

Outcome Document of the

**ASIA & THE PACIFIC REGIONAL CIVIL
SOCIETY CONSULTATION ON THE IMPACT
OF COUNTER-TERRORISM MEASURES ON
CIVIL SOCIETY & CIVIC SPACE**

Acknowledgements

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The following civil society organizations participated in the regional consultation. Their inclusion does not constitute their endorsement of all of the views expressed in the document. The list is not exhaustive as some participants asked not to be named due to security concerns.

- ADHOC
- Asia Justice and Rights (AJAR)
- Bangsamoro Civil Society
- Cross Cultural Foundation (CrCF)
- Front Line Defenders
- Humanity Institute, Myanmar
- In Defense of Human Rights and Dignity Movement
- Karapatan Alliance Philippines
- KontraS
- National Union of Peoples Lawyers (NUPL)
- Our Citizen Organization
- Project 88
- Suara Rakyat Malaysia (SUARAM)
- The Hope
- University of Tokyo, Graduate School of Arts and Sciences

Introduction

In March 2023, 34 participants traveling from and/or representing 11 countries across Southeast and East Asia (Cambodia, Hong Kong, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam) convened for a two-day regional civil society consultation to elaborate on how counter-terrorism and preventing or countering violent extremism (CT & P/CVE) measures in their respective contexts have impacted their work, their

and their families’ lives, and civic space more generally. Participants discussed the varying degrees of civil society participation in CT & P/CVE law and policymaking at the national and regional levels; the misuse and abuse of CT & P/CVE measures, including terrorist organization designations, counter-terrorism financing tools, and security sector apparatuses, to censor and control information, judicially harass political dissidents, and crack down on human rights defenders and civil society organizations; and the disproportionate impacts of CT & P/CVE measures on humanitarian and peace work, indigenous and land rights activists, women and LGBTQ+ civil society organizations, and youth.

Throughout the consultation, participants commented on the problematic vagueness, overbreadth, and undue character of the CT & P/CVE legislative and regulatory frameworks operating in their home countries—often compounded by further restrictive measures under overlapping or complementary frames to suppress threats, such as “insurgency,” “sedition,” “opposition to the people’s authorities,” “prejudice to public safety,” and/or the “undermining of national integrity.” Amidst democratic backsliding, rising authoritarianism and ongoing conflicts across the region, they observed how such expansive CT & P/CVE framing has provided repeated cover for civil society repression, closing civic space, and human rights abuse, in some cases simply repurposing and entrenching security tools dating back to colonial times. Despite promising human rights and civil society participation language in the operative ASEAN instruments, there remains a sizable disconnect to national practice.

This outcome document summarizes the key findings of the two-day regional civil society consultation and concludes with specific recommendations tailored to Member States, the Association of Southeast Asian Nations, the United Nations and other regional and international organizations, the private sector, and civil society. The findings will contribute to the upcoming Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space by the Special Rapporteur on

the promotion and protection of human rights and fundamental freedoms while countering terrorism.

Key Findings

KEY FINDING #1

States pursue CT & P/CVE policies in a non-transparent and coercive manner that constrains civic space and precludes meaningful civil society participation in decision-making and discourse.

In countries across the region, CT & P/CVE policies are discussed and formulated by a limited number of individuals in elite political leadership—often in the executive branch and security sector—leaving minimal space for meaningful civil society participation. At times, governmental actors with decision-making powers purposefully exclude civil society participation. During the consultation, participants from Thailand, Philippines, Indonesia, Laos, and Vietnam called attention to similar tactics of ‘terrorist-tagging,’ in which state actors, state-led media, and government-affiliated and occasionally government-supported groups accuse an individual or organization of supporting terrorism specifically due to their criticism of domestic government policies, including in CT & P/CVE. The participants observed how such terrorist designations and related practices can have chilling effects on private and public behavior, making civil society fearful of participation in security discourses and apathetic, whether through state censorship or self-censorship.

Participants observed that the hyper-securitized and militarized approach to CT & P/CVE policymaking across the region has tipped the balance in favor of more funding and empowerment of the security sector, absent any delimiting measures through public consultation or even involvement

of other governmental entities, including national human rights institutions. State CT & P/CVE policymaking, including budget allocation processes, may bypass necessary scrutiny by parliamentarians and the general public. In some cases, elected parliamentarians were excluded from policymaking and due to stated security concerns and classification issues, restrained from freely discussing or partaking in security sector decision-making. Very few participants were able to cite examples of CT & P/CVE laws, regulations or policies involving public consultation, particularly consultation with directly affected communities in more geographically and culturally diverse settings.

Even where open public consultation periods were posted prior to the adoption of CT & P/CVE laws, few felt that these engagements were meaningful, i.e., their inputs were rarely incorporated. In Indonesia, the Philippines, and Malaysia civil society organizations were or are being consulted in the drafting of the national action plan on P/CVE, including in the Philippines as part of a “whole-of-nation” approach. But their inputs on the applicable threat assessment, including on whom to categorize as part of the extremist threat, and on the need for more comprehensive consultative processes, including in determining human rights impacts, were not meaningfully incorporated. Indeed, some participants warned that the consultative process for national action plans often provide a convenient opportunity for states to mobilize the civil society organizations that are already aligned with their political agenda, thus serving to whitewash the significant public opposition that may exist.

In many countries in the region, public information campaigns play a large role in justifying the exclusion of civil society from CT & P/CVE decision-making. State-led communication efforts are usually top-down and push narratives that align with or support government CT & P/CVE policies while excluding or even demonizing the voices of populations that are affected by the measures. By sidelining the opinions and experiences of affected populations and dissidents, these public information campaigns

run the high risk of mis-informing or mal-informing the general public about the populations allegedly associated with insurgency or extremism and the impacts of such measures on communities on the ground. It is often taken for granted by governments and the public to accept that the language of national security by default does not require transparency and public participation. Thus, in countries such as Thailand and Vietnam, instead of enabling meaningful public engagement in the discussion of national security, publicly funded communication is being exploited by political and security actors to buy off social licenses to legitimize CT & P/CVE policies. In Singapore, a multi-million USD public relations budget is dedicated to finance highly effective propaganda and media campaigns to discourage dissent and advance pro-government security narratives among the general population.

According to some participants, state media generate a constant state of emergency, under which a securitized or militarized approach to counter-terrorism becomes necessary. This framing has been repeatedly used to justify increased national security spending without increasing transparency, monitoring, evaluation, and social accountability tied to such expenditure. Some participants, including those from Singapore, the Philippines, and Indonesia, observed that the origin of some emergency powers dates back to colonial times, with states repurposing colonial powers throughout history. These and other participants from Cambodian, Hong Kong, Myanmar, and Malaysia noted the rise in emergency powers and exceptional CT & P/CVE measures during the Covid-19 pandemic, with some states effectively establishing indefinite states of emergency.

A concurrence among participants across the region emphasized that national security and CT & P/CVE discourses and public communications must not be confined to and dictated by a small group of political elites. Moreover, CT & P/CVE decision-making must be inclusive of directly affected communities. Participants called on their governments to equip citizens with higher political literacy and facil-

itate genuine access to civic space for the general public, especially the vulnerable and underrepresented, to participate and shape national security dialogues and decision-making including in the very design of CT & P/CVE measures.

KEY FINDING #2

There is a general lack of monitoring and evaluation processes for regional and national CT & P/CVE measures.

Although the relevant regional CT & P/CVE instruments stipulate civil society participation and international human rights law and broader public international law compliance, most participants observed that efforts to monitor and evaluate such compliance remain limited and exclusionary. Of specific note, the ASEAN Convention on Counter-Terrorism (ACCT) reaffirms in the preambular paragraphs a “commitment to protect human rights, fair treatment, the rule of law and due process” and the fact that “terrorism cannot and should not be associated with any religion, nationality, civilisation or ethnic group.” Moreover, the ASEAN Plan of Action to Prevent and Counter the Rise of Radicalisation and Violent Extremism (2018-2025), which was instituted to seek and materialize the goals and policy articulations of the Manila Declaration to Counter the Rise of Radicalisation and Violent Extremism (2017), provides for “[s]trengthen[ing] engagement and partnership with civil society, non-governmental organizations, academics, think-tanks, religious leaders, and the media in preventing and countering radicalisation and violent extremism” (sec. V.4.1) and “[s]trengthen[ing] good governance, human rights and the rule of law to prevent radicalisation and violent extremism” (sec. V.1.2).

Participants emphasized that there needs to be more evidence of how member states have implemented the ASEAN Plan of Action and corresponding Work Plan, particularly the partnership with civil

society organizations and strengthening of human rights and the rule of law, as stipulated in its indicative activities and priorities. Although the Work Plan stipulates an annual monitoring and evaluation strategy, these annual reports are not available to the public, making it exceedingly difficult for civil society to monitor implementation. More generally, participants observed that none of them had been consulted or made aware of any other civil society actors in their respective countries being involved in the implementation of the ASEAN Work Plan to Prevent and Counter the Rise of Radicalisation and Violent Extremism (2018-2025).

Along similar lines, at the national level, CT & P/CVE policies in the region lack built-in independent mechanisms to prevent, monitor, and mitigate the collateral damage to local communities and potential human rights and humanitarian violations. In some settings, including Myanmar and the Philippines, a “whole-of-nation” approach has led to other government agencies, including education and commerce departments, to receive funding to enact corresponding CT & P/CVE measures. Some participants observed that an increasingly securitized approach has infiltrated these government entities, absent traditional due process and rule of law safeguards. This makes comprehensive monitoring and evaluation across governmental measures even more important.

Participants in the consultation noted that although many civil society organizations and community leaders take right-based approaches to monitor rights violations in affected areas, their efforts remain incohesive and external to the national security and CT & P/CVE policy formulation and implementation processes. Further, some participants underscored that it should not be the responsibility of civil society to monitor state practices given the limited information and resources available to civil society organizations.

Participants called for establishing fully resourced and independent governmental mechanisms for independent oversight of CT & P/CVE policies. National human rights institutions and other govern-

mental counterparts with sufficient civic space and human rights expertise should be formally and continuously engaged in such monitoring and assessment processes, including in human rights impact assessments prior to implementation of CT & P/CVE measures.

KEY FINDING #3

CT & P/CVE laws and policies provide convenient pretext for surveillance and state control of information and cyberspace, furthering the crackdown of civic space and promulgation of government propaganda.

Participants observed how governments in the region use CT & P/CVE as a convenient pretext for surveillance, large-scale private data collection, and broader cyberspace and information control, and how such technologies had pervaded all aspects of their daily lives. Participants from the Philippines noted that authorities are legally allowed to surveil citizens and monitor their communications if they are suspected terrorists or otherwise affiliated with terrorism assistance. This extends to surveillance of speech online as well as phone, email, and other modes of communication. Indeed, across the region, organizations have been subject to spyware and other digital surveillance, compounding already existing physical surveillance methods. In Indonesia, governmental authorities permit wiretapping and other cybersecurity patrolling against individuals affiliated with terrorist or separatist groups. In Indonesia and Hong Kong, Covid-19 regulations created the framework for enhanced monitoring and surveillance of civil society organizations and activists.

Participants from Hong Kong, Indonesia, Myanmar, and Vietnam noted a common trend of increased monitoring and transfer of private data held by third-party websites, which have directly enabled

prosecutions of oppositional voices. Often cybersecurity laws and regulations will provide the legal justification for ministry data collection, storage, and monitoring powers in the name of CT & P/CVE. Among other modalities, SIM card registration regulations in many countries including Cambodia, the Philippines, Indonesia, and Myanmar are being weaponized against human rights defenders and political dissidents to surveil and monitor their activities. In Myanmar and Vietnam, state-owned and military-associated telecom companies facilitate particularly easy access to private data and sensitive information. The use of biometric data including through facial recognition cameras and crowd analytics systems has become particularly ubiquitous. In Singapore, drones, unmanned aerial vehicles, and camera networks have been used to detect persons alleged to be terrorists and other persons-of-interest. Similarly in Thailand, CCTV has been used to monitor civil society representatives, academics, and opposition politicians involved in democracy movement protests. Across the region, the heightened monitoring of private speech on social media and video monitoring of public spaces, including universities and schools, to ensure compliance with government narratives further restrict civic spaces that have previously been safe havens for freedom of expression.

State control of internet platforms through internet shutdowns, signal jams, and censorship has also become a common CT & P/CVE and broader national security tool to suppress political opposition and control public information. In Hong Kong, Myanmar, and Indonesia, public authorities have blocked certain internet platforms, including civil society organization web pages and communications. Governments have not only restricted access to the internet or certain internet platforms, but have also promulgated state propaganda and implemented comprehensive disinformation campaigns against civil society organizations through social media and government-sponsored media entities. For instance, in southern Thailand, state security forces established an information operation that created false social media accounts and websites to target

human rights defenders and civil society representatives, denouncing them as insurgents and sympathizers.

Participants from the Philippines, Singapore, Indonesia, Thailand, and Vietnam observed how technology companies like Meta and Google have played a significant role in facilitating governmental surveillance and censorship. Technology companies have been cooperating closely with the governments in monitoring and moderating online content, including taking down content on their platforms that governments deem harmful to national security or critical of governments' security policy including their CT & P/CVE approach. In addition, technology companies are complicit in allowing, or failing to control, government-funded or government-affiliated cyber troops and trolls that target dissidents and activists with content carrying threats and hate speech.

Participants lamented that neither states nor technology companies have been held accountable for the misuse of technologies in the CT & P/CVE space to target and smear political dissidents, human rights defenders, and other civil society actors. They did note that some strategic litigation efforts remain pending. For instance, in Myanmar, Rohingya refugees have brought a class action case in the United States against Meta (Facebook) for enabling violence and hate speech.

Participants called for further accountability efforts not just for the misuse of new technologies and personal data to crack down on civic space, but also for the transfer of such technologies and underlying information to abusive regimes. They suggested that one way forward might be encouraging sanctions on these regimes, including blocking software used to repress rights or other international pressure. They also emphasized the need for civil society organizations to develop resilient strategies for circumventing surveillance, censorship, and internet shutdowns.

KEY FINDING #4

States authorize, condone, or endorse arbitrary detention, extrajudicial violence and judicial harassment as part of CT & P/CVE implementation, resulting in an entrenched culture of impunity and significant due process and fair trial violations.

Across the region, the enforcement of CT & P/CVE laws and regulations have resulted in arbitrary detentions, serious due process violations, and in some cases, even extrajudicial killings. In particular, participants from the following countries reported incidents of arbitrary detention and state violence under the guise of CT & P/CVE: Cambodia, Hong Kong, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

In some areas, emergency decrees legitimize arbitrary detention and judicial harassment measures, allowing law enforcement forces to arbitrarily detain suspects for prolonged periods and to enact arrest, search and seizure operations absent traditional due process safeguards. In South Thailand, for instance, martial law and emergency decrees are enforced in an overlapping and cumulative way, enabling arbitrary detention and in some cases, prolonged secret detention in military compounds. In Indonesia, pre-trial detention under the Anti-Terrorism Law is permitted for up to 221 days. In Singapore, detention may be extended by two years in any case where the minister views that the act at issue was “prejudicial to Singapore.” Similarly, some individuals in Hong Kong involved in the Pro-Democracy movement have been held in detention for almost two years. Even though many countries have anti-torture laws, suspects of terrorist associations are often deprived of their freedom from torture or cruel, inhuman, or degrading treatment or punishment, with some being subject to unnatural deaths in detention. In addition, they often have no access to attorneys or family visits.

Governments in the region have also used counter-terrorism or counter-insurgency framing to justify instances of extrajudicial killings or disproportionate sentencing. Participants in Indonesia, the Philippines, Myanmar, and Thailand also identified incidents of extrajudicial killings. In Myanmar, the death penalty is being imposed alongside the military’s extrajudicial killings. In South Thailand, individuals are subject to disproportionate sentencing, with some being subject to 150 years imprisonment for legitimate protest activities. In some instances, the use of overreaching CT & P/CVE laws to target civil society has caused mass displacement—e.g., in Indonesia, mass internal displacement from Papua to mainland, and in Hong Kong, significant migration abroad, with record numbers seeking asylum. Participants from Myanmar and Thailand observed that dissidents and asylum seekers from these countries were being denied protection and safe haven in neighboring countries like Laos and Vietnam, and vice versa.

Arbitrary interpretation and discriminatory enforcement of CT, P/CVE and counter-insurgency measures erode the rule of law and increase distrust in law enforcement among affected communities. Participants also noted the lack of opportunities for appeals and/or compensation for detainees and prisoners, including those who were wrongfully charged or subject to fabricated evidence and perjured statements. In Indonesia, political prisoners coming from Papua have no right to legal remedy after their release. Many do not have a social safety net and face further socioeconomic and reputational consequences for their detention, even when the detention was unlawful. In Cambodia, the courts are affirming state security activities including arbitrary detentions and the use of force, particularly where such measures have been applied against designated “terrorists” and “rebels.”

Participants called for increased monitoring at the ASEAN level of arbitrary detention, extrajudicial killings, and other forms of state violence and judicial harassment, and the need for further accountability through an independent judicial system. They

also underscored the important role to be played by foreign donors providing technical assistance to these states' security sector apparatuses, cautioning against the dangerous legitimization of such harmful state activities through foreign aid.

KEY FINDING #5

States abuse terrorism and extremism designations and tools to repress political dissidents, indigenous and land rights activists, and ethnic minorities.

Governments often use the language of unlawful terrorist or extremist association to justify repressive actions against political opponents or dissidents. Participants from Cambodia, Laos, and Vietnam cited examples where political dissidents and human rights defenders have been prosecuted or otherwise smeared with terrorist-related accusations. In Vietnam, the Ministry of Public Security utilizes terrorism and other criminal code articles to target dissidents, especially those who question the authority and legitimacy of the Communist Party of Vietnam. National protest organizers and participants have often been referred to as 'terrorists' by state media. Similarly, the Cambodian government frequently identifies political opposition as "terrorism" in order to legitimize physical and digital attacks against opposing or alternative political groups. In Indonesia, the Free Papua Organization and other affiliated organizations have been designated as a terrorist group, with increasing military personnel being deployed to Papua in response to the stated threat posed. In Myanmar, the armed forces have long used terrorism designations to legitimize their violent suppression of pro-democracy opposition. In Hong Kong, the National Security Law with sedition and terrorism grounds has been used systematically to silence democracy advocates and human rights defenders, all but eliminating the presence of civil society.

States in the region have also implemented policies to enable or turn a blind eye to groups that target alleged terrorists—thus facilitating horizontal and decentralized violence. In Myanmar, for example, the illegal military junta recently passed a gun ownership bill that allows citizens to obtain firearms with the permission and supervision of the armed forces. The bill aims to arm pro-military militias and loyalists, allowing them to fight opposition forces that the Myanmar military considers 'terrorists.' The bill was introduced when the military lost ground against opposition forces. The current political situation is expected to increase horizontal violence and the magnitude of ongoing human rights violations and atrocities.

Ethnic minorities are often caught in the dragnet and disproportionately targeted by CT & P/CVE measures. For instance, in Indonesia, Shia, Persian, and other ethnic and religious minorities are often the target of repressive CT measures and rhetoric. In particular, Poso continues to be a center of polarization between religious minorities, with public authorities increasingly invoking terrorism language and framing Poso as a terrorist birthplace. In the Philippines, participants fear that the Anti-Terror Act is likely to have a harmful and even deadly impact on the country's Muslim minority. Participants from other regions also claimed that some governments—e.g., Myanmar, Thailand, and China—are supporting one another transnationally to legitimize the misuse of CT & P/CVE measures to suppress ethnic minorities.

Several conflicts in the region are driven by access to land and resources. Many emerge due to the implementation of major development projects that forcibly displace local and indigenous communities. Governments in Indonesia, Cambodia, and the Philippines in particular have used counter-terrorism as a basis to prevent local communities from mobilizing and addressing their grievances. In Myanmar, the military has labeled ethnic resistance groups as 'terrorists' to justify conflicts against ethnic minorities; many of these counter-terrorism operations are motivated by land control for de-

velopment projects such as gas pipelines and dam construction. In Indonesia, participants identified that ExxonMobil, a multinational oil and gas corporation, has increased its regional presence and reportedly caused the dispossession of the lands of local communities. Local communities have protested against land-grabbing and environmental degradation. In Papua, the state targets these land rights activists as terrorists to override community dissent. In the Philippines, the state targets indigenous groups to facilitate land-grabbing, weaponizing CT by designating members of these groups as terrorists. Indigenous peoples are often displaced and their schools and other programs closed on the basis of protecting against violent extremism and radicalization. Assemblies of indigenous people are often viewed by the state as inherently suspect.

Participants called for remedy and redress not just for the wrongful targeting of these individuals as terrorists or extremists, but also in the case of land grabbing, for the return of their lands and natural resources or full monetary compensation. Although participants recognized were some discrete instances of good practice in this regard—e.g., legal programs for indigenous peoples to seek remedies—they felt that such programming failed to address the root causes of the challenges, including the lack of human rights due diligence and impact assessments prior to the adoption of repressive measures.

KEY FINDING #6

The weaponization of CT & P/CVE measures disproportionately affects women and LGBT+ rights defenders and more broadly, women and children.

CT & P/CVE policies have negatively constrained civic space, in turn affecting women and LGBT+ rights activities. Participants observed that repeatedly, women and LGBT+ civil society organizations

have been explicitly targeted as extremist in several states' P/CVE policies—often stifling their voices and strategic priorities advancing gender equality.

Participants from Malaysia, Thailand, Myanmar, and the Philippines emphasized that the intersectionality of religion and gender identity is critical to understanding CT & P/CVE enforcement in practice in those countries. In Malaysia, the draft P/CVE national action plan classifies all LGBT+ individuals as "extremists." In Thailand and Myanmar, women are broadly excluded from political decision-making processes and in some cases, women's political objectives are framed as hate speech. In Myanmar, particularly under the military junta regime, extremist Buddhist groups sponsored by the military promote religiously conservative policies against LGBT+ and women empowerment.

Participants expressed common concern about the increasing cases of sexual and gender-based violence and rape in conflict settings in the region, which are increasingly treated as conflicts with a CT overlay. Internally displaced women are often raped and subject to sexual violence by military forces. The vacuum of accountability and the rule of law deficiencies in these conflict areas—often due to the exclusionary and secretive nature of the CT & P/CVE apparatus—may deprive sexual violence survivors of mechanisms to seek justice or report violations. In Myanmar, the junta crackdown on the Civil Disobedience Movement, rape, and sexual violence are increasingly used as weapons of war. In junta-built interrogation centers, detainees, mainly women and LGBT+ people, are often subject to sexual violence.

Although most direct victims of counter-terrorism and counter-insurgency conflicts are men, members of their families and communities bear significant impacts of the conflicts., including with respect to their core social, economic, and cultural rights. Participants from Myanmar and Thailand observed the disproportionate downstream harms to women who lack formal education, who are already discriminated against by the state due to their ethnic, language, and socioeconomic backgrounds.

Participants also noted a recent rise in juvenile cases in which children are being charged and jailed for CT & P/CVE-related offenses. Indeed, in Thailand, children as young as 14 years old can be found liable for terrorism-related offenses.

Militarized and securitized CT & P/CVE approaches have masculinized security policy discourse in the region and shunned women's political space on all sides of ongoing armed conflicts. At the same time, the lack of women representation in the security governance and policy formulation weakens CT & P/CVE efforts and the rebuilding of affected communities. The failure to consider and incorporate gender lens to CT & P/CVE and peacebuilding work generates and results from the narrow scope of conflict resolution.

Participants called for gender and sexual orientation issues to be placed at the forefront of the regional and national CT & P/CVE agendas to ensure the empowerment of such initiatives in the highly securitized area. They emphasized the particular importance of such mainstreaming and sensitivity in the context of lengthy conflicts such as Southern Thailand, Philippines, and Myanmar, including by drawing from lessons learned by the Women, Peace, and Security agenda in the region and implementing feminist peacemaking and peacebuilding and security policy alternative approaches.

KEY FINDING #7

Counter-terrorism financing measures cripple civil society organizations.

Participants from several countries noted that CT financing laws had created unduly burdensome registration and reporting requirements for civil society organizations. By way of example, in Thailand, a Draft Law on the Operation of Not-for-profit Organizations, reportedly proposed to ensure compliance with the FATF Standards, imposes burdensome re-

porting and registration requirements on civil society organizations, particularly those who receive foreign funding. In the Philippines, the Security Exchange Commission requires mandatory disclosure of expansive information about stated projects, including intended beneficiaries, donor information, etc., and this information is shared with the Financial Intelligence Unit, the Anti-Money Laundering Council, and other government entities.

Standard counter-terrorism policies and practices across the region include financial sanctions, ex parte freezing of funds (often without investigation or an ability to appeal), mandatory reporting requirements, and government audits of "suspect" NPOs. Several participants observed how the Financial Action Task Force Standards (FATF Standards) in particular were invoked by their governments to justify these restrictive measures. Many participants voiced confusion as to why and to what extent the FATF Standards should apply to their organizations, noting that they had not seen any risk assessment indicating the vulnerability of their sector to terrorist financing. Some participants, including from Indonesia, noted that the emergent counter-terrorism financing and anti money laundering requirements appeared duplicative of existing registration and reporting regulatory requirements for the non-profit sector. All participants noted that there was little to no consultation with the public when it came to the adoption of these counter-terrorism financing requirements.

Participants from the Philippines, Indonesia, Malaysia, and Myanmar observed how banks and financial intermediaries were part of the problem as they generally err on the side of overcompliance and a zero-risk approach out of fear of liability. In this manner, banks may block bank transfers and close bank accounts even on the slightest suspicion that the entity or individual may fall into a suspect category like politically exposed persons or affiliates of designated organizations. Participants from Thailand and Myanmar noted that in addition to small, community-based civil society organizations, international non-governmental organizations and foun-

dations are increasingly at risk of being subject to de-risking measures on this basis too.

Participants from Myanmar, Cambodia, and the Philippines observed that terrorism financing has also become a common charge for prosecuting human rights defenders, democracy advocates, and land rights activists. In Myanmar, military junta officials have expressed intent to charge with terrorist financing all individuals or entities who donate to perceived anti-military groups or purchase bonds from the shadow National Unity Government, thereby leveraging terrorism financing as legal grounds to arrest and prosecute civilians who are against military rule. In Cambodia, environmental activists of Mother Nature were charged with “terrorism financing” for filming the flow of raw sewage in the Tonle Sap river. In the Philippines, large swaths of human rights defenders and religious entities, including 16 individuals from the Rural Missionaries of the Philippines, are being prosecuted under terrorist financing charges. Many civil society organizations in the Philippines have also had their offices shut down or raided by the police and bank accounts frozen—with no remedies to appeal—and have been falsely criminally charged.

As a result of these counter-terrorism financing restrictions, administrative measures, and prosecutions, some participants from Myanmar, Thailand, and the Philippines have resorted to transferring funds through MoneyGram, WesternUnion or remittances through foreign organizations and small grant and civil society support networks. Participants observed how this movement into the informal economy appears to be counterproductive to the objectives of enhanced transparency, but was the only way to continue to provide essential humanitarian and human rights services to affected communities.

Participants called for public consultation and civil society engagement in the non-profit sector risk assessment even prior to the adoption of counter-terrorism financing measures. They also advocated for increased and sustained access to the Asia/Pacific Group on Money Laundering, the Financial Action

Task Force-style regional body of which most participants’ governments are members. They sought in particular for overregulation and human rights violations committed in the counter-terrorism financing context to be somehow accounted for in mutual evaluations.

KEY FINDING #8

CT & P/CVE measures hinder the work of peacebuilders and humanitarian providers and further facilitate cycles of violence.

Participants stated that governments in some states have deliberately blurred the distinctions between armed conflict and terrorism and combatants and non-combatants. This has particularly affected the countries ravaged by civil wars, non-international armed conflicts and insurgency movements over the past decade, including Indonesia, Myanmar, Philippines, and Thailand. Indeed, in many countries, the long-standing counterinsurgency approach has been reset or repurposed as a CT strategy. For instance, in the Philippines, the communist party has been designated wholesale as a terrorist organization and non-armed, non-combatant civilians who are critical of the government are red-tagged arbitrarily as armed members. Even a community doctor has been designated as a terrorist. In Myanmar, the junta has adopted a multi-pronged strategy involving judicial harassment, internet and service cutoffs, transportation and financing blockages, in effect cutting off food and other humanitarian assistance in the designated conflict zones on the basis of counter-terrorism. In 2021, when the Indonesian government declared the Free Papua Organization a terrorist group, it increased the number of military personnel deployed to Papua, despite no longer being a formally designated military or conflict area.

The encroachment of CT & P/CVE framing into situations of armed conflict has resulted in designation of an increasingly wide range of purported sympa-

thizers and supporters. Participants reported that civil society work on CT & P/CVE issues could put them on the 'wrong side' of the conflict and risk being perceived by the states as apologists for terrorist groups. In reality, peacebuilders, humanitarians and even mediators operating in conflict-affected areas are being squeezed between all sides and are often targeted by both state and non-state actors involved in the conflicts. In the Philippines, CT measures were wielded against combatants and applied to perceived supporters and sympathizers and to activists, legal cause-oriented groups, and broad civil society.

The downstream harms of such state categorization have undermined humanitarian and peace work, with particularly negative ramifications for already marginalized groups, including feminist peacebuilders, minority community organizers and other local communities' voices. Participants from Thailand and Myanmar argued that such exclusionary processes were one of the main reasons that the peace processes have failed to achieve any significant, meaningful result. Indeed, according to participants, militarized and securitized CT & P/CVE not only risk prolonging conflicts, but also further escalate instability and deepening grievances. This also permits neighboring states to interfere, using historical/ethnic tensions to prolong instability while at the same time drawing from the newer counter-terrorism framing to ignore the historical context of grievances and injustices, making it easier to mobilize the electorate's support for its security policy.

Participants called for CT & P/CVE policies in the region to consider the security risks and obstacles faced by peace and humanitarian workers and facilitate greater civic space for grassroots conflict resolution, truth and reconciliation, and community development. They called for more transparent and inclusive peace processes with direct involvement of affected, grassroots communities, and express exemptions of protected humanitarian and human rights activities.

KEY FINDING #9

Governments in the region need to be held accountable for human rights violations committed in the CT & P/CVE context and for state-sponsored terrorism.

All participants expressed serious concern about the entrenched culture of absolute impunity in their national settings and the inadequacy of existing domestic judicial remedies and compensation for the violations set out above. Some participants, including from Myanmar, the Philippines, Thailand, Laos, Cambodia, and Hong Kong observed that despite concerted advocacy efforts with the UN Human Rights Council, Special Procedures Bodies and Human Rights Treaty Bodies, limited in-country progress had been made and no monetary compensation granted for the international human rights law and international humanitarian law violations committed by their governments in the CT & P/CVE context. Rather, they feared increased intransigence on the part of their governments even in the face of international and foreign criticism.

In addition to the lack of accountability for human rights violations committed in the CT & P/CVE context, some participants, including from Myanmar, the Philippines, and Thailand, claimed that the lack of recognition of state-sponsored terrorism by national and international counter-terrorism frameworks makes it difficult for civil society actors to squarely address rights violations in this context and further perpetuates security challenges in settings where it is in fact state security actors enacting terrorism and violent extremism. Participants pointed out the limitations of framing state-enacted violence through extra-judicial killing, arbitrary arrests and detention, and legal immunity for rights violations committed by government officials or government-supported individuals. They argued that many atrocities committed by their governments meet most elements of terrorism and violent

extremism offenses. With the current realities, a significant number of the participants during the consultation stressed the importance of international bodies recognizing terrorism where the state is itself responsible for inciting terror.

One prominent observation across themes was transnational or intergovernmental cooperation in CT & P/CVE efforts and their shared responsibility for human rights violations and international crimes. Indeed, states frequently cooperate across borders to repress human rights defenders and other activists. For example, Thailand has an apparent cooperation policy with Myanmar whereby dissidents and asylum seekers are being denied civilian protections. In other settings, governments readily share sensitive personal and financial information across intelligence units and security actors, thus enhancing surveillance and other invasive CT & P/CVE measures against their nationals. On top of that, governments utilize state cooperative agreements and relationships to abuse technologies such as the internet and social media platforms in order to prevent foreign nationals in the digital space from reaching beyond their borders.

Participants called for further UN and other international documentation of human rights abuses in the CT & P/CVE context, and more creative forms of strategic impact litigation in domestic, regional and international judicial forums. They called for ensuring the joint responsibility of not just states, but also the private sector and regional and international organizations potentially complicit in such human rights abuse.

Recommendations

Member States

- Create platforms for sustained and meaningful engagement of civil society groups and the general public in the design and delivery of national and regional CT & P/CVE policies. Civil society should also be

included as an integral part of the formulation and monitoring of CT & P/CVE policies.

- Equip all CT & P/CVE policies with independent monitoring and evaluation mechanisms to assess their impacts on civic space and broader human rights compliance. This should include all sectors including government entities with more civic space and human rights expertise.
- Redirect public financing from state-led propaganda and public information campaigns that exclude civil society engagement, to genuine public education campaigns that inform citizens of genuine, empirically identified terrorism and violent extremism risks and narrowly tailored, related CT & P/CVE measures.
- Exempt humanitarian, peacebuilding, and human rights activities—including legitimate political dissent—from CT & P/CVE designations and counter-terrorism financing and sanctions measures.

Civil Society

- Build national and regional coalitions, alliances, and public interest groups focused on documenting and sharing lessons learned on the impacts of CT & P/CVE on civic space and civil society and paths for resistance, noting the interface between CT & P/CVE and peace work, development, environmental protection, and broader human rights issues. Engage with existing civil society coalitions to identify common causes and advocacy points and to amplify national and regional voices in international counter-terrorism platforms.
- Engage with the ASEAN Working Group, FATF and APG, GIFCT and other intergovernmental regional and international bodies designed to address specific CT & P/CVE thematic areas in the region. Where such bodies are unwilling to engage with civil society meaningfully,

implement independent periodic review and shadow assessments, such as an 'ASEAN report card', on member states' civil society engagement and human rights compliance in the implementation of CT & P/CVE measures.

- Develop flexible approaches to security policy engagement depending on the extent of governmental openness to civil society. Where state actors are more friendly, take a 'soft approach' and engage with government entities for security policy reforms and discuss how to advance the necessary reforms together. Meanwhile, prepare a tactical or 'hard approach' when the doors to engagement are closed, by mobilizing support groups through public campaigns and ensuring that the demands are clear and specific.
- Initiate expansive public information campaigns to build grassroots resistance through counter-narratives utilizing social media and other media outlets, including by centering the experiences of victims of CT & P/CVE misuse and abuse.
- Engage with donor countries to ensure human rights impact assessments and due diligence are implemented prior to financial assistance or capacity-building programming supporting counter-terrorism and security entities operating in the region.

AESAN

- Publish annual reports from each member state and from Senior Officials Meeting on Transnational Crime ("SOMTC") on national implementation of the ASEAN Plan of Action to Prevent and Counter the Rise of Radicalisation and Violent Extremism (2018-2025).
- Ensure participation of civil society in the implementation of the Plan of Action and the subsequent Work Plan, as indicated in

these documents. Build capacity for civil society and public feedback and reporting on counter-terrorism frameworks.

- Direct more funding to human rights and women, sexual orientation, and gender identity mainstreaming and sensitivity training in regional CT & P/CVE programming initiatives, including by ensuring more crossover and integration between the ASEAN Plan of Action to Prevent and Counter the Rise of Radicalisation and Violent Extremism and ASEAN Plan of Action on Women, Peace & Security.

Private Sector

- Meaningfully engage with civil society representatives to better understand how state interference with and interventions on social media and other technological platforms affect civic space.
- Implement human rights impact assessments and other due diligence measures prior to entering any cooperation agreements with state entities, including to protect against unlawful disclosure and transfer of private information or complicity in state human rights violations of the rights to freedom of association and expression and right to privacy.
- Institute internal grievance mechanisms so that civil society can lodge complaints regarding misuse of biometric data and other personal information, content moderation, surveillance, and other uses of emerging technologies.

UN & Other International Organizations

- Integrate human rights mainstreaming of CT & P/CVE initiatives with broader SDG and development priorities, including environmental and socioeconomic

programming, as well as with respect to rule of law and good governance reforms in the PVE space.

- For FATF and APG: Develop guidelines on the requisite civil society engagement under the FATF standards and institutionalize paths for sustained, meaningful civil society participation in the FATF and APG, not just during mutual evaluation and follow-up review processes.
- Consolidate and publish global findings on the extent to which the private sectors, particularly telecom and Big Tech companies, cooperate and collude with governments to suppress political dissidents, human rights defenders, and other civil society actors through surveillance and censorship in the name of CT & P/CVE.
- Enhance civil society engagement and consultative processes with UN country offices, as well as corresponding CT entities in New York.