Human Rights and Ethical Implications of Approaches to Countering Violent Extremism in Europe

11–12 January 2018

Introduction

This meeting was held jointly by Rights Watch UK and the Chatham House International Security Department, with support from the Open Society Initiative for Europe. The event brought together stakeholders from civil society, academia and international governmental organizations to discuss the human rights and ethical implications of approaches to countering violent extremism (CVE)[1] in Europe. In eight sessions, held at Chatham House on 11–12 January 2018, participants presented and discussed issues relating to: the international and regional frameworks shaping the evolution and development of national CVE policies; the impact of CVE policies and their implementation on engagement with young people, on education, on women and on minority communities; the monitoring, surveillance and removal of online materials; and implications for other policy areas. The event took place under the Chatham House Rule.[2]

International context

In the **first session,** participants noted the international context and framework in which national CVE measures and polices were being developed and implemented. Participants agreed on the need to engage with international institutions and actors who can provide important mechanisms and platforms for collecting and presenting evidence, as well as influencing and shaping policy. It was recognized that the growing adoption and development of national CVE polices across the globe has been supported by the inclusion of CVE within the international frameworks for addressing terrorism. The impetus for this change has come most recently from the focus on foreign terrorist fighters as a threat to international peace and security, which had led to the UN calling on member states to 'enhance' their efforts to counter violent extremism [UNSC Resolution 2178 (2014)]. This was supplemented by UN Security Council Resolutions 2242 and 2250 (2015) on gender and youth respectively, the UN Secretary-General's 2015 Action Plan to Prevent Violent Extremism, and the Working Group on Radicalisation and Extremism that Lead to Terrorism.

Impact on youth and the education sector

In the **second and third sessions,** participants focused on the impact of CVE on the education sector and on those engaging with young people. Participants with experience in these sectors explained how educational institutions and their staff have become the main actors for implementation of CVE policies in a number of European states. There was an overview of the differing legal obligations and policy action plans in this regard. It was recognized that CVE policies in education are enacted into national educational systems that can have very distinct, and differing, cultures, practices and attitudes towards human rights. Discussions in these sessions explored the nature, extent and impact of CVE training for those working in education and youth services, as well as the impact of CVE policies on the young people and local communities. Common concerns focused on the impact on freedom of expression, as well as the right to privacy arising from the collection, recording, sharing and retention of data. Participants agreed that the UN Convention on the Rights of the Child, with its emphasis on placing the 'best interests of the

---

[1] For an explanation of the variation in meaning between CVE and PVE (preventing violent extremism), the latter of which is gaining traction at the UN and among a number of European states, see the UN Secretary-General's Action Plan at para 38: 'While we need to continue our concerted efforts to counter violent extremism, we have to broaden our responses, engage earlier and address the drivers of violent extremism. We need to complement the countering of violent extremism with preventive measures. Making prevention an integral part of our comprehensive approach will help us tackle many of the underlying conditions that drive individuals to join violent extremist groups'. PVE is clearly the broader approach, aimed at tackling the conditions conducive to terrorism, which can include positive measures to promote human rights and democratic values.

[2] When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

child' at the centre of decision-making, is an important foundational principle in assessing the human rights and ethical implications of CVE.

Surveillance and online censorship

The **fourth session** examined surveillance and online censorship, exploring issues around the collation, storing and dissemination of personal data, which give rise to privacy issues. The key concerns raised in this session included the lack of clear definition in legislation and policies around the terms 'terrorist propaganda' or 'extremist material', as well as the lack of data and information about the nature and type of material being removed online and the process by which decisions for removal are made. Concerns were also expressed about the processes by which these decisions are made and can be challenged. Participants expressed the view that there was a lack of rigorous judicial or administrative oversight of decisions and, in some instances, apparently undue deference to the judgment of police and security agencies. There was concern that a significant proportion of the material that was being taken down was ideological propaganda (regarded as potentially promoting the terrorist narrative), and not material explicitly supporting, inciting or showing violence.

Gendered impact of CVE policies

In the **fifth session**, civil society activists who work with Muslim women discussed their experiences of CVE polices. There was agreement among participants on the need to develop a clearer understanding of the different ways in which CVE policies have a gendered impact. They noted the challenges that existed in the context of limited financial resources, in which CVE funding was often the only funding available to them. Organizations that accept such funding can become marginalized within their communities, which can, *inter alia*, deter women accessing important services. Participants expressed concerns that the work of women's groups within communities that are the target of CVE polices can be undermined if they are seen as co-opted into CVE policies. Such perceived co-option can arise when states support the issues and concerns of women's organizations solely through the government's CVE policies and programmes.

Furthermore, where CVE policies contribute to the stigmatization of Muslims and increase the risks for discrimination, this affects men and women differently. In particular, women who present themselves in recognizable Muslim clothing and symbols are more likely to be targets of anti-Muslim violence and abuse, and are the most numerous victims of Islamophobic hate crimes. The link made in policy discourse between radicalization and failed integration places focus and responsibility for terrorism on older Muslim women, securitizes integration, and can risk increasing intra-community marginalization.

Discriminatory impact of CVE policies on particular communities

The sixth session examined the experiences of Muslim communities, and considered the challenges of collecting first-hand testimony and other evidence around this issue. It was noted that CVE shapes all aspects of government policies, funding and engagement towards Muslim civil society. In states with more intertwined/integrated state–religion relationships, this raises the question of who the government is willing to engage and work with, and the ability of civil society and communities to autonomously self-organize, thereby impacting freedom of assembly and association.

Participants noted the need to understand how CVE polices have an impact beyond the individual at which they are directed, since the assessment of risk relating to an individual also involves scrutiny of their friends and family members. This raises questions concerning data collection, as well as concerning the privacy and other rights of family members who are under scrutiny or pressure only because of their

family relationships. This can lead to social isolation. Participants noted the difficulty of measuring such impacts on security and community.

Escalation of CVE measures

In the **seventh session,** the increasing use of administrative measures for CVE purposes was explored. Such measures include area bans, and the use of immigration rules with regard to residency rights or visas, as well as access to and removal of citizenship. Also noted was the use of regulatory mechanisms in relation to charities and media organizations where specific permits or licences are needed. Discussion focused on the lack of transparency and data concerning the measures that are being taken, the rights of due process that appear to be lacking, and the avenues for challenging the current measures. It was noted that because CVE is framed as operating in the pre-criminal space, there are not the usual safeguards that operate in the criminal justice process.

Future policy guidelines

The **eighth** and final session explored the potential for civil society to develop and advocate for policy guidelines on the human rights impact of CVE programmes. There was broad support among participants from all the sectors represented for further exploring the development of guidelines in this area. However, several participants expressed concerns that the process of creating guidelines for monitoring the human rights impact of CVE could be viewed as accepting its underlying rationale and premise, reinforcing the legitimacy of various CVE policies. The challenge outlined was how to retain a critical stance while engaging in the policy sphere. This is particularly difficult in national security debates, where critical voices can be framed at best as naive, and at worst as supporting or sympathizing with terrorists. This is more acute in states where there is a higher level of public trust in government and less of a tradition of robust civil society criticism of government.

The participants considered the purpose and potential audience for any guidelines. International, regional and national oversight mechanisms were identified as key audiences for any guidelines. For some participants, the primary audience would be international institutions, although it was recognized that significant efforts are needed to create a space for advocacy and debate on human rights in the main international security and CVE policy spaces. The core international human rights treaties provide an important framework within which to begin engagement. Participants with experiences in working with international institutions suggested that there may be unexplored opportunities for engaging security actors at the international level with regard to human rights in CVE. At the national level, guidelines may be useful to practitioners and to those monitoring and implementing policy (in education, youth work, healthcare, prisons, etc.). Those working in policy implementation emphasized the need to consult and engage professionals in different areas of work in order to develop relevant, useful and tailored guidelines that can be applied by practitioners and policymakers as well as organizations with responsibility for regulation or oversight of public institutions or professional practice.

It was recognized that Muslim voices are often missing from the national, regional and international discussions on CVE. Participants with experience of Muslim communities recognized that some Muslim organizations are hesitant to publicly voice their concerns about the impact of CVE policies, for fear of attracting negative political media attention or criticism. This issue was particularly evident where organizations receive public funding for service delivery. Participants agreed on the need to engage affected communities, in particular Muslim activists, experts and organizations, in the discussion and development of guidelines.

There was also discussion of whether these should be developed specifically within the EU/European regional context, or whether they needed to take account of the broader global context.

Cross-cutting themes in the discussions

A key weakness and challenge of CVE policy is the absence of any agreed or clear definitions, in international law and policy, of the key operating concepts of 'terrorism' and 'violent extremism'. For example, without clear definitions of what falls within the scope of 'extremist content' and 'terrorist propaganda', it is difficult to challenge policy implementation.

Across a number of sessions, participants noted the lack of clarity and certainty surrounding the boundaries and scope of existing policies and programmes aiming to prevent violent extremism. This issue connects to the complex, multifaceted, multidimensional and multicausal nature of violence. Most of the conditions identified as conducive to terrorism overlap with wider social policies around social inclusion and development; this creates a danger of securitizing broad swathes of social and economic policy. There was concern that if CVE becomes a driver for systemic and deep-rooted legal, political, social and economic reforms, this risks co-opting all existing political and social reform agendas into securitization that could undermine the perceived independence of individuals and organizations working on these wider issues.

There was agreement among most participants that human rights have been largely absent from analysis, discourse and structures of CVE policies at the national, regional and international levels. In many states, human rights harms play no part in the policy or public discussion of CVE policy. In fact, it was noted that CVE is often seen as 'soft' policy, in contrast with the 'harder' policing policies that are seen as having clearer and more direct implications for civil liberties. Participants recognized that upholding the rule of law and protecting human rights, in preventing ethnic, national and religious discrimination, dehumanization of the victims of terrorism, political exclusion and social-economic marginalization, have long been established as relevant to preventing terrorism. Many participants therefore made the case for the pragmatic benefits of ensuring the inclusion of human rights obligations and considerations in CVE policies or action plans.

There is increasing interest at the international level for a gendered analysis of the impacts of CVE policies. However, it was also recognized that this discussion was taking place in a context in which women remain largely absent from the international high-level policymaking structures on security. There is also a tendency to reference gender superficially, without taking account of the complex and multifaceted way that CVE policies can impact women. One participant described this as the 'add women and stir' approach.

Indicators of radicalization form the basis of policy, and then play an important role in policy implementation, but participants reported a lack of transparency around the evidence base for the indicators, and the indicators themselves. It is important to monitor the role indicators play in determining issues around education, employment, liberty (parole) and family life (for example, decisions on custody or removal of children from families).

Assessing the scale of the impact of CVE policies has been hindered by lack of data around the implementation of policies in the various states. There is also the need for better understanding of the rules around recording, sharing and retention of data collected as part of CVE policies, as well as the rights of data subjects to understand that data are being collected, and how this information is being stored and disseminated. This includes the thresholds and grounds on which

decisions are made to collect data and information; the extent to which individuals are told, or have a right to know, that data are being collected and shared, and on what basis; as well as the procedural rights and likely ability of data subjects to challenge the collection of such data or information.

Participants identified the need to capture the ways CVE polices may be undermining security. For example, over-reporting is creating 'noise' and chatter that makes it difficult to identify real threats. Several participants noted the abuse or misuse of public reporting mechanisms in their countries. **There needs to be more systematic and comprehensive understanding of the impact of 'false positives'.** Research in other areas of security around the impact of false positives suggests that where thresholds are set too low, and lead to too many false positives, this undermines trust and confidence in the system as well as clogging up the system.

The implementation of CVE policies has involved significant training of public officials on issues surrounding CVE. This raises concerns about the stigmatization of, and heightened vigilance and observation of, the behaviour of Muslims. The expansion of CVE into the training of a wide range of non-security sector professionals also creates tensions between ethical standards in those professions and implementation of CVE.

A key challenge for monitoring the human rights impact of CVE is in capturing the impact in terms of behaviour changes, disengagement, self-censorship, and people's modification of how they act, appear, identify and organize. There is often reference to the need for evidence about the impact of CVE policies, but the research challenges posed by the nature, type and quality of evidence needed are significant.