

**January 2023**

**Summary**

- Measures to prevent and counter violent extremism (P/CVE), as well as counter-terrorism (CT) measures, can and do negatively impact civil society and civic space in many ways, including ways that may violate or call into question a state's compliance with its international human rights obligations.
- RSI's existing research concludes that the UK government's approach to P/CVE – 'Prevent' – restricts the internationally recognised rights to privacy, free assembly, and free expression to an extent that violates the state's treaty obligations, while CT measures taken by the Kenyan and other governments have similar negative effects.
- P/CVE and CT measures also have disproportionate impacts on civil society groups representing communities that already face bias and disadvantage: in the UK, Muslims are disproportionately negatively impacted by Prevent; in Indonesia, P/CVE measures are used to further disenfranchise Ahmadiyah, Shia and Gaftar communities; and in the Philippines, indigenous rights activists are heavily affected.
- These developments are part of a broader 'mission creep' of P/CVE measures, whereby these measures increasingly target civil society organisations and individuals that oppose government policies rather than anyone who demonstrably intends to engage in violence. Insofar as these measures focus on detecting or preventing 'extremism' – in the sense of beliefs, thoughts or opinions – rather than any demonstrable and credible threat of violence, governments can easily misuse them to oppress peaceful dissent or the simple holding of a belief or opinion, the right to which is absolute.
- Especially in the aggregate, governments' P/CVE and CT measures often create an oppressive environment for civil society to operate, limiting activists' ability to challenge government policies and fulfil their democratic function. Indeed, this effect may be the unstated goal of some measures.

**About Rights & Security International**

Rights & Security International (RSI) is a London-based organisation that has been working for the past 30 years to ensure that governments comply with human rights laws and refrain from racism or other discrimination when they take measures in the name of national security.

RSI has been investigating the UK government's P/CVE strategy, 'Prevent', for over six years, and we have been researching P/CVE and other CT measures in other states since 2020. This submission will focus on our experiences in the UK context, as well as some targeted examples from the other states in which we or our partners have conducted research. However, our concerns are likely applicable in other contexts where governments create similar CT and P/CVE approaches. We do not recite the relevant domestic legal frameworks for CT and P/CVE measures; however, we can provide this information on request.

We have annexed two PDF documents to this submission which we believe will assist the Special Rapporteur with the current analysis: our pair of 2022 reports, *Prevent-ing Dissent: How the UK's counterterrorism strategy is eroding democracy*

– which assesses the negative impacts the UK’s Prevent strategy has on civic space – and *Secret, Confused and Illegal: How the UK Handles Personal Data under Prevent* – which argues that the way public authorities in Great Britain process personal data under Prevent violates the human right to privacy. (Some of the most important aspects of Prevent do not apply in Northern Ireland, even though this is the region of the UK that has experienced the greatest number of politically motivated killings during the past century, by a large measure.)

### Limits on privacy, freedom of assembly and free expression

1. P/CVE strategies across the globe can violate the human rights to privacy – or private and family life, as it is sometimes described – freedom of assembly and free expression, due to their focus on preventing or countering ‘extreme’ thoughts and opinions. While governments vary in how they define ‘extremism’, a central tenet is opposition to state activities or doctrines.<sup>1</sup> In many instances, P/CVE strategies can therefore lead to the suppression of anti-state speech and ultimately stifle public debate – a pillar of democracy.
2. We note at the outset that ‘extreme’ and ‘extremism’ are necessarily relative concepts with a high degree of subjectivity. (‘Extreme’ compared to what? Who is making the comparison, how, and why?) Attempting to locate beliefs on some single, direct, continuous line will often be an arbitrary and highly reductive exercise, and risks erasing the fact that some beliefs once regarded as ‘extreme’ (such as the idea that women should have the right to vote in elections) are now widely accepted.<sup>2</sup> It further risks obscuring the fact that ideologies that many might like to describe as ‘extreme,’ such as white supremacy and misogyny, are in fact very common and even deeply baked into existing power hierarchies in ways that governments decline to address systematically, even as they make a show of using P/CVE programmes to target some of the more explicit articulations of those ideologies. Sometimes, to describe a set of ideas as ‘extreme’ is to deny a pervasive problem, even while reinforcing existing biases in law and policy.
3. We further note that despite a wealth of research in several disciplines – such as psychology, medicine, public health and sociology – regarding why and how humans engage in violence and what policies, practices or resources might prevent this, government P/CVE policies often simply assume a causal connection between ‘extremist’ beliefs and an actual propensity to engage in violence. Governments engaging in P/CVE activities often fail to provide any evidentiary basis for those activities, let alone evidence that can be independently assessed and validated.<sup>3</sup> A programme that is not based on evidence – such as replicable studies designed to prove or disprove clear hypotheses – begs the question of what, in fact, it is based on. This is especially true if that programme also conflicts with existing rigorous and testable analyses.
4. As a final preliminary, we note that P/CVE programmes often do not target violence against women or LGBTQ+ people, even when the perpetrators clearly express misogynist, homophobic or transphobic ideas; nor do they typically target systemic violence or discrimination against racial, religious or ethnic minority groups. The people in societies who are at the greatest risk of violence are typically not the focus of any protection that could be offered by a P/CVE programme. Further, when these groups are subject

<sup>1</sup> In the UK, this is controversially described as opposition to ‘fundamental British values’: see HM Government, *‘Prevent Strategy’* (June 2011), pp. 34, 107-108. On the definition of ‘extremism’, see: David Lowe, *‘Prevent Strategies: The Problems Associated in Defining Extremism – The Case of the United Kingdom’* (2017) 40(11) *Studies in Conflict & Terrorism* 917.

<sup>2</sup> For an overview, see Alar Kilp, *‘The Ontology and Epistemology of Extremism’* (2011) 14(2) *Estonian National Defence College Proceedings* 9; Peter T. Coleman and Andrea Bartoli, *‘Addressing Extremism’* (International Center for Cooperation & Conflict Resolution, 2003).

<sup>3</sup> For instance, see Anthony F. Lemieux, *‘Social Psychological Approaches to Understanding and Preventing Terrorism: Toward an Interdisciplinary Perspective’* (2006) 1(4) *Journal of Security Education* 75. In the UK, see Kris Christmann, *‘Preventing Religious Radicalisation and Violent Extremism: A Systematic Review of the Research Evidence’* (Youth Justice Board for England and Wales, 2012), pp. 10-22.



to ideologically-motivated violence, we observe that this form of violence appears much less likely to attract the label of ‘terrorism’ (particularly in the media), in comparison to when the victims of violence are part of the majority of the population and/or include cisgender men.<sup>4</sup> Indeed, it often appears that P/CVE programmes are or could easily become a means of scapegoating the very groups in society that are most at risk of becoming *victims* of violence on a day-to-day bias.

5. In our 2022 report *Prevent-ing Dissent: How the UK’s counterterrorism strategy is eroding democracy*, we concluded that social justice movements and civil society organisations in the UK are negatively impacted by Prevent, including through potential violations of the rights to free expression, freedom of belief and opinion, freedom of association and freedom of assembly. The government, through Prevent, limits the ability of activists to engage in their democratic function – to freely associate, assemble, and speak out about government policies, including those with which they disagree as well as those they wish to save. While Prevent negatively impacts individuals who have been ‘referred’ to the authorities under this strategy as a result of their activism, we also find that Prevent has a broader chilling effect, with would-be activists afraid to speak out about government policies for fear of being referred to Prevent.<sup>5</sup>

6. One peace activist told us:

*‘A lot of [us] are in grassroots organisations and movements and take nonviolent direct action and we’ve seen, obviously, some of those groups labelled as problematic. [We] were quite alarmed to see the emergence of the phrase ‘nonviolent extremists’, ‘nonviolent extremism’ and that kind of conveyor belt theory<sup>6</sup> that [claims] it was a precursor to violence if you were political... [The government’s view on] nonviolent extremism misrepresents the idea that nonviolence is an active commitment to not use violence, to try and create justice without furthering harm and seeing the humanity of even your enemy.’<sup>7</sup>*

7. We believe this cited example illustrates how Prevent’s gradual ‘mission creep’ has led to the UK government – through the strategy – ultimately seeking to shut down democratic space, under the guise of preventing extremism. We discuss the idea of a ‘mission creep’ of P/CVE further in more detail below, and are aware that suppressing unpopular opinions may always have been one of the unstated purposes of some P/CVE programmes, but reference the concept here so far as it links to possible violations of human rights laws that have not yet been sufficiently evaluated by lawmakers, courts or oversight bodies. We likewise argue that the several possible human rights violations arising out of Prevent – and in particular their impact on civic space – should be seen in light of the disproportionate impacts the strategy has on British Muslim communities, outlined below. This means that civil society groups representing Muslim communities, or including significant numbers of Muslim members, are more likely to be impacted by Prevent.

8. In a separate 2022 report, *Secret, Confused and Illegal: How the UK Handles Personal Data Under Prevent*, we argue that how the government handles personal data under Prevent breaches the right to privacy under

<sup>4</sup> See Rowan Williams, [‘What Orwell can teach us about the language and terror of war’](#) (*The Guardian*, 12 December 2015). For example, see Miqdaad Versi, [‘Britain had a far-right terrorist attack a week ago. Why the failure to call it by its true name?’](#) (*The Guardian*, 6 November 2022); Daniel Hurst, [‘Australia’s spy chief vows to call out rightwing terrorism when there’s a specific threat’](#) (*The Guardian*, 19 March 2021).

<sup>5</sup> Zin Derfoufi and Rights & Security International, [‘Prevent-ing Dissent: How the U.K.’s counterterrorism strategy is eroding democracy’](#) (March 2022).

<sup>6</sup> The ‘conveyor belt theory’ suggests that individuals who hold ‘extreme’ ideas are on a ‘conveyor belt’ towards radicalisation and, subsequently, terrorist violence. Therefore, under this prominent – yet widely criticised – theory, people who hold such beliefs are predisposed to committing terrorist acts: see Lauren Powell, [‘Counter-Productive Counter-Terrorism. How is the dysfunctional discourse of Prevent failing to restrain radicalisation?’](#) (2016) 8 *Journal for Deradicalization* 46.

<sup>7</sup> Zin Derfoufi and Rights & Security International, [‘Prevent-ing Dissent: How the U.K.’s counterterrorism strategy is eroding democracy’](#) (March 2022), p. 17.

international law.<sup>8</sup> We conclude that Prevent sets the stage for law-breaking, in that the strategy – and the way that the government advises practitioners to implement it – promotes over-broad and unnecessary data collection and processing practices, including the gathering of information about people’s race/ethnicity and political or religious beliefs, with limited role for human rights and data protection norms. This analysis applies to all individuals who have, or may have had, contact with Prevent, regardless of the stage which their referral reached or the merits of the referral, and therefore equally applies to civil society advocates who have been referred to the strategy. The potential later use of personal data under Prevent – for instance in the way it may affect an individual’s future employment prospects or their immigration status – further contributes to the ‘chilling effect’ outlined above.

9. CT and P/CVE laws and policies can also have an impact on civil society groups’ and movements’ ability to define their own agendas regarding the legal and policy issues to which they respond, especially in countries with precarious institutions where organisations are highly dependent on government funds and international aid. Grassroots groups in Kenya have told us how prevailing narratives among funders and public officials shape their work, benefiting Nairobi-based organisations working on CT and P/CVE, and excluding others from different localities and working on other important issues.
10. Similarly, in our 2022 country profile report, *Addressing Human Rights Concerns from Kenya’s Counterterrorism Laws and Policies*, we identify how the country’s existing legislation on terrorism is undermining civil society’s role as a public watchdog and threatening the work of human rights defenders within grassroots groups and communities.<sup>9</sup> Civil society organisations have raised concerns that P/CVE and CT laws in Kenya are aimed at stifling dissent and skirting the regular accountability processes.<sup>10</sup> Similarly, legislation which does exist to protect civic space – such as the 2013 Public Benefits Organisations Act, which, among other things, is intended to prevent political interference in the process of closing down NGOs – has gone unimplemented.<sup>11</sup>

### **Disproportionate impact of human rights violations on civil society representing certain communities**

11. Counter-terrorism measures frequently have disproportionate negative consequences for communities that already face bias and marginalisation. In some instances, governments have implemented strategies with the specific aim of monitoring or infiltrating such communities, and in other circumstances, P/CVE and CT measures appear to have a disproportionate impact on particular groups for indirect reasons.
12. In the UK, for instance, the government’s Prevent strategy was originally drafted with a sole focus on countering ‘extremism’ in Muslim communities. Although the government has since expanded the strategy to address potentially any ideology it regards as ‘extremist’, the way authorities implement the strategy still

<sup>8</sup> Rights & Security International, [‘Secret, Confused and Illegal: How the UK Handles Personal Data Under Prevent’](#) (October 2022). Although this legal analysis refers to the UK government’s obligations under the European Convention on Human Rights – principally the Article 8 right to private and family life – we argue that current practice also violates the UK’s obligations under the International Covenant on Civil and Political rights, for example, as these two sources offer broadly the same level of protection to the privacy right: see Iliana Georgieva, [‘The Right to Privacy under Fire – Foreign Surveillance under the NSA and the GCHQ and Its Compatibility with Art. 17 ICCPR and Art. 8 ECHR’](#) (2015) 31(80) Utrecht Journal of International and European Law 104, pp. 115-125, in which the author argues: ‘... despite the linguistic differences in the two English texts, ‘privacy’ within Art. 17 ICCPR and ‘private life’ under Art. 8 ECHR mean the same thing.’ (at p. 115). See also Oliver Diggelmann and Maria Nicole Cleis, [‘How the Right to Privacy Became a Human Right’](#) (2014) 14 Human Rights Law Review 441.

<sup>9</sup> Rights & Security International, [‘Addressing Human Rights Concerns from Kenya’s Counterterrorism Laws and Policies – Country Profile Report’](#) (April 2022), pp. 15-19.

<sup>10</sup> For a summary, see: US Bureau of Democracy, Human Rights, and Labor, [‘2020 Country Reports on Human Rights Practices: Kenya’](#) (US Department of State, 30 March 2021), sections 2 and 5.

<sup>11</sup> See William Maema, [‘Unleashing NGOs’ full potential’](#) (*Business Daily*, 9 January 2023).





creates unique concerns for British Muslim communities.<sup>12</sup> For instance, individuals from Muslim communities are more likely to be referred to Prevent unnecessarily, with only 14 percent referrals for purported ‘extreme’ Islamic views resulting in further intervention, compared to 25 percent of individuals referred due to a belief that they held ‘Extreme Right-Wing’ views.<sup>13</sup>

13. We are concerned that the government will soon revert Prevent to its initial heavy focus on Muslim communities (to the extent that the focus ever truly changed), exacerbating the entirely real negative impacts felt by people in those communities. The current Independent Reviewer of Prevent, Sir William Shawcross, has described Islam as the ‘greatest threat’ to the UK, and media outlets have reported that the reviewer intends to recommend that Prevent ‘renew’ its focus on Islamist extremism, due to a belief that the government’s application of the strategy to individuals who hold far-right views has shut down room for democratic debate.<sup>14</sup> These recent developments also show how subjective and politicised government definitions of ‘extremism’ can be, and that already underrepresented or marginalised communities are most likely to suffer the negative consequences of P/CVE strategies.<sup>15</sup>
14. In Indonesia, the country’s P/CVE strategy has negative implications for specific minority Muslim communities, and we should see this in light of religious discrimination in the country more broadly.<sup>16</sup> The government promotes the idea of ‘religious moderation’, which means that non-mainstream religious views – which the government and public bodies describe as ‘deviant’ views – are targeted, even if these ideas are not linked to advocacy for violence.<sup>17</sup> For instance, in 2018, the Attorney General’s Office released the ‘Smart Pakem’ app, which asks members of the public to report ‘deviant’ religious teachings given within the Ahmadiyah, Shia and Gaftar communities.<sup>18</sup>
15. In the Philippines, the government uses anti-terrorism policies to target indigenous communities. During our webinar on *Indigenous People and Land Rights: The Fight for Inclusive Security Policies*, a spokesperson from the Cordillera Peoples Alliance (CPA), a well-known indigenous rights organisation, reported that the government targets human rights defenders and indigenous leaders as threats to the national security. Journalists and human rights activists have also accused military and police institutions of ‘terrorist-tagging’ environmental and indigenous rights activists opposing the government’s agenda, allegedly leading to enforced disappearances and extra-judicial killings.<sup>19</sup> We have seen similar allegations relating to P/CVE and CT policies and practices in other jurisdictions.<sup>20</sup>

<sup>12</sup> For an overview, see Tufyal Choudhury and Helen Fenwick, [‘The impact of counter-terrorism measures on Muslim communities’](#), Equality and Human Rights Commission report 72 (2011).

<sup>13</sup> Statistics taken from the period from April 2020 to March 2021: see Home Office, [‘Official Statistics: Individuals referred to and supported through the Prevent Programme, England and Wales, April 2020 to March 2021’](#) (Gov.uk, 18 November 2021).

<sup>14</sup> See Jessica Elgot and Vikram Dodd, [‘Leaked Prevent review attacks ‘double standards’ on far right and Islamists’](#) (*The Guardian*, 16 May 2022).

<sup>15</sup> See Rob Faure Walker, *The Emergence of ‘Extremism’* (London: Bloomsbury, 2022).

<sup>16</sup> For an overview, see Al Khanif, *Religious Minorities, Islam and the Law: International Human Rights and Islamic Law in Indonesia* (London: Routledge, 2022). Further, see Human Rights Watch, [‘In Religion’s Name: Abuses against Religious Minorities in Indonesia’](#) (28 February 2013).

<sup>17</sup> In the community policing context, see Ardianto Bayu Wibowo, Bambang Dwi Hartono and Suprpto, [‘Reinforcement of religious moderation through role of chaplain in community police partnership forum from management perspective’](#) (2021) 6(2) *Attarbiyah: Journal of Islamic Culture and Education* 145. Further, see Greg Fealy, ‘The Politics of Religious Intolerance in Indonesia: Mainstreamism Trumps Extremism?’, in Tim Lindsey and Helen Pausacker (eds.), *Religion, Law and Intolerance in Indonesia* (London: Routledge, 2018).

<sup>18</sup> Andreas Harsono, [‘Indonesia Launches ‘Snitch’ App Targeting Religious Minorities’](#) (*Human Rights Watch*, 30 November 2018).

<sup>19</sup> E.g., Rights & Security International, [‘Indigenous People and Land Rights: The Fight for Inclusive Security Policies’](#) (YouTube, July 2022), at 3:58-13:11. For more information, see Ellson Quismorio, [‘Manila RTC ruling should put end to red-tagging, says Makabayan bloc’](#) (*Manila Bulletin*, 23 September 2022); Anna Malindog-Uy, [‘Philippines: Red Or Truth Tagging?’](#) (*The ASEAN Post*, 14 March 2021).

<sup>20</sup> Although the phrase ‘terrorist-tagging’ is not always used. See, for example, Building and Wood Workers’ International, [‘Zimbabwean trade unionists are not terrorists!’](#) (*BWI*, date unknown); Haynes Johnson, *The Age of Anxiety, McCarthyism to Terrorism* (Boston: Mariner Books, 2005).



## 'Mission creep' of P/CVE measures

16. 'Mission creep' involves 'the gradual broadening of the original objectives of a mission'.<sup>21</sup> In the CT context, we have seen the normalisation of what were once depicted as exceptional or emergency measures, as well as their application to non-counter-terrorism matters, over the past decade.<sup>22</sup> This means that states are using CT measures in a way that impacts – or has the potential to impact – a wide range of individuals who are not involved in violence, or whose alleged crimes (if any) did not involve the use of serious violence to achieve a political goal. P/CVE is no exception, with environmental rights movements, religious community organisations and the media, among other groups, targeted for P/CVE intervention across the globe.<sup>23</sup>
17. In the UK, although the government's Prevent strategy originated as an attempt to counter Islamic 'extremism', the government has since used the strategy to target a range of individuals and groups that simply express, in a non-violent manner, disagreement with its policies. As one interviewee – a peace activist – told us for our 2022 report *Prevent-ing Dissent: How the U.K.'s counterterrorism strategy is eroding democracy*:
- 'A lot of [us] are in grassroots organisations and movements and take nonviolent direct action and we've seen, obviously, some of those groups labelled as problematic. [We] were quite alarmed to see the emergence of the phrase 'nonviolent extremists', 'nonviolent extremism' and that kind of conveyor belt theory that [claims] it was a precursor to violence if you were political... [The government's view on] nonviolent extremism misrepresents the idea that nonviolence is an active commitment to not use violence, to try and create justice without furthering harm.'*<sup>24</sup>
18. Our research demonstrates that Palestinian rights advocates and civil society actors working to promote peace have been negatively impacted by Prevent, through a chilling effect or direct limitations on their freedoms of expression and assembly.<sup>25</sup> Additionally, several UK police forces, in providing guidance to professionals on how to implement Prevent, have defined environmental rights groups, such as Greenpeace and Extinction Rebellion – groups that publicly protest against government action and inaction – as 'extremist'.<sup>26</sup> This mission creep has negative implications for democracy, in prohibiting activists from critiquing government policy. Expanding a biased, harmful programme so it affects a more diverse range of groups does not mitigate the human rights violations involved; more diverse or equal repression is still repression.
19. One of civil society's fundamental democratic roles is to challenge governments' rights-violating or illegal policies. Yet, In the CT and P/CVE space, civil society organisations have historically been excluded from the design, implementation, monitoring and evaluation of effective measures to prevent and counter violence and terrorism. The CT programmes and P/CVE strategies addressed in this submission have an inherent negative impact on civil society organisations and individual activists, by allowing targeting of

<sup>21</sup> Merriam-Webster, ['mission creep'](#).

<sup>22</sup> See Kent Roach, ['Preventing What? Post-9/11 Mission Amnesia and Mission Creep'](#), in David Jenkins, Amanda Jacobsen and Anders Henriksen (eds.), *The Long Decade: How 9/11 Changed the Law* (Oxford: Oxford University Press, 2014); Fletcher N. Baldwin Jr. and Daniel R. Koslosky, ['Mission Creep in National Security Law'](#) (2012) 114 West Virginia Law Review 669.

<sup>23</sup> See Anne Charbord and Fionnuala Ní Aoláin, ['The Role of Measures to Address Terrorism and Violent Extremism on Closing Civic Space'](#) (University of Minnesota, 2018).

<sup>24</sup> Zin Derfoufi and Rights & Security International, ['Prevent-ing Dissent: How the U.K.'s counterterrorism strategy is eroding democracy'](#) (March 2022), p. 17.

<sup>25</sup> Zin Derfoufi and Rights & Security International, ['Prevent-ing Dissent: How the U.K.'s counterterrorism strategy is eroding democracy'](#) (March 2022), pp. 11, 17, 19-20, 24.

<sup>26</sup> See Vikram Dodd and Jamie Grierson, ['Greenpeace included with neo-Nazis on UK counter-terror list'](#) (*The Guardian*, 17 January 2020); Vikram Dodd and Jamie Grierson, ['Terrorism police list Extinction Rebellion as extremist ideology'](#) (*The Guardian*, 10 January 2020).

individuals or groups that oppose government policy. Rather than allowing dissent, governments have instead shut down democratic spaces, and further marginalised already vulnerable groups such as Muslim communities, indigenous activists, and others.