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GLOBAL STUDY ON THE IMPACT OF COUNTER-TERRORISM ON CIVIL SOCIETY & CIVIC SPACE

CHAPTER 5

CONCLUSION & CROSS-CUTTING RECOMMENDATIONS

Concluding this Global Study requires pause and recognition of the resilience, positive force and sheer determination of civil society across the globe which seeks to realize peaceful, just and inclusive societies. Notwithstanding the hardship, challenges, and undulating Sisyphean task of advancing rights in complex and closing spaces civil society consistently shows up, takes risks for rights, defends the vulnerable, strives for the greater good, and is tireless in its advocacy, hard work, reliability, and solidarity. The individuals that took risks to give evidence to this Study and who take risks every day for the dignity and humanity of others deserve recognition, support, protection, defense, and care. It is the particular obligation of the UN to be rock solid in its support to and defense of civil society. They deserve no less from us.

The terrain described by this Study is exceedingly difficult and the scale of harms experienced is indisputable and unacceptable. It should also be self-evident that effective counter-terrorism is not being

realized by the widespread, systemic targeting of civil society. Precisely the opposite is true. The kinds of violations revealed by this Study demonstrate that security is not the goal of abusive State practice but rather its opposite, namely the continuance of instability, insecurity, and cultures of impunity and violence. Our collective security is not well-served by the distortions that define contemporary counter-terrorism and P/VE practices across the globe.

The time for action then is now. We can no longer tolerate such systemic, abusive, and counter-productive practices. The UN and the Member States that comprise it have collective interests in maintaining the integrity of the UN Charter, and this Study provides both the evidence base to end the current status quo, as well as concrete recommendations to remedy globally evidenced human rights deficits in approaches to counter-terrorism and P/CVE at all levels. The Study urges consolidated action by Member States and the UN in particular to

address these issues as a matter of urgency. Our collective global security depends on it.

Member States

Member States should:

- Reorient militarized approaches to counter-terrorisms in response to the deep evidence on strategies and investments that lead to successful prevention of violence advancing peacemaking and peacebuilding alternatives.
 - Diligently pursue deliberate and intentional pruning of national, regional, and international counter-terrorism architectures that have bulged over the last twenty years to bring balance and human rights compliance in this arena.
 - Use the decades of documentation and implement recommendations prepared by the Human Rights Treaty Bodies and Special Procedures Mechanisms as a tool to achieved increased human rights and rule of law compliant responses to terrorism and violence.
 - Establish effective and transparent accountability mechanisms for violations of human rights resulting from the misuse of counter-terrorism and P/CVE measures.
 - Rebalance domestic budgets and allocations to address the prevention of violence in a sustained and meaningful way. This requires participatory budget processes, budgeting, and allocation of adequate resources to strengthening of the rule of law, the institutionalization of human rights; the advancement of accountability; and mainstreaming of anti-corruption and structural commitments to ensure prevention. It means less growth in counter-terrorism norm production and institutions and accepting the value proposition of investment in creating the conditions that effectively prevent terrorism, including a functional and diverse civil society.
- Establish adequately resourced and technologically capable independent oversight mechanisms of national counter-terrorism institutions.
 - Eliminate the double standards across human rights and gender equality commitments and counter-terrorism through initiating innovative process and action (via programs, policies, funding, or practice) on how to invest in human rights and gender equality programs and work in contexts affected by terrorism and violence, rather than solely investing in counter-terrorism focused work with peripheral “mainstreaming” human rights and gender equality aims. The focus of investment solely in counter-terrorism institutions and bodies (including the UN) is increasingly documented to be rooted in aims of protecting the status quo and solidifying institutions through nominal and instrumentalized approaches. Member States must consider balancing budgets on investment in UN entities normatively leading gender equality, human rights, rule of law, and development, rather than counter-terrorism capacity building.
 - Deliver concrete commitments to civil society to foster their meaningful participation in the design, development, and implementation of all measures to address peace and security, including terrorism and violent extremism challenges, and in all peace and security efforts. This requires immediately scaled up investments of timely and flexible funding, including core funding, to civil society to support their efforts to curb attacks on human rights, civil society, and civic space.
 - Accept that mere reform counter-terrorism laws, policies, and institutions is not sufficient to address the depth and scale of misuse evidenced in this Study. Instead, a fundamental transformation of existing practices of addressing terrorism is needed, ensuring effective

tive prevention and holistic safeguarding of the misuse of counter-terrorism and P/PVE measures against civil society.

- Adopt robust export control regimes for the cross-border trade of surveillance technologies in order to prevent the sale of such technologies when there is a risk that they could be used in violating human rights, including by targeting human rights defenders or journalists.
- Actualize legislative reform and increase commitments to victims/survivors of terrorism through reporting on the recommendations made during the last Global Congress for Victims of Terrorism, and making concrete resource and political commitments during the next conference, anticipated in 2024. Member States should increase funding to victims/survivors and their associations/organizations, particularly those who deliver essential services to survivors and their communities, including in conflict-affected contexts to meet the long-term health and psycho-social needs of individuals and communities.
- Address and remedy the denial of access of civil society to the UN on the basis of politicization of accreditation,⁴⁶¹ and bring increased transparency to the process of accreditation.
- Undertake participatory assessments with civil society, humanitarians, and other stakeholders, of compliance of domestic counter-terrorism sanctions regimes with international humanitarian law, including through the requirements of UN Security Council resolution 2664.

United Nations

The United Nations should:

- Prioritize investments in rule of law-based approaches, throughout all UN entities, to counter-terrorism and P/CVE focused on addressing the conditions conducive to terrorism and violence rather than simple technocratically labeled counter-terrorism and P/CVE programming. This includes agencies, funds and programs that specialize in legal and security sector reform, good governance, gender equality and women's peacebuilding, and broader community-based violence prevention focusing on those core areas of work rather than adapting programming to demands of counter-terrorism and P/CVE narratives.
- Establish consistent, UN-wide public, principled, and official stances on the impact of counter-terrorism and P/CVE measures on civil society and civic space aimed at advancing the human rights and rule of law compliance of countering terrorism. This includes addressing the lack of visibility among senior UN officials as outspoken and clear on the documented impacts of counter-terrorism and P/CVE on civil society and civic space.
- Collect global disaggregated data in line with principles of do-no-harm, informed consent, and human rights due diligence, to identify discriminatory and group-based patterns of misuse of counter-terrorism and P/CVE measures in a sustained way, utilizing the findings of this Study as a baseline.
- Assume accountability for existing commitments to concretely mainstream gender equality and human rights, specifically through transparent and urgent implementation of the gender-marker within the UNOCT, in consulta-

461 ISHR. Submission to Report of the High Commissioner on Civil Society Space in Multilateral Institutions: Existing interaction, Challenges, Good Practice & Recommendations (2017).

tion with UN Women and the Controller’s Office as suggested by the Secretary-General’s latest report (A/77/718) and adopt overdue procedures on the allocation of a minimum 15 per cent of all funds for counter-terrorism efforts to human rights and gender equality, as originally recommended in 2015 by the United Nations Secretary-General.

- Implement all recommendations of UN Women’s Global Digital Consultation relevant to the United Nations and report on their implementation in appropriate forums. Without implementation of civil society recommendations, the UN’s commitment to the meaningful participation of civil society cannot be demonstrated.
- Establish methodologies for identifying discriminatory patterns in the misuse of counter-terrorism, including within UN CTC country assessments. Where such patterns of misuse are identified, they must be named, and where cumulative patterns of misuse are identified, technical assistance and capacity building must cease and be subject to a revised risk assessment. The Counter-Terrorism Committee and its Executive Directorate must find effective measures politically and legally to address such misuse including consideration of “grey-lists,” namely a formal mechanism to identify Member States who abuse human rights while countering-terrorism.
- Publish a complimentary report of the UN Secretary-General’s annual report on reprisals that goes beyond reprisals for cooperation with the UN and provides a compilation and analysis of alleged patterns of misuse of counter-terrorism and P/CVE measures against civil society as a whole and/or particularly vulnerable national, social, legal, or religious groups.
- Establish clearer UN protocols of human rights due diligence amidst the grave threat to civil society and the growth of counter-terrorism and P/CVE technical assistance and capacity

building. The level of risks and the decentralization of risk controls to entities that have no demonstrated human rights due diligence protocols present an unacceptable risk to civil society and civic space. The UN must be able to act quickly, with one-voice, and establish clear political protocols for the cessation of counter-terrorism technical assistance and capacity building when counter-terrorism norms and institutions are used to target and harm civil society, and human rights defenders.

Regional Organizations

Regional organizations should:

- Enhance procedures for overseeing the impact of counter-terrorism measures on civil society. Strengthen the role of regional human rights mechanisms in building connectivity between positive commitments to addressing the conditions conducive to terrorism and preventing violence in line with international and regional human rights law commitments.
- Engage with Human Rights Treaty Bodies and Special Procedures Mechanisms to improve working relationships and entry points for civil society in regional systems mirroring the UN recommendations. Dedicate regional space for civil society in regional processes on counter-terrorism and P/CVE in line with human rights due diligence safeguards.
- Standardize practices to prevent, address, and respond to reprisals for civil society’s engagement in regional processes at the national level among members.
- Facilitate cross-fertilization or twinning across diverse regions for Member States and regional organizations investing in and developing human rights-based and prevention-based approaches to counter-terrorism and P/CVE.
- Engage with their regional human rights mech-

anisms to improve working relationships and entry points for civil society in regional systems mirroring the UN recommendations.

Private Sector & Other Stakeholders

Private sector actors and other stakeholders should:

- Urgently mainstream and implement the UN Guiding Principles on Business and Human Rights amidst the increasing outsourcing to and implication of the private sector in counter-terrorism and P/CVE related human rights violations.
- Establish a moratorium on the use of remote biometric recognition technologies in public spaces, or at least until the authorities responsible can demonstrate compliance with privacy and data protection standards and the absence of significant accuracy issues and discriminatory impacts and until all the recommendations set out in paragraph 53 (j) of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression are implemented.
- Banks and intermediary financial institutions must adopt a firmly risk-based approach to counter-terrorism financing through the adoption of human rights and due diligence safeguards and make readily available internal compliance policies.
- Address the misuse and abuse of international law enforcement mechanisms that are relied upon in counter-terrorism. Specifically, INTERPOL should address the misuse and abuse of 'red notices' by Member States to target civil society and implement heightened due diligence protocols to prospectively assess the risk of misuse, and, when identified, establish clear operating protocols to remedy and further avoid the instrumentalization of its own legal and political powers by abusive count-

er-terrorism co-option.

- Ensure support and facilitation, specifically by the FATF, for Member States to implement independent oversight and judicial review processes to tackle arbitrariness and human rights abuses in the implementation of CFT penalties, and account for over-regulation, including appeal procedures for listing and designation procedures, asset seizures, non-profit dissolutions, and other sanctions and penalties. Overregulation and human rights violations committed in the counter-terrorism financing context – particularly with respect to the disparate impacts on organizations representing the interest of women, as well as ethnic and religious minorities – should also be taken into account in mutual evaluation review and other CFT compliance efforts.
- Cease privatized collation, use, and service provision of international, regional, and national sanctions regimes without significant due process and human rights due diligence reform of such regimes. Corporate accountability for the private sector collation, use, and service provision on the basis of such lists “amplify” screening procedures and contribute to the proliferation of measures against civil that raise numerous challenges of legality, due process, discrimination, and abuse.
- Private sector and philanthropic support must be directed to ensure the vibrancy, sustainability, and protection of civil society. This requires immediately scaled up investments of timely and flexible funding, including core funding, to civil society to support their efforts to curb attacks on human rights, civil society and civic space.

Civil Society

Civil society should:

- Continue to engage in cooperative relationship building locally, nationally, regionally, and internationally drawing on and building out from existing relationships including those developed as a result of this Global Study.
- Continue to engage proactively with the Human Rights Treaty Body Mechanisms and Special Procedures Mechanisms in elevating their experience of human rights violations for themselves and for those they represent. Civil society has created the evidence basis to date and will continue to be imperative to continued documentation and jurisprudential development and augmentation.
- Protect itself against spyware as far as possible by utilizing privacy safeguards and building technical capacity to resist misuse of counter-terrorism technology. Civil society must invest in digital security, deepen its own reflective self-governance, and ensure knowledge transfer within and across national, regional, and global intersections.
- Continue to elevate diversity and local partners to ensure that those most marginalized and at the center of these violations remain at the center of responses to counter-terrorism and are given the space and support to speak globally, consistent with the mantra of “nothing about us without us”.
- Recognize the importance of relationships between international, national, and local organizations while taking note of evident power imbalances and funding challenges that disproportionately impact those organizations working at the local level. Here, dedicated efforts should be made to facilitate those organizations close to the ground, in touch with affected communities and elevating their voices and their access to resources and political spaces.