

THE IMPACT OF PREVENTION OF VIOLENT EXTREMISM, COUNTER-TERRORISM, AND NATIONAL SECURITY MEASURES ON CIVIC SPACE IN KENYA

THE RESEARCH SUMMARY PAPER

Supported by:

ARTICLE 19

HAKI AFRICA
Humanity | Activism | Knowledge | Integrity

KICTANet
The Power of Communities

CHRIPS
Centre for Human Rights and Policy Studies

Civic Futures

THE FUND FOR GLOBAL HUMAN RIGHTS

First published by ARTICLE 19, January 2024
www.article19.org

©ARTICLE 19, January 2024 (Creative Commons License 3.0)

ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. We do this by working on two interlocking freedoms, which set the foundation for all our work. The Freedom to Speak concerns everyone's risght to express and disseminate opinions, ideas, and information through any means, as well as to disagree from, and question power holders. The Freedom to Know concerns the right to demand and receive information by power holders for transparency, good governance, and sustainable development. When either of these freedoms comes under threat, by the failure of power holders to adequately protect them, ARTICLE 19 speaks with one voice, through courts of law, through global and regional organisations, and through civil society wherever we are present.

About Creative Commons License 3.0: This work is provided under the Creative Commons Attribution-Non-Commercial-ShareAlike 3.0 license. You are free to copy, distribute and display this work and to make derivative works, provided you:

1. Give credit to ARTICLE 19
2. Do not use this work for commercial purposes
3. Distribute any works derived from this publication under a license identical to this one.

To access the full legal text of this license, please visit:

http://creativecommons.org/licenses/by-nc-sa/3.0/legalcode

Cover: AI illustration on security agencies excesses in PVE, CE and National Security that threaten civic space and connected rights thereto in Kenya.

Cover and layout by: Sharafa - nsharafadesign@gmail.com

THE IMPACT OF PREVENTION OF VIOLENT EXTREMISM, COUNTER-TERRORISM, AND NATIONAL SECURITY MEASURES ON CIVIC SPACE IN KENYA

THE RESEARCH SUMMARY PAPER

Around the world - in autocracies and democracies alike - vibrant civil society movements working to advance progressive values and agendas face concerted attacks by governments on the keystones of democracy and the rule of law - freedom of expression, freedom of association and freedom of assembly, and they are doing this with extraordinary momentum,and little joined up scrutiny.* Kenya is not exempt. Kenya's experience with terrorism and her role in counter-terrorism efforts has been a significant factor in shaping its security laws, systems, infrastructure, attitudes and practices.

Consequently**, ARTICLE 19 Eastern Africa** with the support of **The Fund for Global Human Rights,** convened a panel of researchers **HAKI Africa, The Kenya ICT Action Network (KICTANET) and The Centre for Human Rights and Policy Studies (CHRIPS)** to carefully interrogate the impact of counter-terrorism (CT) and the prevention of violent extremism (PVE) and similar national security measures on civic space in Kenya with a view to informing interventions that enhance greater accountability for violations and ensure an open civic space free from unjustified restrictions under the guise of security.

This research was supported by the **Fund for Global Human Rights (FGHR)** as a contribution to **Civic Futures**. Civic Futures is a philanthropic initiative co-founded by the **Funders Initiative for Civil Society (FICS) and FGHR** to enable collaboration between a wide range of funders and civil society to counter national security overreach harming civic space. **https://civic-futures.org/**

This paper provides a summary of the key reflections on Kenya's context and experiences, the findings and the recommendations arising from the three part research paper published here:

- CHRIPS: https://chrips.or.ke/category/publications/books/
- HAKI Africa: https://hakiafrica.or.ke/publications/
- KICTANET: https://www.kictanet.or.ke/reports/

* Civic Futures, 'What funders need to know about about civic space in 2023,' February 2023 available here: https://civic-futures.org/what-funders-need-to-know-about-civic-space-in-2023/ (accessed 05.01.2024)

CONTENTS

BACKGROUND 1

KEY FINDINGS 3

A SUMMARY OF THE RECOMMENDATIONS FROM THE 3 RESEARCH PAPERS 9

- To Civil Society 9
- To National Government 10
- To County Governments 11
- To Parliament 11
- To Oversight Mechanisms: IPOA, KNCHR, NIS Complaints Board 12
- To Private Sector Actors 12
- To Academia 13
- To Media 13
- To the International and Regional Community 13
- To Donors and Development Partners: 14



BACKGROUND

With an active terrorist threat from extremists linked to AlShabaab, Kenya is seen as a frontline for combatting terrorism and a 'playground' for the global counter-terrorism and security community. According to the National Consortium for the Study of Terrorism and Responses to Terrorism 1,007 people had been killed in 343 terrorism incidents between 1998 and October 2016 such as the Garissa University attack, the Westgate Mall attack, the US Embassy Bombing, and others. Similarly, the CHRIPS Terrorism Observatory has documented 306 terrorism incidents between January 2017 to December 2022, which have affected 10 of the 47 counties in Kenya, occasioned the kidnapping of 71 people[1], including security officials, and led to the deaths of at least 587 people. Consequently, the terrorism threat remains present in Kenya. Terrorist activities have undermined peace by sowing fear and stirring inter-religious conflict and have negatively impacted human rights such as education while also disrupting economic activity such as the tourism industry.

In response, the Kenyan Parliament enacted legislation such as the Prevention of Terrorism Act 2012 (PTA) and amended several other laws through the Security Laws (Amendment) Act of 2014. As required under the Prevention of Terrorism Act, the government established the National Counter Terrorism Centre (NCTC), a multi-agency institution mandated to prevent, deter, detect and disrupt terrorism acts.[2] The government also developed the National Strategy to Counter Violent Extremism that outlines steps to prevent, deter and detect terrorism and required Counties to develop respective County Action Plans on Prevention and Countering Violent Extremism. The government also established The Anti-Terrorism Police Unit (ATPU) and reviewed the Madrassa curriculum with an aim to drive out radicalisation and encourage citizen-led approaches to countering terrorism and radicalisation.

It is upon this background that ARTICLE 19 Eastern Africa, with the support of The Fund for Global Human Rights, convened a panel of researchers (consisting of HAKI Africa, CHRIPS, and KICTANET) to conduct the subject research on the impact of counter-terrorism and the prevention of violent extremism on civic space in Kenya.

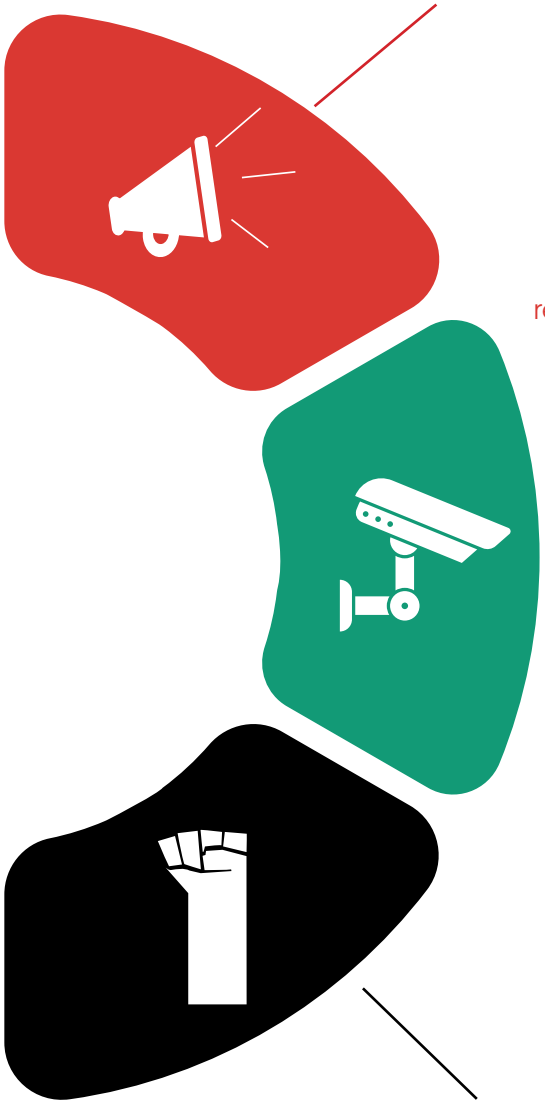
1,007
people killed... between 1998 and October 2016...

587
people killed... between 2017 and October 2022...

[1] See https://chrips.or.ke/ (accessed on 05.01.24)

[2] About the NCTC here: https://www.headofpublicservice.go.ke/node/130

The three-part study constitutes:



Part I which has two sub-parts (A and B) by CHRIPS. Sub-Part A is titled: *'Kenya's Security Playbook: Abuse of Counter-Terrorism and Security Laws and Powers to Restrict Civic Space'* which provides a deep dive into the historical context of civic space in Kenya and its evolution alongside Kenya's experience with terrorism and counter-terrorism efforts over the years.

Sub-Part B is titled *'Holistic Approaches to Defend Civic Space and Overhaul the Security Playbook in Kenya'* which delves into how Civic Space actors have responded to threat of State excesses under the guise of PVE, CT and National Security measures.

Part II, titled: *'Surveillance Laws and Technologies Used in Countering-Terrorism and their Potential Impact on Civic Space'* by KICTANET provides insights on the role of digital technologies and tools used by the government in enhancing surveillance under the guise of security and their implication on civic space. The paper includes an analysis of the applicable legal framework and case studies of the various tools and technology that have been cause for concern for civil society actors.

Part III, titled: *'Perception Survey on the Impact of PVE, CT and National Security on Civic Space in Kenya'* is a field study conducted by HAKI Africa, among civic space actors and human rights defenders in 8 counties; Bungoma, Isiolo, Kisumu, Kwale, Mandera, Mombasa, Nairobi and Nyeri seeking to assess their perceptions and/or knowledge of the existing CT architecture and its impact on civic space actors including from their lived experiences.

KEY FINDINGS

From the research, like any other incidents characterised as a threat to national security, the State response to terrorism has also resulted in excesses by security agencies that have threatened or violated respect for human rights and affected civic space. Throughout Kenya's history, successive governments have abused security laws to silence dissenting opinions and suppress political opposition, human rights defenders, and activists who are critical of the government. Although the promulgation of Kenya's Constitution on 27 August 2010 provided a foundation for reforms in the security sector, anchoring key democratic principles of the rule of law, human rights, independence of institutions, transparency, and accountability, *inter alia* as stipulated under Article 10 and reiterated in Article 238 on the Principles of National Security- a lot is yet to change in practice.

The three-part test (of legality, proportionality and legitimacy) generally applicable to the limitation of fundamental rights and freedoms has been the subject of abuse by security agencies. The legitimate aims of national security, public order, or public safety are often difficult to comprehensively define and have thus enabled continued impunity by security agencies.

From the onset, many governments and their security agencies' fight against terrorism was not framed as one intent on being respectful of human rights. The pain and devastation of the acts of terrorism seemed to have drawn consensus in the society on the need to fight it with whatever means necessary. Resolution 1373 (2001), of the United Nations Security Council (UNSC) exemplified the need for the urgent response and served as the cue for countries to take steps against terrorism on the one hand but also failed to anchor those responses in human rights on the other. In the words of the first chairperson of the UN's Counter-Terrorism Committee (CTC), "The Counter-Terrorism Committee is mandated to monitor the implementation of Resolution 1373 (2001). Monitoring performance against other international conventions, including human rights law, is outside the scope of the Counter-Terrorism Committee's mandate."[3] However, in subsequent resolutions, such as Resolution 2617 of 2021, the UNSC has underlined the need for Member States to ensure their counter-terrorism efforts comply with international law, including international human rights law, international humanitarian law, and refugee law.[4]

> ***Throughout Kenya's history, successive governments have abused security laws to silence dissenting opinions and suppress political opposition, human rights defenders, and activists who are critical of the government.***

[3] See Gearty Conor (2008),'Situating International Human Rights Law in an age of Counter-Terrorism in Cambridge Yearbook of European Legal Studies Volume 10 2008 , pp. 167 - 187 available here https://conorgearty.co.uk/wp-content/uploads/2016/02/EU_UN_textFINAL.pdf (accessed 15.01.2024)

[4] See Preamble to Resolution 2617 of 2021 of the United Nations Security Council here: http://unscr.com/en/resolutions/doc/2617 (accessed on 05.01.2024)

On its part, Kenya has applied existing laws, some of them dating to colonial times, and developed new legislation and policies to counter and prevent terrorism. These newer legislations still contain vague provisions that are subject to broad and subjective interpretations by authorities, leaving discretionary power in the hands of people likely to abuse them; as has been expounded in the research papers. Increasingly, we have seen security agencies being politicised. Despite legal frameworks in the post-2010 era that were aimed at rectifying the challenges experienced with security agencies that serve at the pleasure of the Executive as was the case under past Presidential regimes, security laws and institutions continue to be exploited to suppress groups and persons that are deemed to be a threat to the government of the day.

Of note while there are oversight mechanisms, established under the 2010 constitutional dispensation, that should ensure accountability, they have not been as effective as was hoped. The failure to respect the independence of institutions, financial starvation of these independent and/or civilian oversight bodies and institutions, coupled with the politicisation of the security apparatus by successive governments, has hindered their performance and impact. Similarly, effective oversight by the Legislature and the Judiciary over the Executive has been compromised by the erosion of the principles of independence of the three arms of government and the breakdown of the system of checks and balances promised by the precincts of a democracy.

"Of note while there are oversight mechanisms, established under the 2010 constitutional dispensation, that should ensure accountability, they have not been as effective as was hoped."

A Parliamentary majority by ruling governments in recent years has been exploited to rubber stamp Executive decisions undermining their oversight role. The Judiciary is constantly under threat and pressure, to appease the Executive to avoid frustration through budget cuts, transfers of judicial officers to remote areas and the proverbial 'revisits', that became popular in the last term of former President Uhuru Kenyatta following the nullification of his government's Presidential election win in the 2017 general election by the Supreme Court. As it stands, and as also emphasised in the United Nations Special Rapporteur on promoting human rights while countering terrorism's "Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space",[5] Independent oversight of security agencies and the State is essential in ensuring respect for human rights and rule of law in PVE , CT and other national security measures.

As highlighted in the perception survey, incidents of harassment of HRDs and CSOs working in the PVE and CT space by security agencies are felt by activists to have reduced significantly in recent years. This was attributed to the process of and the development of County Action Plans for Preventing and Countering Violent Extremism (CAPs-PVE) which is a joint effort between different stakeholders, State and non-State actors which has reduced the trust deficit between CSOs and government. Although, the Prevention of Terrorism Act, created the framework for the development of the National Strategy for Countering Violent Extremism and the CAPs, the same has also been the basis for various state excesses. Similarly, some respondents indicated that the Act was

[5] See the Study Report here: https://defendcivicspace.com (accessed on 05.01.2024)

presented as one aiming to restore patriotism and thus those who have called for the respect of the rights to fair trial of those suspected to have committed crimes under the Act are regarded as being unpatriotic.

At the same time, respondents noted that the exercise of rights like the freedom of assembly continues to be limited by reason of national security. For instance, the provisions of the Public Order Act of 1950, requiring notifications ahead of protests or public gatherings have been a basis for police officers to limit the exercise of the freedom of assembly for national security reasons that are often broadly and vaguely defined and subject to the discretion of the particular officers involved.

As technology evolves and technological solutions emerge, so does the risk of the possible exploitation of these technologies in terrorist activities. There is also increased sophistication of surveillance, and communication interception technologies in the hands of the State that are being utilised beyond PVE and CT. It is on the basis of this growing threat that Kenya's National Counter Terrorism Centre (NCTC), for instance, hosted the Second Nairobi Caucus on *Preventing the Exploitation of Technology and Communication for Terrorist Use* in August 2023,[6] highlighting the use of advanced technology and social media tools by terrorist groups in recruitment, fundraising, and execution of terrorist attacks. The consensus on the need to tackle the spread of terrorism through online activities, with whatever means necessary, was loud and the significance of caution in the potential implication of broad measures on the freedom of expression seemingly minimal.

In response to these threats to human rights and the civic space, CSO actors have employed various tools to safeguard their space and pushback. Some of the key tools include: firstly, sustained advocacy efforts for increased compliance with human rights standards and principles and accountability for violations. In this regard, CSOs continue to engage not only at the national level but through regional and international mechanisms including the African Commission on Human and Peoples Rights (ACHPR) processes and at the UN through opportunities such as the Special Mechanisms and the Universal Periodic Review (UPR) process which also provide platforms for continuous engagement and review with government.

Secondly, CSO actors have also continued to leverage on their strength in numbers through coalitions and movements which not only serve as a shield against victimisation but also as a mechanism of pooling resources, diversity of expertise and voices for greater impact. Some of these notable coalitions are the Police Reforms Working Group - Kenya (PRWG)[7] that has been pressing for police reforms and accountability, the Missing Voices Coalition[8] whose vision is

> ***"... respondents noted that the exercise of rights like the freedom of assembly continues to be limited by reason of national security."***

[6] See about the Nairobi Caucus here: https://www.kbc.co.ke/kenya-challenged-to-leverage-technology-to-fight-terrorism/

[7] See more about the coalition here: https://twitter.com/ReformsGroup

[8] See more about the coalition here: https://www.missingvoices.or.ke/

to end enforced disappearances and extrajudicial killings, the Civic Freedoms Forum[9] which seeks to consolidate civic actions for the advancement of human rights, civic liberties and democracy, and the Social Justice Centres Working Group,[10] bringing together various social justice centres based in various communities.

Thirdly, CSOs in Kenya have also employed strategic litigation as a tool for interpretation of laws and declaration of rights. The Courts have been instrumental in safeguarding rights and curtailing attempts by the State to pass laws or interpret laws in a manner that undermines the exercise of these fundamental rights. The High Court has upheld the fair trial rights of suspects of terrorism,[11] the Courts have also thwarted State efforts to freeze accounts belonging to or de-registration of various organisations including HAKI Africa, Muslims for Human Rights (MUHURI),[12] the Kenya Human Rights Commission (KHRC),[13] Africa Center for Open Governance (AfriCOG),[14] among others. The Courts have also halted the implementation of a digital ID system in Kenya twice starting with the Huduma Namba case in 2020[15] and more recently the Maisha Namba (2023)[16] with concerns on data protection and possible use of data for surveillance arising in both instances.

The Court has also affirmed the need for strengthening oversight mechanisms for security agencies. In this regard, the High Court held that the failure by various agencies (Attorney General, the Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Director General of the National Intelligence Services of Kenya) to establish the Intelligence Services Complaints Board an oversight mechanism for the National Intelligence Service) was in contravention of various constitutional provisions and ordered the effecting of the same within 180 days of the judgement.[17] However, the same is yet to be implemented.

These are a few examples of landmark judgments from the Courts that buttress the Judiciary's role in safeguarding rights and upholding the rule

[9] See more about the Forum here: https://cff.or.ke/

[10] See more about the Working Group here: https://www.sjc.community/

[11] Salim Awadh Salim and 10 Others v. Commissioner of Police and three others (High Court at Nairobi, Petition No. 822 of 2008) and and Zuhura Suleiman v. Commissioner of Police and three others(High Court at Nairobi, Miscellaneous Application 441 of 2010)

[12] Muslims for Human Rights (MUHURI) & another v Inspector-General of Police & 5 others [2015] eKLR; See also Kenya Human Rights Commission,'Democratic Gains and Pitfalls, The Role of Courts in Safeguarding Civic Space in Kenya-A Case Digest (2020)

[13] Kenya Human Rights Commission v Non-Governmental Organisations Co-Ordination Board [2016] eKLR

[14] Republic v Cabinet Secretary Ministry of Interior & Co-ordination of National Government & 6 others Ex-parte Africa Centre for Open Governance & 7 others [2017] eKLR

[15] Nubian Rights Forum & 2 others v Attorney General & 6 others; Child Welfare Society & 9 others (Interested Parties) [2020] eKLR

[16] See Dzuya Walter, 'Court Suspends Registration of Persons, Issuance of New Generation IDs' December 05 2023 here: https://www.citizen.digital/news/court-suspends-registration-of-persons-issuance-of-new-generation-ids-n332588 (accessed 05.01.2024)

[17] Katiba Institute v Attorney General & 3 others; Kenya National Commission on Human Rights (Interested Party) [2019] eKLR

of law. As a result, it is important to reiterate that the protection of the Judiciary's independence, the ability of the Judicial Officers to undertake their role without fear and safeguarding the Judiciary's image, reputation and public confidence in the Institution as one beyond reproach is a key pillar to our democracy. Respect for and implementation of the orders of the courts cannot be taken lightly. In reflecting on the challenges Kenya's Judiciary faces today, the words of Justice Odunga almost 10 years to the date, ring particularly true today;

> *"Courts are the temples of justice and the last frontier of the rule of law and must therefore remain steadfast in defending the letter and the spirit of the Constitution no matter what other people may feel. To do otherwise would be to nurture the tumour of impunity and lawlessness. That tumour like on Octopus unless checked is likely to continue stretching its eight tentacles here and there, grasping powers not constitutionally spared for it to the detriment of the people of this nation hence must be nipped in the bud."*[18]

While there are critical concerns for States efforts in fighting terrorism, we must not countenance unjustified and unchecked infringement of fundamental freedoms including the freedom of expression, freedom of association, or the right to privacy among others. Transparency and accountability, by both states and private entities, are necessary values in guaranteeing respect for human rights in security matters. The UN Security Council's Counter-Terrorism Committee adopted the Delhi Declaration in October 2022, and thereby reaffirmed "that Member States must ensure that any measures taken to counter-terrorism, including the use of new and emerging technologies for terrorist purposes respect the Charter of the UN and comply with their obligations under international law, including international human rights law, international humanitarian law and international refugee law, as applicable".[19]



According to ARTICLE 19's Annual Global Expression Report[20] 2023, civic space in Kenya continues to shrink and Kenya ranks at position 61 out of 161 countries. Consequently, there is a need for more action towards safeguarding civic freedoms necessary for citizens' participation in public life and those in power must thus facilitate the checks and balances by civil society actors and other stakeholders, without threats or intimidation, but rather by pursuing engagement, collaboration, partnership and accountability at all levels.

Of note, this research also coincides with the publication in 2023 of the UN Special Rapporteur on the Promotion and Protection of Human Rights and

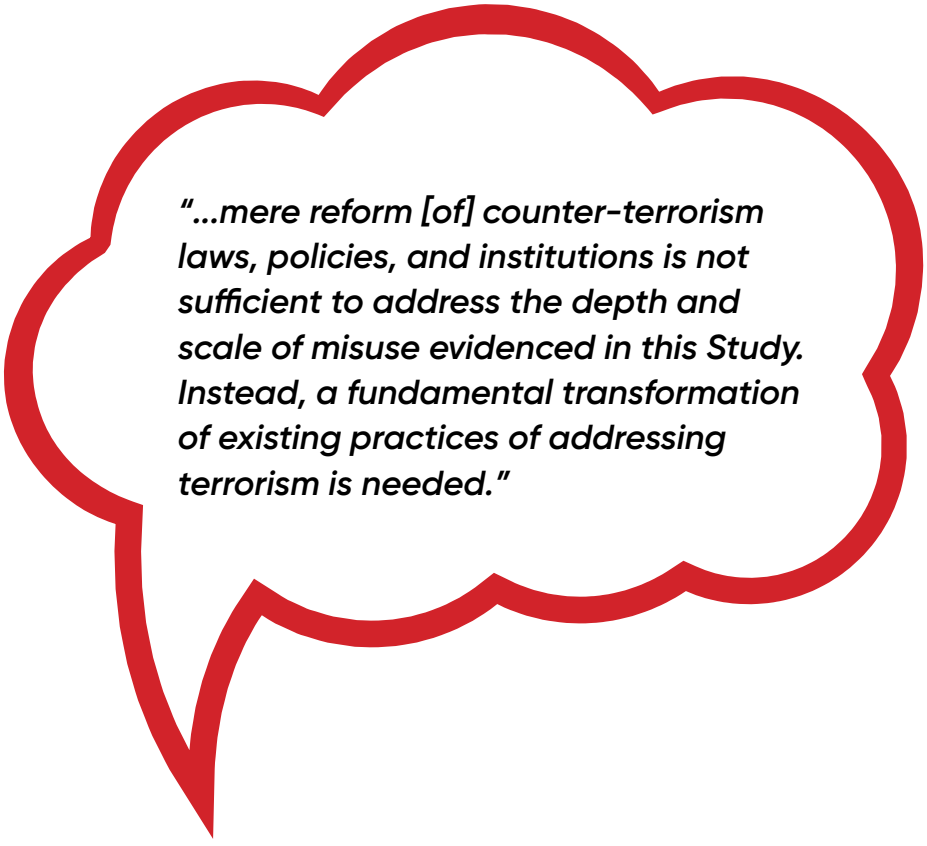
[18] International Centre For Policy and Conflict v Attorney General & 2 others [2014] eKLR

[19] See the Delhi Declaration here: https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Dec/english_pocket_sized_delhi_declaration.final_.pdf (accessed 16.01.2024)

[20] See ARTICLE 19, 2023 Global Free Expression Report here: https://www.article19.org/resources/the-global-expression-report-2023/

Fundamental Freedoms while Countering Terrorism Report titled, 'Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space,'(referenced severally herein)[21] and although there is little specific reference to the experiences in the Eastern Africa region or Kenya in the Global Study, the findings and recommendations therein are reflective of our experiences as expounded in the three papers. We echo the recommendations of the study and in particular emphasise the need for continued meaningful engagement of various stakeholders, including civil society actors in decision making to ensure that decisions are well informed, respectful of human rights and responsive to prevailing contexts.

"We echo the recommendations of the study and in particular emphasise the need for continued meaningful engagement of various stakeholders..."



UNSR Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space

[21] The Global Study presented to the Third Committee of the UN General Assembly in October 2023 is available here https://defendcivicspace.com/

A SUMMARY OF THE RECOMMENDATIONS FROM THE 3 RESEARCH PAPERS

Following this extensive research, we now put forth the following recommendations as a guide to various stakeholders in the pursuit of a human rights-centred approach that protects and promotes civic space in PVE, CT and National Security measures. Each paper carries a more comprehensive list but these here are a priority list.

To Civil Society

A. Regularly monitor, document, and publish reports on human rights abuses by coming up with a clear criterion for detecting incidences of violation, developing reports and conducting research on communication surveillance, abuse of laws, rendition, detentions, torture, and extra-judicial killings; as a way of ensuring evidence-based data on civic space violations that can inform concrete actions.

B. Continue to conduct strategic litigation to challenge the abuse of, and legality of PVE/CT and National Security laws and practices, seeking access to information, and filing suits on behalf of victims of abuses by security agencies; while following up on the implementation of the decisions and advocating for the respect of the independence of the Judiciary.

C. Establish and secure resources for HRDs in PVE/CT and National Security Fund: HRDs involved in PVE and National Security issues should establish a fund that can be used to support its members (including their families and staff) whose human rights have been infringed upon, especially by state actors and VE sympathisers.

D. Conduct advocacy including lobbying legislators and policy-makers to incorporate human rights principles in terrorism operations, policies, and laws; call out the permissive space for securitisation created through powerful actors like the UNSC that enables States to hide behind the language of terrorism to attack civil society; to repeal provisions that are not rights-respecting; hold executive arms of government more accountable for their abuses of human rights and civic space during counter-terrorism operations; hold intermediaries accountable for their role in facilitating communication surveillance and adherence to international human rights standards.

E. Exert international pressure using regional and international human rights accountability mechanisms to put pressure on the Kenyan government to respect human rights in PVE/CT and other National Security operations. These could include interventions through

shadow/alternative reporting to the African Commission on Human and Peoples' Rights; elevate civil society's experience of human rights violations for themselves and for those they represent with the Universal Periodic Review (UPR) Process; the UN Human Rights Council; the UN Human Rights Treaty Body Mechanisms, and Special Procedures Mechanisms, as well as bilateral engagements with foreign governments to raise awareness of the situation in Kenya.

F. There is a need for all civil societies in Kenya and across the continent to connect to and/or strengthen their engagements through existing national, regional and international coalitions to push back and counter the threats and practices geared towards shrinking the civic space, such as the Global NPO Coalition on FATF, and other bodies. Civil society actors are also encouraged to consider joining or linking up with the CSO Coalition on Counter-Terrorism and Human Rights, who support advocacy across the United Nations on a variety of topics including freedom of expression, protection of civic space, inclusion of civil society stakeholders in UN CT processes, and protection of the humanitarian space.

G. CSOs should prioritise, develop and sustain approaches to managing the risks involved in countering the misuse of counter-terrorism and national security measures to harm civic space and human rights, including developing security protocols while also addressing internal conflicts that may leave them more vulnerable to violations by state security agencies.

To National Government

A. Strengthen Local PVE and Community Structures: The study determined that local community structures are key in early detection of infringement of the rights of HRDs working on PVE since some of these abuses are done in remote localities away from public scrutiny. Such engagement must be long term and sustained rather than one-off project support.

B. Address the deficiencies assessed by the Financial Action Task Force in its September 2022 Mutual Evaluation Review of Kenya's laws, regulations and approaches to preventing the risk of terrorist financing and money laundering in the NPO sector, ensuring these are guided by a credible, evidence-based risk assessment, and are targeted, proportionate and compliant with international and regional human rights standards and respect for civic space.

C. Ensure meaningful and effective consultation and collaboration with civil society in reforms and ongoing outreach by delivering 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.

D. Review and reform surveillance laws and practices to ensure they are consistent with international human rights standards and principles of transparency, accountability, oversight mechanisms, and proportionality to control the use of surveillance technologies. Ensure persons harmed by surveillance technology can bring claims against security agencies and private companies for harms, and provide remedies to them.

E. Strengthening the work of oversight institutions such as IPOA, KNCHR, the NIS Complaints Board and relevant parliamentary committees to ensure effective oversight of security agencies; by respecting their mandate and ensuring they are adequately resourced.

F. Long-term interventions to improve lapses and gaps in recruitment, training, and resourcing to improve the effectiveness and accountability of security organs, agencies and personnel.

To County Governments

A. Provide Budget and policy support to County Executive Forums to spearhead implementation of CAPs. This can include through creating funding streams towards the P/CVE agenda in the County Integrated Development Plans and Annual Development Plans that determine the county's spending and creating specific directorates or departments to implement PCVE measures.

B. The functions of County PVE Forums should be streamlined and documenting/defending the human rights and civic space of PVE actors added as one of its core mandates.

To Parliament

A. Mainstream human rights principles in all legislation tabled before Parliament and ensure adequate oversight on the Security agencies.

B. Ratify, without reservation, the International Convention for the Protection of All Persons from Enforced Disappearances and pass legislation to specifically criminalise enforced disappearances and prescribe accountability for those found culpable.

C. Support follow-up to recommendations from existing UN and regional human rights reporting mechanisms, such as the Universal Periodic Review (UPR) and periodic reports under African Commission and Human and Peoples Rights (ACHPR) during plenary and committee debates, and task committees to formulate proposals on how to address them and closely monitor implementation by the Executive.

To Oversight Mechanisms: IPOA, KNCHR, NIS Complaints Board

A. Improve communication and collaborations with key stakeholders and partners to ensure they appreciate the value of submitting complaints to the Oversight Bodies/Mechanisms in the event of violations by security agencies.

B. Report on the complaints received and the status of all the cases, including on decisions to hold preliminary or full investigation, or decisions not to investigate, in a way that provides full transparency and understanding of the scope of their work.

C. Improve efforts towards accountability for violations through proper investigation and preservation of evidence to build public confidence in their role.

To Private Sector Actors

A. Comply with human rights obligations and respect for civic space, including the United Nations Guiding Principles on Business and Human Rights, that require the conduct of due diligence and human rights impact assessments on their businesses; and domesticate the same by developing internal ethical guidelines and human rights policies.

B. Promote transparency and accountability in state activities by publishing regular transparency reports, supporting public awareness and providing information to oversight bodies and civil society organisations.

C. Use secure and privacy-respecting technologies that by default and by design enable their customers to enhance their privacy including through encryption and two-factor authentication.

D. Provide financial support, technical expertise and other resources to civil society organisations that promote human rights, transparency and accountability around state surveillance activities.

To Academia

A. Conduct research on communication interception and surveillance and its impact on civic space.

B. Review how existing laws and practices of security agencies incorporate human rights principles in counter-terrorism operations, and their impact on civic space and make recommendations for policy reform.

C. Develop courses targeting law enforcement officials and the public that cover the various human rights standards applicable in counter-terrorism operations.

To Media

A. Raise public awareness on the subject by conducting investigative reports, writing articles and opinion pieces that cover human rights abuses by security agencies and private sector actors ; the policies, laws and practices relating to communication interception and surveillance; and the impact of counter-terrorism and cyber laws on civic space.

B. Join and work with coalitions that seek to push back and counter the threats and practices geared towards shrinking the civic space.

To the International and Regional Community

A. Counter-terrorism bodies and fora should develop policies and guidelines on facilitating meaningful, diverse and sustained civil society participation, which should be made publicly available and disseminated to relevant stakeholders.

B. Entities should establish robust civil society entry and focal points for reliable and meaningful cooperation. This includes through setting up processes for granting observer, consultative, or participatory status to civil society organisations.

To Donors and Development Partners:

A. Funders should work with grantees to understand the various risks they face, and ensure they are supported to manage risks and safeguard their security and well-being through their work.

B. Support efforts to engage and influence corporate actors and financial institutions, to address challenges in corporate and bank measures and regulations on terror financing and money laundering.

C. Extract evidence-led best practices for foreign funding of civil society, informed by analyses of impact of previous funding on partners and on civic space in general.

D. Increase support for strategic litigation and other legal approaches to defend civil society space, and to hold security sector actors accountable for attacks and violations against communities and civil society.

E. Provide flexible funding to address evolving threats to civic space, including support to emerging threats, community organising and movement building, administrative costs incurred by CSOs and increase core support funding to meet organisational and administrative costs and secure their long term sustainability.

F. Scale up and sustain support for civil society over the long-term to pursue initiatives that disrupt, reform, and transform security laws, technologies and discourse harming civic space.



WHAT YOU CAN DO TO GET INVOLVED?

READ THE SUMMARY REPORT AND THE THREE RESEARCH PAPERS ON:
WWW.ARTICLE19.ORG/REGIONAL-OFFICE/EASTERN-AFRICA/

FOLLOW US ON TWITTER AND INSTAGRAM

CONNECT WITH US BY FOLLOWING OUR STORIES ON OUR CAMPAIGNS AT:
WWW.ARTICLE19.ORG/CAMPAIGNS

Supported by:

ARTICLE 19 HAKI AFRICA Humanity | Activism | Knowledge | Integrity KICTANet The Power of Communities CHRIPS Centre for Human Rights and Policy Studies Civic Futures THE FUND FOR GLOBAL HUMAN RIGHTS