



Third Committee of the General Assembly

Opening Statement of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Ben Saul

New York, 28 October 2024

Madame Chair, Excellencies,

I am pleased to present my first report to the General Assembly after a year in office. The past year confirms that the threat of terrorism remains as real as ever, from the Middle East to West Africa and from Russia to Pakistan. Its victims deserve not only our sympathy and solidarity, but also more meaningful assistance, protection and remedies.

The past year also confirms that violations of international law while countering terrorism continue unabated, from human rights and refugee law, to humanitarian law and international criminal law, to the prohibition on military force. “Wars on terror” and their catastrophic humanitarian consequences are back with a vengeance, enabled by states with influence who fail to use it to ensure respect for international humanitarian law by other states, or who provide weapons to other states despite a clear risk that they would be used to violate international law. Double standards erode global confidence in the credibility and legitimacy of international law and encourage a turn from law to violence to settle disputes.

Worldwide over-broad terrorism laws continue to be weaponized to intimidate and arbitrarily imprison political activists and civil society, often combined with forced confessions, unfair trials, and compliant judiciaries. Freedoms of expression, assembly, association, religion and political participation are under constant attack. Transnational repression, including extrajudicial killings and threats, is growing against those falsely accused of terrorism, from journalists to minorities.

New technologies eviscerate the right to privacy without adequate regulatory control, from spyware and facial recognition software, to artificial intelligence in military targeting, to online content moderation by companies. The Pact for the Future warned of the abuse of new technologies by terrorists, but said nothing about the systematic misuse of technology while countering terrorism.

Crucially, many states have also failed to seriously acknowledge, let alone address, the conditions conducive to terrorism, including state violations of human rights, while impunity for such violations is endemic.

It is welcome that the Pact for the Future reaffirms human rights must be respected while countering terrorism, and the conditions conducive addressed, but as always the unmet challenge is to transform the persistent rhetoric into meaningful action.

Protection of human rights by regional organizations while countering terrorism

I am now pleased to introduce my report on the protection of human rights by regional organizations while countering terrorism. I thank the many regional organizations that engaged with me on this much neglected topic.

Dozens of regional organizations play an increasingly important role in countering terrorism. Regional solidarity can provide “regional solutions to regional problems” and both implement and stimulate international standards.

Many regional treaties positively recognize human rights and some contain specific safeguards. Yet, regional counter-terrorism efforts can also endanger human rights. My report recommends practical, constructive measures to strengthen human rights, including by learning from the good practices of other regional organizations.

First, I urge all regional organizations with vague and overbroad definitions and offences of terrorism and violent extremism to review and amend them. Such laws infringe the principle of legal certainty, and enable cascading violations of fundamental rights, particularly – but only – in regions where authoritarian governance prevails. In a recent communication to the Council of Europe, I expressed concern that this group of 46 states is proposing to replicate the excessive terrorism definition in European Union law. Many regional definitions do not contain adequate exclusion clauses to narrow their scope, particularly concerning democratic protest, humanitarian relief, and the activities of armed forces in armed conflict governed by humanitarian law.

Secondly, frameworks for regional cooperation must do more to reinforce human rights safeguards, including *non-refoulement*, refugee status, and personal data protection and the right to privacy. Heightened safeguards are necessary where regional organizations list “terrorists” or issue arrest warrants, to ensure due process, judicial protection and effective remedies.

Regional organizations should also adopt and apply human rights assessment policies to their activities; ensure they have adequate human rights and gender expertise and training of staff; and adequately prioritize and fund human rights initiatives.

Thirdly, regional organizations need to systematically improve their oversight and accountability mechanisms, including remedies for violations. Few regional organizations have supervision mechanisms dedicated to counter-terrorism. Regional human rights mechanisms can potentially scrutinize national implementation of regional measures but not the regional measures themselves. In many regions, human rights mechanisms are in any case far too weak.

A few regions task other mechanisms with human rights or oversight functions relevant to counter-terrorism, from data protection bodies to parliamentary committees to ombudspersons, and these are very valuable components of what needs to be a comprehensive accountability system. Counter-terrorism treaty-based procedures for review of implementation and consultation among the parties can also provide opportunities to improve human rights.

Accountability would also be improved in many regions if there were much more regular and detailed public reporting and transparency about the organization's counter-terrorism activities, including ensuring regional strategies are published. In this respect it is also vital that regional organizations meaningfully engage with diverse civil society organizations to identify and mitigate human rights risks and violations and ensure accessible remedies and accountability.

Finally, most regional organizations can do much more to assist and protect victims of terrorism, ideally by embedding the United Nations Model Legislative Provisions to Support and Protect the Rights and Needs of Victims of Terrorism. Where whole communities are affected by terrorism, more attention and resources are needed to assist the displaced, restore livelihoods, rehabilitate communities, and build a lasting peace.

Conclusion

In closing, I thank Benin, Côte D'Ivoire and Niger for inviting me on official country visits in coming months.

I also wish to draw your attention to one human rights issue where states can make an immediate difference. I encourage all members of the Security Council, and states that have influence with them to indefinitely renew the humanitarian relief exemption in resolution 2664 (2022) as it applies to counter-terrorism sanctions stemming from resolution 1267. Risks of diversion can be adequately mitigated by other means. Counter-terrorism measures must never impede life-saving relief for acutely vulnerable civilians. As in many areas of counter-terrorism, the pendulum must swing back to humanity.

Thank you.