

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

Human Rights Council – 58th Session
Palais des Nations, Geneva, 11 March 2025

Honourable Chair, Excellencies, distinguished delegates,

It is an honour to present my report. Over the past year, the misuse of laws and narratives to counter terrorism continued unabated. I joined 110 communications to member states on all continents, and almost 60 press releases, raising diverse human rights concerns, from war crimes to transnational repression to protecting victims of terrorism, including hostages. Concerns were also addressed to responsible companies and non-state armed groups.

I participated actively in the busy Global Counter-terrorism Coordination Compact and United Nations counter-terrorism bodies in New York. I advocated for and welcomed the Security Council's adoption of a permanent humanitarian exemption to counter-terrorism sanctions and I now urge its full implementation, at a time when foreign aid flows are drastically falling.

Geographically, I paid special attention to counter-terrorism in Africa, including country visits to Benin and Cote D'Ivoire and academic visits to African regional institutions. I also focused on the persistent violations of international law during the related conflicts in the Middle East, including in Israel and Palestine, Lebanon, Syria, Iran and Yemen.

The protection of human rights by regional organizations while countering terrorism

My present report focuses on the protection of human rights by regional organizations while countering terrorism. It is a sequel to my report on the same topic to the General Assembly last October and the reports should be read together. I thank the many regional organizations that engaged with me on this topic.

The counter-terrorism activities of regional organizations have not received adequate scrutiny, despite their profound impacts on human rights and their growing importance as counter-terrorism actors. Regional organizations should never undermine civil and political freedoms, impede economic and social rights, or amplify domestic repression. They should vigorously use their capacities and peer pressure to strengthen human rights among member states.

My current report addresses three key issues. **First**, I encourage regional organizations to more meaningfully engage with diverse civil society organizations on countering terrorism, addressing the conditions conducive to terrorism, and monitoring and remedying human rights violations. Engaging civil society enhances the transparency and legitimacy of counter-terrorism measures, builds public confidence and security cooperation, and ultimately makes measures more effective.

Some key recommendations include:

- Publicizing accessible information about entry points and processes for engagement;
- Avoiding unduly restrictive accreditation and registration criteria;
- Providing adequate funding and administrative assistance to support engagement; and
- Protecting against reprisals and intimidation for engaging with regional organizations.

The United Nations should also condition its cooperation with regional organizations on their adequate engagement with civil society.

Secondly, my report cautions that the use of regional sanctions against terrorists must fully respect human rights law, given the acute risk of their misuse against human rights defenders, civil society, journalists and political activists. Regional definitions of terrorism used to list individuals or entities must be consistent with the principle of legality and best practice international standards on definition.

There must be rigorous due process safeguards, independent review, and effective remedies for violations. Any restrictive measures imposed must be strictly necessary and proportionate and not applied on an automatic or indiscriminate basis. Regional human rights bodies should also be involved in the scrutiny of listings.

Thirdly, my report encourages regional military cooperation against terrorism – from capacity building and technical assistance to peacekeeping and combat operations – to respect applicable international law. There are positive practices in the practices of the African Union, European Union and North Atlantic Treaty Organization, among others.

Regional missions must respect the prohibition on the use of force as strictly interpreted by the International Court of Justice. They must recognize at the organizational level that they are bound by customary international humanitarian law and human rights law and bear legal responsibility for violations by their organs and agents.

Regional organizations should adopt comprehensive frameworks and procedures on compliance with humanitarian law and the protection of civilians. They should independently investigate alleged violations and make reparation and pay compensation for violations. They should act decisively where troop contributing countries fail to address violations.

They should assess human rights risks in advance of and during missions, including when partnering with third states. They must scrupulously respect best practice international standards when supplying arms or munitions. They should be transparent in publicly reporting on their operations.

Regional missions should always be part of a comprehensive response to terrorism that addresses root causes of conflict, including state violations of human rights and poor governance, and enables peace-making and reconciliation.

As mentioned, the present report is a sequel to my earlier **report to the General Assembly**. In brief, in that report I urged regional organizations to:

- review and revise overbroad terrorism definitions and offences to prevent abuse;

- ensure regional cooperation on extradition, mutual assistance and intelligence sharing respect human rights, particularly non-refoulement and privacy;
- preventively apply human rights due diligence policies;
- ensure they have human rights and gender expertise; and
- adequately fund the mainstreaming of human rights.

I further recommended that regional organizations: improve transparency and public reporting about their activities, and enhance oversight and accountability, including remedies for violations. Most regional organizations could also do much more to assist victims of terrorism.

The United Nations itself must ensure that its many proliferating forms of counter-terrorism engagement with regional organizations advance, not undermine, human rights, particularly when equipping organizations with new security powers, tools and technologies.

Country visit to Benin

Madame President, It is now my honour to present my report on my country visit to Benin last November. I thank the Government for its invitation, its positive cooperation and its constructive response to my findings and recommendations. Benin's openness is a model for other states who appear to be shy about accepting my requests to visit.

I express my sympathy with the people and Government of Benin for the recent cross-border attack in the north of the country that killed 35 people.

I commend Benin for adopting a comprehensive counter-terrorism strategy that strengthens its security response while addressing the conditions conducive to terrorism and improving human rights. The Government is promoting development in historically neglected border regions, increasing access to basic services and infrastructure like schools and hospitals, combating stigmatization of marginalized groups and settling land disputes, generously welcoming refugee victims of terrorism, and reforming the criminal justice system. I also acknowledge the professionalism of the security forces and efforts to build trust with affected communities.

In suggesting improvements, I encourage Benin to narrow and clarify its definition of terrorism and terrorist offences to encompass only acts that are genuinely terrorist according to international standards. Efforts to reduce arbitrary arrests and protracted pre-trial detention, and to ensure access to legal representation and fair trial, should be strengthened. I also urge Benin to accelerate its efforts to address serious prison overcrowding and ensure detention conditions are humane according to international standards. Assistance to victims of terrorism could also be more institutionalized.

To assist Benin in preventing the spread of terrorism, I urge the international community to co-invest with the Government in increasing assistance to displaced persons and host communities and promoting development and socio-economic rights in vulnerable border areas. The authorities should continue to enhance the regulation of religious schools to prevent child exploitation. I further encourage Benin to strengthen oversight and accountability mechanisms relevant to countering terrorism, and to remove any unjustified restrictions that prevent civil society and the media from commenting on security and human rights issues.

Conclusion

Madame President, to conclude, we meet at a time of relentless attacks on the international norms and institutions that are central to my mandate to protect human rights while countering terrorism. These include aggressive uses of force and illegal annexations of foreign territory, and threats thereof, as well as rampant international crimes and complicity in them by those who arm, finance and politically shield them.

They also include attacks on the International Criminal Court, the United Nations Relief Works Agency for Palestine Refugees in the Near East, and the United Nations as a whole, including some of my fellow Special Procedures mandate holders. Our institutions are also faltering by neglect, due to debilitating underfunding by member states.

I emphasize that the abysmal political failure to address the conditions conducive to violence in Palestine, or to challenge the impunity prevailing there, has condemned the whole region's peoples to an endless cycle of suffering and vengeance. There can never be a sustainable peace without justice according to international law, including the right of self-determination.

The apocalyptic violence in Palestine also signals to other states that there may be no consequences for decimating whole civilian societies while fighting armed groups, returning us to the scorched earth tactics of the colonial counter-insurgency era.

I urge all countries to unite against coercion by major powers that seeks to break the international legal system and the peace it promises. Do not seek refuge in bilateral deal-making in the hope that your own country will be spared. Bullies respond only to strength. Strength in numbers, standing together, is our greatest hope. Thank you.