

RESEARCH BRIEF

THE 'WAR ON MINORITIES' UNDER THE GUISE OF COUNTERING TERRORISM AND VIOLENT EXTREMISM

EXECUTIVE SUMMARY

Whether it is to address real or perceived threats, the last 20 years has seen governments creating extensive frameworks to counter terrorism and violent extremism, often at the expense of fundamental human rights and freedoms. According to Minority Rights Group International, this leveraging of the 'war on terror' to target minorities and clamp down on their rights has transformed into a 'war against minorities'.¹ Against this backdrop, this paper sets out how political leaders in non-democratic and/or less democratic countries employ counter-terrorism (CT) and preventing and countering violent extremism (P/CVE) laws, narratives and measures to advance their agendas. Specifically, it examines how governments exploit the pretext of safeguarding national security to tighten controls on society, suppress dissent and compromise human rights, especially as relates to minorities. At the same time, through 'us vs. them' narratives, minority groups are portrayed as scapegoats and/or a threat to state security. CT and P/CVE measures have been particularly instrumental in justifying judicial harassment and the targeting of civil society and historically marginalized groups – including religious, ethnic, and cultural minorities, women, LGBTQ+ individuals, and Indigenous communities – through a wide range of criminal, civil, and administrative actions.²

As highlighted by the current United Nations (UN) Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (hereinafter the Special Rapporteur on counter-terrorism), these dynamics have intensified with the rise of authoritarianism, which has brought polarization, geopolitical competition, and international tensions among nations.³ Complex and interrelated global political developments have also had an impact. These include the strengthening of nationalistic views, xenophobia and racism; the weakening of democratic institutions and a rule of law culture; and the emergence of governance models built on control, centralized power, and lack of civilian oversight of the security sector.⁴

Part of this trajectory is the surge in so-called 'strongman politics' and populist rhetoric. Populist leaders, although usually elected through democratic processes, frequently exhibit authoritarian tendencies that threaten the pluralist and liberal aspects of democracy. Indeed, reporting has documented a rollback of democratic rights and institutions since 2009, with an increasing number living under authoritarian rule.⁵ These developments, combined with the pervasive discriminatory aspects of CT and P/CVE policies, have had particularly negative repercussions on historically discriminated groups.⁶ Moreover, since both democratic and authoritarian movements can be designated as populist, the shift towards personalized politics has made it harder to maintain a clear division between these two worlds.⁷ In this regard, it is important to recognize that the misuse of CT and P/CVE policies and practices is not confined to authoritarian

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countries. While there surely is a strong link between authoritarianism and the misapplication of these measures – likely due to already weakened rule of law structures and the presence of strong, centralized authorities – instances of misuse to undermine human rights and minority rights can also be found in countries considered ‘bulwarks of democracy’.

Positioning countries on the ‘democracy vs authoritarianism’ political spectrum is a highly complex and contested exercise. For the purpose of this analysis, authoritarian countries are identified as those characterized by the presence of a strong leader who often advances a cult of personality, monopolizes the political scene, weakens rule of law structures, and centralizes authority. Political and economic grievances – combined with broader fears such as immigration, crime and national decline – are at the heart of the support for these leaders. Their politics is often associated with ‘nostalgic nationalism’ and the concept of the ‘good old days’, complemented by deep social and cultural conservatism and little tolerance for minorities, dissenters or migrants.⁸

In response to these challenges, this paper examines the situation of minority rights in five countries: the Russian Federation, the People’s Republic of China, the Republic of India, the Arab Republic of Egypt, and Hungary. This is not an exhaustive list, nor are the examples and minority groups discussed the sole targets of the misuse of CT and P/CVE laws in these countries. The aim is simply to illustrate the widespread use of such laws to discriminate against and target specific minority groups, ultimately undermining their rights. The analysis reveals a clear pattern: in the absence of universally agreed definitions of terrorism and violent extremism, political leaders have exploited the broad and often vaguely worded provisions within national CT and P/CVE legislation to justify repressive measures. These strategies are framed as necessary for national security, but in reality, they often serve to suppress opposition, marginalize minorities and consolidate power. Moreover, they invoke an ‘us vs. them’ narrative, to create an environment where state actions against perceived threats are widely accepted, even at the expense of fundamental rights and freedoms.⁹

Specifically, the Egyptian and Russian cases provide clear examples of how political opposition and verbal criticism of the State, the government or its authorities are prosecuted as acts of terrorism. In both countries, CT and P/CVE laws have been instrumental to stifle civic space and reinforce authoritarianism.¹⁰ Furthermore, in Russia the P/CVE legal framework and related laws have been misused to discriminatorily target and prosecute, among other groups, LGBTQ+ individuals, organizations and movements.¹¹ Russian current legislation not only fails to provide effective anti-discrimination protections for LGBTQ+ individuals,¹² but also actively promotes violence and discrimination against them.¹³ In India, the pursuit of Muslim political or minority rights has been criminalized under the pretext of national security and countering terrorism, exacerbating Islamophobia. As for China, the country has adopted the rhetoric of the ‘war on terror’ to justify its repressive campaign against the Uyghur population and other Muslim Turkic minorities.¹⁴ The misuse of CT and P/CVE laws in the Xinjiang Uyghur Autonomous Region has enabled the Chinese government to establish the political and legal framework necessary to tackle any future challenges to state authority.¹⁵ Lastly, in Hungary the government has explicitly capitalized on CT and securitization narratives to implement exceptionally restrictive migration policies, asserting a connection between migrants and terrorism. Building on an ‘us vs. them’ rhetoric, Prime Minister Orbán was able to shift the migration debate from a domestic issue to one of high politics.

SECTION I: THE GLOBAL WAR ON TERROR AND THE EXPLOSION OF CT AND P/CVE NARRATIVES

This section outlines the international and national legal frameworks for countering terrorism and preventing/countering violent extremism.¹⁶ Although violent extremism is a broader phenomenon than terrorism, efforts to prevent and counter violent extremism conducive to terrorism have become an integral extension of the counter-terrorism framework, resulting in an overlap. These two narratives are closely interlinked and thus are addressed almost interchangeably throughout the paper.

THE UN COUNTER-TERRORISM ARCHITECTURE

The terrorist attacks of 11 September 2001 and subsequent declaration by the United States of America of a ‘global war on terror’ led to the rapid development of a dedicated legal and policy framework both at the international and national levels. Within the UN, the resulting CT institutional and legal architecture has facilitated cooperation at both the regional and international level and promoted the development of CT capacities at the national level.¹⁷ However, as discussed below, human rights gaps found in a number of Security Council resolutions have resulted in gaps at the domestic level.¹⁸

In the immediate aftermath of the terrorist attacks on 11 September 2001, the United Nations Security Council (UNSC) adopted resolution 1368, condemning the attacks as a threat to international peace and security, recognizing the individual or collective right of self-defence, and urging states to bring the perpetrators to justice. Shortly after, resolution 1373 was passed under Chapter VII of the UN Charter, emphasizing the obligation of states to “prevent and suppress the financing of terrorist acts” and to “refrain from providing any form of support to entities or persons involved in terrorist acts”.¹⁹ The resolution also called for international cooperation “to prevent and suppress terrorist attacks and take action against perpetrators of such acts”.²⁰ In the following years, the Security Council adopted several other resolutions under Chapter VII, incentivizing states to introduce specific domestic CT laws, sanctions, and other measures.²¹ It also established counter-terrorism mechanisms and institutions to support states in their capacity-building efforts and coordinate international cooperation.²²

UNSC resolution 1373 has been defined as “one of the most wide-ranging resolutions ever passed by the Council”.²³ In the first legally binding resolution on counter-terrorism, all UN Member States were obliged to adopt and implement specific domestic CT legislation.²⁴ Moreover, unlike previous UNSC resolutions adopted to address specific situations, resolution 1373 imposed an indefinite mandate for action, with no geographical limits or temporal constraints.²⁵ It did not however explicitly reference the need for states to respect international human rights standards when implementing the resolution, creating a significant shortcoming in the UN CT legal framework.²⁶ In subsequent resolutions, the Security Council started addressing the need for states to adopt national CT laws and measures in compliance with existing international law obligations, particularly international human rights law (IHRL). References to IHRL, however, were rarely comprehensive or far-reaching, resulting in language that appeared “hollow and artificial”.²⁷

Some have advanced that the absence of human rights guarantees can be partially explained by the post-9/11 context of emergency, which demanded a fast and univocal response by the international community.²⁸ Indeed, a common trait of UNSC resolutions following 2001 has been their fast-paced adoption, and along with this, a minimal level of consultation and engagement with civil society and other relevant stakeholders.²⁹ Another consequence was a lack of meaningful oversight, public scrutiny, and independent evaluation, reducing the scope for accountability for human rights violations during implementation.³⁰ Importantly, none of the resolutions provided a precise definition of terrorism to be applied across all counter-terrorism efforts. This allowed states and regional organizations to adopt broad and expansive provisions that criminalized a wide range of groups, persons and activities as terrorist, significantly expanding punitive interventions.³¹

THE NATIONAL FRAMEWORK

The terrorist attacks in 2001 triggered what has been termed a global “legislative wildfire”, prompting governments to rapidly enact laws aimed at improving the detection, prevention, prosecution, and eradication of terrorism.³² Indeed between 2001 (when UNSC resolution 1373 was passed) and 2018, at least 140 states adopted national counter-terrorism legislation.³³ As they moved

to implementation, however, several countries did so at the expense of complying with universal human rights standards.³⁴ In particular, the zero-tolerance approach to CT legislation left little room for assessing the necessity and proportionality of measures adopted.³⁵ In short, some states exploited the obligations contained in UNSC resolutions to work around or limit domestic constraints, allowing human rights violations to be committed in the name of national security.³⁶ This underscores how supranational legal regulation can undermine constitutional and domestic procedural and rights-based protections designed precisely to prevent the overreach of emergency powers.³⁷

National legislation frameworks present some common features. Once again, states regularly fast tracked the adoption of CT laws, with minimal opportunities for open dialogue and meaningful civil society participation.³⁸ Moreover, even though CT laws were often extraordinary measures that should be, by definition, temporary in nature, as the crisis persisted they gradually become part of ordinary law.³⁹ In other words the legal effect of the UNSC resolutions facilitated the extension and normalization of emergency measures, committing states to long-term exceptionality.⁴⁰ This has had adverse repercussions on human rights protection, especially non-derogable rights, which become more susceptible to erosion during states of emergency.⁴¹ Finally, the absence of a universally agreed definition of terrorism led many states to adopt legislation containing ambiguous definitions and terminologies, in violation of the principle of legality. This has granted states extensive discretion in the application of CT measures, sometimes leading to unjustified restrictions of fundamental rights and freedoms, including freedom of expression and opinion, freedom of thought, conscience and religion, and freedom of association.⁴²

THE P/CVE ARCHITECTURE

Preventing and countering violent extremism conducive to terrorism has become a widely adopted extension of counter-terrorism frameworks, laws, and policies at both national and global levels.⁴³ Indeed, while P/CVE policies manifested already in the 1990s, the term countering violent extremism officially appeared for the first time in UNSC resolution 2178 of 2014. The resolution condemned violent extremism conducive to terrorism and called on states to cooperate, particularly by “preventing radicalization,

recruitment, and mobilization of individuals into terrorist groups and becoming foreign terrorist fighters”.⁴⁴ Later, in 2015, the UN Secretary General launched the Plan of Action to Prevent Violent Extremism, bringing P/CVE to the forefront of the global policy agenda. The Secretary General found violent extremism conducive to terrorism “an affront to the purposes and principles of the United Nations”.⁴⁵ Recalling that violent extremism undermines peace and security, sustainable development, human rights, the rule of law and humanitarian action, the Plan of Action “is intended to address violent extremism in all its forms and wherever it occurs”.⁴⁶

Similar to CT legislation, many P/CVE laws share common features, particularly definitional ambiguity.⁴⁷ To date, the definition of violent extremism remains “opaque and deeply contested”,⁴⁸ resulting in P/CVE policies that fail to clearly state and define the phenomenon they aim to address. Lack of definitional consensus also grants governments extensive discretion in the criminalization of an ever-expanding range of activities deemed ‘extremist’. Such discretionary powers render many domestic P/CVE laws vulnerable to misuse, creating scope for human rights abuses, whether derogable or non-derogable, specifically targeting minority groups and civil society.

In recent years, states have started criminalizing extremism without requiring a link to violent conduct. This application of the term ‘extremism’ rather than ‘violent extremism’ in several states’ domestic laws⁴⁹ creates a category that is even broader and vaguer than ‘violent extremism conducive to terrorism’. This widens the opportunity for states to apply measures against, for instance, human rights defenders (HRDs) and civil society activists.⁵⁰ Moreover, use of the term extremism as a criminal legal category has been criticized as incompatible with the principles of legal certainty, proportionality and necessity, rendering it “per se incompatible with the exercise of certain fundamental human rights”.⁵¹

The Special Rapporteur on counter-terrorism has noted that “[t]he category of ‘extremist’ crimes is particularly vague and problematic” and without the qualifier of ‘violent extremism conducive to terrorism’ could “encroach on human rights in profound and far-reaching ways”.⁵²

ADMINISTRATIVE MEASURES

As states have shifted their focus to a ‘pre-criminal’ or ‘pre-terrorist’ space, one result has been a proliferation of financial legislation, sanctions and administrative measures in the name of countering terrorism.⁵³ Such measures frequently lack due process or judicial safeguards, and disproportionately impact civil society and individuals already at risk of discrimination.⁵⁴ Zero-risk approaches to terrorist financing, for example, operate on the unsubstantiated presumption that the non-profit and charitable sectors are inherently high-risk, placing significant burdens on non-governmental organizations (NGOs).⁵⁵ Moreover, with criminalization based more on the content of acts rather than the intent to commit a terrorist or violent extremist act, the legitimate exercise of fundamental freedoms, particularly freedom of expression and freedom of religion, is disproportionately targeted.⁵⁶ Similarly, by acting in a pre-criminal space, repercussions in terms of human rights concern a wider group than the subject matter of the legislation would identify, disproportionately affecting individuals that are already vulnerable to discrimination.

SECTION II: THE MISUSE OF COUNTER-TERRORISM AND ANTI-EXTREMISM FRAMEWORKS AGAINST MINORITY GROUPS

Having highlighted how national and international CT and P/CVE frameworks are vulnerable to misuse, particularly due to the unclear and often overly broad way they are phrased, the following section outlines how such misuse can have discriminatory dimensions. It focuses on CT and P/CVE laws, regulations and policies that specifically targeted civil society organizations and HRDs, religious and ethnic minorities, migrants, and the LGBT+ community. Integral to this is how governments often portray minority groups as scapegoats, depicting them as a “threat to the social order, undermining national cohesion, and/or prejudicial to the security of the state”.⁵⁷

SHRINKING CIVIL SPACE AND TARGETING POLITICAL OPPONENTS: THE CASES OF EGYPT AND RUSSIA

“Counter-terrorism and P/CVE have been repeatedly invoked across jurisdictions to justify judicial harassment and a wide range of criminal, civil, and administrative measures unduly targeting civil society”.⁵⁸

The impact of CT and P/CVE policies on civil society and the civic space is well documented. Specifically, the post-2001 international security-focused dynamic translated into a polarizing rhetoric of ‘with us or with the terrorists’.⁵⁹ In turn this enabled the targeting of civil society members who challenged the legitimacy of CT measures and called for government accountability, restricting the operational space for civil society worldwide.⁶⁰ Starting in 2015, UN Human Rights Mechanisms have called out the abuse and misuse of CT measures against civil society and HRDs.⁶¹ This misuse includes soft-exclusion like stigmatization and financial marginalization, through to hard measures such as arbitrary detention, enforced disappearances, torture, ill-treatment and/or extrajudicial killing.⁶² Censorship is another example, showcasing how measures not only impact those directly targeted, but also send a broader message to civil society actors generally.⁶³ Finally, administrative measures such as restrictions on movement, communication and assembly, citizenship deprivation and sanctions exacerbate the challenges of criminalization, particularly impeding civil society’s ability to function and operate effectively.

Egypt

Egypt regards itself as “one of the first states to deal with the phenomenon of terrorism and its causes”.⁶⁴ Extremely broad even before 9/11,⁶⁵ the country’s laws were extended further following the establishment of the military regime in 2013.⁶⁶ According to UN Special Procedures mandate-holders, these laws do not conform to “either Egypt’s international human rights law obligations or best practices in relation to counter-terrorism law and practice”.⁶⁷

In the post-Arab Spring environment, the regime has taken to blaming the human rights community for failing to prevent terrorist attacks.⁶⁸ This has allowed the

government to implement CT laws and national security measures in a way that targets HRDs, journalists, political activists, lawyers, and students.⁶⁹ Actions include arrests and detention on charges related to terrorism (usually ‘joining a terrorist organization’),⁷⁰ and coordinated campaigns of intimidation, harassment and retaliation in response to their professional activities, political involvement, and/or criticism of the Al-Sisi Government.⁷¹ Certainly the limits placed on the rights to freedom of expression, association and peaceful assembly exceed the scope necessary to counter terrorism,⁷² raising concerns about a systematic pattern of abusing terrorism-related legislation to deter and silence critics and political opponents.⁷³ In short, by labelling any critical voice as ‘terrorist’, the government seems to be eliminating political dissent and government opposition.⁷⁴

Against this backdrop, an absence of judicial oversight and procedural safeguards further problematizes the enjoyment of fundamental rights.⁷⁵ Pre-trial detention often exceeds the legally permitted maximum of 150 days,⁷⁶ and prison conditions rarely meet international minimum standards, with strong evidence of solitary confinement,⁷⁷ ill-treatment amounting to physical and psychological torture,⁷⁸ and inadequate access to medical care.⁷⁹ Moreover, the 2015 Anti-Terrorism Law grants authorities a range of tools that enable procedural rights to be violated, particularly during arrest and investigation.⁸⁰ Article 50 tasks “one or more circuit of the criminal courts” to deal with terrorist lawsuits, replacing ordinary courts with special courts mandated to ensure expeditious trials.⁸¹ Several Special Procedures have raised concerns about the compatibility of this practice with international law, highlighting the discretionary powers granted to emergency courts and the resulting erosion of judicial guarantees, including the inability to appeal decisions.⁸² Specific allegations include mass trials often conducted in the absence of lawyers or defendants, with court verdicts reflecting a pattern of retaliation against political dissidents and human rights activists carrying out legitimate activities.⁸³ Despite their intended exceptional nature, practice has shown that these courts (and the state of emergency in general) have become the norm, suggesting a “strong attachment to centralization, exceptionalism and militarism”.⁸⁴

At the end of their sentences individuals are often added to terrorist watch-lists.⁸⁵ This can result in economic

sanctions (such as dissolution and assets freezing) and restrictions on movement (through travel bans and passport seizures).⁸⁶ The arbitrariness of the listing system contradicts the presumption of innocence (Article 14.2 of the International Covenant on Civil and Political Rights) and lacks transparency and adequate safeguards to prevent misuse.⁸⁷ Indeed, according to UN Special Procedures, such misuse of the terrorism listing procedure appears to be “a form of reprisal against human rights defenders”.⁸⁸

Russia

The Russian Federation provides another example of how anti-terrorism and anti-extremism legislation have been used as tools to stifle dissent and control public discourse, particularly by targeting political dissenters, HRDs, national and international NGOs, and anti-war activists.⁸⁹ Russian Federal Law No. 114 FZ on Counteraction of Extremist Activities (2002), for example, facilitated the criminalization of a broad spectrum of extremist activities but without precisely defining extremism.⁹⁰ A recent proposal to criminalize the ‘justification of extremism’ could worsen this situation, by making it more difficult to distinguish under which criteria individuals and organizations are designated as terrorist or extremist.⁹¹ The law also grants Russian authorities extensive powers of intervention, which are often applied selectively.⁹² A prime example is how NGOs and media outlets have been ‘deemed extremist’ and forced to liquidate. In March 2022, Meta Platforms Inc was added to the list of extremist organizations and its activities banned in Russia,⁹³ followed by Facebook and Instagram which were outlawed for ‘Russophobia’.⁹⁴ Other entities affected include the Jehovah’s Witnesses (in 2017)⁹⁵ and three groups affiliated with political opposition leader Alexey Navalny (in 2021).⁹⁶ These designations typically take place in closed hearings, without the participation of the affected party, and with no possibility of appeal.⁹⁷

Russian Federal Law No. 35-FZ on Counteraction Against Terrorism (2006) similarly encompasses a broad range of terrorist activities, and works in complement with Article 205 of the Criminal Code.⁹⁸ For example, as soon as criminal proceedings are opened against individuals accused of terrorism (i.e. before trial), they are listed in a public Registry of Terrorists and Extremists, which severely limits their access to banking services.⁹⁹ As for designated organizations, according to Article 24.2 of the

Federal Law, they “shall be subject to liquidation (and [their] activities shall be subject to prohibition) by court decision”.

Another targeting modality has been tying CT and P/CVE legislation to the concepts of ‘foreign agents’ and ‘undesirable organizations’. The Foreign Agent Law (2012) requires NGOs receiving foreign funds and participating in political activities carried out on Russian territory to register with the Ministry of Justice as foreign agents and to label their media and internet materials accordingly.¹⁰⁰ While the law does not prohibit NGOs from receiving foreign financial support per se, its provisions make it more difficult for these organizations to operate.¹⁰¹ Failure to register (or violations of other requirements established by the law) allows authorities to suspend the organization’s activities, seek its liquidation, block its websites and other information resources, as well as apply sanctions outlined in the amended Criminal Code and Code of Administrative Offences.¹⁰² Through subsequent legislation, the concept of foreign agent has been extended to media outlets, individual journalists and bloggers, as well as individual activists and non-registered movements.¹⁰³ Since December 2022, being ‘under foreign influence’ is a sufficient ground to be included in the register,¹⁰⁴ as is delivering “speeches against the special military operation (SMO) and in defence of the regime in Ukraine”.¹⁰⁵ As of January 2024, 42 organizations and 261 individuals have been included in the register of foreign agents for publicly expressing anti-war views.¹⁰⁶

Law No. 129-FZ (2015) works in a similar way by allowing the government to ban the activities of international NGOs, human rights groups, independent media, research institutions, and political entities that are perceived to threaten the security of the state, the constitutional order or national defence.¹⁰⁷ Once classified as ‘undesirable’, organizations are prohibited from operating in the country, and individuals participating in their activities or divulging information materials can be prosecuted.¹⁰⁸ Similar to the Foreign Agent Law, a lack of clear definitions in the legislation makes it possible to designate a wide range of organizations as undesirable.¹⁰⁹

Particularly since Russia’s military intervention in Crimea in 2014, authorities have used these laws to restrict the legitimate work of a wide range of civil society actors, including anti-war peaceful protesters and government

opponents. HRDs in Crimea have been intimidated and harassed,¹¹⁰ while critics of the Russian occupation have been arrested under charges such as “participating in activities of a terrorist organization”, “involvement in a terrorist organization”, and/or “planning to violently seize state power”.¹¹¹ There is credible evidence that those targeted have been subjected to torture and ill-treatment,¹¹² denied due process and fair trial guarantees, and have been held in detention under conditions that do not comply with international human rights standards.¹¹³ The arbitrary arrest and detention, enforced disappearance, ill-treatment, and criminalization of HRDs, lawyers and peaceful protesters has been described as part of “a broader pattern of systematic labelling” of anyone expressing dissent in relation to the Russian invasion of Ukraine.¹¹⁴ Amnesty International has issued similar statements, noting that since February 2022, Russian authorities have invoked a combination of existing legislation on anti-war statements¹¹⁵ and newer anti-terrorism and anti-extremism legislation to prosecute dissenters and peaceful protesters.¹¹⁶ Particularly, the charge of ‘justification of terrorism’ has been widely used to prosecute individuals who have, for example, showed solidarity with entities that Russian authorities have designated as terrorist organizations.¹¹⁷

TARGETING RELIGIOUS MINORITIES: ISLAMOPHOBIA IN INDIA

The Special Rapporteur on counter-terrorism has highlighted that religion often serves as a predominant ground for the discriminatory targeting of certain groups, and moreover that laws criminalizing ‘extremist’ thought, belief and content are often exploited to silence “non-established or minority religious groups or non-majority opinions”.¹¹⁸ Indeed, post-9/11 Muslim minority groups have been disproportionately targeted, facing the burden of being perceived as suspects solely due to their religious identity and beliefs.¹¹⁹ In some countries, P/CVE measures focus almost exclusively on countering Islamist extremism, compounding Islamophobia¹²⁰ and compromising the rights of Muslim communities and civil society actors advocating for them.¹²¹ In other countries (particularly non-Muslim majority countries) political leaders have capitalized on the fears and prejudices of the majority community to incite anti-Muslim sentiments and justify discriminatory actions.

Such anti-Muslim sentiments have been a constant feature

in India politics ever since British colonization, fuelling a widespread belief that “Muslims are alien invaders whose loyalty is external to the nation of India”.¹²² Since Prime Minister Narendra Modi came to power in 2014, instances of violence, prejudice and systemic exclusion of Muslim minorities have increased in frequency and severity.¹²³ Modi’s unique approach lies in advocating for Hindu nationalism. By depicting Hindus as historically oppressed and manipulating societal insecurities,¹²⁴ he has pledged to elevate and unite Hindus, creating a Hindu nation (“Hindu Rashtra”) which excludes non-Hindu minorities.¹²⁵

Using a global security logic, India has implemented nationwide policies and legislation that, while supposedly aimed at countering terrorism, confer sweeping powers to security forces to abuse human rights, especially those relating to minorities.¹²⁶ India’s primary CT law, the Unlawful Activities (Prevention) Act (UAPA) was passed in 1967 with the objective “to tackle the issue of homeland security and to prosecute the ones involved in activities against the state or its subjects”.¹²⁷ The law has been widely criticized for its vague definitions and presumptions of guilt.¹²⁸ Moreover, recent amendments allow authorities to designate any individual, not only organizations, as terrorist.¹²⁹

Previous legislation included the Terrorists and Disruptive Activities (Prevention) Act (TADA) of 1985, which was used to facilitate the detention and torture of tens of thousands of Muslims, Sikhs, Dalits, trade union activists, and political opponents in the late 1980s and early 1990s.¹³⁰ The Act lapsed in 1995, but many provisions were carried over to the 2002 Prevention of Terrorism Act (POTA), which continued to enable the arbitrary and incommunicado detention of thousands of Muslims across the country in the name of fighting terrorism.¹³¹ The act was repealed in 2004.

Another pillar of India’s counter-terrorism and national security legislation is the National Security Act (NSA), which came into force in 1980 and was last amended in 2019. The act established a National Investigation Agency,¹³² and allows the central and state governments to detain a person ‘preventively’ without charge or trial for up to a year.¹³³ It is a widely held belief that the NSA disproportionately targets Muslims.¹³⁴

Government officials have invoked this body of legislation,

particularly the UAPA, to justify the excessive use of force in Jammu and Kashmir, India’s only Muslim-majority state. The situation escalated in August 2019, when the Modi government unilaterally revoked Articles 370 and 35A of the Indian Constitution, thus abolishing the special autonomous status of Jammu and Kashmir.¹³⁵ The administration justified the move on the grounds that it was correcting a ‘constitutional anomaly’, and that all Indians should be treated equally. The result however has been to expose Muslims to harsher treatment due to their religious identity, often under the banner of countering terrorism and/or safeguarding national security. Indeed, Special Procedures mandate-holders have called out rights violations against Muslims and other minorities in Jammu and Kashmir, including arbitrary arrests and detentions, enforced disappearances, deaths in custody, excessive use of force and violations to the prohibition of torture and ill-treatment.¹³⁶ The situation has been exacerbated by the closure of the Jammu and Kashmir State Human Rights Commission (SHRC) in October 2019.¹³⁷

More generally, the hostile rhetoric, propaganda and policies perpetuated by Modi and the Bharatiya Janata Party (BJP) against Muslim citizens, combined with partisan policing, has resulted in increasing violations of civil, political, social, economic and cultural rights across the country.¹³⁸ Muslim journalists and HRDs working and reporting on the situation of the Muslim minority have been accused of inciting communal tensions and targeted with harassment, arbitrary detention and intimidation.¹³⁹ Religiously motivated hate crimes have also increased, often manifesting in mob violence by militant vigilante groups, who act in the name of Hindu nationalist causes. This has been aided by discriminatory legislation such as anti-cow slaughter laws¹⁴⁰ and anti-conversion laws,¹⁴¹ which have worked to pique community violence and legitimize the stigmatization of religious minorities.¹⁴² Another example is the BJP’s campaign against the so-called ‘Love Jihad’,¹⁴³ which simultaneously tapped into Hindu nationalists’ anxieties around loss of identity and stereotypes that identify Muslims with terrorism and extremism, to motivate vigilantes to commit violent acts against Muslims.¹⁴⁴

ETHNO-RELIGIOUS MINORITIES: CHINA TARGETING TURKIC UYGHURS

Like many other countries, following the attacks of 9/11, the People's Republic of China (PRC) developed an extensive anti-terrorism law 'system'. A key difference, however, is how this system was crafted to address both terrorism- and separatism-related issues in the country. Indeed, China considers terrorism, separatism, and extremism to be the three "evil forces" threatening national security and requiring government intervention.¹⁴⁵

These measures have particularly targeted Muslim Uyghurs in the Xinjiang Uyghur Autonomous Region (hereinafter XUAR), where Muslims constitute the majority population.¹⁴⁶ The basis for this is that the Chinese government portrays Turkic Muslims, particularly Uyghurs, as an 'ethno-nationalist threat'.¹⁴⁷ Because Islam plays a significant role in this group's national identity, Uyghurs' aspirations to independence are associated with radical Islam, and as undermining China's efforts to maintain national unity.¹⁴⁸ It follows that the Chinese government sees "fighting terrorism and extremism in Xinjiang [to be a] pressing need".¹⁴⁹

China's legal framework for addressing terrorism includes an amended Criminal Law which expanded the definition of terrorist activities and increased punitive measures (including scope for using the death penalty).¹⁵⁰ The 2015 Counterterrorism Law (CTL), the 2016 Xinjiang Implementing Measures for the PRC Counterterrorism Law (XIM), and the 2017 XUAR Regulation on De-extremification (XRD) define terrorism and extremism vaguely, including a number of unclear and questionable actions among 'terrorist activities' and/or 'primary expressions of extremism'.¹⁵¹ The laws grant extensive and discretionary powers to public security organs and the executive to "prevent, investigate and respond to terrorist and 'extremist' acts", with limited safeguards or independent judicial oversight.¹⁵² In combination, this framework has allowed authorities to use the pretext of national security¹⁵³ to target individuals more for their religious behaviour as opposed to any violent extremist or terrorist activity.¹⁵⁴

While repressive measures against Turkic Muslims in XUAR is not a new phenomenon,¹⁵⁵ the ascension of Xi Jinping to the Presidency in 2013 ushered in an intensified

process of sinicization, and a broad array of policies and practices designed to promote Chinese cultural assimilation.¹⁵⁶ In May 2014, for example, under the guise of the global war on terror, the government launched the 'Strike Hard Campaign Against Violent Terrorism' in XUAR, aimed at integrating the Uyghur identity into "a pro-Han exclusionary idea of Chinese civilisation".¹⁵⁷ This campaign has intensified since 2017, including with the introduction of so-called Vocational Education Training Centres (VETCs).¹⁵⁸ While these centres aim to eradicate "the breeding ground and conditions for the spread of terrorism and religious extremism",¹⁵⁹ they are not exclusively for would-be terrorists, with documented cases of academics, writers, journalists, and doctors from XUAR being interned.¹⁶⁰ Indeed, some detainees have reported being explicitly told that their detention was due to their identity as Turkic Muslims or for participating in religious or other peaceful activities.¹⁶¹

In August 2022, the Office of the UN High Commissioner for Human Rights (OHCHR) reported that, at least in the period from 2017 to 2019, but probably also after 2019, a pattern of large-scale arbitrary detention had occurred in VETC facilities in XUAR.¹⁶² The OHCHR expressed concern that internment is applied discriminatorily and in violation of the basic standards around humane treatment.¹⁶³ Research indicates that VETCs resemble prison camps, with facilities that are primarily punitive and round-the-clock surveillance and monitoring.¹⁶⁴ There have been numerous allegations of adverse conditions and harsh treatment, including physical violence amounting to acts of torture and/or other forms of ill-treatment, forced labour, overcrowding, starvation, inadequate and forced medical treatment,¹⁶⁵ various forms of sexual and gender-based violence, as well as instances of psychological torture.¹⁶⁶ Other allegations concern interrogations, arrests and detentions that violate due process protections, and individuals being denied access to lawyers.¹⁶⁷ Poor conditions in VETCs have often resulted in deaths and suicide attempts.¹⁶⁸ Additionally, the educational programmes held in these facilities are often oriented towards political re-education, thus resulting in a number of religious and linguistic limitations imposed on detainees, who are not allowed to speak their own language or practice their religion. On the contrary, they are forced to sing patriotic songs, to learn to read and write Chinese characters and to speak Mandarin.¹⁶⁹

It is noteworthy that Uyghurs' oppression extends beyond internment camps and detention facilities, instrumentalized by government surveillance programs.¹⁷⁰ Individuals who do not distance themselves from Islamic injunctions — like fasting, avoiding eating pork and drinking alcohol, or wearing a hijab — risk being sent to the internment camps.¹⁷¹ Moreover, since 2016, so-called 'urban internment' has become more invasive through the 'Pair Up and Become Family' campaign, a compulsory homestay program where Han Chinese government officials pay regular visits to Uyghur homes and settle with them for a period.¹⁷² While presented by the government as promoting social cohesion and community development, the program allows authorities to evaluate Uyghurs' loyalty to the country and subject them to political propaganda.¹⁷³

Lastly, the state's sophisticated and large-scale surveillance system — which includes CCTV cameras with facial recognition, license plate recognition, location trackers and Wi-Fi sniffers — enables the identification, profiling, and tracking of the Xinjiang population.¹⁷⁴ The state has also collected extensive biometric data from Uyghur residents, including blood groups, face and iris scans, and DNA and voice samples.¹⁷⁵ These measures have been complemented by free movement and travel restrictions, and enforced through physical checkpoints, the seizing of travel documents, and requiring permission to leave the country.¹⁷⁶ These policies have had transnational consequences, affecting individuals outside XUAR and China and resulting in family separation and forced repatriation.¹⁷⁷

Despite the Chinese government's denial that state officials have committed abuses in Xinjiang,¹⁷⁸ the OHCHR asserted that "the extent of arbitrary and discriminatory detention of members of Uyghur and other predominantly Muslim groups, pursuant to law and policy, in context of restrictions and deprivation more generally of fundamental rights enjoyed individually and collectively, may constitute international crimes, in particular crimes against humanity".¹⁷⁹

HUNGARY: CAPITALIZING SECURITIZATION TO ADVANCE ANTI-MIGRATION POLICIES

Migration has been a persistent concern in the populist discourse, with leaders frequently portraying it as

a threat to economic wealth, employment, national security and cultural identity.¹⁸⁰ Specifically, by labelling migrants as 'outsiders' who threaten the collective identity of a community, an 'us vs. them' narrative has led to a securitization of migration.¹⁸¹ To the extent that securitization often requires the suspension of ordinary law and invocation of emergency law, a fertile ground for the (mis)application of CT and P/CVE measures is created.¹⁸² This approach has been particularly successful in Western societies, where immigration and terrorism have often been conflated, resulting in violence, harassment, threats and xenophobic speech against migrants.¹⁸³ Refugee movements in particular, are often viewed as a vehicle for terrorism diffusion, despite any clear or evidential linkage.¹⁸⁴ Another widespread belief, especially in Europe, is that migrants and refugees transport "violence through people, skills, or ideas from one location to another",¹⁸⁵ thus inciting fear and insecurity within local communities.¹⁸⁶

Illustrative of this trend is Hungary, where the government has developed a security narrative that weaves together immigration, terrorism and jihadist extremism.¹⁸⁷ Interestingly, migration was never a political issue in Hungary — it had a very low percentage of immigrants, and most of these were ethnic Hungarians from neighbouring states.¹⁸⁸ However in early 2015, an unprecedented wave of (mainly Muslim) 'irregular migrants' began crossing the country on their way to Western Europe.¹⁸⁹ Since then, migration has become a decisive topic in the public and political discourse, providing the governing party Fidesz a window of opportunity to (re)gain votes, divert attention from more unfavourable issues, and justify security measures against those defined as 'other'.¹⁹⁰ Moreover, the moral panic and anti-migrant sentiment that spread during the crisis, was instrumental in advancing particular counter-terrorism and immigration positions in Prime Minister Orbán's political agenda.¹⁹¹

Even after migration flows quietened, Orbán has continued to tie refugee migration to terrorist activities.¹⁹² In January 2015, the Prime Minister condemned the terrorist attack on the French satirical weekly publication Charlie Hebdo and launched a zero tolerance policy against migrants, stating that "[w]e want to keep Hungary for the Hungarians".¹⁹³ A few months later, with a view to reforming its immigration policy, the Government sent a questionnaire entitled 'national consultation on immigration and terrorism' to all its citizens. The questions made a direct link between

migration and national security issues. Citizens were asked, for example, whether they agreed that migrants jeopardized job security and increased terrorism. They were also consulted on the possibility of detaining illegal border-crossers for a period longer than 24 hours, despite this being in violation of European Union provisions.¹⁹⁴

According to Hungary's 2012 National Security Strategy, terrorism is "a significant global threat" that challenges the country's alliances and core values.¹⁹⁵ This threat has been exacerbated by both globalization¹⁹⁶ and "[u]ncontrolled illegal mass migration aimed at Europe".¹⁹⁷ Capitalizing on the anti-terrorism narrative, securitizing actors implemented several extraordinary measures to curb immigration. First, a 'state of crisis' was introduced into Hungarian law in September 2015 and extended to the entire territory in 2016. This provision grants law enforcement authorities wide powers to reject irregular migrants seeking asylum, with no legal recourse avenues to challenge decisions.¹⁹⁸ The state of crisis also suspended provisions of the Hungarian Asylum Act (2007), significantly limiting the rights of asylum seekers, particularly regarding employment and financial support.¹⁹⁹ Second, a 175-kilometre fence was erected along Hungary's southern border to deter illegal migration, criminal activity and terrorism.²⁰⁰ This was complemented by large-scale media campaigns²⁰¹ and new law enforcement policies criminalizing breaches of the border fence.²⁰² Third, in 2016, the Hungarian government adopted the Sixth Amendment to the Fundamental Law, granting the executive extensive powers in cases where a "terrorist threat situation" was determined to exist.²⁰³ Given the close association made between terrorism and migration, the ambiguity of this provision creates scope for misuse insofar as their entry into the country could be categorized as a terrorist threat situation. Further, the so-called 'Stop Soros Laws' criminalize individuals and NGOs assisting refugees in obtaining asylum, framing such activities as 'facilitating illegal immigration' and thus a threat to national security.²⁰⁴

These developments underscore that Hungarian CT initiatives are premised on a direct association between immigration and jihadist terrorism.²⁰⁵ By asserting that "all the terrorists are migrants", Orbán has adopted a securitization rhetoric, framing migration as a question of security.²⁰⁶ This has enabled the government to justify extraordinary measures and authoritarian reforms.²⁰⁷

Additionally, through transnational counter-terrorism cooperation, for example hosting the region's first UN office for Counter-Terrorism,²⁰⁸ Hungary has heightened its role and influence in the international fight against terrorism. As Berman notes, "[c]onsidering the minimal threat of domestic terror attacks by migrants in Hungary, the government successfully securitized the threat of both immigration and terrorism to identity as a tool to enhance their CT positions".²⁰⁹

Hungary is not the only European country depicting migrants and refugees as terrorists and relying on CT laws and narratives to halt the migration influx. Ever since 2001, numerous migration control policies have been developed and deployed in the West as part of a CT strategy.²¹⁰ Discriminatory CT measures across Europe reveal a broader trend, impacting not only the rights of migrants and refugees, but also those of HRDs, activists and minority groups.²¹¹

ANTI-LGBTQ DISCRIMINATION AND EXTREMISM IN RUSSIA

Notwithstanding the many positive developments in protecting the rights of lesbian, gay, bisexual, transgender, queer and other gender-diverse persons (LGBTQ+), issues around discrimination, ostracism, and stigmatization based on sexual orientation and gender identity remain challenges worldwide.²¹² This is particularly the case in contexts of weak governance and authoritarianism. According to the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (hereinafter the Independent Expert), attacks on LGBTQ+ persons have formed part of a "routine playbook of authoritarian populists, seeking to shore up a domestic support base".²¹³ These leaders employ a divisive 'us vs. them' rhetoric to justify the exclusion of LGBTQ+ individuals from the public sphere.²¹⁴ Moreover, by criminalizing the exercising of legitimate rights and freedoms of LGBTQ+ persons, and hindering the work of civil society actors advocating for rights linked to gender identity and sexual orientation, traditional heterosexual-patriarchal norms are being reinforced.²¹⁵

In his latest report, the Independent Expert documents how "states in all regions of the world have enforced existing laws and policies or imposed new, and sometimes extreme, measures to curb freedoms of expression, peaceful assembly and association specifically targeting people

based on sexual orientation and gender identity”.²¹⁶ He identifies two main justifications advanced by lawmakers: a) portraying LGBTQ+ persons as “a threat to children, the family or traditional values”; b) suggesting that LGBTQ+ persons are under foreign influence and/or constitute a threat to national security.²¹⁷ These narratives have worked to fuel public hostility and prejudice, which politicians have exploited to gain popularity and push their political agendas.²¹⁸

Russia exemplifies these trends. The government’s refusal to recognize LGBTQ+ rights is rooted in a belief that these rights challenge traditional values, especially around the family as the primary social institution.²¹⁹ While LGBTQ+ individuals in the country have long faced discrimination, stigma and abuse, the situation has worsened since the adoption of the Russian Federal Law No. 135-FZ of 2013. This law aims to protect children from information promoting the rejection of traditional family values,²²⁰ including by prohibiting the “promotion of non-traditional sexual relations to minors”.²²¹ Additionally, the Russian Federation showcases the growing trend of a government designating LGBTQ+ groups as extremist and a threat to national security.²²² By portraying Russia’s LGBTQ+ community as “a corrosive influence of Western governments”, the government has framed sexual minorities as a national security issue.²²³ As a result, national P/CVE laws have been increasingly applied against the LGBTQ+ community, particularly activists.²²⁴

In February 2022, Russia’s Ministry of Justice successfully filed a lawsuit seeking to liquidate Sphere Foundation, an organization promoting and supporting LGBTQ+ rights, on the grounds that its work ran contrary to traditional values and was aimed at “changing the legislation and moral foundations in the Russian Federation”.²²⁵ Similarly, the independent publication Meduza (known for its anti-war, pro-feminist, and proLGBTQ+ stance) was recently declared ‘undesirable’,²²⁶ and the Centre T (which advocates for the rights and welfare of transgender people) was added to the ‘foreign agents’ registry and its website blocked.²²⁷ NGOs collaborating with ‘undesirable’ entities are also at risk; Alesandr Voronov, CEO of Coming Out, was investigated after being accused of cooperating with the Heinrich Böll Foundation.²²⁸ Most recently, in December 2023, the Supreme Court of the Russian Federation outlawed the ‘international LGBT movement’ as an extremist organization, finding it guilty of “inciting social

and religious discord”.²²⁹ Its activities have since been banned within the territory and its immediate dissolution requested. Given that the ‘international LGBT movement’ does not exist per se, the ruling effectively jeopardizes all forms of LGBTQ+ rights activism, with serious consequences, not only for LGBTQ+ people, but also anyone who defends their rights or expresses solidarity with them.²³⁰ Indeed, individuals and organizations involved in LGBTQ+ activities can be prosecuted under Article 282 of the Criminal Code, which criminalizes any involvement in the activities of an extremist organization.²³¹

CONCLUSION

This paper underscores that the misuse of CT and P/CVE measures to curtail the fundamental rights and freedoms of civil society and minority groups is a broad phenomenon, that occurs in both authoritarian and democratic states. While these actions take place within states, the situation evolved out of a triple-failure at the multilateral level. First, the non-inclusion of clear and precise definitions of terrorism and violent extremism in UNSC resolutions. Second, the absence of a system of mandated comprehensive assessments examining the human rights impact of CT and P/CVE measures. Third, pressure to implement resulting in counter-terrorism legislation being enacted quickly, without sufficient public debate or judicial scrutiny. Together, this has created a policy environment where states could label what they perceive as threats, to be terrorism, violent extremism, extremism, or threats to national security.²³² Such threats might include migrants and refugees, human rights defenders, journalists, ethnic and religious minority groups, LGBTQ+ people and/or members of the political opposition. In parallel, states have capitalized on pre-existing fears and divisive ‘us and them’ narratives, thus relying on securitization to transform general unease into a perceived existential threat.²³³ Finally, this environment has enabled states to operate in a realm of ‘exceptionality’, where human rights, due process guarantees and procedural protections can be sidestepped or disregarded.²³⁴ The upshot is that, while terrorism poses a genuine threat to human rights, counter-terrorism legislation has oftentimes failed to restore and protect such rights. In practice CT and P/CVE laws have been used to realize state goals ahead of protecting citizens, resulting in an arguably higher level of human insecurity.²³⁵

END NOTES

- 1 Minority Rights Group. (2006, September 8). Global “war on terror” has become a global war on minorities. <https://minorityrights.org/global-war-on-terror-has-become-a-global-war-on-minorities/>.
- 2 United Nations General Assembly (UNGA). (2023). [A/78/520](#): Impact of counter-terrorism measures on civil society and civic space, and counter-terrorism-based detention. United Nations Office of the High Commissioner for Human Rights (OHCHR).
- 3 UNGA. (2024). [A/HRC/55/48](#): Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul. OHCHR, para 14.
- 4 United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. (2023). Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space. OHCHR. https://defendcivicspace.com/wp-content/uploads/2023/06/SRCT_GlobalStudy.pdf, 24. See also UNGA (2022). [A/77/266](#): Terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. OHCHR, para 6: “[t]he United Nations Strategy and Plan of Action on Hate Speech has recognized the growth in xenophobia, racism, intolerance, violent misogyny, antisemitism and anti-Muslim hatred globally.”
- 5 According to V-Dem Institute’s 2024 Democracy Report, 42 countries (of which 28 originally democracies) are currently ongoing autocratization processes. See Nord, M., et Al. (2024). Democracy Report 2024: Democracy Winning and Losing at the Ballot. University of Gothenburg; V-Dem Institute, 23. See also Donner, S., & Hartmann, H. (2024). Less democratic, less successful. Bertelsmann Stiftung. <https://doi.org/10.11586/2024043>.
- 6 UN Special Rapporteur on counter-terrorism, Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space, supra fn 4, 12.
- 7 “The strongman style is not confined to authoritarian systems. It is now also common among elected politicians in democracies.” Rachman, G. (2022). The Age of the Strongman: How the Cult of the Leader Threatens Democracy Around the World. The Bodley Head, 2 and 9.
- 8 Ibid, 75: “[i]n different ways, they all promise to restore a lost era of national greatness”.
- 9 Populism often claims the idea that a country’s ‘true people’ are somehow threatened by and in conflict with people who, despite living in the same country, are perceived as different or as ‘outsiders’.
- 10 See Alzubairi, F. (2019). Counter-Terrorism in Egypt. In Colonialism, Neo-Colonialism, and Anti-Terrorism Law in the Arab World (pp. 120-162). Cambridge University Press, 120; Cairo Institute for Human Rights Studies. (2023, July 24). Egypt’s Worst Decade for Human Rights. CIHRS. <https://cihrs.org/egypts-worst-decade-for-human-rights/>.
- 11 According to OVD-Info, a Russian human rights media project that researches and publicizes violations of civil and political rights in the country and provides legal assistance to victims, the situation has worsened since the beginning of the Russian invasion of Ukraine. Indeed, “[d]uring 2022-2023, for example, 20 organisations and individuals involved in supporting LGBTQ people were included in the registries. This is nearly twice as many as in all the previous years of the law”. OVD-Info. (2024, January 18). “Cutting off the air supply”: how the authorities are persecuting so-called “foreign agents” in the face of war – an analysis of legislation. <https://en.ovdinfo.org/cutting-air-supply-how-authorities-are-persecuting-so-called-foreign-agents-face-war#1>.
- 12 Besides the gay propaganda law, which de facto legalizes social hostility and discrimination against people for their sexual orientation and gender identity (see Section II, subsection E of this paper), constitutional amendments passed into law on 4 July 2020 formally ban same-sex marriage in Russia. See European Court of Human Rights. (2023). Case of Fedotova and Others v. Russia. See also NBC News. (2020, July 13). Russian constitution change ends hopes for gay marriage. <https://www.nbcnews.com/feature/nbc-out/russian-constitution-change-ends-hopes-gay-marriage-n1233639>. Moreover, the 2023 Federal Law No. 386 on Amendments to Certain Legislative Acts of the Russian Federation bans the legal change of gender on official documents, outlawing transgender healthcare, dissolving marriages for transgender people and preventing them from adopting or taking legal guardianship of children. See Human Rights Watch. (2023, July 15). Russia: Trans Health Care, Families Bill Violates Rights. <https://www.hrw.org/news/2023/07/15/russia-trans-health-care-families-bill-violates-rights>.
- 13 OVD-Info. (2022). Information on the human rights situation in Russia for the OSCE’s Moscow Mechanism. In <https://en.ovdinfo.org/information-human-rights-situation-russia-osces-moscow-mechanism? gl=1>.
- 14 Clarke, M. (2010). Widening the net: China’s anti-terror laws and human rights in the Xinjiang Uyghur Autonomous Region. The International Journal of Human Rights, 14(4), 542-558, 543. See also Rachman, supra fn 7, 19. Even though around 92 percent of the population is Han Chinese, Xi Jinping’s government has shown “growing paranoia and intolerance of racial and ethnic minorities”, especially Turkic Muslims.
- 15 Clarke, Widening the net, supra fn 14, 543.
- 16 Considering the countries under discussion, the regional framework will be deliberately excluded from this analysis.
- 17 Merz, F. (2023). The United Nations and Counterterrorism. Center for Security Studies (CSS) Analyses in Security Policy, 1.
- 18 UNGA. (2018). [A/73/361](#): Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. OHCHR, para 44.
- 19 [S/RES/1373 \(2001\)](#), paras 1-3.
- 20 Ibid, para 3.
- 21 See [A/73/361](#), especially para 15: “the rise of the Islamic State in Iraq and the Levant (ISIL) caused the Council to pass an extensive set of new measures, in its resolutions 2170 (2014), 2178 (2014) and 2396 (2017), which were deemed necessary for addressing the threat posed by ISIL and the ‘foreign fighters’ phenomenon.”
- 22 These include the Counter-Terrorism Committee (2001), the Counter-Terrorism Committee Executive Directorate (2004), the Counter-Terrorism Implementation Task Force (2005), the Global Counter-Terrorism Strategy (2006), the UN Counter-Terrorism Centre (2011), the Office of Counter-Terrorism (2017), and the Global Counter-Terrorism Coordination Compact (2018).
- 23 [A/73/361](#), para 15.
- 24 Ibid, para 16: “[t]he language used by the Council (“decides that all States shall”) indicated that various provisions contained mandatory directions in a style characteristic of legislation, as also confirmed in subsequent resolutions referring to ‘obligations’ established under resolution 1373 (2001).”
- 25 Ibid, para 15.
- 26 S/RES/1373 explicitly mentions compliance with international law and IHRL only when addressing the situation of refugees in paras 3(f) and (g). Besides this mention, the Preamble vaguely affirms the need to combat the threat of terrorism “by all means, in accordance with the Charter of the United Nations”. The lack of an explicit reference to human rights protection “leaves the impression that human rights protection is a secondary consideration in the campaign against terrorism, instead of an essential component of any counter-terrorism strategy.” Ibid, para 35.
- 27 Ibid, para 36-37. This is partially because Member States have diverging positions regarding the incorporation of more stringent human rights provisions in the international CT framework and architecture. Some states would rather prevent these issues from being addressed. The UN, its institutions and policy frameworks ultimately reflect the priorities and preferences of member states. Merz, The United Nations and Counterterrorism, supra fn 17, 4.
- 28 Merz, supra fn 17, 3.
- 29 See UNGA. (2019). [A/HRC/40/52](#): Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders. OHCHR, para 17. See also Charbord, A., & Ní Aoláin, F. (2019). The Role of Measures to Address Terrorism and Violent Extremism on Closing Civic Space. University of Minnesota Human Rights Centre, 9-15, outlining how the lack of involvement and consultation of civil society in the development of these measures has paved the way for disproportionately detrimental effects on the civic space.
- 30 [A/73/361](#), paras 13 and 23.
- 31 Ibid, para 13.
- 32 Clarke, supra fn 14, 542.
- 33 UN Special Rapporteur on counter-terrorism, supra fn 4, 39.
- 34 This shift has been more pronounced in non-democratic countries, with already weakened rule

of law structures.

35 UN Special Rapporteur on counter-terrorism, supra fn 4, 39.

36 [A/HRC/55/48](#), para 10.

37 [A/73/361](#), paras 42-43; UNGA. (2018). [A/HRC/37/52](#): Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism. OHCHR, paras 19-20.

38 [A/73/361](#), para 43.

39 The Special Rapporteur on counter-terrorism recalls how “expansive counter-terrorism law is now the ordinary law in many States”. It is important to note that, in order for states to lawfully exercise emergency powers, a situation must amount to a fundamental threat to the life of the nation. Moreover, ordinary law, when sufficient and robust, should be prioritized when addressing security and terrorism challenges, because the misuse and overuse of emergency powers can have serious consequences on the rule of law, accountability and transparency. [A/HRC/37/52](#), paras 16, 36 and 58-59.

40 Ibid, para 65; UN Special Rapporteur on counter-terrorism, supra fn 4, 39-40.

41 [A/HRC/37/52](#), para 57.

42 “Failure to use precise and unambiguous language in relation to terrorist or security offences may fundamentally affect the protection of several fundamental rights and freedoms”, resulting in restrictions on conduct that is not criminal in nature or may even be protected under human rights law. See [A/78/520](#), para 47 and [A/77/266](#), para 21.

43 UN Special Rapporteur on counter-terrorism, supra fn 4, 47.

44 [S/RES/2178 \(2014\)](#), para 15.

45 UNGA. (2015). [A/70/674](#): Plan of Action to Prevent Violent Extremism. OHCHR, para 1.

46 Ibid, paras 2, 12 and 40. To prevent and reduce violent extremism, recommendations were made for actions at global, regional and national levels. These include setting up a global framework “firmly grounded in the respect for human rights and the rule of law”. The UN should support Member States, regional bodies and communities in countering and preventing violent extremism, harmonizing their actions with IHRL.

47 Ibid, para 2: “Violent extremism is a diverse phenomenon, without clear definition”.

48 UNGA. (2020). [A/HRC/43/46](#): Human rights impact of policies and practices aimed at preventing and countering violent extremism. OHCHR, para 12.

49 See, for example, [OL EGY 4/2020](#); [OL CHN 18/2019](#); [OL CHN 21/2018](#).

50 [A/HRC/43/46](#), paras 13-15.

51 Ibid, para 14.

52 Ibid. Also UNGA. (2016). [A/HRC/31/65](#): Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. OHCHR, para 21. This definitional gap might be exploited “against members of religious minorities, civil society, HRDs, peaceful separatist and indigenous groups and members of political opposition parties”.

53 See [A/HRC/55/48](#), para 47. Examples include preventive detention, curfews, home detention, electronic monitoring, and restrictions on movement, communication, and assembly. Border controls involve denying entry, visa cancellations, and citizenship deprivation. Non-profit organizations face sanctions, financing controls, and regulatory requirements.

54 UN Special Rapporteur on counter-terrorism, supra fn 4, 41.

55 The combination of a zero-risk approach to countering the financing of terrorism and the presumption that the non-profit sector is at high risk has led many states to restrict foreign funding to local civil society organizations. However, organizations that focus their work on, inter alia, women, gender identity, sexual orientation, and ethnic and religious minorities often rely on foreign donors.

Consequently, several NGOs have been forced to dissolution and de-registration under the guise of countering the financing of terrorism. See [A/78/520](#), para 25 ss; [A/HRC/40/52](#), para 42.

56 [A/HRC/43/46](#), paras 24-26. See also [A/HRC/55/48](#), paras 49-50: “[a]dministrative measures may be intended to be preventive, but they still may have punitive effects without the safeguards of criminal process (...) Measures have affected many rights and freedoms, including those relating to liberty, movement, privacy, expression, association, assembly, religion, family and nationality.”

57 UN Special Rapporteur on counter-terrorism, supra fn 4, 25.

58 Ibid, 54. Also, Charbord, *The Role of Measures to Address Terrorism and Violent Extremism on Closing Civic Space*, supra fn 29.

59 Charbord, supra fn 29, 5.

60 UN Special Rapporteur on counter-terrorism, supra fn 4, 11.

61 [A/78/520](#), para 44 ss.

62 See Charbord, supra fn 29, 29-38.

63 [A/HRC/40/52](#), para 60; [A/HRC/43/46](#), para 43.

64 Alzubairi, *Counter-Terrorism in Egypt*, supra fn 10, 141.

65 Check, for instance, Law No. 162 of 1958 concerning the State of Emergency and Law No. 97 of 1992.

66 Notable laws include the ‘Protest Law’ (107/2013); the ‘Terrorism Entities Law’ (8/2015); a new Anti-Terrorism Law (No. 94/2015); the ‘Associations Law’ (70/2017); and the ‘NGO Law’ (149/2019). For an analysis of the legislation, see Alzubairi, supra fn 10; Lotfy, M. (2018). *Egypt - Finding Scapegoats: Crackdown on Human Rights Defenders and Freedoms in the Name of Counter-terrorism and Security*. EuroMed Rights.

67 [OL EGY 4/2020](#).

68 Lotfy, *Egypt - Finding Scapegoats*, supra fn 66, 10.

69 Ibid, “The Egyptian government’s armada of security measures targeting human rights defenders and activists”, 21-25. See also Cairo Institute for Human Rights Studies, *Egypt’s Worst Decade for Human Rights*, supra fn 10. Additionally, see the Joint Statement on Egypt (12 March 2021) presented by 32 states to the UNHRC. <https://geneva.usmission.gov/2021/03/12/joint-statement-on-human-rights-in-egypt/>; Amnesty International. (2022). *Amnesty International Joint Statement Egypt: Civil Society Organizations Call on the European Union to Withdraw its Joint Candidacy with Egypt to Chair the Global Counter-Terrorism Forum*.

70 See, for instance, [CCPR/C/EGY/CO/5](#) (2023), particularly paras 25 and 27; [CERD/C/EGY/CO/17-22](#) (2016), para 37; [A/HRC/45/13](#) (2020), para 63; [A/HRC/WGEID/13/1/1](#) (2023), para 52. As for UN Special Procedures, almost all the communications from the last few years are relevant. [AL EGY 1/2024](#); [AL EGY 7/2023](#); [AL EGY 5/2023](#); [AL EGY 3/2023](#); [AL EGY 2/2023](#); [AL EGY 10/2022](#); [AL EGY 6/2022](#); [UA EGY 3/2022](#); [AL EGY 12/2021](#); [AL EGY 8/2021](#); [AL EGY 5/2021](#); [UA EGY 2/2021](#); [AL EGY 19/2020](#); [AL EGY 15/2020](#); [AL EGY 12/2020](#); [UA EGY 6/2020](#).

71 [CCPR/C/EGY/CO/5](#), para 49; [AL EGY 7/2022](#).

72 [OL EGY 4/2020](#). See also [AL EGY 2/2023](#), where UN Special Procedures express their concerns that “the criminalization of these individuals (...) does not appear to meet the strict test of necessity and proportionality.”

73 See [OL EGY 4/2020](#); [AL EGY 19/2020](#); [AL EGY 8/2021](#). See also Alzubairi, supra fn 10, 151-154. The risk is that “any speech that criticizes the government, corruption, or socioeconomic issues (...) can be misinterpreted as inciting to harm national unity, social peace, or public order”, thus being criminalized under the guise of countering terrorism.

74 Consequently, HRDs and political analysts argue that the level of repression under President el-Sisi has exceeded that of the Mubarak era. Lotfy, supra fn 66, 7 and 10.

75 [CCPR/C/EGY/CO/5](#), para 13. See also [AL EGY 5/2023](#); [AL EGY 7/2023](#); [AL EGY 6/2022](#); [AL EGY 11/2022](#); [AL EGY 1/2022](#); [AL EGY 8/2021](#); [UA EGY 2/2021](#); [AL EGY 19/2020](#); [AL EGY 15/2020](#).

76 OL EGY 4/2020: “[t]he Special Rapporteur has credible information that detainees are held for an average of 345 days in pre-trial detention, although some individuals have been held for 1263 days or longer”. See also AL EGY 5/2023; AL EGY 2/2023; AL EGY 12/2021. Finally, see [CCPR/C/EGY/CO/5](#), para 31, where the Human Rights Committee explains how limits to the duration of pre-trial detention are circumvented through a practice known as ‘rotation’, where detainees are repeatedly added to new cases on similar charges.

77 AL EGY 7/2023; AL EGY 2/2023; [UA EGY 7/2021](#); UA EGY 2/2021; AL EGY 15/2020; UA EGY 6/2020. See also [CCPR/C/EGY/CO/5](#), para 29.

78 AL EGY 7/2023: “[h]uman rights defenders held in Badr Prison 3 have reportedly been subjected to conditions that may amount to torture, including continuous camera surveillance under bright electric lights, limited amounts of food and water and limited visits by family and lawyers, conditions that are proscribed by the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).” See also AL EGY 3/2023; AL EGY 10/2022; AL EGY 12/2021; UA EGY 7/2021; AL EGY 5/2021; AL EGY 15/2020; AL EGY 12/2020; [AL EGY 8/2020](#); UA EGY 6/2020.

79 Practice has shown that prisoners are deliberately denied medical care due to their political beliefs, sometimes leading to their deaths. AL EGY 11/2022; AL EGY 8/2020. See also [CCPR/C/EGY/CO/5](#), para 29.

80 See Law 94/2015, Section II, Articles 40-49. See also Alzubairi, *supra* fn 10, 155-157.

81 Terrorism Circuit Courts, established in 2013, along with the State Security Emergency Court, are tasked with handling terrorism-related cases, and have been responsible for passing a number of harsh sentences against civil society actors. See Cairo Institute for Human Rights Studies, *supra* fn 10; [AL EGY 13/2020](#).

82 OL EGY 4/2020; AL EGY 13/2020; AL EGY 6/2022; AL EGY 11/2022. See also [CCPR/C/EGY/CO/5](#), para 39.

83 AL EGY 3/2023 presents two cases: the ‘Helwan Brigade case’, a mass trial in which ten people were first subject to torture and arbitrary pre-trial detention and then sentenced to death; the ‘Joker case’, where alleged enforced disappearance and violation of due process and fair trial guarantees were reported during the arrest, detention, and indictment of five individuals. See also UA EGY 7/2021, about the order of executing 12 individuals following a mass trial in violation of due process and fair trial guarantees. Finally, see AL EGY 2/2023 and AL EGY 13/2020.

84 Alzubairi, *supra* fn 10, 130-132. Even though the State of Emergency in Egypt was ended in October 2021, civilians keep being tried by emergency courts. See AL EGY 6/2022.

85 Al Jazeera journalists, for instance, have been repeatedly targeted and re-listed on terrorism watch-lists. See AL EGY 5/2023.

86 Alzubairi, *supra* fn 10, 147. See, for instance, AL EGY 7/2023, AL EGY 2/2023, AL EGY 6/2022, AL EGY 1/2022, AL EGY 8/2021, AL EGY 15/2020.

87 See AL EGY 1/2022: “[p]lacement of individuals or groups on a terrorism watchlist should be necessary and proportionate and therefore only in response to an actual, distinct, and measurable terrorism act or demonstrated threats of an act of terrorism.” See also AL EGY 7/2023; AL EGY 5/2023; AL EGY 6/2022; EGY 8/2021; [CCPR/C/EGY/CO/5](#), para 13.

88 AL EGY 6/2022. See also EGY 8/2021.

89 [CCPR/C/RUS/CO/8](#) (2022), paras 18 and 30; [CERD/C/RUS/CO/25-26](#) (2023), para 20. See also [OL RUS 26/2023](#).

90 See Federal Law of July 25, 2002, N 114-FZ on Counteracting Extremist Activity, Article 1.

91 See OL RUS 26/2023.

92 The law is compounded by Article 280 (“Public Appeals for the Performance of Extremist Activity”), Article 282.1 (“Organising an Extremist Community”), and Article 282.2 (“Organising the Activity of an Extremist Community”) of the Criminal Code.

93 Article 1 Federal Law No. 148-FZ broadly defines an extremist organization as “a public or religious association or other organization in respect of which, on the grounds provided for by this Federal Law, a court has made a decision that has entered into legal force to liquidate or prohibit activities in connection with the implementation of extremist activities”.

94 Al Jazeera. (2022, October 11). Russia adds Meta to list of “terrorist and extremist” groups. <https://www.aljazeera.com/news/2022/10/11/russia-adds-meta-to-list-of-terrorist-and-extremist-groups>; BBC News. (2022, October 11). Russia confirms Meta’s designation as extremist. <https://www.bbc.com/news/technology-63218095>; Reuters. (2022, October 11). Russia’s financial monitoring agency adds Meta to “extremists” list-agencies. <https://www.reuters.com/technology/russias-financial-monitoring-agency-adds-meta-extremists-list-ifax-2022-10-11/>.

95 According to OVD-Info, “[i]n April 2017, all the Jehovah’s Witnesses organizations registered in Russia (395 local communities along with the Administrative Centre) were banned as extremist”. See also Human Rights Watch. (2017, April 20). Russia: Court Bans Jehovah’s Witnesses. <https://www.hrw.org/news/2017/04/20/russia-court-bans-jehovahs-witnesses>. This illustrates how CT and P/CVE legislation is widely used to interfere in peaceful religious observance and persecute believers. See for example Kravchenko, M. (2018). Inventing Extremists: The Impact of Russian Anti-Extremism Policies on Freedom of Religion or Belief. United States Commission on International Religious Freedom (USCIRF).

96 Mr. Alexei Navalny was himself charged with “organizing an extremist community, publicly calling for extremist activities, justifying terrorism, and financing extremist activities” on 9 November 2022. Later, in August 2023, the Moscow City Court sentenced Navalny to nineteen years of imprisonment on charges of “financing and inciting extremism”, reportedly related to the activities of the Anti-Corruption Foundation. Navalny died under custody in February 2024. Individuals have been deprived of liberty for reasons related to their political engagement with Navalny’s organizations and/or activities. Indeed, according to the law, any form of assistance to an extremist activity is also qualified as extremism. See [UA RUS 5/2023](#); OVD-Info. (2021, September 28). The Investigative Committee has opened a case against Alexei Navalny and his associates on the grounds of being an extremist community. <https://ovd.info/express-news/2021/09/28/sk-vozbudil-protiv-alekseya-navalnogo-i-ego-soratnikov-delo-ob>.

97 See OL RUS 26/2023.

98 See Federal Law No. 35-FZ of March 6, 2006, on Counteraction to Terrorism, Article 3. Additionally, see Criminal Code of the Russian Federation No. 63-Fz of June 13, 1996, Articles 205.1, 205.2, 205.4, and 205.5.

99 According to Amnesty International, “[a]s of December 2023, the list, maintained by the Federal Financial Monitoring Service, contained 13,647 names, of whom 11,286 were marked as terrorists”. See Amnesty International. (2024, February 19). Terrorising the Dissent: Abuse of Terrorism-related Charges in Russia.

100 Federal Law No. 121-FZ, on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-Commercial Organizations Performing the Function of Foreign Agents.

101 Russell, M. (2022). “Foreign agents” and “undesirables” - Russian civil society in danger of extinction? In European Parliamentary Research Service (EPRS).

102 See Article 19.34 of the Code of Administrative Offences of the Russian Federation (“Violation of the Operating Procedures of a Foreign Agent”) and Article 330.1 of the Russian Criminal Code (“Evasion of duties stipulated by the legislation of the Russian Federation on foreign agents”). See also [AL RUS 13/2021](#). Foreign agents are prohibited to organize protests, participate in election campaigns, and monitoring government bodies, and they cannot receive state financial support. See OVD-Info, “Cutting off the air supply”, *supra* fn 11.

103 Russell, “Foreign agents” and “undesirables”, *supra* fn 101. In September 2021, under the 2020 Foreign Agent Public Associations Law (No. 481-FZ), the Ministry of Justice designated the human rights project OVD-Info as a “foreign agent public association” and prohibited the dissemination of information through its website and social media pages. However, in OVD-Info’s case, there was no proven evidence of foreign funding. See [AL RUS 2/2022](#).

104 Human Rights Watch. (2022, December 1). Russia: New Restrictions for “Foreign Agents.” <https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents>; Radio Free Europe, Radio Liberty’s Russian Service. (2022, July 14). Putin Signs Off On Harsher “Foreign Agent” Law. <https://www.rferl.org/a/putin-signs-off-harsher-foreign-agent-law/31943645.html>. For the latest version of the law, see [Federal Law of 14.07.2022 N 255-FZ](#).

105 OVD-Info, “Cutting off the air supply”, *supra* fn 11.

106 *Ibid*.

107 Article 284.1 was introduced in the Criminal Code in 2015 and it criminalizes the activities of foreign or international organizations that have been recognized as undesirable in the Russian Federation. See also Lokshina, T. (2015, May 20). Russian civil society deemed “undesirable.” Human Rights Watch. <https://www.hrw.org/news/2015/05/20/russian-civil-society-deemed-undesirable>.

108 Ibid. See, for instance Human Rights Watch. (2023, April 14). Russia: Sentencing for Prominent Kremlin Critic. <https://www.hrw.org/news/2023/04/14/russia-sentencing-prominent-kremlin-critic>, regarding the conviction of Vladimir Kara-Murza on combined charges of treason, 'false information', and involvement with an undesirable organization. The same applies to the Foreign Agent Law. Authorities, citizens and organizations can be liable for helping or interacting with foreign agents. See OVD-Info, "Cutting off the air supply", supra fn 11.

109 Russell, supra fn 101. In February 2024, a bill was introduced, allowing for the designation of state-sponsored entities (in addition to NGOs) as 'undesirable'. See Rescheto, J. (2024, July 27). Russia tightens "undesirable organizations" law. Deutsche Welle. <https://www.dw.com/en/russia-tightens-undesirable-organizations-law/a-69780289>; Nate Ostiller. (2024, May 13). Russia approves bill to ban "undesirable" foreign state-funded organizations. The Kyiv Independent. <https://kyivindependent.com/russia-approves-bill-to-ban-undesirable-foreign-state-funded-organizations/>; The Moscow Times. (2024, February 12). Russia Moves to Ban Foreign State-Funded Orgs as "Undesirables." <https://www.themoscowtimes.com/2024/02/12/russia-moves-to-ban-foreign-state-funded-orgs-as-undesirables>.

110 [AL RUS 10/2022](#); [AL RUS 4/2020](#); [AL RUS 10/2019](#); [UA RUS 17/2018](#); [UA RUS 16/2018](#).

111 [AL RUS 4/2020](#); [UA RUS 17/2018](#); [AL RUS 14/2018](#); [AL RUS 8/2017](#).

112 [AL RUS 7/2021](#); [AL RUS 8/2017](#).

113 [AL RUS 10/2022](#); [AL RUS 5/2022](#); [AL RUS 12/2021](#); [AL RUS 4/2020](#); [UA RUS 16/2018](#).

114 See [AL RUS 30/2023](#) on the alleged arbitrary arrest and indictment of five HRDs associated with the non-profit organization Vesna, which advocates for human rights and organizes peaceful protests in Russia. Following its participation in peaceful anti-war demonstrations to criticize the Ukraine invasion, Vesna was included on the Register of Alleged Foreign Agents in October 2022. It was later designated as an extremist organization by the City Court of St. Petersburg in December 2022. The court's secret judicial proceedings cited Vesna members' speeches, demonstrations and social media posts as allegedly aimed at "disseminating information of a discrediting nature about the activities of the Russian Armed Forces". See also [AL RUS 3/2023](#); [AL RUS 10/2022](#); [AL RUS 5/2022](#); [AL RUS 3/2022](#); [AL RUS 12/2021](#).

115 Among the legislation, see Article 20.3.3 of the Code of Administrative Offences ("on discrediting the Russian military"), and Articles 207.3 ("on fake news about the Russian military") and 280.3 of the Criminal Code ("public actions aimed at discrediting the use of the Russian Armed Forces").

116 Amnesty International, Terrorising the Dissent, supra fn 99. Amnesty International has highlighted the case of Aleksei Gorinov, a local councillor who was sentenced to seven years in prison for criticizing the Russian government's actions in Ukraine. While serving his sentence, he faced new terrorism-related charges for allegedly discussing his views on the war with a cellmate.

117 Ibid. According to Amnesty International, "[t]he charge of justification of terrorism has also become a nearly universal tool used to silence high-profile pro-war figures who criticize the authorities on other grounds". In December 2023 Grigori Chkhartishvili, known under his pen name Boris Akunin, was charged in absentia with "justifying terrorism" and "dissemination of knowingly false information about the Russian Armed Forces". See also Amnesty International. (2024, February 13). Russia: Anti-terrorism legislation misused to punish activist Boris Kagarlitky. <https://www.amnesty.org/en/latest/news/2024/02/russia-anti-terrorism-legislation-misused-to-punish-activist-boris-kagarlitky/>.

118 [A/HRC/43/46](#), para 29.

119 Minority Rights Group, Global "war on terror" has become a global war on minorities, supra fn 1; UN Special Rapporteur on counter-terrorism, supra fn 4, 26. See also Sikander, Z. (2021). Islamophobia in Indian Media. *Islamophobia Studies Journal*, 6(2), 120-129, 126: "[t]he war on terror was understood as the war on Islam where the civilizations, Western vs. Islamic, were inherently incongruent with each other."

120 Islamophobia, understood as "the fear, prejudice and hatred of Muslims", is driven by institutional, ideological, political, and religious hostility, and it has become an expedient political tool for ruling parties to easily win votes. See Justice and empowerment of minorities (JEM). (n.d.). Contextualising Islamophobia in India. <https://www.jem.org.in/contextualising-islamophobia.pdf>, 4.

121 [A/HRC/43/46](#), para 28.

122 Patel, I. A. (2022). Islamophobia in India: The Orientalist Reformulation of Tipu Sultan—The Tiger of Mysore. *Islamophobia Studies Journal*, 7(1), 82-95, 88.

123 Narendra Damodardas Modi, leader of the Hindu nationalist Bharatiya Janata Party (BJP), has been serving as the 14th prime minister of India since May 2014. When Modi served as chief minister

in Gujarat in 2002, anti-Muslim riots broke out, resulting in the death of over a thousand people. Since then, Modi has been accused of tacitly supporting the anti-Muslim violence. See Werleman, C. (2021). Rising Violence against Muslims in India Under Modi and BJP Rule. *Insight Turkey*, 23(2), 39-50.

124 Rachman, supra fn 7, 75. See also Sikander, Islamophobia in Indian Media, supra fn 119, 126-127: "[t]he dichotomy of the majority vs. the minority (...) has taken a monstrous shape (...) The "Hindu Khatre Mein" (Hindus are in danger) shtick has often been used by the media to simply run elections entirely on identity politics. In all of this, one of the larger ideas being propagated is that Muslims are producing more children, and illegal Muslim migrants from Bangladesh are entering India to become a part of the voter base so that they can eventually become the majority community in India."

125 Amarasingam, A., Umar, S., & Desai, S. (2022). "Fight, Die, and If Required Kill": Hindu Nationalism, Misinformation, and Islamophobia in India. *Religions*, 13(5):380, 4. Sikander, supra fn 119, 121: it has been argued that India has effectively become a theocracy, "where the Hindu way of life and the hegemony of Hindus is being established". See also Rachman, supra fn 7, 75; Deshmukh, J. (2021). Terrorizing Muslims: Communal Violence and Emergence of Hindutva in India. *Journal of Muslim Minority Affairs*, 41(2), 317-336, 322-324; Werleman, Rising Violence against Muslims in India Under Modi and BJP Rule, supra fn 123, 41.

126 Manoharan, N. (2009). Trojan Horses: Counter-terror Laws and Security in India. *Economic and Political Weekly*, 44(46), 20-24.

127 "[T]he UAPA was slowly modified to deal with two types of activities that were deemed criminal under the Act - 'unlawful activities' in Section 3 and 'terrorist acts' in Section 15." Nair, R. (2021). Evaluating the Unlawful Activities (Prevention) Amendment Act, 2019. In *Social and Political Research Foundation*. Also, Liberation (2008). Impact of Anti-Terrorism Laws on the enjoyment of Human Rights in India. OHCHR.

128 See [OL IND 7/2020](#). Under the UAPA, a presumption of guilt for terrorism offences is created on the basis of seizure of evidence. See Unlawful Activities (Prevention) Act, 1967, Section 43E: "the Court shall presume, unless the contrary is shown, that the accused has committed such offence".

129 2019 Unlawful Activities (Prevention) Amendment Bill. UN Special Procedures mandate-holders have raised concerns in relation to the compatibility of UAPA and its 2019 Amendment Act with India's obligations under IHL and international standards of counter-terrorism legislation, particularly regarding the "designation of individuals as 'terrorists' in the context of ongoing discrimination directed at religious and other minorities". [OL IND 7/2020](#); [OL IND 6/2023](#). See also Nair, Evaluating the Unlawful Activities (Prevention) Amendment Act, 2019, supra fn 127.

130 See Human Rights Watch. (n.d.). Opportunism in the face of Tragedy: Repression in the name of anti-terrorism. <https://www.hrw.org/legacy/campaigns/september11/opportunismwatch.htm>.

131 Deshmukh, Terrorizing Muslims, supra fn 125, 326.

132 The National Investigation Agency Act No. 34 of 2008.

133 The National Investigation Agency (Amendment) Act, 2019, Section 16.

134 See Dixit, N. (2018). In Run up to 2019, NSA Is the Latest Weapon Against Muslims in UP. *The Wire*. <https://thewire.in/rights/in-adityanaths-up-the-national-security-act-is-latest-weapon-against-muslims>.

135 Article 370, enacted in 1949, granted Jammu and Kashmir additional autonomy, allowing for its own constitution, flag, and official language. Article 35A (also known as the 'Permanent Residents Law'), provided Kashmir residents with specific rights and privileges related to property, public aid, welfare programs, and public sector employment, thus protecting the rights of the minority communities concentrated in the region. See Howard, G. (2021). India's Removal of Kashmir's Special Protection Status: an Internationally Wrongful Act? *University of Miami International and Comparative Law Review*, 28(2), 493-517, 501.

136 See, for instance, [AL IND 11/2020](#) and [AL IND 6/2020](#).

137 Through the SHRC, victims of could seek redress without needing a lawyer. See [AL IND 11/2020](#).

138 Check Chander, M. (2022, September 16). The Rising Intimidation of India's Muslims & The Criminalisation of Eating, Praying, Loving & Doing Business. Article 14. <https://article-14.com/post/the-rising-intimidation-of-india-s-muslims-the-criminalisation-of-eating-praying-loving-doing-business-6323ce1e74c10>.

139 See [AL IND 7/2022](#); [AL IND 17/2021](#); [AL IND 9/2021](#); [AL IND 8/2020](#).

140 Center for Study of Society and Secularism (CSSS), & Minority Rights Group International (MRG). (2017). A narrowing space: Violence and discrimination against India's religious minorities. MRG, 17-19; Deshmukh, supra fn 125, 322-323. Law enforcement authorities have often invoked the NSA against those suspected of illegally slaughtering cows. Human Rights Watch. (2021, February 19). India: Government Policies, Actions Target Minorities. <https://www.hrw.org/news/2021/02/19/india-government-policies-actions-target-minorities>; The South Asia Collective. (2023). South Asia State of Minorities Report 2022: Weakening Human Rights Commitments and Its Impact on Minorities. MRG, 68.

141 These laws aim to prevent coercive or fraudulent conversions but have biased effect insofar as they legitimize conversion from other religions to Hinduism but not vice versa.

142 Patel, Islamophobia in India, supra fn 122, 85. Also CSSS, A narrowing space, supra fn 140, 12 and 20.

143 'Love Jihad' is an anti-Muslim conspiracy according to which Muslim men would marry Hindu women to convert them to Islam, thus diluting the purity of the nation. Rachman, supra fn 7, 20. See also Human Rights Watch, India: Government Policies, Actions Target Minorities, supra fn 140.

144 Werleman, supra fn 123, 47; CSSS, supra fn 140, 21.

145 Information Office of the People's Government of Xinjiang Uyghur Autonomous Region. (2022). Fight against Terrorism and Extremism in Xinjiang: Truth and Facts. OHCHR, 31.

146 The majority of the communities living in the region are ethnically Turkic and, unlike Han Chinese (who primarily speak Chinese), they are predominantly Muslim and have their own languages. Human Rights Watch. (2021). "Break Their Lineage, Break Their Roots": Chinese Government Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims, 2.

147 Human Rights Watch. (2018). "Eradicating Ideological Viruses": China's Campaign of Repression Against Xinjiang's Muslims, 10: "[t]he Chinese authorities are hostile to many expressions of Uyghur identity, including religion, culture, language, and aspirations – including through peaceful transition – of independence."

148 Garcíandía Igal, D. (2023). The Effectiveness of Freedom of Religion or Belief as a Framework in International Relations: The Case of Uyghur Muslims and Other Religious Minorities in Xinjiang, China. *The Review of Faith & International Affairs*, 21(2), 95-106, 99.

149 See Information Office of the People's Government of Xinjiang Uyghur Autonomous Region, Fight against Terrorism and Extremism in Xinjiang: Truth and Facts, supra fn 145, 10.

150 Clarke, supra fn 14, 548-550. See also Delisle, J. (2010). Security First? Patterns and Lessons from China's Use of Law To Address National Security Threats. *Journal of National Security Law & Policy*, 4(397), 406-408.

151 See CTL, Article 3; XIM, Articles 3 and 6; XRD, Articles 3 and 9. See also Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 23.

152 OHCHR. (2022, August 31). OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China, para 31 ss. See also CTL and XIM, Chapters III-VI. Finally, see Human Rights Watch. (2015, January 20). China: Draft Counterterrorism Law a Recipe for Abuses. <https://www.hrw.org/news/2015/01/20/china-draft-counterterrorism-law-recipe-abuses>.

153 See 2015 National Security Law of the People's Republic of China, Article 2.

154 OHCHR, Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, supra fn 152, para 64. Several communications by UN Special Procedures and Treaty Bodies have expressed concern on ill-defined and overly broad legislation and on its compatibility with international human rights laws. See, among others, [E/C12/CHN/CO/3](https://www.ohchr.org/en/docd/2023/05/20230503) (2023), para 90; [CRPD/C/CHN/CO/2-3](https://www.ohchr.org/en/docd/2022/05/20220503) (2022), para 32; [CERD/C/CHN/CO/14-17](https://www.ohchr.org/en/docd/2018/05/20180517) (2018), para 36 and 40; [AL CHN 12/2022](https://www.ohchr.org/en/docd/2020/05/20200518); [OL CHN 18/2019](https://www.ohchr.org/en/docd/2019/05/20190518); [OL CHN 21/2018](https://www.ohchr.org/en/docd/2018/05/20180518). See also the Statement by UN High Commissioner for Human Rights Michelle Bachelet after official visit to China (28 May 2022). <https://www.ohchr.org/en/statements/2022/05/statement-un-high-commissioner-human-rights-michelle-bachelet-after-official>. Regarding the position taken by the Chinese government, see Information Office of the People's Government of Xinjiang Uyghur Autonomous Region, supra fn 145.

155 Chinese authorities began implementing discriminatory policies in XUAR in 1949. These policies then started intensifying in the 1990s. See Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 7-9.

156 Particularly, Xi has tightened the government's control over religious practices, asserting that

religions in China must be 'sinicized' and stripped of foreign influences. This initiative is grounded in nationalism, Islamophobia and the belief that Han Chinese culture is hierarchical superior. See Çaksu, A. (2020). Islamophobia, Chinese Style: Total Internment of Uyghur Muslims by the People's Republic of China. *Islamophobia Studies Journal*, 5(2), 175-198, 191.

157 Garcíandía, The Effectiveness of Freedom of Religion or Belief as a Framework in International Relations, supra fn 148, 99. The 'Strike Hard Campaign' is part of China's own "People's War on Terror". Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 9 and 25-31.

158 The creation and existence of re-education camps finds its legality in Articles 14 and 33 XRD and Article 38 XIM.

159 OHCHR, supra fn 152, para 37. See also Information Office of the People's Government of Xinjiang Uyghur Autonomous Region, supra fn 145, 56. The Chinese Communist Party explained that, since trainees have often been manipulated by religious extremism, these centres help them "become soberly aware of the evil nature and grave harm of terrorism and religious extremism and get rid of their influence and manipulation".

160 Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 13. Most of the detainees have not been charged with any crime, or they have been charged with vague offences such as separatism, terrorism, and religious extremism. See [CERD/C/CHN/CO/14-17](https://www.ohchr.org/en/docd/2022/05/20220517), para 41.

161 See Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 31-32.

162 OHCHR, supra fn 152, para 57.

163 Ibid, paras 44, 51, and 75.

164 Çaksu, supra fn 156, 178-179. See also Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 14; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 41-42.

165 Even though basic medical care is provided, it is often not adequate, especially for people particularly vulnerable to harsh detention conditions, like older people, pregnant and breastfeeding women, and people with disabilities. Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 53. See also AL CHN 21/2020.

166 OHCHR, supra fn 152, paras 70-74; [CERD/C/CHN/CO/14-17](https://www.ohchr.org/en/docd/2022/05/20220517), para 38; [OL CHN 21/2018](https://www.ohchr.org/en/docd/2018/05/20180518); [AL CHN 21/2020](https://www.ohchr.org/en/docd/2020/05/20200518). See also Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 19-21; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 33-36; Spengemann, S., & Fonseca, P. (2021). The Human Rights Situation of Uyghurs in Xinjiang, China - Report of the Standing Committee on Foreign Affairs and International Development Subcommittee on International Human Rights, "Chapter 2—Mechanisms Of Suppression". The Chinese government has denied that most of these instances have occurred. See Information Office of the People's Government of Xinjiang Uyghur Autonomous Region, supra fn 145, especially 67-70.

167 [OL CHN 18/2019](https://www.ohchr.org/en/docd/2019/05/20190518); Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 17; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 28.

168 Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 19-20; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 36 and 47-50.

169 OHCHR, supra fn 152, para 71; Çaksu, supra fn 156, 180: "[t]he inmates are often asked to memorize and recite policy documents and speeches delivered by Xi Jinping"; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 37-40: "[d]etainees were told that their release was conditional upon their ability to 'learn' Chinese and the propaganda songs".

170 See for example [AL CHN 14/2020](https://www.ohchr.org/en/docd/2020/05/20200518).

171 Instances of inmates being forced to eat pork and drink alcohol, or not being allowed to wash their hands and feet have been reported in some camps. See Çaksu, supra fn 156, 180. See also UNGA. (2020). [A/75/385](https://www.un.org/development/desa/en/news/press/2020/05/20200518): Elimination of all forms of religious intolerance. OHCHR, para 20.

172 Çaksu, supra fn 156, 184; Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 23; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 78-82.

173 OHCHR, supra fn 152, para 101; Çaksu, supra fn 156, 185. The 'Becoming Family' campaign has significant implications on Uyghurs' right to privacy and human dignity, not to mention the gendered impact. Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 30; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 82.

- 174 Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 3.
- 175 Çaksu, supra fn 156, 187; Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 22-25; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 18 and 74-78. See also OL CHN 18/2019.
- 176 CERD/C/CHN/CO/14-17, para 40; OHCHR, supra fn 152, para 98-99; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 57-64.
- 177 The Strike Hard Campaign has separated families, leaving some members in Xinjiang and others abroad, unexpectedly caught by the tightening of passport controls and border crossings. In some cases, children have been trapped in one country without their parents, or, being left parentless due to the mass incarcerations, they have been transferred to full-boarding schools or orphanages. Furthermore, the government has pressured some ethnic Uyghurs to return to China and demanded detailed personal information from others about their lives abroad, making foreign ties a punishable offense. Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 31-33; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 82-93; Spengemann, The Human Rights Situation of Uyghurs in Xinjiang, supra fn 166.
- 178 According to the government, "the education and training centres strictly followed the basic principles of respecting and protecting human rights enshrined in China's Constitution and laws, effectively guaranteed trainees' personal dignity, and strictly prohibited any form of humiliation and mistreatment". Moreover, "the counter-terrorism and de-radicalization efforts in Xinjiang have been all along conducted on the track of the rule of law, and are by no means the alleged 'suppression of ethnic minorities'." See Information Office of the People's Government of Xinjiang Uyghur Autonomous Region, supra fn 145, 87-88 and 118. See also the concluding remarks, 118-121.
- 179 OHCHR, supra fn 152, para 149. See also Human Rights Watch, "Break Their Lineage, Break Their Roots", supra fn 146, 40-48; Human Rights Watch, "Eradicating Ideological Viruses", supra fn 147, 94-101; Spengemann, supra fn 166.
- 180 Von Rosen, J. (2019). The Securitization of Migration as a Threat to Liberal, Democratic Societies. *Security and Peace*, 37(1), 35-40, 35.
- 181 Ibid, 36.
- 182 "The extraordinary measures and the security approach to immigration show how much this issue is increasingly associated with the activity of a country's security system, and less and less with a humanitarian approach." Cvrtić, V., Slijepčević, M., & Levak, T. (2019). Migration, the Perception of Security Risks and Media Interpretation Frameworks in Croatia and Hungary. *Studia Polensia*, 8(1), 7-30, 10.
- 183 Von Rosen, The Securitization of Migration as a Threat to Liberal, Democratic Societies, supra fn 180, 37.
- 184 Polo, S., & Wucherpfennig, J. (2022). Trojan Horse, Copycat, or Scapegoat? Unpacking the Refugees-Terrorism Nexus. *The Journal of Politics*, 84(1), 33-49, 35.
- 185 Ibid. For instance, see UN News. (2017, September 22). Hungary, at UN, says roots of terrorism must be tackled; warns "migratory waves" bring terrorists to Europe. <https://news.un.org/en/story/2017/09/566552>.
- 186 Ibid.
- 187 Berman, P. S. (2021). Counterterrorism and Immigration in Hungary. *UF Journal of Undergraduate Research*, 23.
- 188 Rachman, supra fn 7, 90. "Less than 5 per cent of his country's population was born abroad and most of those were ethnic Hungarians who had moved to the country from Romania." See also Glied, V., & Pap, N. (2016). The "Christian Fortress of Hungary" – The Anatomy of the Migration Crisis in Hungary. *Yearbook of Polish European Studies*, 19, 133-149, 143-144.
- 189 Barna, I., & Koltai, J. (2019). Attitude Changes towards Immigrants in the Turbulent Years of the "Migrant Crisis" and Anti-Immigrant Campaign in Hungary. *Intersections*, 5(1), 48-70.
- 190 After winning the municipality elections in October 2014, Fidesz's popularity started to decline. However, when the migration crisis exploded in Hungary in April 2015, it was able to stop and reverse Fidesz's loss of popularity. See Glied, The "Christian Fortress of Hungary," supra fn 188, 139. "The presumed and actual impacts of the refugee and migration crises in Hungary served to strengthen popular support for the governing parties as social support for the government became closely tied to the issues of migration." See Reményi, P., Glied, V., & Pap, N. (2023). Good and Bad migrants in Hungary. The populist story and the reality in Hungarian migration policy. *Problemy Polityki Społecznej*, 59(4), 323-344, 331.
- 191 Berman, Counterterrorism and Immigration in Hungary, supra fn 187.
- 192 See recent <https://www.france24.com/en/live-news/20231026-hungary-s-orban-says-link-between-terrorist-acts-and-migration>, where Orbán affirms that "[t]hose who support migration also support terrorism".
- 193 Rachman, supra fn 7, 90.
- 194 See European Commission. (2015, May 31). Hungary: Government's national consultation on immigration and terrorism creates widespread debate. *European Website on Integration*. https://migrant-integration.ec.europa.eu/news/hungary-governments-national-consultation-immigration-and-terrorism-creates-widespread-debate_en.
- 195 See Government Decree 1035/2012 on Hungary's National Security Strategy, Article 29.
- 196 Ibid.
- 197 See Government Resolution 1163/2020 (21st April) on Hungary's National Security Strategy, Articles 66 and 124(a).
- 198 European Council on Refugees and Exiles (ECRE). (2019, September 13). Hungary: Government Extends the "State of Crisis due to Mass Migration." ECRE. <https://ecre.org/hungary-government-extends-the-state-of-crisis-due-to-mass-migration/>.
- 199 Ibid.
- 200 Trisonia, L., Makhroja, M. N., & Mahmuluddin, M. (2024). Identity, Culture, and Security: Hungary's Differing Positions on Muslim and Non-Muslim Refugees in the 2015 and 2022 European Refugee Crisis. *Global Focus*, 4(1), 53-76, 59. This was a symbolically important location because it reminded the Hungarian population about the resistance of fortress soldiers against the Ottoman invasion. See also [AL HUN 1/2015](https://www.alhunn.com).
- 201 For example, in July 2016, in the lead up to the October referendum on the participation in the European migration relocation scheme, a new media and billboard campaign was introduced, stating: "Did you know? The terror attacks in Paris were committed by immigrants". [AL HUN 1/2016](https://www.alhunn.com). The highly xenophobic nature of Orbán's speeches and media campaigns were particularly instrumental in transcending a domestic issue into one of Europe's top security issues.
- 202 In 2018, a Hungarian Court found a Syrian-Cypriot man guilty for illegally crossing the border from Serbia. Orbán mentioned the case to stress the need to defend Hungary's borders. The man was also convicted with "complicity in a terrorist act", despite none of the evidence against him amounted to such an act. Amnesty International condemned Hungary for blatantly misusing "draconian counter-terrorism laws" against refugees and migrants. See Amnesty International. (2018, March 14). Hungary: Syrian man's conviction for alleged "complicity in an act of terror" is travesty of justice. <https://www.amnesty.org/en/latest/news/2018/03/hungary-syrian-mans-conviction-for-alleged-complicity-in-an-act-of-terror-is-travesty-of-justice/>; BBC News. (2018, March 14). Hungary jails "terrorist" over migrant border clash. <https://www.bbc.com/news/world-europe-43408662>.
- 203 European Network Against Racism. (n.d.). Hungary: Suspicion, discrimination and surveillance: the impact of counter-terrorism law and policy on racialised groups at risk of racism in Europe. In ENAR. https://www.enar-eu.org/wp-content/uploads/suspicion_discrimination_surveillance_factsheet-hungary.pdf, 5. This constitutional amendment was part of the Counter-Terrorism Intelligence and Criminal Analysis Centre (TIBEK), a counter-terrorism package passed by the government in 2016 to "simplify the process to establish a state of emergency in the country and to grant the executive stronger 'counter-terrorism' powers." See Cantat, C. (2020). Governing Migrants and Refugees in Hungary: Politics of Spectacle, Negligence and Solidarity in a Securitising State. In S. Hinger & R. Schweitzer (Eds.), *Politics of (Dis)Integration* (pp. 183-199). IMISCOE Research Series, 186. See also Amnesty International. (2016, May 10). Hungary: Constitutional changes would grant the Executive sweeping counter-terrorism powers. <https://www.amnesty.nl/actueel/hungary-constitutional-changes-would-grant-the-executive-sweeping-counter-terrorism-powers>.
- 204 George Soros, and American-Jewish investor, has been blamed by Orbán and the Fidesz for supporting the settling of Muslims in Hungary and Europe. For further information, see Kalmar, I. (2020). Islamophobia and anti-Semitism: the case of Hungary and the 'Soros plot.' *Patter ns of Prejudice*, 54(1-2), 182-198; BBC. (2018, June 20). Hungary passes "Stop Soros" law banning help for migrants. BBC News. <https://www.bbc.com/news/world-europe-44546030>; Human Rights Watch. (2018, June 22). Hungary Tries to Stop Asylum Seekers with New Law. <https://www.hrw.org/news/2018/06/22/hungary-tries-stop-asylum-seekers-new-law>. See also [HUN 1/2018](https://www.alhunn.com), where UN Special Procedures express concern on the potential detrimental effect of these laws on the rights of migrants.

205 Berman, *supra* fn 187.

206 *Ibid.* Prime Minister Orbán and Fidesz have argued that Muslim migration and ‘invasion’ pose a threat to society and to the very survival of a Hungarian people. Rachman, *supra* fn 7, 20; Reményi, P., Gied, V., & Pap, N. (2023). Good and Bad migrants in Hungary, *supra* fn 190, 332.

207 Berman, *supra* fn 187.

208 *Ibid.* For more information about the UNOCT, see <https://www.un.org/counterterrorism/office-structure>. Subsequently, in June 2023, UNOCT and the Government of Hungary signed a Memorandum of Understanding to formalize their partnership in preventing and countering terrorist travel and serious crimes under the United Nations Countering Terrorist Travel Programme. Check <https://www.un.org/cttravel/>.

209 Berman, *supra* fn 187. It is noteworthy that, although Islamist extremists used the irregular migration flow to enter Europe’s external borders, these terrorists represented only a small portion of the number of migrants seeking asylum in Europe.

210 Cinoglu, H., & Altun, N. (2013). Terrorism, International Migration and Border Control. *European Scientific Journal*, 9(20), 100–114, 104. Furthermore, “the process of border securitisation in the country has been actively encouraged and supported financially by EU institutions”. See Cantat, *Governing Migrants and Refugees in Hungary*, *supra* fn 203, 188.

211 For reference, see Amnesty International. (2017). *Dangerously disproportionate: The ever-expanding national security state in Europe*; Amnesty International. (2017). *EU: Orwellian counter-terrorism laws stripping rights under guise of defending them*. <https://www.amnesty.org/en/latest/news/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/>.

212 UN Special Procedure mandate-holders and other Mechanisms often highlight in their reports how some countries still lack comprehensive non-discrimination laws that directly address sexual orientation and gender identity as prohibited grounds for discrimination. Regarding Russia, see for instance [E/C.12/RUS/CO/6](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/) (2017), paras 22–23 and [CERD/C/RUS/CO/23-24](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/) (2017), paras 9–10.

213 UNGA. (2024). [A/HRC/56/49](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/): Protection against violence and discrimination based on sexual orientation and gender identity in relation to the human rights to freedom of expression, peaceful assembly and association. OHCHR, para 76.

214 *Ibid.* Also Rachman, *supra* fn 7, 14: “[t]he strongmen also typically espouse traditional views on the family, sexuality and gender”.

215 UN Special Rapporteur on counter-terrorism, *supra* fn 4, 29.

216 [A/HRC/56/49](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/), para 2.

217 *Ibid.*, para 4.

218 *Ibid.*, para 17.

219 It is noteworthy that religion plays an instrumental role to justify high levels of institutionalized discrimination against the LGBTQ+ community in Russia. Leaders of the Orthodox Church have made inflammatory statements about LGBTQ+ people, even suggesting that same-sex relations should be “completely eliminated” from Russian society. Considering the influence of the Russian Orthodox Church, statements like this reinforce negative attitudes, fuel existing anti-LGBTQ+ sentiments, and imply societal condoning of violence against LGBTQ+ individuals. Human Rights Watch. (2018). *No Support: Russia’s “Gay Propaganda” Law Imperils LGBT Youth*, 19; Human Rights Watch. (2014). *License to Harm: Violence and Harassment against LGBT People and Activists in Russia*, 13.

220 UNGA. (2023). [A/HRC/54/54](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/): Situation of human rights in the Russian Federation Report of the Special Rapporteur on the situation of human rights in the Russian Federation, Mariana Katzarova. OHCHR, para 37.

221 See Article 6.21. See also [A/HRC/56/49](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/), para 28. By banning the distribution of information on LGBTQ relationships through various media, the anti-propaganda law violates Russia’s domestic and international human rights obligations, failing to ensure, among others, the rights to freedom of expression, freedom of association, peaceful assembly, non-discrimination, and equality before the law. Human Rights Watch, *No Support*, *supra* fn 219, [64–83](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/); Human Rights Watch, *License to Harm*, *supra* fn 219, [80–83](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/).

222 See [A/HRC/56/49](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/), para 23.

223 Human Rights Watch, *License to Harm*, *supra* fn 219, 22.

224 For Russian CT and P/CVE framework, refer to Section II, Subsection A.

225 Shortly after, the Kuibyshev District Court of St. Petersburg granted a request to dissolve the Sphere Foundation. Lokshina, T. (2022, February 9). *Russian Government Seeks Closure of LGBT Rights Group*. Human Rights Watch. <https://www.hrw.org/news/2022/02/09/russian-government-seeks-closure-lgbt-rights-group>; Coming Out LGBT Group. (n.d.). *Input to the Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space*. <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/cfis/cfi-gs-impact-ct-measures/subm-global-study-impact-cso-coming-out.pdf>.

226 *Ibid.* See also The Moscow Times. (2023, January 26). *Russia Slaps Independent Media Outlet Meduza With “Undesirable” Label*. <https://www.themoscowtimes.com/2023/01/26/russia-slaps-independent-media-outlet-meduza-with-undesirable-label-a80055>.

227 See [OL RUS 28/2023](https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/cfis/cfi-gs-impact-ct-measures/subm-global-study-impact-cso-coming-out.pdf); Human Rights Watch. (2024, January 11). *Russia: Events of 2023*. <https://www.hrw.org/world-report/2024/country-chapters/russia>.

228 This case highlights the risks for NGOs collaborating with entities deemed ‘undesirable’, as such cooperation can lead to persecution at any time, absent any statute of limitations. Indeed, the accusation stems from the publication of a brochure about LGBTQ+ parents, which was published well before the foundation was classified as undesirable. Furthermore, at the time of the publication, in 2009, Voronov was not yet the director of Coming Out. Coming Out LGBT Group, *Input to the Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space*, *supra* fn 225.

229 Human Rights Watch. (2023, November 30). *Russia: Supreme Court Bans “LGBT Movement” as “Extremist”*. <https://www.hrw.org/news/2023/11/30/russia-supreme-court-bans-lgbt-movement-extremist>; [OL RUS 28/2023](https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/cfis/cfi-gs-impact-ct-measures/subm-global-study-impact-cso-coming-out.pdf).

230 *Ibid.* See also, OHCHR. (2023). *UN experts condemn Russian Supreme Court decision banning “LGBT movement” as “extremist”*. Special Procedures Press Release. <https://www.ohchr.org/en/press-releases/2023/12/un-experts-condemn-russian-supreme-court-decision-banning-lgbt-movement>.

231 See Article 282.1 (“Organization of an extremist community”) and 282.2 (“Organization of the activities of an extremist organization”). Punishable acts include the creation and leadership of an extremist community, the organization of its activities, the participation in an extremist community or in the activities of an extremist organization, as well as the inducement, recruitment or other involvement of a person in the activities of an extremist community/organization. Human Rights Watch has documented the first known extremism convictions arising from the 2023 decision of the Supreme Court. See Human Rights Watch. (2024, February 15). *Russia: First Convictions Under LGBT “Extremist” Ruling*. <https://www.hrw.org/news/2024/02/15/russia-first-convictions-under-lgbt-extremist-ruling>.

232 [A/HRC/40/52](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/), para 7.

233 Von Rosen, *supra* fn 180, 36.

234 [A/78/520](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/). “Emergency powers must be fine-tailored to an immediate and urgent crisis and not be used as a means to limit legitimate dissent, protest, expression and the work of civil society.” See [A/HRC/37/52](https://www.unhcr.org/refugees/2017/01/eu-orwellian-counter-terrorism-laws-stripping-rights-under-guise-of-defending-them-2/), para 49.

235 Since they quicken the isolation of the ‘other’, CT and P/CVE laws have been part of the bigger design to legitimize repression under the guise of national security and the ‘war on terror’, ultimately reinforcing the conditions that enable and sustain violence. Manoharan, *Trojan Horses: Counter-terror Laws and Security in India*, *supra* fn 126; Merz, *supra* fn 17, 4.

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