en el oriente antioqueño](#), August 30, 2023

<sup>3</sup> Inter-American Court of Human Rights. Cases: *Isaza vs. Colombia* (2018); *Movilla vs. Colombia* (2022)

<sup>4</sup> The Colombian Commission for the Clarification of Truth (CEV). Final Report. [Inicio | Informe Final Comisión de la Verdad \(comisiondelaverdad.co\)](#)



As a contribution to peace in Colombia and stability in the region, U.S. foreign policy should be aligned with the 2016 Peace Accord, including the protection of human rights defenders and signatories to the peace agreement, guarantees for the right to protest, and a comprehensive anti-drug policy in concert with civil society, all of which the Committee also encouraged in its recent review of Colombia ([CCPR/C/COL/CO/8](#)).

#### **e. Kashmir.**

The US government increasingly [promotes India](#) as a leading global power and a key partner with a commitment to human rights and the rule of law. While India is a [longstanding abuser of the counter-terrorism frame](#) to violate human rights and commit [atrocity crimes](#), the Indian government has escalated its use of [counter-terror laws](#) under the auspices of the US-led war on terror to [silence dissent](#) and [eviscerate accountability](#), [disproportionately targeting Kashmiri Muslims](#). As various [UN special procedures experts have noted](#), India's counter-terror regime in Indian-administered Kashmir violates fundamental rights and freedoms and is especially [used to silence Kashmiri human rights defenders](#). [Amnesty International has described this](#) as "a system of laws, policies and practices that systematically annihilate critical voices and violate the rights to freedom of expression and opinion of journalists and human rights defenders." In a [genocidal climate](#) where Kashmiri Muslims face [material risk of mass atrocities](#) and widespread violations like [mass illegal imprisonment](#) of dissenters and [extrajudicial killing](#) of civilians continue under a [counter-terror pretext](#), India denies Kashmiris any ability to defend their rights, including all [political rights](#) and the [right to free expression](#). At the same time, US counter-terror agencies continue to [train police personnel](#) who are specifically target dissenting Kashmiri [journalists and scholars](#) for repression as "[white collar jihadis](#)" or "[white collar terrorists](#)" engaged in "[narrative terrorism](#)."

#### **f. Palestine.**

U.S. officials regularly cite to a U.S. "special relationship" with Israel and provide Israel with unconditional financial and diplomatic support. Yet Israel has engaged in a [sustained practice](#) of targeting Palestinian civil society organizations and human rights defenders. Relying on its [draconian](#) anti-terrorism laws, the Israeli government consistently [classifies](#) civil society groups as "hostile," "unlawful," or "terrorist," raids and/or closes their offices, and arrests human rights defenders working with them, without providing any avenues for [challenging designations](#). Between 1967 and 2019, Israel designated more than 400 Palestinian organizations under these ordinances. Israel continuously subjected them to repression in the form of office raids – such as those of [Addameer](#) in 2002, 2012, 2019 and 2022 and [smear campaigns](#). In the latest escalation, the Israeli Defense Minister Benny Gantz officially [designated](#) six Palestinian organizations as



“terrorist organizations” under military ordinances on October 19, 2021. In addition to prohibiting expressing support or providing funds to the organizations, the designations have negatively impacted their operations and have been relied upon by the Israeli government to raid or [close their offices, and seize their assets](#). Exerting this unchecked power, almost a year later in the early morning hours of August 18, 2022, the Israeli government raided the offices of all six organizations and issued military orders demanding they close down, and welded their office doors shut. The raid was [widely condemned](#).

Israel’s designation is primarily intended to trigger the global, US-dominated counterterrorism regime and lend itself to third-party (over)enforcement in pursuit of an agenda to demobilize and repress Palestinian rights advocacy. Indeed, Israeli authorities do not need to designate these groups as terrorist to arrest, raid, surveil, or otherwise take measures against the listed organizations – they were doing so routinely well before these designations, in breach of international law. Palestinian civil society has long raised concerns around vetting and other burdensome due diligence requirements imposed on them by various funders, who often [cite to concerns](#) of potential liability or other consequences under overbroad and unclear U.S. laws.

The Israeli government and collaborating advocacy organizations have sought to leverage global counterterrorism laws to exert pressure on financial service providers to deplatform the Organizations and their employees, and collaborated to [bring politically-motivated international](#) investigations and lawsuits in the United Kingdom and [United States](#) against groups providing financial and substantive support to the Organizations.

#### **g. Conclusions.**

In light of the United States’ dominance within the U.N, notably in the Security Council, the United States is able [to assert its counterterrorism](#) priorities and consequently shape the worldwide agenda in this field. Moreover, the United States exerts substantial extraterritorial influence by virtue of its preeminent position in the global financial sector, its regulatory and jurisdictional control over social media platforms, major philanthropic funders, and other influential domains. This dynamic effectively establishes US counterterrorism laws and policies as the de facto benchmark, extending their impact well beyond national boundaries and molding international discussions and standards within the sphere of counterterrorism.

As we witness authoritarian and authoritarian-leaning regimes gain steam around the world, we believe it to be urgent and necessary to take every opportunity we have to call out policies and practices that contribute to the further erosion of the democratic space to speak out and stand up for human rights, social justice and the protection of the environment. We hope that the Committee will take this letter as a plea to look at the gradual



degradation of civil and political rights standards as an issue that must be addressed in a global manner. The actions of a state like the US, which exerts outsized influence on the political horizons of countries far beyond its borders, should be subject to the commentary and censure of a global community that has for too long borne the brunt of ill-conceived policies originating in the US.

Thank you for your consideration.

Sincerely,

Al-Haq.

Addameer.

Center for Constitutional Rights.

Centro de Estudios Legales y Sociales.

Colectivo de Abogados y Abogadas "José Alvear Restrepo" (CAJAR).

European Center for Constitutional and Human Rights.

Global Network of Movement Lawyers - Movement Law Lab.

Kashmir Law and Justice Project.

Palestine Institute for Public diplomacy (PIPD).

Rede de Apoio às Favelas (Rio de Janeiro).

Rede de Advogadas Populares Feministas Coletes Rosas (Rio de Janeiro).

Socio-Economic Rights Institute of South Africa.

Temblores ONG.