

T.M.C. Asser Institute (University of Amsterdam) and International Centre for Counter Terrorism – Advanced Summer Programme on Countering Terrorism

Opening Keynote Address of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Ben Saul

27 August 2024

The Special Rapporteur’s presentation focused on violations of human rights law arising from the contemporary misuse of counter-terrorism laws and measures worldwide. It emphasized that excessive counter-terrorism measures are not effective in ensuring security, but often stimulate more violence and prolong conflict. He urged states to fulfil their rhetorical commitment to respect international law when countering terrorism.

The following specific issues were discussed in the presentation:

- Excessive definitions of “terrorism, “violent extremism” and “extremism” and the need for rights-respecting definitions and appropriate exclusion clauses, including to safeguard international humanitarian law;
- Over-broad preparatory terrorism offences, including speech-related offences, and the need to ensure such offences are limited to conduct that is proximately connected to the commission of terrorist violence;
- Violations of the right to liberty, due process and fair trial in criminal processes, including through the use of “battlefield evidence” and mass surveillance;
- Over-regulation of civil society organizations and consequent restrictions on civic space and humanitarian and medical relief in armed conflict;
- Administrative measures that are not strictly necessary and proportionate, do not provide adequate due process or judicial safeguards, and circumvent the protections of the criminal justice process;
- The adverse human rights impacts of new technologies, including spyware, facial recognition software, traveller data; and the suppression of online terrorist content;
- Arbitrary detention and the urgent need for repatriation in north-east Syria; and
- Violations of human rights and international humanitarian law arising out of the Gaza conflict and the conditions conducive to further violence.