Side Event: Protecting Children and their Rights in Situations where counter-terrorism approaches are implemented

Organizers: UNICEF, Save the Children
Sponsor: Mexico
Date/Time: Friday 25 June from 13:30 to 15:00 (Geneva time)

Background & Objective(s): As the counter terrorism agenda grows globally and shapes the way in which states respond to internal and regional conflicts, it has become increasingly clear that international counter-terrorism approaches and national counter-terrorism strategies, policies and operations are profoundly affecting the rights of children, increasingly restricting humanitarian space, negatively impacting aid delivery, and posing security and legal risks to UN and NGO humanitarian staff and their operations. Counter-terrorism measures often lack adequate safeguards and result in securitized, rather than protective and rights-based approaches when applied to children and other vulnerable populations, including children with actual or perceived association, links, and/or family ties to designated terrorist organizations. This is evident in the increasing detention of children and erosion of the application of international child rights and juvenile justice standards and instruments. Child survivors of recruitment and use by such armed groups may be handled as ‘terrorists’ or ‘national security’ cases rather than as victims (as stated in the Paris Principles and in UNSCR 2427), and children stranded in conflict zones may face impediments to reintegration or to accessing humanitarian assistance based on stated security concerns. This has resulted in re-victimization, arbitrary detention, protracted displacement, separation from family, lack of access to basic services and services to address experiences of violence, and other impacts contrary to the best interests of children.

As Member States and the international community grapple with the complexities and political sensitivities surrounding how best to approach efforts to cut off sources of financial support for designated terrorist organizations and their members and to bring suspected terrorists to justice while also allowing assistance and protection for children, families and communities affected by conflicts with such groups, it is increasingly critical that humanitarian actors have a strong presence and voice in platforms in which counter-terrorism policies and strategies are devised, discussed, and developed. This is critical in order to delineate space for affected populations and support the use of existing complementary frameworks, promote the inclusion of safeguards and/or exemptions for humanitarian action in national and international legislation, and to embed child rights, gender, and protection standards into policies and discourse related to terrorism, counterterrorism, and prevention of ‘violent extremism.’

These impacts on the fundamental rights of children are being placed under stress in contexts such as Syria, Iraq, Somalia, Lake Chad Basin and the Sahel region, and other countries affected by conflict and in locations to which children are returning from foreign conflicts. Member States are relying on counter-terrorism approaches and funding rather than applying applicable International Humanitarian Law and Human Rights Law and utilizing the full range of separate but complementary humanitarian and development related frameworks and approaches that can address root causes and impacts of violence in all its forms and holistically respond to the experiences of children and families.

In the child protection sphere, we have seen several examples that focus on rights-based approaches to child reintegration for children with associations to non-state armed groups that are as ideological and violent as contemporary non-state armed
groups. These approaches have been used by humanitarian partners across contexts, such as Sri Lanka and Uganda for decades. Humanitarian actors can use existing tools and frameworks and work to develop new ones, to better preserve space for humanitarian action while also recognizing the political sensitivities, legal complexities, and concerns of Member States. These approaches can simultaneously recognize the protection and security needs of individuals and communities affected by conflict, including children, and for the need to hold individuals suspected of committing terrorist acts or serious offences including but not limited to war crimes, crimes against humanity, genocide, etc., accountable - in accordance with international human rights law, international refugee law, and as applicable, international humanitarian law.

This side event aimed to achieve the following objectives:

1) Highlight the implications and impacts that broad counter-terrorism strategies, laws, policies and measures are having on the rights of children and families, and the ability of humanitarian actors to respond to their needs, including in the context of the COVID-19 pandemic.

2) Discuss the need to advocate for policy and operational solutions to maintain and to protect space for programming for children and families distinct from counterterrorism and overly securitized approaches.

3) Highlight approaches and tools that can provide appropriate coordinated assistance and protection to children and adults while also supporting accountability for individuals suspected of committing terrorist acts, including children, who are to be treated primarily as victims of terrorism.

4) Highlight the need for donors to recognize and proactively support establishing and maintaining space for these and related activities.

Panel Members:

1. Professor Fionnuala Ni Aolain, Special Rapporteur on Protection of Human Rights and Fundamental Freedoms while countering terrorism
2. Christopher Chinedumuije, CEO/Chief of Programmes, GOALPrime Organization Nigeria (GPON)
3. Christine McCormick, Child Protection Advisor, Save the Children

Chair and moderator: Siobhan O’Neill, PhD, Project Director, Managing Exits from Armed Conflict, UN University Center for Policy Research

Introductory remarks by Minister Erika Martinez, Permanent Mission of Mexico in Geneva

- Mexico sits at the UN Security Council and participates in the Working Group of Children and Armed Conflict.
- We have seen terrible impacts of conflict on children, notably from designated terrorist groups.
- The SG’s annual report paints a continuous picture of how conflicts affect children.
- Mexico sees one of its objectives as advancing and protecting the rights of children in conflicts wherever and whenever it can. Protecting children contributes to peace and security.
- The increasing intensity and complexity of conflicts poses today new challenges for the protection of children
- The rise of non-State armed groups resorting to acts of terrorism has created unprecedented threats to children’s rights, as well as to international peace and security.
- At the same time, States’ counterterrorism strategies have proliferated, with the introduction of new measures that lack adequate safeguards for children and result in securitized, rather than protective and rights-based approaches.
It has become increasingly clear that international counter-terrorism approaches and national counter-terrorism strategies, policies and operations are profoundly affecting the rights of children. Furthermore, they increasingly restrict humanitarian space, negatively impact aid delivery, and can pose security and legal risks to UN and NGO humanitarian staff and their operations.

We very much look forward hearing our panelists today who will illustrate the implications and impacts that counter-terrorism strategies, policies and measures have on the rights of children and their families but will also address solutions: what approaches, and tools can provide adequate assistance and protection to children, what member States/the international community can do to support these approaches and related activities.

Main points:

Professor Fionnuala Ni Aolain

- There is an extraordinary opaqueness and growth in the application of counter-terrorism to multiple contexts.
- The growth has been unconstrained since 9/11. We see this in the normative expansion of counter-terrorism and the hegemony that it has created in certain spaces to push out certain international law regimes.
- We also see an extraordinary growth of counter-terrorism institutions, including at the UN, with significant implications for the integrity of the UN work.
- Counter-terrorism holds attraction for States: there is a lack of agreed definitions, which allows permissibility as counter-terrorism is a space for unlimited exercise of executive and coercive power without meaningful oversight or accountability; This has resulted in massive shift away from situations that ought to be defined by rules of armed conflicts or by human rights.
- What we see happening to children in the context of counter-terrorism:
  - Consequences for children of the expansion of counter-terrorism practices: we see double-exceptionalism. There are particular geographies and places where counter-terrorism is pressed as the normative standard; and exceptionalism being practiced literally on the bodies of boys and girls when counter-terrorism is rendered upon them.
  - Special Rapporteur profoundly concerned about the implications for the Convention on the Rights of the Child and the “à la carte” selection of the kinds of protection that apply to situations deemed counter-terrorism related.
  - Counter-terrorism MUST comply with and be cognizant of the rights and protection which are due to children contained in the Geneva Conventions, additional Protocols and the Convention on the Rights of the Child. Counter-terrorism doesn’t trump these norms but is subject to these norms.
  - Process of “un-childing”: it captures a process in which children are unilaterally and selectively defined as “non-child”. It is this process that we see expanding in counter-terrorism contexts.
  - Discourse that often places children because of their presumed association with adults that are outside of the law. It moves back decades of advocacy which recognize the child as an autonomous rights-bearing person with a dignity inherent and separate from their parents.
- Professor Ni Aolain’s mandate is particularly concerned by the situation of boys and male adolescents. It is easier to think about the girl child as the vulnerable one. Boys are often presumed to be as non-civilian, non-child, non-protected. We see this particularly in North-East Syria, in the camps.
- Secondary harms we see are the relegation of the child to detention, life-long surveillance, administrative and criminal measures (on the basis of little to no evidence and assumption such as geography, sex, religion, parental designation).
- Failure to repatriate women and children, including boys from conflict sites, including Libya, and the abandonment of the most vulnerable children to the context where they are going to experience avoidable harm is unacceptable.
- We have to put the best interest of the child and the rights to every child at the centre of these discussion on counter-terrorism.

Christopher Chinedumuije
- In northeast Nigeria, counter-terrorism measures have had a devastating impact on conflict affected communities, especially women and children.
- While there is recognition of the importance of bringing individuals for whom there are *reasonable grounds* to believe have participated in terrorist acts to justice – it cannot and should not be done at the expense of women, children, and other victims – who frequently suffer the brunt of these counter-terrorism measures.
- In northeast Nigeria, military and counter terrorism approaches are characterized by the use of over-inclusive practices of administrative detention in which large populations of people, mostly women and children, are arbitrarily detained – often without evidence or due process. The misconception that just because a non-state armed group has a presence in a community, or even has control over a community, everyone in that community is a terrorist is exacerbating the conflict, undermining stabilization efforts, and violating the rights of the children, women, and victims of the conflict.
- In northeast Nigeria, security actors use the term ‘association’ or ‘associated to’ to describe anyone who authorities ‘believe’ had ‘some contact’ with Boko Haram – rather than actual membership in the group, or evidence of crimes committed. This results in hundreds of women and children, being detained and having to ‘prove’ their innocence – and go through the same processes meant for persons who have actually committed acts of terrorism.
- Wrongful arrests and the labeling of people as ‘associated’ or ‘formerly associated’ by security actors creates enormous distress and stigma in communities. People live in a constant state of fear, suspicion. The wrongful arrests, arbitrary detention, and labeling have a tremendous psychological impact on children, women and leads to rejection from communities. It also exacerbates grievances and creates and anger and bitterness between the government and the communities – fueling the conflict and bringing the northeast further way from peace.
- Many children remain in administrative custody without due process and fair treatment. There remains continued advocacy for the rapid and unconditional handover of children in their custody to relevant actors with mandates and expertise on children’s and women’s rights to ensure that the needs and rights of children are protected and considered across all counter-terrorism measures. Children and women require critical services such as individualized case management, Mental Health and Psychosocial Support, basic education, life-skills, vocation and business skills training to prepare children and caregivers for their return back into communities, as well as additional support to navigate the complex challenges and barriers they often face during their reintegration.
- The international community must work together to prevent and address the arbitrary detention of women and children – and ensure that safeguards are in place to victims from being swept up in over-securitized approaches.

Christine McCormick
- This is not a new issue, recruitment and use of children by armed groups, including those aligned with extremist ideology, have been seen with practices of the Lord Resistance Army (LRA) and Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka for instance.
- Child Protection and humanitarian actors have used established approaches and interventions to support the recovery and reintegration of these children, based on international legal and normative child rights frameworks and grounded in
the best interest of the child, which remain appropriate in today’s contexts of armed conflict, particularly those which are influenced by extremist and designated terrorist groups.

- In North Uganda: children were forcibly abducted and used in a variety of roles by the LRA, including non-combatant roles. Children were forced to witness and commit violence against their own family and community.
- The situation was recognized by senior UN officials as a human rights and child protection crisis and child protection agencies were able to use this framing to advocate for focus on accountability to those who had recruited and used children and for appropriate services and supports to enable recovery and reintegration within communities.
- For the children who managed to escape, a key goal in their recovery was being accepted by their communities.
- Support for children escaping the LRA was provided by child protection agencies through interim care centres within communities. It involved provision of case management services to families and children, appropriate psycho-social support, engagement with schools, support in the development of community-level training and income-generating activities and work to strengthen community mechanisms to address attitudes. The importance of community-led interventions that helped recognize experiences of those who had been abducted by the LRA and those who had other experiences of conflict and use these to foster acceptance and develop opportunities for building social cohesion and community economic strengthening cannot be underestimated. Studies have shown that where such services, supports and interventions were not available or provided for the requirement length of time, children’s wellbeing was negatively impacted.
- Engagement with security forces to raise awareness on child rights was also needed to support the correct treatment of children who had been associated with the LRA.
- In the LTTE areas: we saw recruitment through a quota system within communities living under the control of the LTTE and the securitized environment of the North and East of the country and the stance of the authorities contributed to a challenging environment to support reintegration. Some formal rehabilitation processes situated away from children’s families and communities contributed to stigmatization and didn’t prepare children well for return.
- The need to provide child-right approach was very much demonstrated by child protection agencies such as UNICEF and Save the Children, focusing on the provision of reintegration services such as access to education, training and livelihood opportunities for adolescents and work with children families to support acceptance.
- Engagement with local communities and local government structures was crucial to support wider acceptance and ensure required services are available for all children.
- When the right services are available, communities are more secure, and children’s long-term outcomes are more secure
- It is essential that we take a child-right approach to the work that we do in supporting the reintegration and welfare of children who have been affected by extremist groups. These brief examples from Northern Uganda and Sri Lanka demonstrate key lessons for supporting child victims of recruitment and use by designated terrorist groups today:
  - The recruitment and use of children by extremist and designated terrorist groups has previously been regarded as a child protection crisis, not a security problem and should remain being regarded as such.
  - A child-rights, child-focused and community-based approach to the rehabilitation and reintegration of children who have been recruited and used by designated terrorist groups is essential to promote the wellbeing of children and communities
- Interventions and approaches used to support the rehabilitation and reintegration of child victims have been strengthened in line with important legal and normative standards such as the Paris Principles and continue to be relevant and appropriate in the context of conflict today where designated terrorist groups commit grave violations against children, including recruitment and use.
- While there are complexities in responding to children with actual or perceived association, links, and/or family ties to designated terrorist organizations – who may have committed crimes – any response must be grounded in the Convention of the Rights of the Child – the most ratified instrument in the world – and recognizes children’s rights to include the right to be free from arbitrary detention, and the right to due process and fair treatment.

- Language is important. Language often used where counter-terrorism measures are being implemented, such as ‘violent extremism’ or ‘radical ideology’ and or ‘violent jihad’ can be harmful, remove the ‘humanity’ from children and families, and undermine objectives. The language we use needs to match our values and intention.

- The way that we frame support to children and families affects funding. Often in contexts where counter terrorism approaches are being implemented, counter terrorism funding rather than humanitarian funding follows. This can lead to social service systems (or organizations) working to protect and address the needs of these children being pressured to promote or achieve conflicting objectives. It also creates confusion around which ministries should be in the lead and reinforces the narrative of children as security threats.

- There are some tools to help maintain space for principled humanitarian assistance to include:
  
  o Handover protocols - are a critical tool to reduce the detention of children in armed conflict, which have proven effective in contexts where counter terrorism measures are being used. They are agreements between government ministries, or, in some cases, governments and the UN, to swiftly transfer children allegedly associated with armed groups to civilian child protection actors for assistance. They facilitate dialogue between the child protection actors and government military, intelligence, and law enforcement on the issue of child rights, and provide a forum for protection and security actors to speak openly about the imperatives that they each face and creates the space to identify entry points for child rights-based approaches.
  
  o The UN’s recently adopted Global Framework on UN support for third country national returnees was developed to support Member States with the protection, repatriation, prosecution, rehabilitation, and reintegration of foreign nationals returning from Syria and Iraq, who may have alleged or actual links or family ties to UN designated terrorist groups. The framework brings together UN entities with a diverse range of mandates and imperatives in a manner that allows for lines and distinctions for humanitarian protection work to operate separately and complementary to counterterrorism work related to security and accountability. It has become a reference point for discussion between agencies when trying to operationalize work, resolve issues and approaches, and engage governments. The framework also recognizes risk, including human rights risks, and contemplates setting minimum conditions for UN action, among other.
  
  o Humanitarian safeguards and exceptions that allow for delivery of principled assistance, including protection work are critical and should be reflected in international and national legislation and UNSC resolutions on CT and sanction regimes. This should be complemented by systematic monitoring and reporting on the impact of regimes and restrictions on humanitarian access and space – as well as the development of risk sharing measures among donors, humanitarian organizations and financial institutions. In the case of children with links to designated terrorist groups, exemptions should allow for negotiation of the release of children at all times, without pre-condition. Children have a right to release and reintegration support, and such support shall not be seen as illegal.
Key messages of the side event:
- International and national counter-terrorism strategies, policies and measures are eroding the rights of children affected by armed conflict and shrinking humanitarian space for principles humanitarian action.
- Historical perspectives and lessons learnt from work in other contexts provide key insights for how we can address the challenges we see in present day.
- There is need for separate but complementary frameworks for humanitarian and development assistance can help address the root causes of compact, address the impact of violence, and holistically respond to children in conflict contexts without violating their rights.
- It is critical for the international community to promote the protection of children and their rights in situations where counter-terrorism approaches are being implemented through the utilization of complementary frameworks for assistance and protection, tools and approaches that create space for principled humanitarian assistance, and humanitarian safeguards and/or exemptions and ODA-eligible funding.
- Donors play a key role in promoting the protection of children and their rights – as programs often reflect the needs, interests, and priorities of donors. It is critical for donors to see how they are organized and if their funding and approaches towards children with links and family ties to designated terrorist groups is viewed through counter terrorism frameworks or humanitarian and child rights normative frameworks.

Additional points raised during the discussion:

It is important to denounce the negative impact of counter terrorism measures on children in legislation and practice. What can be done to overcome this? From a humanitarian perspective, what tools and approach can be used to maintain humanitarian space and action? What can donors do to respect the rights of children in these contexts?
- Christopher Chinedumuije – it is critical to ensure that governments have a good understanding of risks facing children and get them involved in creating space for humanitarian action to ensure children are protected.
- Special Rapporteur’s mandate Anne Charbord – This is a long-term problem stemming for the lack of an internationally recognized definition of terrorism, which allowins States to define terrorism in often overly broad ways. The generic references to human rights in Security Council resolutions and legislation, lack in granularity for how it should be applied compounds to the lack of international oversight. There needs to be greater inclusion of civil society and independent oversight mechanisms. In terms of the narrative, important to change the language we are using. In terms of children, we need to speak about them as children or child soldiers, and not terrorists, and apply frameworks that apply to children.
- Brigid Kennedy Pfister – We are seeing silos in the different funding streams from donors. In contexts where counter terrorism measures are being applied, we are seeing funding for ‘humanitarian’ activities for children being provide from security and counter terrorism sources within donors. There needs to be a reflection on if this is appropriate. In the past such activities to support children associated with armed groups has been a humanitarian imperative. Now we are seeing funding for these activities being siloed through a counter terrorism lens. There is need for internal reflection from donors to see how we are organized – and is the way we are organized reinforcing the narrative of looking at these children through counter terrorism frameworks – rather than humanitarian and child rights normative frameworks

How do we ensure that children formerly associated with armed groups are safe and fully reintegrated after receiving support?
- Christine McCormick – It is important for there to be formal or informal child protection systems for all children, and for services and supports to be available long-term. Challenges to reintegration often exist when there is no available services and support for children for the length of period required. Former associates who were recruited as children but are being reintegrated as
adults often struggle to find meaningful relationships, livelihoods, etc., in a way that they are free from stigma and can enjoy their right to be ‘forgotten’. Often ethical questions around tracing former associates for a long period, as individuals have a right to be ‘forgotten’ and continue their life without their experiences and background repeatedly being highlighted. Important for all children in an area to have access to critical services so that you do not have parallel systems for different groups of individuals.

- **Brigid Kennedy Pfister & Siobhan O’Neil** – It is critical for the humanitarian community continue to improve monitoring and evaluation around our efforts to manage exits from conflict, including better defining how we measure success in these programs and directly engaging with the people we seek to support to elicit their feedback. It is important to monitor children in such programmes to determine programme efficacy, but we need to find a balance between evidence gathering to support evaluation and programme implementation and ensuring the protection of children while also respecting their right to privacy.

- **Anne Charbord** - Monitoring and evaluation of rehabilitation and reintegration programs is extremely critical. The best approach however is not a top-down approach, which is usually a securitized approach. Need bottom-up approach that responds to the needs of the families and communities of those who are returning.

**Outcomes of the side event:**

- Increased visibility on the ways in which international and national counter-terrorism strategies, policies and measures are eroding the rights of children affected by armed conflict and shrinking humanitarian space for principles humanitarian action.

- Highlighted the history of child protection actors working with children associated with armed forces and armed groups, and lessons learnt from several contexts and the relevance for today’s challenges.

- Emphasized the importance of maintaining separate but complementary space and frameworks for humanitarian and development assistance, and counter-terrorism – highlighting possible approaches and examples in which objectives can be pursued simultaneously without conflating the issues.

- Informed donors about ways in which they might promote the protection of children and their rights in situations when counter-terrorism approaches are being implemented, including by supporting complementary frameworks for assistance and protection, humanitarian safeguards and/or exemptions and ODA-eligible funding.

**Additional Resources:**


- ‘Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the rights of women, girls and families: [https://undocs.org/A/HRC/46/36](https://undocs.org/A/HRC/46/36)


- Save the Children resource that spotlights stories from children with links to ISIS in northeast Syria - My Name is Zahra, I am a child too: [https://resourcecentre.savethechildren.net/library/my-name-zahra-i-am-child-too](https://resourcecentre.savethechildren.net/library/my-name-zahra-i-am-child-too)


- UN Support on Syria / Iraq Third Country National Returnees: Global Framework – [https://drive.google.com/file/d/1aauhNU7b6B4uHGPDSm8v8j22Fv1BWyU/view?usp=sharing](https://drive.google.com/file/d/1aauhNU7b6B4uHGPDSm8v8j22Fv1BWyU/view?usp=sharing)

- United Nations University on Children and Extreme Violence, as well as the recruitment and use of children by Non-State Armed groups in contemporary Conflict: [https://unu.edu/children-and-extreme-violence](https://unu.edu/children-and-extreme-violence)

Recording of Side Event:

Link: [https://us06web.zoom.us/rec/share/EJclZJjwZiCfhtv_lgyzd00XIE-1uKdkjrP7n-KEdlet0f-9DN1sJdxFa_9LYsK8.4xZ5mzIBpXhcRTSK](https://us06web.zoom.us/rec/share/EJclZJjwZiCfhtv_lgyzd00XIE-1uKdkjrP7n-KEdlet0f-9DN1sJdxFa_9LYsK8.4xZ5mzIBpXhcRTSK)

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