

Outcome Document of the

**WEST, EAST, AND CENTRAL AFRICA 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 organizations asked not to be named due to security concerns.

- Action Locale pour un Développement Participatif et Autogéré (ALDEPA)
- AfricanDefenders (Pan-African Human Rights Defenders Network)
- Alliance pour la Paix et la Sécurité (APAISE)
- Association des Femmes Africaines pour la Recherche et le Développement (AFARD)
- Bureau de Conseils, de Formations, de Recherches et d'Etudes (BUCOFORE)
- Center for Conflict Resolution (CECORE)
- Centre for Democracy and Development (CDD West Africa)
- Centre for Human Rights & Democracy in Africa (CHRDA)
- Centre for Human Rights and Policy Studies (CHRIPS)
- CERCLE-DEV
- Collectif contre l'impunité et la Stigmatisation des Communautés (CISC)
- Common Action for Gender Development Cameroon (COMAGEND)
- DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
- Defenders Protection Initiative
- Haki Africa
- International Federation for Human Rights (FIDH)

- Muslims for Human Rights (MUHURI)
- Réseau Ouest Africain pour l' Edification de la Paix au Bénin / West Africa Network for Peacebuilding (WANEP Bénin)
- Spaces for Change
- Sudan Social Development Organization (SUDO)
- West Africa Civil Society Institute (WACSI)
- Women's Consortium of Nigeria (WOCON)

Introduction

In November 2022, 24 participants traveling from and/or representing 24 organizations from 11 countries across West, East, and Central Africa¹ 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, as well as their own and their families' lives, and civic space more generally. Throughout the consultation, participants discussed in depth the variety of tools used against civil society, including the use of emergency powers, judicial harassment and other measures as described throughout this outcome document. In many countries, communities and human rights groups have reported the increasing criminalization and criminal targeting of different groups, including through weaponizing of counter-terrorism legislation.

Participants underscored how countries in the region have relied on poorly defined counter terrorism legislation to silence and punish dissent. Attacks through legislation and policies have not only been directed at organisations, but have extended to attacks on civil society actors and human rights defenders on an individual basis. Participants widely documented how civil society has experienced physical harms, including excessive use of force,

¹ Kenya, Sudan, Chad, Mali, Cameroon, Nigeria, Burkina Faso, Niger, Benin, Uganda, and Ghana.

arbitrary arrest and detention, and in some cases torture and ill-treatment, and on other aspects of their lives affecting their social, cultural and financial capacity. They noted, in addition, that governments have also silenced critics through restricting the right to freedom of assembly, implementing counter-terrorism financing measures, discrediting and delegitimizing, initiating unfounded criminal accusations and judicial proceedings against CSOs, increasing surveillance, exploiting gender norms and stereotypes to discredit and exclude women civil society, and more. **A critical trend raised by participants centered around the ongoing psychological stress and pressures on civil society in the region and the impacts on family and relationships.** Governments successfully stifle work through the exploitation of fear and concern around family. The stress, psychological harm, and trauma caused by the misuse against civil society came out from a range of participants as centrally impacting the sustainability of civil society work in the region. Participants noted that in some countries, the negative impact of targeting by government stakeholders, paired with working on the frontlines of armed conflict or in the midst of credible terrorism threats have created mental health and trauma burdens that are to a level unseen to date. In addition, participants noted similar trends among the communities they serve and lack of available services and resources to address these challenges. This stress on individuals, family members, and broader communities was a grave concern among participants.

This outcome document summarizes the key findings of the two-day regional civil society consultation and concludes with specific recommendations tailored to Member States, regional organizations, 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 use anti-terrorism legislation and a diverse range of security measures to limit civil society's work and facilitate the closure of civic space, further facilitated by cooperation with international actors.

Over the past decade, States in the region have used the international and regional push for P/CVE and elected to put in place legislation that lacks specificity to meet requirements of legality and allows governments to punish groups for a wide range of conduct, including protected exercise of human rights and fundamental freedoms; and thus conduct and views seen to undermine the state can be described as terrorism. Participants observed that much of the problematic legislation is adopted as part of security sector reforms and benefit from cooperation and support from actors in the international community, including the United Nations and the European Union.

Participants expressed disappointment with technical and financial partners who may address various socio-political issues, but do not publicly denounce human rights violations or attacks against civil society and human rights defenders. Participants focused on the elements of new legislation that increase powers of the civilian police to respond to terrorism, threatening various human rights and fundamental freedoms and transforming civilian policing models into militarized and securitized approaches that do not benefit civilian and police relations, which are critical to peaceful societies. In Mali, for examples, participants discussed the National Transitional Council approved a bill in October 2022 to militarise the police as part of measures to respond to terrorism. The law permits "the deployment of national police in areas retaken by the army in order to ensure the security of the population and

their belongings and prevent the forces of evil from returning". Concern among participants and at the national level is how such measures instead of turning towards civilian policing models, revert to militarized structures as in the past, with greater access to weapons and military training. Participants raised examples of violations at the time, which have now been documented by the United Nations, such as the Malian armed forces and associated foreign soldiers allegedly summarily executed an estimated 500 civilians in the town of Moura.

KEY FINDING #2

States increasingly rely on counter-terrorism measures, as well as emergency powers, to obscure and displace the reality of complex armed conflicts.

Many participants underscored that States facing complex armed conflicts or other forms of violence often focus internally on limiting dissent and thus increasingly targeting civil society as "terrorists," including as a measure to increase political and physical control over populations. The increasing use and reliance on the terminology of terrorism in the context of armed conflicts in the region enables a number of its regulatory preferences, including proscription of groups and individuals; emergency powers that impact due process, legal proceedings and freedom of movement; and countering terrorism finance measures and limitations on freedoms of expression. Many of these measures function to exacerbate the fundamental grievances that drive violence, namely continued human rights violations and an absence of the rule of law, governance, justice or accountability institutions, which remain under addressed.

Participants underscored that these measures, including detention and arrest have historical roots in the colonial state's treatment of threats to their rule. Punitive measures and sanctions from post-colonial

states have informed current policing and sanctioning. They called for increased surveillance, and collection of data on individuals in ways that are not consistent with basic rights and principles. The treatment of suspected terrorists evokes memories of the major groups banned by the colonial government, which were later adopted by successive independence governments against pro-democracy groups. Many anti-colonial groups were labeled and treated as terrorists, and legislation put in place to address the threats they are said to pose. In Niger, the panic and fear around "terrorists" operates as the same propaganda brought forth during independence uprisings. The intention is to cause panic and stigma in the community because of fear of reprisals. In many countries, the criminal laws and systems have not been completely reformed from the colonial period, and neither has the thinking and attitudes towards state criticism. In some countries, including Sudan, some of the legal provisions put in place in colonial times have also not been changed. Participants observe that these powers remain entrenched in national legal systems, ready for activation or revision as states adopt increasingly securitized models of regulating public space and public participation. Participants thus emphasized that the language of terrorism is not new in the African context because it was used in these ways by colonial governments; in the formulation of legislation and in shaping discourse.

Many participants outlined how states of emergency have been imposed in numerous countries in the region in response to terrorism. The laws on state of emergency typically restrict movement and access to certain areas, which has been used as a pretext for arrest, detention, and extortion especially of the many civil society actors and civilians who do not understand the rules. Participants observed that police and military officers have further abused their powers and used disproportionate force when curfews have been imposed, including through mass arrests and detention without justification and against the presumption of innocence. For example, in Niger and Burkina Faso, the laws on the state of emergency restrict circulation of mo-

torcycles with Burkina Faso also prohibiting import/export of high-capacity motorcycles. This has facilitated mass arrests and extortion of the increasing number of motorcycle operators on terror-related charges, despite the widespread need for the use of such vehicles as critical the realization of social and economic rights in many communities.

KEY FINDING #3

Civil society engagement by States remains tokenistic involvement and exclusion by security actors, despite increased examples.

Although the levels of public consultation for counter-terrorism legislation vary in the region, many countries across have deficits in the meaningful participation of civil society in law-making. Communities and civil society actors have documented the use of tokenistic involvement and exclusion by security actors. For example, P/CVE frameworks are often rolled out without due attention paid to factors that drive violence and/or play on stereotypes, including ethnic, religious, linguistic, or gender stereotypes. The competencies of women and their strategic roles in P/CVE are not appreciated or even well understood and frameworks typically exclude women explicitly or limit their roles to sensitising community members through capacity building.

Participants underscored that very particular and exclusionary perspectives stem from the thinking of the State around how it considers and respond to threats. A consensus of participants spoke to how the construction of threat is premised on a set of understandings about 'what' is a threat, 'who' is a threat and how that threat manifests. Often manifestations of what, who and how overlap with individuals and groups exercising fundamental rights to participate in public affairs, protest, complain, and seek change in their countries. Participants underscored that many countries treat counterterrorism as a special or novel threat to be handled differently

from other crimes outside of normal legal process. Participants underscored the value of grounding terrorism discourses and practice in international norms as important at the national level to both push back against colonial legacies, but also to address contemporary challenges and misuse. For instance, participants underscored that Kenya took 10 years to enact its Prevention of Terrorism Act (PTA), which included interventions of civil society organizations, and integration of human rights obligations and standards. Comparatively, participants flagged that Uganda's PTA took one year to enact because of lower levels of public and CSO consultation.

KEY FINDING #4

Independent judiciaries are increasingly also challenged by State counter-terrorism measures and continue to be under-developed and resourced yet can also play a key role in preventing the misuse of counter-terrorism in the region.

Across countries in the region, participants highlighted the use of the judicial systems to intimidate human rights defenders and CSOs. Criminal proceedings were absent procedural safeguards, and are continuously delayed or postponed to intimidate, harass and wear out human rights defenders. Participants specifically highlighted the use of mass trials in Nigeria related to Boko Haram, which have been documented by human rights organizations and the UN, raise serious concerns regarding due process amidst the charges of providing material and non-violent support to the extremist group, including repairing vehicles or supplying food. Participants also raised concerns about the independence of judiciaries where fabricated charges proceed despite the lack of merit. For example, participants raised the arrest of journalists for filming/broadcasting activities related to terrorism or counter-terrorism despite the legitimate exercise of their rights as journalist and centrality of informa-

tion gathering and dissemination to their job. Participants highlighted malicious prosecutions in Kenya against human rights defenders in order to frustrate their work and deter legitimate exercise of freedom of opinion and expression and association. Numerous participants pointed to similar examples in their countries and the chilling effect on civil society, noting that weak judicial systems limit the safeguards to prevent such misuse. This includes in Burkina Faso (examples of high numbers of detainees charged with terrorism without trial) and Mozambique (inadequate remedies under the law).

Importantly, however, participants also documented cases where judiciaries have played critical roles in safeguarding civil society and HRDs from misuse. Participants highlighted cases where judges have bravely guarded against malicious prosecutions. For example, in the Kenyan case of Wilfred Olal vs the Attorney General, the High Court prohibited and permanently stayed the criminal prosecutions brought against the petitioners, HRDs arrested during a demonstration. Given this role, participants noted that the subsequent trend is for judicial officers to also experience harassment under the guise of corruption as backlash for their work in safeguarding civic space. Several participants note the raids of Nigerian High Court and Supreme Court judges in 2016 and the filing of an ex parte motion against a chief judge in advance of elections, followed by a suspension. These dynamics have affected or compromised the appointment of independent judge and even other court officers, including attorney generals.

KEY FINDING #5

Laws and mechanisms to protect human rights defenders and prevent violence against them need to be further developed to create meaningful prevention and protection mechanisms.

Although there are laws protecting HRDs in many countries, participants widely agreed that there are insufficient prevention and protection mechanisms. Importantly, participants noted that the African Commission on Human & Peoples' Rights, has established "Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa." While this tool was flagged as an important step for States to prevent and counter-terrorism in line with human rights and through "strategies that empower civil society organizations," others were concerned that the guidelines did not go far enough to address civil society concerns.

KEY FINDING #6

Militarization, including of local populations, and lack of trust fuel inability to resolve real threats to security.

In West and Central Africa, there is a challenge in accountability for the use of CT measures due to militarized approaches. For example, military tribunals are closed to the public leading to poor understanding of the terror landscape and issues related to the rule of law for convicted persons. There is therefore an observed meagre record of upholding rights because military actors are not trained in domestic civilian protection.

A major trend in the Sahel and Lake Chad Basins is the training of civilians to counter terrorism. In 2020, Burkina Faso's parliament unanimously ad-

opted a law allowing for the recruitment of local volunteers who will act as auxiliaries in the fight against militants. On 24th November 2022, the government announced that their volunteer recruitment campaign launched on 24th October targeting 50,000 recruits had exceeded the objectives with 90,000 enlisted. In Cameroon, young people were forced to enlist in the army following military interventions that targeted all young people without ID cards, despite the youth there having numerous governance challenges including acquiring identification. In Mali, the government as part of efforts to fight terrorism as well as address unemployment, reportedly increased army recruits by more than 50% in 2020. Some countries also turn a blind eye to some armed groups. In Nigeria and Cameroon, there have been many bandits and vigilante groups killing and kidnapping 'suspects'. Civil society actors in conflict prone parts of Nigeria reported that local governments use these vigilante groups to target CSOs, in order to look loyal to the governments. CSO actors are under major risk of kidnapping for ransom by such actors.

In addition, such securitisation and militaristic measures have also created fear among citizens and CSOs especially when there is a terrorism-related issue, where most are deterred from raising alerts and giving information. This further affects the capacity of the state to mount an effective counterterrorism response and to meaningfully prevent violent extremism. This is exacerbated by delegitimization and discrediting of NGOs despite their major role as an intermediary between the state and citizens. In Kenya and Nigeria, these highly securitised contexts have frustrated amnesty programmes aimed at reformation and re-orientation of terrorists in a bid to de-escalate and defuse tensions.

KEY FINDING #7

Counter-terrorism financing measures are hindering the effectiveness of counter-terrorism and negatively impact civil society organizations ability to carry out their critical, and in many countries, life-saving work.

Participants from several countries noted that CT financing laws had created unduly burdensome registration and reporting requirements for civil society organizations, but have also been used to target political dissent, and civil society organizations that undertake work critical of governments. Participants underscored that these measures impact a range of areas related to their work as outlined in the chart below. The carry-on effects, however, are both organizational and personal, including through effects to overall ability to operate, inability to pay salaries (which in turn affects families), and more.

At the same time, foreign and international donors including international development agencies have also adopted more restrictive donor requirements, which has led both to declining support for CSOs and the redirection of assistance—in some cases, in a way that aligned with the agenda of home governments' security objectives. Participants underscored that commercial banks also require NGOs to issue supporting documents, including those that may put beneficiaries at risk, e.g., such as exposing their work when at risk of targeted violence, including extra-judicial killing. This particularly affects the ability of legal assistance organizations to carry out their work and protect attorney client privilege.

There were several examples of direct targeting raised. First, in Ethiopia, participants underscored the banning of human rights, advocacy, and development of CSOs from receiving foreign funds through a series of CSO regulatory laws. These trends were also raised by participants in the context of Kenya where, in May 2015, three civil society

groups, Muslims for Human Rights (MUHURI), HAKI Africa and Agency for Peace and Development had their licences revoked by the NGO Colordination Board because of an alleged connection to financing terrorism. In the same year, 959 NGOs were deregistered for discrepancies in their financial reports. In Nigeria, participants observed that the Terrorism Prevention Act and the Money Laundering Prohibition Act, both of 2011, have enabled the government to establish a surveillance mechanism on NPOs financial transactions and created overly burdensome registration and reporting requirements. Notably, after a six-year dialogue between NPOs and government authorities—and in the midst of the FATF’s ongoing unintended consequences project—Nigeria amended the Money Laundering Act in 2022 to de-list NPOs among Designated Non-Financial Institutions, thus lessening their reporting obligations.

Further examples of misuse of CT financing measures have taken place related to political processes and elections. In Uganda, the government froze accounts of NGOs before the general elections in 2016 and 2021, only unfreezing them after the general elections. In December 2020, human rights lawyer and founder of the NGO Chapter Four Uganda, Nicholas Opiyo and four of his colleagues were arbitrarily arrested and arraigned on allegations of “money laundering and related malicious acts”, which were seen as pre-election manoeuvres targeting civil society in Uganda. In Tanzania, the police ordered a commercial bank in Tanzania to freeze the accounts of the Tanzania Human Rights Defenders Coalition (THRDC, August 2020), and ultimately suspended their operations, including work related to the general elections held in October 2020, until their accounts were unfrozen in April 2021.

Increasing surveillance, communication interception, and data protection provisions related to CT financing was also highlighted by participants as another tool that may be weaponized. Such tools facilitate monitoring of which funds are coming into NGOs, who is travelling (internationally and/or to and from the organization), and other sensitive in-

formation. CT financing measures have restructured the evidentiary burdens of investigation before action is taken in domestic legal contexts, including ordering accounts to be frozen. Governments and bank no longer need to have sufficient independent evidence to freeze CSO accounts because of the use of tech/automated systems that flag suspicious transactions. In most national contexts, the term ‘suspicious’ is not defined.

Examples of methods raised by participants as limiting civil society funding on the basis of counter-terrorism financing, including:

- Requiring prior government approval for the receipt of foreign funding.
- Capping the amount of foreign funding that an NPO is allowed to receive.
- Requiring certain funding streams to be routed through government entities
- Restricting activities that can be undertaken with foreign funding
- Prohibiting NPOs from receiving funding from specific donors
- Taxing the receipt of foreign funding.
- Imposing onerous reporting requirements on the receipt of certain types of funding.
- Use of defamation, treason, and other laws to bring criminal charges against the recipients of funding from certain donors.

KEY FINDING #8

Administrative measures are used to impede the legitimate exercise of fundamental freedoms by civil society.

Administrative measures and sanctions

The introduction by governments of a range of cumbersome administrative measures is also used as a means to impede their proper functioning and work. In Cameroon, the government requires CSOs to report on their activities monthly and to justify any funding transfers even if they are from the same donor partners. In Uganda, the NGOs Act Chapter 113 provides for a registration process that is not only cumbersome, but also lacks procedural safeguards. The National Bureau for NGOs is granted broad powers, including to refuse registration and to revoke an NGO's permit. Further, the law places restrictions on purposes and activities during and after obtaining registration status and allows dissolution based on vague and subjective grounds. The Act further requires NGOs to submit reports to several reporting points such as the NGO Board, the district technical committee, the district council, the district monitoring committee etc. This unnecessary duplication of reporting results in wastage of resources, and reduced engagement, making it difficult for NGOs to freely operate.

Nigeria's Terrorism (Prevention and Prohibition) Act 2022 empowers the Registrar General of the Corporate Affairs Commission or the Director of the Special Control Unit against Money Laundering to refuse or revoke the registration of a non-profit organisation based on criminal intelligence reports, grounds of national security or reasonable suspicion of terrorist links. This raises concern about the possibility of abuse by the government. Section 74 of Nigeria's Act further places the burden of proof on a defendant in proceedings under the Act, to prove that he or she is the legitimate owner

of goods suspected to be the proceeds of crime or derived from unlawful activity, or to prove that the assets are of legitimate origin. Such provisions go against the presumption of innocence and reverses the burden of proof. In Nigeria, some provisions of the Companies and Allied Matters Act, that was enacted to regulate companies, are also applied to target NGOs in certain provisions. These include some that give the government the power to merge organizations if they think they perceive them to do the same activities. This tool is used as a way to silence CSO's and undermine their independence. The law also empowers the registrar to replace an NGO's trustees/board members if they deem them to have "mismanaged" the organisation. The new trustees can take any action including firing the director. This has been used to target NGOs who call for government accountability, including those working on PCVE issues.

While the Kenyan government has stalled on the implementation of the progressive Public Benefits Organisations Act passed in 2013, it has continued to use the 1990 NGO coordination Act, along with counterterrorism and money-laundering legislation, to deregister leading human rights and governance NGOs, freeze their accounts and damage their reputation. In Cameroon, organizations have to notify divisional officers before holding meetings, which can still be revoked and usually are.

In contrast, and positively, some governments have eased some of these restrictions. For example, in Ethiopia, the Charities and Societies Proclamation 2009 had been applied to restrict political, civic and press freedoms. In June 2018, the government established an Advisory Council for Legal and Justice Affairs comprising of independent legal professionals to review and recommend reforms to the Proclamation and other laws that had been used to restrict political, civic and press freedoms namely, the Anti-terrorism Proclamation (ATP), and the Freedom of Information and Mass Media Proclamation). Since the enactment of the Charities and Societies Proclamation 2019, NGOs now have greater autonomy and capacity to undertake their regular work.

The proclamation established the Civil Society Organizations Agency to facilitate and coordinate the work of all NGOs in the country and limitations on foreign funding were also removed. The scope of actions for CSOs has now widened and as a result, there is a growing number of human rights organizations able to function in that country.

KEY FINDING #9

States are investing in and increasing capacity and misuse of technologies to surveil civil society and target civil society, including women human rights defenders.

Participants underscored that governments in the region are making investments in new surveillance technologies, passing laws that expand their legal surveillance powers, and conducting illegal surveillance with impunity, and there was an observed rapid expansion in the sale of new surveillance technologies to African countries by companies from the US, China, Europe and Israel. These new surveillance powers were noted as finding their roots in anti-terrorism legislation. In response to conflict around the Sahel region, the Government of Senegal, for example, has created new terrorism-related offences, increased the powers of investigating authorities to intercept communications and imposed stiff penalties. Section 69 of the Security Laws (amendment) Act amends Kenya's Prevention of Terrorism Act to allow for interception of communication by national security bodies for the purposes of detecting, deterring and disrupting terrorism.

In addition, there are fears that several governments are procuring surveillance tools to monitor dissidents, political opponents, human rights defenders and journalists. In 2019, it was revealed that Huawei technicians in both Uganda and Zambia had helped African governments spy on their political opponents, including by intercepting their encrypted communications and social media, and using cell

data to track their whereabouts. Ethiopia's national telecommunications network developed by ZTE has also enhanced government surveillance and censorship capacities that has led to an array of abusive tactics – frequent internet shutdowns, targeted surveillance against journalists and opposition politicians, widespread censorship filtering, and persecutions of individuals for sharing online content. South Sudan's National Security Service's (NSS) has maintained direct access to telecommunications service providers in the country using Israeli surveillance technology in order to wiretap phones. The NSS also conducts physical surveillance through a widespread, cross-border network of informants and agents, penetrating all levels of society and daily life, by monitoring media and social media, and requiring event organisers to seek permission before holding any form of gathering.

Some African governments including Kenya, and Nigeria, have procured the services of Circles, a surveillance firm that reportedly exploits weaknesses in the global mobile phone system to screen and monitor calls, texts, and the location of phones around the globe. Circles is affiliated with NSO Group, which develops the oft-abused Pegasus spyware. These countries are reportedly using these systems to connect to their local telecommunications companies' infrastructure to conduct surveillance.

There have also been concerns over disproportionate and unlawful surveillance of NGOs and HRDs. They face increased risks of privacy violations as a result of expanding surveillance capacities of security agents, weak legal framework protecting privacy rights, poor implementation of legal provisions and protections, and increased collection of personal data by state and non-state actors. Kenya's National Intelligence Services (NIS) Act, for example, limits the right to privacy by allowing the NIS to investigate, monitor, or otherwise interfere with persons who are under investigation by the service or suspected to have committed an offence subject to authority granted by the Director-General of NIS. Similar surveillance of CSOs is evident in Ethiopia where an amendment to the law governing civil so-

cities in 2019 gave government security agencies leeway to monitor and control organisations to ensure they comply with laws. In Ghana, many CSO actors suspect they are under surveillance especially since the government allegedly bought PEGASUS spyware software in 2016. Though the government continues to deny this, in early 2022, it was revealed that this technology was used to spy on the opposition and journalists. Some HRDs have also been arrested and charged with treason for publicly defending human rights and spreading awareness through their social media profiles.

Some laws provide for some protection against arbitrary interference with the right to privacy, such as prior authorization before communications interference. Nigeria and Kenya's antiterrorism legislations mandate prior authorization from the High Court before communications can be intercepted, which according to most human rights experts is insufficient to adequately protect the right to privacy. Surveillance measures have also specifically affected women, who are often the targets of online harassment. In many cases, such online harassment seeks to expose women's private lives to demoralize and silence them, including through exploiting gender stereotypes and norms to damage their reputation.

There is growing use of digital surveillance, artificial intelligence, and big data technology in cities in East, West and Central Africa to enhance service delivery. There have been concerns over the adoption of various surveillance products through procuring systems like Huawei's Safe Cities, which makes use of a range of interconnected tracking devices, video cameras, software, and cloud storage systems to tap public and private platforms in a more cohesive manner to enhance public goals such as policing, managing traffic, and streamlining administrative services. Access to this web of systems ostensibly increases the visibility of police officers who can then agilely track and respond to crime in real time, but also may threaten the right to privacy and be used against civil society. Participants raised the example of Huawei's first modern "Safe City" sys-

tem in Kenya where it deployed 1,800 HD cameras and 200 HD traffic surveillance systems across the country's capital city, Nairobi in 2015. A national police command centre supporting over 9,000 police officers and 195 police stations was established to achieve monitoring and case-solving. Huawei also added emergency communications networks with advanced features such as video dispatching, video surveillance, and high-speed data backhaul services across the police stations in Nairobi. Huawei's 2018 annual report maintained that its Safe Cities project serves over 100 countries. In 2019, Uganda purchased \$126 million worth of CCTV cameras as part of its smart cities project. The technology has been used to intercept encrypted communication to target political opposition.

The COVID-19 pandemic also saw more governments increasing investments in digital surveillance tools to fight the virus' spread as observed by participants. While participants recognized the legitimate reasons for governments to deploy contact tracing apps and use location monitoring technology to monitor viral outbreaks, there have been reports of privacy violations and human rights abuses. Governments already prone to using digital surveillance and censorship aggressively moved ahead to deploy facial recognition surveillance, contact tracing apps, and social media monitoring, along with information controls. These new surveillance techniques are coming in place without clear data protection laws and safeguards, let alone remedies for abuse. COVID-19 tracing apps pose significant risks to citizens from the collection of sensitive data, including personal health, location, and contact data. Several human rights organisations have expressed concerns about the misuse of contact tracing apps for the surveillance of protestors, activists, and demonstrations resulting in the infringement of rights such as the right of association, right to unionise, and the freedom of speech and expression.

Governments also arrested journalists for allegedly spreading fake news related to the pandemic. In Kenya, Uganda, and Niger, journalists were arrested for reporting on the virus. In Tanzania, HRDs and

journalists were targeted and some disappeared for spreading awareness on the pandemic after the then government had officially declared the country to be free from the COVID-19 virus. In Mozambique, the law criminalises the broadcasting of information on terrorism when known to be false with sentences of up to 8 years in prison. This is a challenge because there is difficulty establishing whether they knew it to be false. Sharing information through social media and digital technology -retweets, reposts, forwards- may also be considered broadcasting despite users not having journalistic standards.

Lawmakers in many countries have moved to make mobile subscriber identity modules or SIM card registration mandatory. As of January 2020, 155 countries have mandatory SIM registration laws. Mandatory sim registration poses a threat to privacy and facilitates surveillance by making tracking and monitoring of users easier for law enforcement authorities. Other countries have also incorporated the collection of biometric data, such as fingerprints and facial recognition, as part of their mandatory SIM registration. In the absence of sufficient legal safeguards, data collected as part of registration could be kept for an indefinite amount of time and used for different purposes in the future, including through the potential of linking an individual's unique data across different government or private databases with a single number allows for all information about an individual to be accessed across multiple databases.

KEY FINDING #10

Counter-terrorism measures have distinct impact for women and girls, as well as ethnic, religious, and linguistic minorities in countries throughout the region.

In several countries, a trend of discrimination against organizations in certain regions or those formed by certain minority groups can be observed.

The effects of counter-terrorism measures on NGOs vary, with faith-based and human rights NGOs most affected. The advocacy activities of most human rights NGOs and governments' are viewed through the belief that Muslim NGOs are more susceptible to terrorist influences are the rationale for the intensity of regulation of these types of NGOs.

Women-led civil society organizations or women peacemakers or human rights defenders experience a variety of distinct harms under counter-terrorism and preventing and countering violent extremism measures. Women are not seen as having a legitimate role in counter-terrorism in the region and are limited to frameworks as those who can "raise awareness," "give information to the military," or "sensitive communities." In addition, women's disparate access to education can often mean their work is rooted in the community – not organizational structures – leaving them independent in their organizing and peace advocacy and vulnerable to State misuse and labeling as terrorists themselves, or apologists. When women work on tough issues – such as helping children of women who have been arrested access education – they have been targeted just as heavily as other organizations and deemed terrorists for their community-based work. In addition, in the context of more limited organization capacities and access to donor resources, women's civil society organizations targeted by CFT measures, such as the Uganda Women Network have particularized barriers to reopening and re-engaging in their work. Participants highlighted how critical it was for increased documentation of these impacts and deficits in responses to the impact of counter-terrorism and P/CVE measures on women and girls in the region, noting that increased funding opportunities need to account for the required flexibility to accommodate the specific needs of women and by participating in the counter-terrorism conversation.

In addition, examples abound across discriminatory misuse on the basis of religious and ethnic identity. In July 2019, a Nigerian court banned the Islamic Movement in Nigeria (IMN) on the grounds that their

activities amounted to acts of terrorism and illegality. Nigeria's Solicitor General pushed for a motion seeking that the group be declared a terrorist organisation and the group's representatives were not offered an opportunity to respond to the allegations in the hearing. In 2015, the same government also proscribed the Indigenous Peoples of Biafra (IPOB) group, which was pushing for the creation of Biafra state, on grounds of terrorism. Such attacks in Nigeria have forced these organisations to leave the area or to shift their focus from overtly human rights advocacy and peace and security initiatives to other social work. This illustrates the diverse challenges that local NGOs face in mitigating the effects of terrorism and counter-terrorism operations in Nigeria, and the complicated relations between the government, security agencies and NGOs.

In Kenya, Muslim led human rights CSOs are evidently more targeted by anti-terrorism laws and practices. In May 2018, environmental activists from the Save Lamu and Lamu Youth Alliance were arrested for protesting the government's decision to set up a coal power plant in Lamu. Human Rights Watch and the National Coalition for Human Rights Defenders also documented more cases of at least 35 environmental activists who were harassed and intimidated by government officials. In at least 15 of those instances, the police have accused the activists of being members of having links with Al Shabaab. The 2012 Terrorism Prevention Act and related counter-terrorism laws were used to target and repress Muslim groups, such as local chapters of Middle Eastern charities, Muslim communities, madrassas, and Muslim philanthropists. Police raids on Muslim neighbourhoods in Nairobi and Mombasa have been a key feature of counter-terrorism strategies in Kenya. The Anti-Terror Police Unit (ATPU) has led many of these raids.

Marginalized ethno-religious communities are targeted through CT measures. This is combined with the use of mis- and disinformation spread about a person or community, which is then used as justification to arrest them under anti-terror laws. In Mali, the Peuhl or Fulani pastoralist community have

been accused of working with terror groups and have been the majority of those killed in CT military operations. In Cameroon, anglophone speakers, who represent 20 percent of the population, have been attacked for calling for secession from the state to create the new state of Ambazonia. Units that fought terrorism are now increasingly applied to target anglophone speakers. Military raids have displaced them from their villages and troops have opened fire indiscriminately on unarmed civilians and burned down their homes. The separatists have also been accused of attacking security actors and burning down schools.

KEY FINDING #11

Humanitarian access is particularly vulnerable to the negative impacts of overly broad counter-terrorism regulation and impedes the delivery of critical and lifesaving services.

The implementation of counterterrorism-related sanctions creates complexities for humanitarian actors operating in highly fraught contexts where designated terrorist groups operate, overlapping with other forms of conflict and crises. Humanitarian action is particularly vulnerable to counter-terrorism regulation because it increasingly takes place close to crisis epicentres and in physical proximity to designated groups, rendering financial restrictions, the risk of sanctions and proscription more acute for humanitarian organisations than for other CSOs. In conflict affected states, CT measures exacerbate other ongoing crises. In Burkina Faso for instance, ten percent of the population is internally displaced; and many health facilities and courts of justice have closed.

These trends are closely linked to or overlapping with CFT impacts in the region. The sharing or sub-contraction of regulation from State to banks in respect of CFT has increased the use of due dil-

igence rules by banks, which increases the administrative burden, and can lead to the termination of programmes and well as over-regulation. In December 2018, the Nigerian military announced that it had suspended the activities of United Nations Children’s Fund (UNICEF), Mercy Corps, and Action Against Hunger in north-eastern Nigeria, where counter-terrorism operations are ongoing. The military stated that it had credible evidence that UNICEF, Mercy Corps, and Action Against Hunger had abandoned their roles of providing humanitarian services and accused them of engaging in training people for clandestine activities to undermine counter-terrorism operations.

The Cameroonian government, for example, has accused Medecins Sans Frontieres (MSF) of supporting terrorism. These reputational attacks expanded to allegations that broader groupings of NGOs were not helping key populations, but rather promoting terrorism. This has resulted in the kidnapping of MSF staff and had a significant impact on people in need because of the MSF’s inability to operate, despite the increasing need for medical and humanitarian support. In Burkina Faso, participants raised a further example of the government’s accusation against an NGO linked to the ICRC of terrorism.

Recommendations

Member States should:

- Adopt legislation that complies with their international human rights obligations, including through engaging with and implementing recommendations and reforms from civil society.
- Increase funding to empower women and provide training and ensure that women are meaningfully apart of all conversations to counter-terrorism and respond to conflict and violence. This should include increased efforts to support women-led organizations

from beginning to the end of agenda setting, adoption, and implementation.

- Encourage the use of consistent use of international humanitarian law frameworks to address and regulate complex conflict, including conflict management and mitigation strategies, rather than counter-terrorism. Counter-terrorism measures and frameworks should not be used to regulate complex conflicts and risk making prevention and resolution impossible.
- Address the gap in attention and accountability to the issues of corruption and impunity, including for terrorism financing among political actors. The observations that financial flows to armed groups, including those designated as terrorist entities, are taking place among those entrusted with prominent public functions is a key concern, particularly given that a large percentage of cash flow across the regions take place outside of formal banking institutions and among the elite.
- Integrate accountability schemes for the inclusion and meaningful participation of women in the security sector, including through investment in robust gender-responsive rule of law and security sector reform.

The United Nations should:

- Reduce the barriers to accessing funds to ensure work in society is adequately supported, including ensuring more concrete and specific efforts of substance to engage with CSOs especially, women-led organizations.
- Develop an accountability mechanism that ensures governments apply their human rights and humanitarian law obligations.
- Use international human rights mechanisms

and treaties to hold the government accountable for harms to civil society actors to ensure civil society and human rights defenders can carry out their work without fear of risk and reprisal.

- Advance and prioritize rule of law, security sector reform and criminal justice reform as a priority for agendas in the region, not counter-terrorism. Justice systems are increasingly under pressure in the context of the misuse of counter-terrorism and require investment and support.

Regional Organizations should:

- Amplify and address these issues, including through the African Court on Human and Peoples' Rights and the African Union in cooperation with other parts of the international community.
- Initiate stronger regional reviews and accountability mechanisms of legal reform to ensure that strategic monitoring and evaluation of human rights compliance of counter-terrorism and national security laws and policies are in place and accountable to civil society.
- Advance and prioritize rule of law, security sector reform and criminal justice reform as a priority for agendas in the region, not counter-terrorism. Justice systems are increasingly under pressure in the context of the misuse of counter-terrorism and require investment and support.
- Implement the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa.
- Establish renewed investment and support to domestic and independent human rights mechanisms.

Civil Society should:

- Establish a hub of researchers of civil society and HRDs that can contribute to solidarity and support for HRDs as a mechanism of protecting them.
- Establish increased partnerships, organize and build coalition across regions and across various issues related to counter-terrorism and preventing and countering violent extremism. It is essential to operate as a global collective so that solidarity, shared knowledge and networks can thrive.
- Advocate for international human rights mechanisms to ensure that the connections between national security, counter-terrorism and preventing and countering violent extremism are centralized and observed when they undertake their review of country situations or individual cases.
- Find creative solutions to tackle key issues and learn from other contexts and successes.
- Establish mechanisms and process, including political engagements, in countries affected by conflict that can help to ease fear among political leaders and provide resources to advocate for and ensure capacities to respond to conflict are increased in line with respect for human rights.
- Increase capacity and knowledge on CFT and its misuse to respond to the lack of understanding among CSOs of the risks from CFT legislation.
- Continue litigating violations of the rights of civil society representatives at a collective and individual level. The strength of independent judiciaries has been indispensable in many cases across the region.