

**‘Ratification and Implementation of the International Instruments  
to Prevent and Combat Terrorism’**

Commission on Crime Prevention and Criminal Justice (33<sup>rd</sup> Session), Item 6(c)  
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**Remarks of the Special Rapporteur on the promotion and protection  
of human rights and fundamental freedoms while countering terrorism, Ben Saul**

Excellencies, Distinguished Participants

I am pleased to express my support for the wider ratification and human-rights compliant implementation of the 19 international counter-terrorism related instruments. These instruments can assist in protecting the human rights of not only the victims of terrorism but also those suspected of involvement in terrorist offences.

The careful legal negotiation of these instruments since the 1960s has generally ensured that the definition of their criminal offences satisfies the principle of legality under international human rights law. They thus largely avoid vague and overbroad offences which would unjustifiably criminalize legitimate activities and violate internationally protected freedoms of expression, association, and assembly, among other rights. The Security Council’s model definition of terrorism in resolution 1566 is based in part on the offences in the conventions, which helps to deter more open ended and problematic national definitions.

It is also welcome that the instruments pay some attention to human rights by requiring ‘fair treatment’ of suspects in proceedings, and consular-type rights of communication and visit for detained foreign nationals. Conventions since 1997 have also more generally required conformity with international law, particularly human rights law.

The instruments have not, however, followed the more protective approach in the United Nations Transnational Organized Crime Convention (UNTOC) 2000, which expressly guarantees additional rights. Their drafting has also been dominated by law enforcement and technical experts, not also human rights experts or civil society actors.

One lesson from implementing terrorism offences in national law is that stronger and more specific direction to comply with human rights law is desirable in the counter-terrorism instruments themselves, so that states do not perceive counter-terrorism as somehow divorced from their human rights obligations that emanate from other, ‘softer’ sources and institutions.

I encourage states to finalize the negotiation of the United Nations draft comprehensive counter-terrorism convention, underway since 2001. This could give stronger normative direction to states not only on a precisely-drafted, rights-respecting definition of terrorist offences, but also on the specific human rights guarantees needed in national implementation.

Thank you.