



Launch of the Scoping Study on Independent Civil Society – United Nations Counter-terrorism Engagement, United Nations Headquarters, New York, 29 May 2024

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

Excellencies, Distinguished Colleagues,

I am very pleased to join you today. First let me congratulate the Global Centre for Cooperative Security and Rights and Security International for leading such an important and timely study. One of its core findings is that the “United Nations is failing to meaningfully engage with, promote, and protect civil society in the context of the world body’s counterterrorism efforts.”

This is frankly not the first time we have heard this. The United Nations, Member States, and civil society have often reported on the growing misuse of counter-terrorism measures against civil society domestically and transnationally, and the failure in the past two decades to take seriously their warnings and recommendations on counter-terrorism measures. My predecessor’s last report to the General Assembly presented a Global Study documenting the pervasively negative impacts of counter-terrorism measures on civil society and civic space.

Like my predecessors, I will prioritize not only the essential role of civil society in promoting human rights compliant counter-terrorism measures, but also the fundamental right of civil society organizations to safely exercise their own internationally protected freedoms of expression, association and assembly.

I emphasized in my report to the Human Rights Council this year that the Security Council, the General Assembly and the Human Rights Council have repeatedly affirmed that States must respect international law when countering terrorism. The Security Council appears to have optimistically assumed that States would respect international law when implementing counter-terrorism resolutions. Yet, as it soon became apparent that violations were commonplace, the Council continued prolifically to mandate new counter-terrorism standards and to energetically promote them through its monitoring machinery and technical assistance. It appeared to be too often oblivious to the principled criticisms being made by civil society worldwide.

The Council has also promoted standards initiated by other bodies, such as the Financial Action Task Force, which resulted in unfounded suspicions about the risk posed by non-profit organizations and highly damaging restrictions on their freedom to operate.

Counter-terrorism sanctions from the Council likewise impeded the ability of humanitarian relief organizations to operate in conflicts and emergencies. This was despite repeated warnings over many years that sanctions were harming civilian populations in need and undermining international humanitarian law.

Problematically, the Council has not meaningfully conditioned the implementation of new repressive counter-terrorism norms on the prior reform of political and legal orders that gravely endanger rights. Those include, for example, abusive predicate definitions of terrorism; authoritarian political cultures that habitually weaponize security laws against political opponents and civil society, including human rights defenders, environmental activists, journalists, indigenous peoples and minorities, and now universities and students; the absence of a rule of law culture, including due process and independent judiciaries; and the lack of professional police, security and military actors trained and disciplined to respect human rights. The United Nations counter-terrorism juggernaut has barreled on regardless.

The predictable result is that Council measures have too often accelerated and amplified repressive governance, while international efforts to mitigate human rights impacts have not been sufficiently assertive or effective. All of this sends a deeply troubling message to civil society, even when they are invited to engage in the work of the United Nations.

Fortunately, the United Nations and many states have increasingly recognized the value of engaging civil society in counter-terrorism at all levels, including in the design of measures, their implementation, and their monitoring. Civil society can serve as an early warning system against measures which would be excessive or have unintended consequences. When violations occur, they can be indispensable in identifying the necessary remedies, accountability and course corrections. In my own work I value enormously the efforts of civil society in bringing violations to my attention every week, so I can raise them with governments.

The great diversity of civil society actors brings a variety of expertise and knowledge that the United Nations system and states alone cannot match, whether it is the experience of affected communities, victims of terrorism associations, human rights defenders, humanitarians, or grassroots organizations through to regional or global coalitions.

In contrast to the long dominant repressive policing and military approaches towards countering terrorism, many civil society organizations have deep experience in addressing many of the factors that in contemporary jargon are called “conditions conducive” to terrorism”. These include poverty and inequality, discrimination and other violations of human rights, protracted unresolved conflict, poor governance and absence of the rule of law. Civil society organizations are also often credible and trusted interlocutors with local communities.

Ultimately, civil society participation can improve the legitimacy, transparency and public confidence in United Nations counter-terrorism, while recognizing that civil society are not typically counter-terrorism actors and may choose to keep their distance at times. Of course, civil society does not have all the answers, but they should be included in the dialogue with other forms of expertise in governments, the United Nations, and the private sector.

So where do we go from here? The Scoping Study identifies the key barriers to civil society participation and challenges the United Nations to address them. They include the century-old lack of a clear definition of terrorism and the more recent and equally troubling concept of “violent extremism”; the perception of tokenistic consultation without evidence that civil society input changes anything; and inadequate responses by the United Nations to reprisals against civil society for engaging with it.

The Scoping Study then lays out clear preconditions of the safe and meaningful participation of civil society, including to avoid to co-option and retaliation. Some of these can be implemented at no cost. Some will require time, and most importantly strong and sustained political will and financial investment. Members states must enable the United Nations to improve. As we continue to see growing investment in counter-terrorism assistance, we must see matching financial commitments to civil society, who are often at the coalface in preventing violence, resolving conflict, and addressing rights violations.

Among the Study's key recommendations are more clarity and information about how civil society can engage with the United Nations and what impact it might have, funding and support for engagement, protection from reprisals, and more oversight and accountability at the United Nations for human rights violations flowing from its counter-terrorism measures.

I take this moment to recognize the significant investment of many individuals and civil society organizations who contributed their time and expertise to this work through the Advisory Committee, civil society consultations, and landscape analyses. I commend The Netherlands for its support and urge other Member States, the United Nations, and all stakeholders to also take up the baton, by investing politically, financially and practically to open up more meaningful space for civil society in counter-terrorism.

In my own work, have been raising these issues with governments in New York this week and with United Nations bodies at the highest levels. Despite being an academic, I also plan to plagiarize the Scoping Study for my report to the General Assembly in October, when making recommendations about how regional organizations should equally engage with civil society.

To conclude I also urge States to remedy the negative impacts of counter-terrorism measures on civil society worldwide, which have been orchestrated in part by a United Nations system that has been too complicit in, or complacent about, profound violations of human rights.

Thank you.