

Counter-Terrorism and Human Rights at the UN Security Council: Blurring Boundaries in a Social Space

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How do we study the UN Security Council, a bastion of sovereign nation-state politics, from the perspective of “outsiders” such as UN special rapporteurs? This article reimagines the relationship between security and human rights at the UN through a social space approach. By challenging institutional and geographical boundaries between the Security Council in New York and the Human Rights Council in Geneva, I follow actors in a social space in which transversal lines connecting security and human rights become visible. I uncover a social space that is animated by actors, their relations and social positions relative to each other as well as connections between institutions, geographical locations, practical competencies, and material infrastructures. On this basis, I theorize four distinct boundary-blurring practices of UN special rapporteurs: between the issue areas of human rights and security, between the geographical locations of New York and Geneva, between institutions such as the Security Council, Human Rights Council and the OHCHR, and between the domains of politics and law. While these practices help them enter into the social space of the Security Council in New York, special rapporteurs need to pay “entry costs” by accepting the basic premises of the counter-terrorism architecture in return for recognition as valid actors in this architecture. Taking this viewpoint from the outside, I argue, illuminates the extension of the Security Council beyond its institutional confines and uncovers “the human-rightisation” of global security policy.

Comment pouvons-nous étudier le Conseil de sécurité des Nations unies, un bastion de la politique des États-nations souverains, du point de vue de « personnes extérieures » comme les rapporteurs spéciaux de l'ONU ? Cet article repense la relation entre la sécurité et les droits de l'Homme à l'ONU d'après une approche de l'espace social. En remettant en question les frontières institutionnelles et géographiques du Conseil de sécurité à New York et du Conseil des droits de l'Homme à Genève, je suis les acteurs au sein d'un espace social dans lequel les lignes transversales entre la sécurité et les droits de l'Homme deviennent visibles. Je découvre un espace social animé par des acteurs, leurs relations et positions sociales mutuelles, mais aussi les liens entre les institutions, les emplacements géographiques, les compétences pratiques et les infrastructures matérielles. Sur cette base, je théorise quatre pratiques distinctes qui brouillent les limites des rapporteurs spéciaux : entre les domaines problématiques des droits de l'Homme et de la sécurité, entre les emplacements géographiques de New York et de Genève, entre les institutions comme le Conseil de sécurité, le Conseil des droits de l'Homme et le HCDH, et entre les domaines de la politique et du droit. Bien que ces pratiques leur permettent d'entrer dans l'espace social du Conseil de sécurité à New York, les rapporteurs spéciaux doivent payer des « frais d'entrée » : ils doivent accepter les principes de base de l'architecture de lutte contre le terrorisme pour pouvoir être reconnus comme des acteurs valides au sein de cette architecture. Selon moi, prendre ce point de vue de l'extérieur met en lumière le prolongement du Conseil de sécurité au-delà de ses limites institutionnelles et dévoile l'avancée des droits de l'Homme dans la politique de sécurité mondiale.

¿Cómo estudiamos el Consejo de Seguridad de la ONU, un bastión de la política soberana Estado-nación, desde la perspectiva de « forasteros » como son los relatores especiales de la ONU? Este artículo vuelve a imaginar la relación existente entre la seguridad y los derechos humanos en la ONU mediante un enfoque de espacio social. Desafiamos los límites institucionales y geográficos existentes entre el Consejo de Seguridad en Nueva York y el Consejo de Derechos Humanos de Ginebra, con el fin de seguir a los agentes en un espacio social en el que se hacen visibles las líneas transversales que conectan la seguridad y los derechos humanos. Descubrimos, así, un espacio social que está animado por los agentes, sus relaciones y las posiciones sociales entre ellos, así como por las conexiones existentes entre instituciones, ubicaciones geográficas, competencias prácticas e infraestructuras materiales. Partiendo de esta base, teorizamos acerca de cuatro prácticas distintas con respecto al difuminado de las fronteras que son llevadas a cabo por los relatores especiales de la ONU: entre las áreas temáticas de derechos humanos y seguridad, entre las ubicaciones geográficas de Nueva York y Ginebra, entre instituciones como el Consejo de Seguridad, el Consejo de Derechos Humanos y el ACNUDH, y entre los dominios de la política y el derecho. Si bien estas prácticas les ayudan a entrar en el espacio social del Consejo de Seguridad en Nueva York, los relatores especiales deben pagar « costes de entrada » aceptando las premisas básicas de la arquitectura de la lucha contra el terrorismo a cambio del reconocimiento como agentes válidos dentro de esta arquitectura. Sostenemos que el hecho de enfocar este punto de vista desde el exterior contribuye a arrojar luz sobre la extensión del Consejo de Seguridad más allá de sus límites institucionales y a descubrir « el mayor enfoque hacia los derechos humanos » de la política de seguridad global.

Introduction

On November 1, 2019, special rapporteur on human rights and counter-terrorism Fionnuala Ní Aolain was invited to address the UN Counter-Terrorism Committee (CTC) on the issue of gender and counter-terrorism (2019a). What made this address special was not so much the introduction of a gender lens to counter-terrorism but the fact that Ní

Aolain was invited to speak at the CTC for the first time, as an independent human rights expert. Achieving this as a representative of the human rights community took her two years of sustained effort at the UN in New York, building good working relationships with various key members. She has since been invited back each year, returning in 2020 with an address on the role of judges, prosecutors, and de-

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fence counsel in bringing terrorists to justice, in 2021 on civil society engagement, and in 2022 on new technologies in the fight against terrorism. This seemingly small addition to the speaker list of the CTC, I contend, offers an important entry-point into theorizing the relationships between actors around the UN Security Council, especially between representatives of human rights and security. How do we study the Security Council, a bastion of sovereign nation-state politics, from the perspective of such “outsiders” who are not institutionally connected to this space?

This article proposes a shift from conceptualizing the Security Council as a relatively closed-off and coherent institution to a social space that extends out of a clearly defined institutional core and attracts various actors. To visualize these dynamics in a social space, I center the practices of actors who are located at the margins of this social space, but who nonetheless pursue a strategy of entry into it. This approach builds on recent research on specific problems around the politics of the Security Council as they unfold in mundane, everyday practices between diplomats, bureaucrats, and other appointed experts (Adler-Nissen and Pouliot 2014; Bode 2018). These situated empirical analyses showcase the inner workings of the Security Council acting upon issues around armed conflict and interventions, which tend to be studied from the perspective of great power geopolitics (see Hurd 2004). The article also builds on recent scholarship on international organizations (IOs), which considers IOs as open systems part of broader professional and elite networks (Broome and Seabrooke 2012; Seabrooke and Tsingou 2021) rather than as closed and cohesive (Barnett and Finnemore 2004; Chwieroth 2008).

To do so, the article follows UN special rapporteurs, an actor that has thus far been neglected in the study of the Security Council. The analysis draws from official reports and documents such as amicus briefs, thematic reports, communications, and other official addresses, as well as from 15 biographical interviews conducted with current and former special rapporteurs, legal advisers, and a former Human Rights Council president. Eight of these are directly quoted in this article, while the main analysis focuses on the special rapporteur on counter-terrorism and human rights. Special rapporteurs are independent human rights experts on a specific issue area appointed by the UN Human Rights Council in Geneva for a term of three years and, if renewed, six years. As I show, some of these experts have developed a distinct strategy to seek entry into the Security Council. The special rapporteur on counter-terrorism and human rights in particular pursues an explicit strategy of bringing human rights back to New York. The result is not only an increased presence of human rights actors within the security and counter-terrorism architecture at the Security Council but also, I argue, an invitation to theoretically reimagine the relationship between human rights and security at the UN. Focusing on special rapporteurs shows how the exclusion of international human rights law from global counter-terrorism policy is upheld or challenged.

Against this background, this paper makes a broader contribution to scholarship on human rights and security, which problematizes their relationship as imagined through the lens of separation or balancing discourses (Nowak and Charbord 2018; Tsoukala 2021)—a separation that, at the UN, plays out by distributing issue areas to corresponding committees. Terrorism since 9/11 in particular has been configured as a security issue rather than one of human rights (Vedaschi and Scheppele 2021). But this article also demonstrates how an institutionalized geographical separation between human rights and security at the UN—with

the Security Council in New York and the Human Rights Council in Geneva—is overcome through a set of legal, diplomatic, and social strategies. This locates the Security Council, counter-terrorism policy, and human rights law in a broader social space, organized around transversal links (Hoffmann 2022) between professional networks, issues, and conflict areas rather than clear institutional boundaries. By following the trajectories of actors external to the Security Council but who are nonetheless drawn to it, this article uncovers the reach of this social space, and demonstrates how these actors, practices, and material infrastructures can become linked in unexpected ways, despite a perceived fragmentation between the social space of human rights and security at the UN. Instead, I argue that such actors are engaged in multiple practices of boundary-blurring between issue areas, geographical locations, institutional separation, and the domains of politics and law.

By rethinking the relationship between human rights and security in terms of such transversal relations and boundary-blurring practices in a social space, the paper builds on Bourdieusian sociologists of transnational fields (Dezalay and Garth 2002, 2010; Mudge and Vauchez 2012; Mallard 2014; Steinmetz 2014), and international political sociology scholarship on security professionals (Berling and Bueger 2015; Bigo 2016; Ben Jaffel et al 2020). Beerli, for example, analyses reconfigurations of security through professional struggles to facilitate “a more heterogeneous and relational reading of IOs” (Beerli 2017, 71) as agents that “tie together spatially fragmented spaces” (ibid, 76).¹ However, given that special rapporteurs cannot (yet) be considered part of a field, I depart from the field approach by focusing on boundary-blurring practices and the role of material objects, such as brief summaries of reports, as constitutive of a social space that challenges the separation between human rights and counter-terrorism at the UN.

To do so, I propose an understanding of the social space, which is created through entanglements of practices of boundary blurring such as legal diplomacy (Madsen 2010), social relations, material infrastructures (see Sullivan 2020), and expertise. A social space has to be distinguished from other concepts such as institutions, professions (Abbott 1988) or geographical location; each of these can be relevant categories that influence dynamics within a social space, but they have to be seen as historically constituted social categories rather than pre-given essences through which actors identify themselves (Bourdieu 1988).

This article proceeds as follows: the following section engages with IR and international law literature on the Security Council and UN counter-terrorism policy, foregrounding powerful actors and practices taking place within and outside its institutional confines. By highlighting how these studies center everyday practices and the longer-term transformations they engender, I will depart from their familiar focus on diplomats and bureaucrats working inside the Security Council by proposing the viewpoint of outsiders. I then elaborate on the explanatory power of the notion of the social space by building on Bourdieusian sociology and recent syntheses of the sociology of professions inspired by Andrew Abbott and field theory in a transnational context. I mobilize the concept of boundary-blurring in social spaces to show how various special rapporteurs narrate and navigate the social space of the UN and the Counter-terrorism

¹Beerli calls “*professionography*” the methodological approach that combines biographical interviews and analysis of security manuals and other documents to address “the plurality of ways in which humanitarianism is practiced by different socioprofessional actors” (2017: 76).

Committee, blurring boundaries in four distinct ways: between the issue areas of human rights and security, between the geographical locations of New York and Geneva, between institutions such as the Security Council, Human Rights Council, and the OHCHR, and between the domains of politics and law. The conclusion synthesizes these findings and opens up future lines of inquiry.

Counter-Terrorism and Human Rights At the Security Council and General Assembly

Existing scholarship on the Security Council examines its exclusive nature, capacity to monopolize different kinds of power, and to foster cooperation among great powers. For example, [Ian Hurd \(2007, 12\)](#) describes the Security Council as having “at its disposal the greatest material power of any international organization in history,” with the important addition that it “has great difficulty deploying that power.” The Security Council is a space “in which states compete for symbolic rewards” in areas such as the agenda, membership, and the use of force (*ibid*, 112). Elsewhere, it is seen as “a preeminent organ for handling international crises,” which was “created in an atmosphere of major power cooperation” ([Wallenstein and Johansson 2004, 17, 29](#)). For [Voeten \(2005, 529\)](#), its creation amounted to an “elite pact,” formed by a select number of actors, which institutionalized “nonmajoritarian mechanisms for conflict resolution.” As [Mazower \(2009\)](#) emphasized, the postwar institutionalization of the veto in the Security Council was meant to uphold Western powers’ colonial aspiration to continue ruling the world’s peripheries while safeguarding the Soviet Union from Western encroachment in its sphere of influence. But as he notes, even if the Council is often described as legitimating great power politics, it is nonetheless important to analyse a particular historical moment in which powerful states “came to define their security needs in ways necessitating membership in a world body” ([Mazower 2009, 11](#)). At the end of the Cold War, with the rise of new forces, the legislative power of the UN Security Council was unleashed, shaping the 1990s and beyond.

Locating the Security Council and its committees in a broader set of relations shows how actors at its core and peripheries interact and redefine the terms of engagement beyond specific institutional rules and formal prerogatives, not only within the Council but also the UN more generally, such as the General Assembly ([Vedaschi and Scheppele 2021](#)). The UN’s founding principle is based on a combination of universality of membership by each state in the General Assembly and the exclusivity of the five great powers in the Security Council ([Williams 2013](#)). While the General Assembly “has kept pace with the contemporary world [...] the] Security Council, however, has essentially remained unchanged” (*ibid*, 1300). The UN institutional space, therefore, has been constituted through a history of struggle over legitimacy between these two organs, with the General Assembly often claiming its universal representativity over the Security Council. This struggle and the Assembly’s positions have often highlighted how the Council has eroded state sovereignty and human rights norms ([Malone 2004](#)). To [Koskenniemi \(1995, 336\)](#), this created a functional and ideological dichotomy within the UN system, which turned the General Assembly into the “soft UN” and the Security Council the “hard UN.” As will be seen below, this appears to be especially the case in counter-terrorism policy.

Other authors highlight the Security Council’s discursive power in constructing terrorism as a global threat through

a Foucauldian *dispositif* approach ([Martini 2021](#)).² Terrorism, Martini argues, has been exceptionalized and securitized since 9/11, which has profoundly changed counter-terrorism approaches. Terrorism came to be defined as a crime, which to Martini amounted to a “blurring of the line” between terrorism and other forms of transnational and international crimes with the result of magnifying and rendering terrorism an abstract threat (*ibid*, 105). A human rights law perspective, however, offers a different assessment of such developments, showing how this was a result of institutional debates among states to avoid weakening international human rights law in the area of counter-terrorism. While human rights lawyers Nowak and Charbord argue that “lines between legal regimes were blurred [and] “exceptional” rules became the norm” ([Nowak and Charbord 2018, 13](#)), debates on terrorism among states between 1993 and 2005 centered on the most effective means of countering terrorism, bearing in mind the national monopoly over criminal prosecutions. States in favor of defining terrorism as a crime argued that “only States could commit human right violations” while the opposite position would legitimate terrorist groups (*ibid*). The relationship between criminal acts of terrorism and human rights engages states’ obligations to protect persons within their jurisdictions from terrorist acts, to investigate them fully and impartially when they occur, and where perpetrators are identified to prosecute them in accordance with international fair trial standards. This debate resurfaced in 2016 through Human Rights Council Resolution 31/30 ([Human Rights Council 2016](#)), sponsored by Egypt, which sought to focus on the impact of terrorism on human rights and effectively weaken international human rights law in the area of terrorism.

This side-lining of human rights law was evident in the Security Council’s approach to international peace and security since 9/11 through resolution 1373 ([Security Council 2001](#)). It ignored human rights and empowered “countries with poor human rights records to defend repressive laws as attempts to prevent terrorism” ([Roach 2011, 2](#)). In this unprecedented move, the Security Council and its five veto powers were transformed into a global law-making organ in shaping counter-terrorism policies (*ibid*, 12; [Vedaschi and Scheppele 2021](#)). In the immediate aftermath, Amnesty International criticized the resolution for its broad use of terms such as “terrorists” and “terrorist acts”, which “are open to widely differing interpretations and therefore may facilitate violations of human rights in states that are bound to implement the resolution” ([Amnesty International 2001](#)). While the Security Council can be seen as an executive authority like in the domestic sphere, this domestic analogy is limited in that its powers are not counter-acted by any “judicial, legislative or civil society checks that are present in most democracies” ([Roach 2011, 23](#)).

The General Assembly could be one such organ, as its work in this area places emphasis on respecting rights. Yet it remains unable to challenge the Council due to its mandatory Chapter VII authorizations. This weakness is further underlined by its own late counter-terrorism policy post-9/11, which was issued only in 2006 through its Global Counter-Terrorism Strategy in Resolution 60/288 ([General Assembly 2006](#)) and the Office of Counter-Terrorism established in 2017. Prior to 2001, however, terrorism was largely dealt with in the General Assembly ([Saul 2005, 141](#)). Within the broader macrocosm of the UN, other rights-protection

²For an in-depth review of the historical and institutional background within the League of Nations and UN dealing with and defining terrorism, see [Ditrych \(2013\)](#) and chapter 2 in [Martini \(2021\)](#) that builds on this analysis.

bodies have issued evaluations on counter-terrorism, “but the UN system as a whole remains fragmented, despite recent attempts to coordinate its response to terrorism-related issues” (Roach 2011, 21).

In light of this fragmentation, IR and International Law scholars have recently taken an interest in both day-to-day micropractices at heart in the politics of the Security Council, and the broader structural transformations since the UN’s global counter-terrorism strategy post-9/11.³ For example, Adler-Nissen and Pouliot (2014) dissect the multilateral negotiations at the Security Council, NATO, and the EU that led to the authorization of an intervention in Libya. Similarly, Nagelhus Schia (2017) examines the micro-politics of informal processes at the Security Council that enshrine inequalities between member states beyond the formal institutional rules of the veto. While both approaches center everyday practices, they rely on diplomats, other state officials or international civil servants as their central actors to narrate these dynamics through interviews or institutional ethnographic studies. Such situated analyses promise an “everyday lens” into the institutional rules that structure the encounter between insiders, but they do not attend to the specific dynamics that animate the extension of a particular social space into other domains.

Sullivan considers this expansion as he views the Council “as a global norm-setter in the field of counter-terrorism” through its listing practices and sanctions regime which has created “novel formations of executive practice and reconfigurations of law” (2014, 4). Terrorism has thus been reframed from a local or regional threat to a global threat. Therefore, by combining material and symbolic power in its five powers, the Council generates transformative practices through material and legal artifacts, such as listing practices as “a critically important technology of security governance today,” covering everything from drone warfare to no-fly lists of travelers deemed a risk (Gavin Sullivan 2020: 56).

A central body with significant power is the Counter-Terrorism Committee (CTC), which was established through Resolution 1373 and is closely linked to the Security Council. Its key aim is to upgrade “the capacity of each nation’s legislation and executive machinery to fight terrorism” (Rosand 2003, 334). Through its work, it has imposed uniform obligations for all UN member states by incorporating international legal instruments such as the Terrorism Financing Convention, which was not yet ratified by all member states, into its resolution. In addition to terrorist financing, it requires states to tackle a host of issues, from reviewing domestic laws to border security and exchanging information with other states, while lacking a definition of terrorism. The CTC consists of members of the Security Council, a number of subcommittees, and experts on temporary contracts. The work of the CTC has been assisted by the Counter-Terrorism Committee Executive Directorate (CTED) since 2005, which carries out policy decisions and expert assessments of UN member states. This committee comprises 40 members of staff, half of whom are legal experts who analyse reports submitted by states. As a symbolic addition, the CTED also hosts a senior human rights officer. In this fight against terrorism, respect for human rights has been “a significant casualty” (Foot 2007, 489), especially in the early years.

³These studies focus on the authorization of intervention (Orford 2011); the sanctions and listing regime (Biersteker 2004; de Goede and Sullivan 2016), which Sullivan (2014, 2020) has analysed in the field of counter-terrorism as a “transnational legal assemblage” and which Mallard and Niederberger (2021) have called “legal entanglements” in the field of counter-proliferation; or the appointment of a new Secretary-General (Pouliot 2020).

In fact, the evacuation of human rights from the CTC raises concerns about the democratic governance of the Security Council. As Gross and Ní Aolain note, the CTC serves as a kind of mini-security council in deciding on some of its most crucial issues “with a powerful direct line to the Security Council itself,” but without any of the democratic oversight in place (2006, 404). This has an effect on the emergence of international legal norms and their architecture as well as on international and national settings, where “the permissibility to legislate and act against terrorism has been used and exploited by states to expand their capacities to regulate by crisis” (ibid). Power has shifted not only towards the UN Security Council away from the General Assembly but also, and more specifically, to the CTC, its technical body.

As seen, the transformations in the heart of the UN that were triggered by 9/11 created profound effects for human rights. In the following section, I will develop the notion of social space in order to rethink the relationship between human rights and security at the UN.

Locating Legal Professionals in the UN: A Social Space Approach

I propose an analysis of human rights and security at the UN through a focus on individuals, their relations among each other and the structure of their positions in a broader social space (see Dezalay and Garth 1996). In addition, I include other variables in this social space analysis, such as practices, profession-specific competences, and material artifacts. Institutions and their geographical locations still matter, which actors use strategically and which “impose themselves on actors while [they] themselves are also the product of the actors’ continuing struggles” (ibid, 16–7). Nonetheless, a social space approach rather than an institutional lens helps capture the loose institutionalization of special rapporteurs in the UN structure, their diverse practices and visions of the institutional space, which, at times, can contradict one another.

The social space, with roots in Durkheimian sociology, has been theorized in-depth by Pierre Bourdieu. He describes a social space as a space of relations as well as a “space of differences,” which is studied through an analysis of the agents who inhabit it (Pierre Bourdieu 1991: 637). It can be identified through various agents “endowed with different properties that are systematically linked among themselves” (Bourdieu 1989, 19). These properties are different forms of capital that endow actors with power, which are divided into economic, cultural and social capital, and which contributes to the accumulation of symbolic capital. This distributes actors accordingly in a social space, depending both on the volume of their accumulated capital and their relative worth in relation to each other. For example, given their international reputation and recognized expertise, special rapporteurs have a combination of cultural and symbolic capitals at their disposal. Many rapporteurs are academics and use their academic prowess to write rigorous reports “that compel a state to respond” (interview 5, 2020). Such capitals can then be converted into symbolic power to, for example, effect political changes or to speak on behalf of a universal notion of human rights (Hoffmann 2024). This circumscribes special rapporteurs’ room for manoeuvre to act in an effective way inside the UN’s counter-terrorism architecture.

The social space approach requires a mode of inquiry that seeks to resist “the artificial opposition that tends to be

established between structures and representations” through a relational way of thinking (ibid, 123). It does so by studying the relative positions and relations between positions which various actors occupy. Steinmetz argues that, as a theoretical approach, it interlinks “two seemingly opposing socioanalytic viewpoints”: One emphasizes diversity and distinct logics of various realms of social spaces, and the other highlights the interconnectedness of these realms “through a distinctive architecture of relations among different fields and social spaces” (2016, 100). A field, derived from this theoretical understanding of the social space, is “a network with boundaries that create effects” (Bigo 2011, 239). It attracts agents towards each other through “a centripetal relational force” (ibid). This force is generated by shared stakes, which actors compete over in the field. A field cannot be presumed but can only be uncovered through empirical research.

There are entry costs an actor must bear to become a recognized actor in a field. As Bourdieu notes (Pierre Bourdieu 1990a: 68), “practical faith is the condition of entry that every field tacitly imposes, [. . . demanding] compliance with the fundamental presuppositions of the field.” These dynamics of compliance and recognition animate the field. Below, I analyse the entry costs that special rapporteurs must bear when entering the space of counter-terrorism in exchange for their recognition as valid actors in this space. This has the potential to blur the boundaries between the domains of human rights and security. In fact, as Bigo (2011, 239–40) argues, the boundaries of fields need to be understood as dynamic connecting points rather than static dividing lines. On the basis of this understanding, Bigo (2016) has developed the notion of “transnational guilds” to analyse the solidarity among professional actors in transnational social spaces, which is centered on their daily work, the strength of their professional loyalty and a shared craft rather than their nationalities, for example, as is the case with police forces or intelligence officers. Bourdieusian field theory has also generated research on colonial state fields, “entwined with the metropole via the colonial field of power” (Steinmetz 2008, 596) as a different kind of system of transnational fields that determine practices and relations of subordination and domination (Go 2013, 63–64). Another insightful site is the formation of European legal institutions in an emerging transnational social space (Cohen and Vauchez 2007; Madsen 2007).

However, given the heterogeneity of professional practices, their visions of the space of the UN, and short-term investment of special rapporteurs (for a period of three or six years), we cannot yet speak of a field or transnational guild. Instead, we can follow these actors in a broader social space and study the effects they generate on its dynamics through their mandate to act in the name of human rights.

How, then, can we locate legal professionals in such a social space? Liu (2013) distinguishes three different approaches: structural, interactional, and collective action approaches.⁴ Structural approaches privilege the social structure of the profession, but neglect lawyers’ (micro) practices. Interactional approaches, rooted in critical legal studies, center on interactions among lawyers or lawyers and clients and highlight the importance of micro-dimensions of the profession through ethnographic studies. The ecological tradition, situated within this approach, scales the fo-

cus up from individual lawyers to interactions and competitions between professions. However, it tends to lose sight of the micro-dimensions highlighted in ethnographic work on the profession. Finally, Liu identifies collective action approaches as a third, more recent, framework to analyse legal professions. Generally speaking, these approaches analyse the influence of lawyers on other spheres of social life, such as politics. According to Liu, Bourdieusian inspired analyses of lawyering sit within this approach, which builds on theories of elite reproduction across legal, economic, and political fields (Dezalay and Garth 2002, 2010).

A key difference between a Bourdieusian and ecological understanding of the social space in the study of lawyering is the mobilization of the concept of profession.⁵ While the profession is an important unit of analysis in ecological theories, Bourdieusian approaches deconstruct this notion and place it in a broader struggle among groups that constituted it in the first place as “the product of a historical work” (Wacquant and Bourdieu 1989, 37–8). The lens of ecology suggests a more cooperative understanding of professional social spaces, theorizing “society as interactional spaces with competing actors and fluid locations” (Liu and Emirbayer 2016, 62). These elements of cooperation and competition are key to understanding how professions expand, “taking over this or that area of work, which they constitute into “jurisdiction” by means of professional knowledge systems” (Abbott 2005, 246). Abbott (1986, 190) defines jurisdiction as “the link between a profession and its work,” or a well-defined boundary of the scope of expertise (Eyal and Pok 2015). To him, the history of professions is a result of “the interplay of jurisdictional links between professions” (Abbott 2005, 246). Bourdieu, however, understands social spaces and fields as spaces of continuous domination and struggle between actors over shared stakes.

Recently, scholars have proposed a synthesis between both approaches where there has previously been limited engagement (Favell 2006; Mudge and Vauchez 2012; Liu and Emirbayer 2016). As Liu and Emirbayer (2016) argue, both ecologies and fields can be understood as part of social space approaches, which encompass three basic components: actors, positions, and relations. Silber (1995, 323) notes that this “increasing currency of spatial (quasi-geographical) images and metaphors” provides “common denominators among competing schools” (ibid, 348–9). EU integration scholars have drawn from insights from both the sociology of professions and Bourdieusian field theory to theorize social phenomena such as “weak fields,” boundary blurring between professions or social spaces, and actors’ strategic room for manoeuvre when they are located at a crossroads of several fields. For example, Mudge and Vauchez (2012) combine concepts from Abbott’s sociology of professions with Bourdieu’s field theory to explain multiple meanings of Europe and the emergence of EU studies as a “weak field,” or a field with porous boundaries and without an autonomous center (Vauchez 2008). Eyal and Pok (2015) locate security expertise in a boundary zone at the “interface and overlap” of various fields instead of clearly bounded jurisdictions. In developing my approach to the social space, I build on this recent synthesis and specifically on the notion of boundary blurring.

⁵As Bourdieu notes: “the notion of profession is dangerous because it has all appearances of false neutrality in its favor. Profession is a folk concept that has been uncritically smuggled into scientific language and which imports in it a whole social unconscious” (ibid). *Homo Academicus* is perhaps his best example in which he brought “to bear on his familiar world the detached scrutiny” and sociological self-analysis of the academic field (1988: xii).

⁴He develops his own processual theory of the legal profession, linking microprocesses of interaction with the broader structure of the profession (2013: 674). However, he takes the unit of profession for granted, which is unpacked in Bourdieu’s understanding of the social space.

Boundary Blurring in a Social Space

I theorize the social space of human rights and counter-terrorism by analysing the trajectories, visions, and strategies of a number of UN special rapporteurs who either consider the UN Security Council as an important space of engagement for their work or, to the contrary, deny its importance. In addition to a focus on actors, their relations among each other, and positions, my conceptualization includes the importance of the geographical location and institutional spaces, as well as material objects and practical competencies. Boundary-blurring practices help visualize how these factors animate the dynamics of the social space in which human rights and counter-terrorism have come to cross-over in new informal spaces of engagement.

Focusing on practices rather than fields, Liu explores boundary-blurring practices between different professional groups or institutions (Liu 2013, 676). Boundary blurring seeks to work against institutional and other types of boundary work that attempt to settle “the formation of jurisdictional boundaries” (ibid). Actors who have the capacity to blur such boundaries can “break into a new area of work” but do not need to necessarily transform a profession itself. Examples of boundary blurring include instances when actors mimic one another or seek to “blur the spatial or cultural boundary between them” (ibid, 774). This analysis provides a useful framework to categorize the strategies special rapporteurs use to access the Security Council and break through various kinds of boundaries between New York and Geneva. At the same time, a focus on practices is supplemented with a more macro-view of how such strategies, over time, can generate a distinct social space that enables particular encounters. In other words, a social space and special rapporteurs’ practices co-constitute each other, which creates such boundary-blurring effects.

A social space approach visualizes internal tensions within the Security Council, and the CTC in particular: Seeking to maintain itself as a closed off and highly effective social space, it nonetheless wields a force of attraction on actors beyond its institutionalized boundaries through transversal links between social networks, legal and material infrastructures, and other micro-practices extending out of its immediate institutional core. Special rapporteurs in particular have built up material infrastructures in vast databases of thematic and country reports, communications, amicus briefs, and other interventions across mandates. Beyond documents, many special rapporteurs build up teams and send representatives to numerous events to be present at several frontlines at once.

In the following, I analyse four types of boundary blurring in this social space: between the issue areas of human rights and security, between the geographical locations of New York and Geneva, between institutions such as the Security Council, the Human Rights Council and the OHCHR, and between the domains of politics and law. This analysis spans interviews with fifteen special rapporteurs, the location of official reports, amicus briefs, communications, short digests, and official addresses as part of this social space and a comparative analysis of different practices and visions of this social space as held by various special rapporteurs. The majority of the analysis follows the special rapporteur on counter-terrorism and human rights.

Boundary-blurring Between Human Rights and Security

At the macro-level, we witness boundary-blurring between the issue areas of human rights and security. For example,

the CTC has recently begun to co-opt human rights into its counterterrorism and security architecture in the process of legalizing collective security. As Roele (2022, 2) notes, human rights are both highly visible and a “neatly silo’d area of endeavour.” The incorporation of law into counterterrorism policy is read as part of managerial technologies, enacted by subcommittees such as the CTC. It channels formal law of the UNSC resolutions with what Roele calls “technical infra-law” such as “best practices, training manuals, legislative models, and other forms of expert guidance” (Roele 2016, 203). This increased incorporation and co-optation of human rights by the CTC into global counterterrorism policy is exemplified by the position of human rights officers within the structures of the committee, regular attendance of high-level conferences on human rights and counter-terrorism, the production of factsheets about human rights, and UNSC resolutions that highlight the importance of human rights law.

Similarly, the Security Council claims jurisdiction and exerts significant powers not only on legal initiatives that the UN General Assembly may take, but in other branches of the UN as well, such as in the appointment of expert communities who provide expertise to UN agencies. One example is the appointment of the UN High Commissioner for Human Rights. Zeid Ra’ad al Hussein, who served as the 6th Commissioner between 2014 and 2018, had reportedly shocked attending state representatives in a 2016 speech at the Hague by calling them out on their human rights records by name. After his first term expired in 2018, he was not encouraged to run for a second term. As he noted in an interview: “It’s become tradition that the secretary-general will take the pulse of the permanent five members of the Security Council [. . .] If they all agree, your name is sent to the General Assembly” (Rienzi 2019). This description of the dynamics inside the UN points to important power political connections across security and human rights policymaking and the range of informal power that UN Security Council members can exert on appointments outside the Council. This underlines the relationship between human rights and security as played out between actors chosen to articulate a course of action.

However, this does not simply result in an extension of the Security Council into human rights matters, or contrariwise, an introduction of a human rights lens into the counter-terrorism structure. In fact, special rapporteurs are faced with important stakes around their commitments to human rights as they pay “entry costs” upon admission into the counter-terrorism space by accepting the basic premises of counter-terrorism policy, which structure the rules of the game in this particular space. This shows parallels with Sarfaty’s (2012) work which examines the battle over human rights at the World Bank as a clash of professional cultures and normative rationalities, pitting economic logics against human rights, which “meet, clash, and intersect” in various ways (ibid, 9). Actors who are committed to human rights use “distinct interpretive frames” (ibid, 108), focusing on either principled or more pragmatic, intrinsic strategies. The latter appear to be more successful in that they subsume human rights under the economic logic that key proponents see as the only entry point for human rights into the World Bank (ibid, 130).

Such processes of translation are also found in global climate governance, which Aykut and Maertens (2021) have termed “climatization” of global politics, a process that captures how logics of climate change governance have increasingly expanded into other areas of policy-making and global activism. Climatization has also affected the Security

Council, which is seen as a responsible organ in the fight against it (Maertens 2021). This reverses common understandings in which climate change is viewed through a securitization lens. Similarly, we can speak of a process of “human-rightization” of security issues at the Security Council. This captures a process that is ripe with tensions and which further enshrines the Council’s and CTC’s legitimacy in counter-terrorism. At the same time, the special rapporteur is able to gain access to a powerful forum to increase the effectiveness of their work, which necessitates bearing such entry costs. Therefore, such dynamics cannot be described solely as co-optation or as the mere introduction of human rights into a sphere dominated by security.

Boundary-blurring of Geographical Locations

As becomes clear from interviews, special rapporteurs have an excellent understanding of the importance of the geographical location of key institutions and their own capacity to cross and blur such boundaries. As one rapporteur notes, “our friends [. . .] in the [Human Rights] Council [in Geneva], they’re the same friends in New York” (interview 8, 2020). Thus, actors who occupy close positions “are placed in similar conditions and submitted to similar conditionings” where they develop “a sense of one’s place” (Bourdieu 1990b, 128).

The geographical location matters in so far as it tries to marginalize particular actors from what is perceived as the core of decision-making within the social space of human rights and counter-terrorism. Special rapporteurs write one thematic report on a global issue per year and present it at the Human Rights Council in Geneva. Some, such as mandates on torture or counter-terrorism and human rights, are also invited to present their report at the General Assembly in New York.⁶ Geneva, where the offices of special rapporteurs and their legal assistants are located, tends to be seen by some rapporteurs as a less important strategic space than New York. For one special rapporteur, establishing a presence in New York is of central importance: “Geneva is in many ways a side-show. It encourages states to compartmentalise and silo human rights to a small city in the middle of Europe [. . .]. All of the major policy, legal, political decision-making is in New York [. . .]. And so, it suits states extremely well not to have the robust human rights presence in New York” (interview 3, 2019). The CTC provides an entry point into this social space. It occupies a high hierarchical position through its close links to the Security Council and is populated by diverse actors.

Even if most rapporteurs spend their time on field visits and at home, where they continue their full-time employment, often as human rights academics, some special rapporteurs have developed a distinct strategy to break into the UN space in New York. A former Human Rights Council president noted that he encouraged special rapporteurs to wield their power in the Security Council and the General Assembly in order to improve relations between Geneva and New York (interview 1, 2019). One former special rapporteur described the UN as “fragmented all over the place” (interview 2, 2020), and noticed that special rapporteurs make different use of this perceived fragmentation. Some understand their role as a convening power, for informal meetings, coalition building with states, and carving out a space for human rights perspectives. Others realise the importance of the Security Council but see their role as pointing

attention to neglected questions: “I cannot [. . .] hope to influence the situation in Syria [. . .] I mean, that’s something for the ICRC or the Security Council. That really needs the big boys” (interview 4, 2019). Another former special rapporteur similarly notes that they did not pursue a strategy at the Security Council: “We were a bit disappointed that we didn’t reach the Security Council, but we certainly didn’t push the buttons [. . .]. But the power certainly is in New York” (interview 6, 2020). In stark opposition, for others, the space in New York “is barely relevant” (interview 5, 2020).

Sustained physical presence in key sites is crucial for special rapporteurs to be effective. These physical points of entry, such as social relations or institutional infrastructures, are important material locations within the broader social space that enable access to the Security Council. At the same time, special rapporteurs also analyse the geographical reach of the Security Council beyond its institutional confines. Ní Aoláin 2018, the special rapporteur on human rights and counter-terrorism, has noted repeatedly that the Security Council has encroached upon domestic law and influenced criminal law practices outside the usual channels for debate, creating a number of obligations as materialized in watch lists and databases (Ní Aoláin 2018; Ní Aoláin, Yamamoto and Manion 2022). Therefore, the CTC is not the only place that requires her presence. Regular state visits and interventions in courts, for example, are key sites part of the geographical landscape of this social space.

The biggest structural challenge for special rapporteurs is to ensure follow-up on their recommendations to states. Building relationships of trust with state representatives can provide a foundation for this in less formal settings. Ní Aoláin conducts return visits whenever she is in a country she has visited before, for example, in the context of academic visits: “The goal was also to meet with the government to have a bilateral conversation to say, ‘I’m not reporting this conversation. I’m actually here to help you’ [. . .] and we do a lot of technical advice bilaterally which is not public to those states we visited” (interview, 2019). Ideally, this would be done by all special rapporteurs, so visits do not become “an extractive thing where you show up, you criticize, you leave, and you never come back” (ibid). But with an under-resourced system in place at the UN, there is a structural disincentive to build and maintain good working relations with state representatives. Travel to various geographical locations is a key strategy pursued by special rapporteurs to carry their mandates out of Geneva, crossing into space where they can make a difference.

Institutional Boundary-Blurring

In order to gain institutional access to the CTC, which designs and implements important policies, special rapporteurs build social relations with key actors in this space. As noted in the introduction (interview, 2019), Ní Aoláin was the first mandate-holder to give a brief at the CTC. This was unprecedented, as a High Commissioner on Human Rights had been blocked from speaking to the committee. She described her brief address on women human rights defenders in counter-terrorism as “a really narrow box. But guess what, that box is the box. [. . .] getting that box took me two years” (interview, 2019). While some describe the introduction of human rights into the CTC as a form of co-optation, I posit that the presence of an independent human rights expert that is not institutionalized within its architecture can be analysed as a process of boundary blurring between the institutional distribution of security and human rights.

⁶In addition, all special rapporteurs conduct two country visits per year and present their reports at the Human Rights Council.

In order to get to this point, she invested significant time in the broader social space in New York, traveling there every two weeks paid for by her university as well as funds raised in her academic capacity. This presence is not only important for her mandate, but also for a human rights presence in New York. Another infrastructural entry point is “a tiny OHCHR [UN Office of the High Commissioner on Human Rights] footprint” which she hopes to expand after being closed off by some permanent members of the Security Council (ibid). These entry points enable her to claim a formal position of the mandate in New York as a position from which to influence the global counter-terrorism architecture. As she notes, “to make it truly effective, you need an institutional footprint,” which involves full-time staff and daily presence (ibid). Since she does not have this capacity, she needs to “pick really carefully the issues [she] works on” as “one of the strategies for this mandate is to be really deliberate” (ibid).

These institutional boundary-blurring practices make visible dynamics of expansion or contraction as driven by the professional trajectory of key actors who seek to challenge existing boundaries or defend them against “outsiders.” The relationship of the special rapporteur to the counter-terrorism architecture involves various institutional spaces in the broader social space of the UN. A legal advisor offers an insight into this dynamic, taking place between the Security Council and states that disagree with its claim to the universal through its global policy. For them, the General Assembly is the truly universal voice:

“there are also lots of states that think that imposing legislative obligations on them is not what the Security Council is there for. [...] this is why you have the General Assembly saying to the Council: “We are the only body that has universal legitimacy. And we are telling you that you cannot get rid of all of our human rights obligations and other obligations”” (ibid).⁷

These strategies of the special rapporteur on human rights and counter-terrorism unveil how the institutional space of the CTC, described by many as the most powerful and effective body of the Security Council, is embedded in a broader social space of human rights and security at the UN.

Blurring Boundaries Between Law and Politics Through Legal Diplomacy

Finally, special rapporteurs blur boundaries through “legal diplomacy.” Such strategies have been developed against the backdrop of structural constraints at the UN, which provide very little support for the work of special rapporteurs.

Legal diplomacy is a strategy of boundary-blurring and creation of new social spaces. Developed by Madsen (2010) in the context of his scholarship on European human rights, he points to the close entwinement of legal and political practices in the making of European human rights law. This involves playing a subtle game of law and diplomacy through skilled “legal entrepreneurs.” Many special rapporteurs seek to build and refine existing legal knowledge on recent developments where human rights are at stake. For Ní Aolain, human rights work is a long-term struggle imbricated in legal diplomacy. To this end, she adopts a transversal approach to the spaces of the UN, breaking down silos “so that information is flowing into the spaces that can constrain policy makers” and benefit the human rights system as a whole (in-

terview, 2019). In addition to legal strategies, this requires frequent and sometimes simultaneous presence at various entry points in this social space, such as national courts, state ministries, and the space in New York itself through the small existing institutional infrastructure of OHCHR offices. However, this is difficult to maintain as it often calls for extensive travel outside the standard requirements for special rapporteurs of usually two country visits and one trip to Geneva per year. Legal expertise is only effective when practiced with skilled legal diplomacy, carefully weighing the stakes involved in engaging a diverse set of actors, from state representatives to civil society. It is thus a conscious strategy introduced into the practices of a mandate.

Interventions in the realm of international human rights law offer the most promising avenue to create change in global security policy. Rapporteurs often wield their legal expertise through amicus briefs in court proceedings. Ní Aolain justifies her authority to brief the European Court of Human Rights on the basis of her work as special rapporteur, where she regularly focuses on fair trials and the use of secret evidence in cases. This experience gives her “a unique position to assess the broad human rights implications to the use of such evidence to the European Court of Human Rights (ECtHR)” (2019b: 1). For example, she filed a brief in the prominent case of Shamima Begum, a UK teenager who was stripped of her UK citizenship after she traveled to Syria to join ISIS (Ní Aolain 2020). Special rapporteurs, in filing these briefs, emphasize that their views are expressed in complete independence from the UN, while highlighting their unique position to issue such an expert opinion.

Courts are not the only sites that receive legal expertise. The previous mandate-holder of the counter-terrorism position, Ben Emmerson, frequently used the route of short communications to offer legal reviews of national draft legislations, which he saw as a fruitful area for intervention before a law was adopted. Ní Aolain, however, sees the potential of these practices as more limited, as she notes the impediments of relying solely on legal words and human rights language: “I think states have got really good at using and telling us human rights language back. [...] The most egregious regimes use the words the best” (interview, 2019).

Nonetheless, a key strategy has centered on a clear “material” dimension in circulating the expert analysis provided in her reports. As barely any states read the full-length report, it is not enough to rely on the power of words and legal arguments. Instead, she collaborates with human rights NGOs with financial resources who summarize her reports in one page, present her data in graphs, and use no more than two hundred words as they send them to relevant parties. She brings a copy of this one-page summary to meetings with state representatives: “To get the political buy-in, you have to be able to push it out in bite-sized chunks” to reach different audiences (ibid). For expert knowledge to be effective, special rapporteurs develop communication strategies for different audiences, distilling their expertise into relevant pieces materialized in short leaflets. Such strategies of fragmenting expertise and producing printed material are key to practicing legal diplomacy.

A legal advisor with a long-term vision of the mandate underlines Ní Aolain’s “holistic political vision” of both the mandate and its strategic possibilities (interview, 2019). In order to have any lasting influence on the socio-legal architecture, she invests in regular meetings with legal advisors who are to various degrees supportive of her work. These regular discussions include exchanges on the contents on a resolution, mirroring the broader political nature of the mandate. According to a legal advisor, “it’s not like torture

⁷See also Binder and Heupel (2015).

[. . .] where the mandate doesn't really evolve. Your role just stays the same no matter [. . .] what year it is. This mandate is very different. Because lots of states want to get rid of it" (ibid).

This social space extends outside the boundaries of institutionalized committees and attracts various actors who seek to expand their room for manoeuvre. This creates new spaces of engagement, co-constituted by positions within the social space and special rapporteurs' legal expertise, which becomes dispersed into various legal and technical nodal points. By mobilizing support from NGOs, the OHCHR office in New York, and relations of trust with actors, we see how this social space becomes interlinked through social relations, material entry points in a legal infrastructure, and objects such as short reports. This transforms legal expertise in a professional setting that requires blurring of what is traditionally seen as the domains of law and politics.

Conclusion

This article sought to reimagine the study of the relationship between human rights and security as animated through concrete professional strategies and struggles between various actors around the UN Security Council. I introduced a social space lens that studies actors, social positions, and relations, as well as institutions, geographical locations, and material objects to decenter internal institutional rules and great power politics as the central animating forces of the Security Council. Conceiving of the Security Council as part of a larger social space showed how it extends beyond its institutional core and attracts a variety of actors. This social space is transversally linked through various networks, issues, and conflict areas. Actors have different perceptions of how to make use of this, while some are able to create links among seemingly separated spaces. This enhances our understanding of actors who invest in this social space, build coalitions or compete with each other for higher social positions. The article used strategies of UN special rapporteurs, as from the perspective of outsiders, to make visible four kinds of boundary-blurring practices within this broader social space: they blur boundaries between the issue areas of human rights and security, geographical boundaries between New York and Geneva, institutional boundaries between the Security Council, the Human Rights Council, and the OHCHR, and boundaries between the domains of politics and law through legal diplomacy.

The first part reviewed existing scholarship on counter-terrorism and human rights at the Security Council and analysed how human rights law and counter-terrorism policy have become institutionally bifurcated since 9/11. By creating the CTC, a committee within the Security Council, a number of actors have been empowered by imposing terrorism legislation on states while ignoring human rights law. To rethink these existing understandings, the second part introduced a social space approach on the basis of Pierre Bourdieu's work in which I locate legal professionals. I supplemented this analysis of the social space with a focus on institutions, geographical locations, and material objects as part of its dynamics. While Bourdieu remained critical of the notion of profession as prominent in the sociology of professions and ecological theories, recent work has combined these two approaches to develop an understanding of boundary-blurring. The final part built on this synthesis and theorized four types of boundary blurring that special rapporteurs are engaged in.

This analysis of the socio-legal conditions of the social space highlighted the importance of building lasting net-

works with state representatives, key committee members of the CTC, and NGOs in New York, which provide various entry points into this social space that tends to be dominated by the Security Council. The expansion of social networks is closely linked to a strategy to increase the institutional footprint of human rights work through existing institutional and material infrastructures in New York, such as a small OHCHR office that gives symbolic importance to human rights. Finally, material objects such as print-outs of shortened versions of thematic reports are distributed to states and other actors with material support of NGOs.

Building on this analysis, further research can explore the actors at the CTC and their own approaches and understandings of human rights. Taking into account the process of "human-rightization" of security, what are the implications for the international human rights law regime? And how can we further theorize special rapporteurs as a specific kind of group of actors? Do they form a guild (Bigo 2016), a field in the making or are their positions at the interstices of a variety of professional and institutional settings better captured by a different theoretical approach? Finally, with regards to the special rapporteur on counter-terrorism and human rights, how will the strategies and social dynamics change with the appointment of Ben Saul on 1 November 2023?

List of Interviews

- Interview 1 (2019)
- Interview 2 (2020)
- Interview 3 (2019)
- Interview 4 (2019)
- Interview 5 (2020)
- Interview 6 (2020)
- Interview 7 (2019)
- Interview 8 (2020)

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