

THEMATIC BRIEF: THE IMPACT OF THE USE OF COUNTER-TERRORISM AND PREVENTING & COUNTERING VIOLENT EXTREMISM MEASURES ON WOMEN HUMAN RIGHTS DEFENDERS

Prepared to Inform the Global Study on the Impact of Counterterrorism on Civil Society & Civic Space by the United Nations Special Rapporteur on the Promotion & Protection of Human Rights & Fundamental Freedoms While Countering Terrorism

In 2022 the UN Security Council hosted its first-ever Open Debate on the issue of violence and reprisals against women in the context of peace and security processes. Yet as the Special Rapporteur and the UN Secretary-General have both previously observed, the debate failed to consider the connection between reprisals against women—and women human rights defenders in particular—and counter-terrorism measures. This thematic briefing aims to contribute to the much-needed analysis of the pervasive (mis)use of reprisals against women human rights defenders (WHRDs) and women-led civil society under the guise of efforts to counter terrorism and violent extremism. The UN human rights machinery engages in a range of activities with the potential to track State responses to terrorism and violent extremism as it impacts WHRDs, but to date we lack a comprehensive overview of the ways various UN mechanisms have addressed or have failed to address the misuse of these measures. To that end, this briefing paper focuses on the UN Human Rights Treaty Bodies and the Special Procedures of the UN Human Rights Council. It documents the ways in which these mechanisms have called attention to the impact of counter-terrorism measures (CTMs) and measures to prevent and counter violent extremism (P/CVE) on women-led civil society. In doing so, it analyzes recommendations made by these bodies in terms of the extent to which they focus on CTM's impact on women civil society's weaknesses (or vulnerabilities) and, if noted, its strengths (or capacities) (Anderson 1998). Where appropriate, recommendations concerning the intersectional impacts of CTMs and measures to P/CVE are highlighted, even if the UN human rights mechanisms did not themselves adopt an explicitly intersectional approach.

UN Human Rights Treaty Bodies & Women Human Rights Defenders

Each of the nine core international human rights treaties are monitored by reviewing committees—Human Rights Treaty Bodies (HRTBs)—that, among other functions, receive periodic reports from the member states on their human rights practices. All HRTBs publish concluding observations (COs) following review of

State reports. These COs contain recommendations for specific reforms a government should undertake to address the full implementation of treaty obligations and address shortcomings. This study focuses on three HRTBs and their recommendations to States parties: the Human Rights Committee (HRC), which monitors implementation of the International Covenant on Civil and Political Rights (CCPR); the Committee Against Torture (CmAT), which monitors implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and the Committee on the Elimination of Discrimination Against Women (CmEDAW), which monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

All concluding observations adopted by the HRC and the CmAT between 2002 and 2022, and the CmEDAW between 2010 and 2022 were examined for explicit references to security measures or practices as they impacted *women* human rights defenders. Perhaps due to their broader mandates, the CmAT and HRC rarely address or call attention to the impact of security practices on WHRDs in particular. In only one instance did it note the effects that measures regulating the existence of civil society organizations (CSOs) may have on women led civil society, and then only in the context of identifying one affected women's CSO among several others.¹ Similarly, the HRC has drawn explicit attention to the impact of security measures or forces on WHRDs in only five instances, primarily in the context of calling attention to physical, verbal, and judicial harassment of HRDs generally, and the use of security measures to target women activists in particular.² In only one instance, however, did the HRC's recommendations call on the State to adopt a gender-sensitive approach to address these concerns.³

In contrast, and understandable given its specialized women's rights focus, the CmEDAW more frequently calls attention to reprisals against WHRDs, with this study documenting sixty-six concerns voiced over twelve years. However, only a little over a third of these explicitly connected such reprisals to the use of security measures or forces to target WHRDs (twenty-nine concerns and recommendations in total). Those that do largely address reports of physical and occasionally judicial harassment of WHRDs in the context of security operations, calling attention to the different manifestations of violence, such as threats, intimidation, defamation campaigns, sexual abuse, harassment, and killings by State agents, to which WHRDs are subjected.⁴ Several also call attention to the ways in which laws or regulations related to non-profit or civil society organizations as well as CT

¹ CAT/C/ETH/CO/1 (2010), para. 34.

² See, e.g., CCPR/C/ARM/CO/3 (2021); CCPR/C/CAF/CO/3 (2020); CCPR/C/RUS/CO/8 (2022); CCPR/C/SLV/CO/7 (2018); CCPR/C/UKR/CO/8 (2021).

³ CCPR/C/CAF/CO/3 (2020)

⁴ CEDAW/C/CHL/CO/7 (2018), para. 30; CEDAW/C/COL/CO/8 (2013), para. 23; CEDAW/C/COL/CO/9 (2019), para. 17; CEDAW/C/HND/CO/8 (2016), para. 28; IND5, para. 38; RUS8, para. 29; LKA8, para. 24; SYR2, para. 29.

legislation and public emergency regulations “might negatively impact women’s civil and political rights,”⁵ be used to “convict women human rights defenders and sentence them to lengthy prison sentences,” or “grant immunity to police and military officers, thus giving them the right to act with impunity” in a way that negatively effects “women’s outreach and their right to freedom of expression.”⁶ The Committee has in some cases called attention to the intersectional impact of CTMs by, for instance, noting that “anti-terrorism legislation has been applied disproportionately to criminalize certain acts by indigenous women in connection with the assertion of their rights, including their rights to ancestral lands.”⁷ Similarly, it has voiced concerns when it receives reports that WHRDs “advocating for the rights of lesbian, bisexual, transgender and intersex women and women journalists are often subjected to arrest, physical assault, threats, intimidation, harassment and the freezing of assets.”⁸

In response, the CmEDAW has called on States parties to ensure that WHRDs and activists are able to freely carry out their work and create an enabling environment for them to advocate for women’s human rights. This includes, *inter alia*, systematically investigating cases of reprisals, harassment, and restrictions against WHRDs by public officials, “including gender-based violence and ill-treatment in detention by law enforcement officials.”⁹ When security legislation or regulations relating to CSOs are involved, the Committee calls on States parties to amend or repeal “undue restrictions placed on civil society and the press”¹⁰ and revise and simplify registration requirements for CSOs, “especially those focused on gender equality.”¹¹

UN Special Procedures & Women Human Rights Defenders

The Special Procedures of the UN Human Rights Council are a set of independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.¹² This study analyzed the work of all Special Procedures mandate holders in drawing attention to the impact of security

⁵ COD8, para 42

⁶ FJI4, para. 12.

⁷ CHL7, para. 30

⁸ TUR8, para 39

⁹ COD7, para. 10; HND9, para. 31; PAK4, para. 14; RUS8, para. 30; TUR8, para. 40

¹⁰ FJI5, para 22; see also UGA9, para. 34.

¹¹ UZB4, para 18.

¹² There are presently 45 thematic and 14 country mandates, which undertake a range of activities that contribute to the development and monitoring of international human rights standards. Special Procedures mandate holders undertake country visits, engage in advocacy, raise public awareness, provide advice for technical cooperation, and act on individual cases of reported rights violations or concerns by sending communications to States and other actors.

measures on WHRDs within their communications—or letters—to governments, in which the experts report on allegations of human rights violations, either ongoing or potential, as well as voice concerns about draft or enacted laws, policies, or practices. In the context of this study, the communications contain extraordinarily granular legal analyses of State security measures and practices and **how** and **why** they raise human rights concerns with detrimental effects for a vibrant civic space. Seventy of the 477 communications to States reviewed for this study explicitly addressed the impact of security measures or forces on WHRDs. All these communications addressed reports of overlapping forms of physical, verbal, and judicial harassment of WHRDs in the context of security measures or operations.

Notably, most of these communications simply note that the HRD targeted is a woman or a defender of women’s rights. However, a few do adopt gender-sensitive frameworks to analyze the manifold and intersecting effects of security practices on women led civil society. The Special Procedures mandate holders have at times documented the routine misuse of security measures to target WHRDs on the basis not only of their legitimate human rights work, but also on account of their gender. Drawing from a report of the Working Group on discrimination against women and girls (A/HRC/23/50), they note that “stigmatization, harassment, and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians.”¹³ Further drawing from the findings of the Working Group on discrimination against women and girls (A/HRC/41/33), Special Procedures mandate holders at times highlight that “measures to combat terrorism and national security measures sometimes profile and target women, in particular those from certain groups, and sometimes even women human rights defenders” and that States must ensure that CTMs “incorporate a women’s human rights focus and do not instrumentalize women’s deprivation of liberty for the purposes of pursuing government aims.”¹⁴ Where relevant, communications note that this impact is exacerbated for women from indigenous and minority groups, who face additional and intersecting forms of discrimination and harassment.¹⁵

Communications frequently draw attention to General Assembly resolution 68/181, in which UN Member States raised concerns about systemic and structural discrimination and violence faced by women human rights defenders. The communications further call on States to ensure the protection of women human rights defenders and to integrate a gender perspective into all efforts to “create a safe and enabling environment for the defence of human rights.”¹⁶ This gender perspective should include, *inter alia*, “comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women

¹³ IND 5/2021, p. 8

¹⁴ RUS 10/2022, p. 10.

¹⁵ See, e.g., *Ibid.*, pp. 2-3.

¹⁶ EGY 14/2018, p. 11; IND 17/2019, p. 9.

defenders” and should be “developed with the participation of women defenders themselves.”¹⁷ A few reference the Declaration on Violence against Women and CEDAW general comment no. 35 (2017), noting the responsibility of States to exercise due diligence to prevent, investigate, and punish appropriately acts of violence against, especially when perpetrated by State actors, and to provide adequate compensation and/or reparations without delay. Where relevant, the Special the Working Group on Enforced or Involuntary Disappearances General comment on women affected by enforced disappearances (A/HRC/WGEID/98/2) to highlight the “differentiated effects of enforced disappearances in women and girls.”¹⁸

The Special Procedures mandate holders occasionally call attention to governments’ obligations under CEDAW article 7(c), to take steps to eliminate discrimination against women in political and public life and to ensure women the right to participate in non-governmental organizations and associations.¹⁹ Occasionally, communications will note that limitations on access to foreign funding severely restrict the existence of NGOs and that such restrictions particularly affect human rights and women’s organizations.²⁰

When communications relate to the treatment of WHRDs in detention, the Special Procedures mandate holders typically reference the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) (GA Res. 65/229). Communications flag the principle of non-discrimination, which requires States to address the unique challenges that women prisoners face by taking into account women prisoners’ gender-specific needs, in particular through provision of “gender-specific health-care services.”²¹

Conclusion

The HRC has taken a welcome lead in increasingly raising concerns about the systematic effects that continued efforts to counter terrorism and new measures to prevent and counter violent extremism have had on civic space, but it has missed noteworthy opportunities to incorporate a gender-sensitive approach by calling attention to the distinct impacts such practices have had on women led civil society. In contrast, the CmEDAW has consistently called attention to reprisals against and harassment of WHRDs and women civil society actors more generally,

¹⁷ IND 5/2021, p. 10; PHL 1/2021, p. 11; SAU 6/2021, p. 24.

¹⁸ RUS 10/2022, p. 8 (“In particular, States must acknowledge disappeared women, and recognize the particular types of harm they suffer based on their gender, including instances of sexual violence, and the resulting psychological damage and social stigma as well as the disruption of family structures.”).

¹⁹ ETH 2/2015, p. 4.

²⁰ SRB 3/2020, p. 5

²¹ EGY 2/2021, p. 7

but has yet to explicitly and systematically reflect on the impact of security and CTMs on the lives of women and girls. This is regrettable given the data the Special Rapporteur has gathered on this issue. However, the Special Rapporteur notes the positive steps the CmEDAW has taken to begin to incorporate an intersectional approach in raising concerns over the impact of security measures on minority and indigenous women activists in particular.

The Special Procedures mandate holders have more extensively addressed the misuse of security measures to target civic space and their distinctive impact on WHRDs, but has not done so systematically across States and communications. In particular, most communications that addressed harassment of various sorts against WHRDs did no more than note the individual was a woman. Consistent and sustained attention to the specific vulnerabilities faced by WHRDs across communications to States by all mandate holders is necessary to document these trends and to make crystal clear the distinctive responsibilities States have in these contexts. Finally, within the communications reviewed for this study at least, Special Procedures mandate holders did not attend to the distinctive capacities and strengths that *women* HRDs offer to both respond to misuse of security measures against civil society and to government efforts to counter terrorism and violent extremism. Given that the Special Rapporteur has emphasized the critical role that civil society actors writ large play in such efforts, the absence of attention to the unique capabilities that women civil society actors bring to the table is noteworthy. The Special Rapporteur calls on all mandate holders to consider explicitly and systematically highlighting not only the gender-specific vulnerabilities of WHRDs, but their strengths as well.