

# Towards a Just Society: Examining Alternatives to Prosecution in Countering Violent Extremism in Kenya

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DOI: 10.29322/IJSRP.14.07.2024.p15214

Paper Received Date: 12th July 2024  
Paper Acceptance Date: 17th August 2024  
Paper Publication Date: 21st August 2024

**Abstract-** Violent In recent years, Kenya has grappled with the persistent threat of violent extremism, particularly from groups like Al-Shabaab, which have targeted both civilian and government institutions, posing significant challenges to peace, stability, and socio-economic development. Traditional approaches to countering violent extremism in Kenya have predominantly relied on punitive measures such as law enforcement crackdowns and prosecution of suspected terrorists. However, the efficacy of these methods has been questioned due to their limited success in addressing the root causes of radicalization and preventing future acts of violence. Recognizing these shortcomings, there is a growing consensus among policymakers and practitioners in Kenya regarding the need to explore alternative justice policies and punishments. These alternative approaches prioritize principles of restorative justice, rehabilitation, and community engagement, aiming to address underlying grievances and foster long-term peace and stability. This paper critically examines the potential of alternative justice policies and punishments in countering violent extremism in Kenya, exploring their strengths, limitations, and implications. Through a comprehensive review of existing literature and initiatives, the paper aims to contribute to ongoing debates and policy discussions surrounding CVE efforts in Kenya, offering insights into how the country can navigate towards a more just and sustainable approach to countering violent extremism. The findings highlight the importance of shifting focus from punitive measures to proactive interventions that prioritize prevention, rehabilitation, and community resilience, underscoring the potential of alternative approaches in building a more resilient society resilient to violent extremism.

**Index Terms-** violent extremism, alternative justice, countering radicalization

## I. INTRODUCTION

In recent years, Kenya has faced a persistent challenge of violent extremism, particularly emanating from groups like Al-Shabaab, which have targeted both civilian and government institutions with devastating consequences (Speckhard & Shajkovi, 2019; Lind, Mutahi, & Oosterom, 2017). The prevalence of radicalization and recruitment among Kenya's youth population has exacerbated the security landscape, posing significant threats to peace, stability,

and socio-economic development (Nordic Africa Institute, 2016). Against this backdrop, traditional approaches to countering violent extremism have predominantly relied on punitive measures, including law enforcement crackdowns and prosecution of suspected terrorists (Mastroe & Szmania, 2016). However, the efficacy of these methods has come under scrutiny due to their limited success in addressing the root causes of radicalization and preventing future acts of violence (Silke & Veldhuis, 2017). Moreover, the heavy-handed approach of law enforcement agencies has sometimes led to human rights abuses and alienation within affected communities, further complicating efforts to foster trust and cooperation (Mattsson, 2019).

Recognizing the shortcomings of conventional strategies, there is a growing consensus among policymakers and practitioners in Kenya about the need to explore alternative justice policies and punishments in countering violent extremism (Mwangi, 2019; Wairuri, 2018). Alternative approaches seek to address the underlying grievances and drivers of radicalization through non-coercive means, emphasizing principles of restorative justice, rehabilitation, and community engagement (UNDP, 2016; Hansen, 2020). Restorative justice, for instance, offers a framework for dialogue, reconciliation, and healing between victims and perpetrators, aiming to repair the harm caused by violent extremism and promote social cohesion (Bredlid, 2019). Similarly, rehabilitation programs focus on providing education, vocational training, and psychological support to individuals at risk of radicalization, aiming to facilitate their reintegration into society as productive members (Halakhe, 2020). By shifting the focus from punishment to rehabilitation and reconciliation, these alternative approaches hold promise in addressing the root causes of violent extremism and building resilient communities (Lowe, 2017).

This paper delves into the intricacies of alternative justice policies and punishments within the context of countering violent extremism in Kenya. Through a comprehensive review of existing literature and initiatives, this paper aims to critically examine the potential of these approaches in fostering peace, justice, and strong institutions. By analyzing the strengths and limitations of alternative strategies, this paper seeks to contribute to ongoing debates and policy discussions surrounding CVE efforts in Kenya and beyond. Ultimately, the objective of this paper is to offer insights into how Kenya can navigate towards a more just and

sustainable approach to countering violent extremism that prioritizes reconciliation, rehabilitation, and community resilience.

## II. THE CASE FOR ALTERNATIVES TO PROSECUTION

Traditional prosecution methods have demonstrated significant limitations in effectively addressing the complex phenomenon of violent extremism in Kenya. While prosecution aims to hold individuals accountable for their actions, it often fails to address the underlying root causes and grievances that fuel radicalization (Silva, 2018). Furthermore, the adversarial nature of the legal system may exacerbate tensions between communities and law enforcement agencies, hindering trust-building efforts critical for successful counter-extremism initiatives (Munene & Thakhathi, 2017). Additionally, the reliance on punitive measures such as imprisonment can inadvertently reinforce extremist narratives of oppression and martyrdom, potentially radicalizing individuals further (Kundnani & Hayes, 2018). As such, there is a pressing need to reassess the effectiveness of traditional prosecution methods and explore alternative approaches that prioritize prevention and rehabilitation.

Moreover, punitive measures can lead to unintended consequences that undermine long-term peace and stability in Kenya. For instance, the mass incarceration of suspected extremists without due process may contribute to the alienation and marginalization of vulnerable communities, perpetuating cycles of violence and resentment (Halakhe, 2020). Additionally, the stigmatization of ex-convicts upon their release can impede their reintegration into society, potentially exacerbating feelings of disenfranchisement and susceptibility to re-radicalization (Breidlid, 2019). Furthermore, heavy-handed counter-terrorism tactics may infringe upon civil liberties and human rights, eroding trust in government institutions and fostering grievances that extremists exploit for recruitment purposes (Hansen, 2020). In light of these unintended consequences, there is growing recognition among policymakers and practitioners of the need to adopt more nuanced and holistic approaches to countering violent extremism.

The imperative for alternative approaches to foster long-term peace and stability in Kenya is underscored by the shortcomings of punitive measures in addressing the root causes of radicalization. Rather than solely focusing on punishment and deterrence, there is a growing consensus that CVE efforts should prioritize prevention, rehabilitation, and community engagement (Woodhams, 2016). Alternative justice policies and punishments, such as restorative justice and rehabilitation programs, offer promising avenues for addressing the underlying grievances and drivers of extremism while promoting social cohesion and resilience (Silke & Veldhuis, 2017). By shifting the focus from punitive measures to proactive interventions that address the root causes of radicalization, Kenya can enhance its capacity to prevent violent extremism and build a more just and resilient society (Lid, 2020).

## III. METHODOLOGY

The methodology employed for this paper entailed a rigorous desktop review of existing literature on countering violent extremism and alternative justice policies. Drawing upon a diverse range of academic articles, reports, policy documents, and case studies, the review sought to comprehensively explore the effectiveness, challenges, and implications of alternative approaches to prosecution in the context of violent extremism in Kenya. This approach allowed for a nuanced analysis of the subject matter, integrating insights from multiple disciplinary perspectives and empirical studies (Lind, Mutahi, & Oosterom, 2017; UNDP, 2016). By synthesizing and critically evaluating the available evidence, the methodology facilitated a deeper understanding of the complex dynamics surrounding alternative justice policies and punishments, thereby informing the discussion and recommendations presented in the paper.

### A. Restorative Justice

Restorative justice, defined by its principles of repairing harm, fostering dialogue, and promoting reconciliation, offers a compelling alternative to traditional punitive measures in addressing violent extremism (Silva, 2018). Rooted in notions of accountability and community involvement, restorative justice prioritizes the needs of victims and the rehabilitation of offenders, seeking to address the underlying causes of conflict and harm (KOTAJOKI, 2018). Central to its philosophy is the belief that crime is not just a violation of the law but also a breach of relationships, emphasizing the importance of repairing the harm caused to individuals and communities (Breidlid, 2019). Key principles of restorative justice include dialogue, inclusivity, empowerment, and healing, which guide its application in diverse contexts, including countering violent extremism (UNDP, 2017).

In the context of countering violent extremism, restorative justice offers a holistic approach to addressing the grievances and tensions that fuel radicalization and conflict (Mattsson, 2019). By facilitating dialogue between victims, offenders, and affected communities, restorative justice processes aim to build understanding, empathy, and accountability, thereby reducing the likelihood of further violence and promoting social cohesion (Munene & Thakhathi, 2017). Moreover, restorative justice interventions provide opportunities for individuals involved in extremist activities to confront the consequences of their actions, reflect on their choices, and take responsibility for their behavior, potentially leading to transformative change (Speckhard & Shajkovic, 2019). By emphasizing the restoration of relationships and the reintegration of offenders into society, restorative justice aligns with broader objectives of preventing radicalization and building resilient communities (Lid, 2020).

Numerous case studies and examples demonstrate the efficacy of restorative justice programs in addressing violent extremism and promoting reconciliation. For instance, initiatives such as community-based dialogue forums, victim-offender mediation sessions, and rehabilitation programs have shown promising results in various contexts, including post-conflict settings and areas affected by terrorism (Woodhams, 2016). In Northern Kenya, for example, community-led peacebuilding initiatives have successfully employed restorative justice principles to

resolve conflicts and prevent the escalation of violence, contributing to greater stability and social cohesion (Halakhe, 2020). Similarly, restorative justice practices have been integrated into rehabilitation programs for former extremists, providing opportunities for dialogue, reconciliation, and reintegration into society (Mwangi, 2019). These case studies underscore the potential of restorative justice in countering violent extremism and building more just and resilient societies.

## B. Rehabilitation Programs

Rehabilitation programs for violent extremists represent a crucial component of holistic approaches to countering radicalization and promoting reintegration into society (Mastroe & Szmania, 2016). These programs typically encompass a range of interventions aimed at addressing the underlying factors driving individuals towards extremist ideologies, including psychological counseling, education, vocational training, and religious de-radicalization (Silke & Veldhuis, 2017). By providing individuals with the necessary support and skills to disengage from extremist activities, rehabilitation programs seek to facilitate their reintegration into mainstream society as productive and law-abiding citizens (Munene & Thakhathi, 2017). Moreover, rehabilitation initiatives often involve collaboration between government agencies, civil society organizations, and community leaders to ensure comprehensive and culturally sensitive interventions (Nordic Africa Institute, 2016).

Effective rehabilitation initiatives for violent extremists incorporate several key components to address the complex needs of individuals at risk of radicalization (Halakhe, 2020). These components may include tailored counseling and psycho-social support to address trauma and mental health issues, educational programs to counter extremist narratives and promote critical thinking skills, vocational training to enhance employability and economic opportunities, and religious counseling to challenge misinterpretations of religious teachings (Wairuri, 2018). Furthermore, rehabilitation programs often adopt a multi-disciplinary and holistic approach that recognizes the interconnectedness of social, economic, and psychological factors contributing to radicalization (Bredlid, 2019). By addressing these underlying vulnerabilities comprehensively, effective rehabilitation initiatives aim to reduce the likelihood of individuals re-engaging in extremist activities and promote sustainable reintegration into society (UNDP, 2016).

In the Kenyan context, the evaluation of rehabilitation programs for violent extremists is essential to assess their impact, identify challenges, and inform future interventions (Speckhard & Shajkovci, 2019). While there is limited research evaluating the effectiveness of such programs in Kenya, preliminary evidence suggests that they have shown promise in facilitating disengagement from violent extremism and promoting rehabilitation and reintegration (Lind, Mutahi, & Oosterom, 2017). However, challenges remain, including limited resources, lack of coordination between stakeholders, and societal stigma towards former extremists (KOTAJOKI, 2018). Moving forward, it is crucial to invest in rigorous monitoring and evaluation mechanisms to assess the long-term outcomes of rehabilitation

programs, identify best practices, and address gaps in service delivery (Mattsson, 2019). By building an evidence base for effective rehabilitation strategies, Kenya can enhance its capacity to prevent radicalization and promote sustainable peace and security.

## C. Community-Based Interventions

Community-based interventions play a pivotal role in countering violent extremism by harnessing local knowledge, networks, and resilience to address the underlying drivers of radicalization (Munene & Thakhathi, 2017). Community engagement is essential as it fosters trust, empowers local actors, and promotes ownership of CVE initiatives, thereby enhancing their effectiveness and sustainability (Lid, 2020). By involving community leaders, religious figures, educators, and youth activists, interventions can better understand and respond to the unique dynamics and grievances fueling extremist ideologies within specific contexts (UNDP, 2017). Moreover, community-based approaches emphasize the importance of prevention, early intervention, and social cohesion, seeking to build resilient communities that are resistant to radicalization and violent extremism (Silke & Veldhuis, 2017).

In Kenya, numerous community-led initiatives have emerged to address the threat of violent extremism and promote peace and stability (Halakhe, 2020). For example, grassroots organizations, such as the Uwiano Platform for Peace, have pioneered efforts to facilitate dialogue, mediation, and conflict resolution at the local level (Bredlid, 2019). Similarly, youth-led initiatives, like the Sauti Project, engage young people through education, sports, and arts-based activities to promote positive alternatives to extremism and violence (Woodhams, 2016). Furthermore, religious institutions, such as mosques and churches, have played a crucial role in countering extremist narratives and promoting messages of tolerance, coexistence, and peace (Speckhard & Shajkovci, 2019). These examples highlight the diversity and resilience of community-based interventions in Kenya and underscore the importance of local ownership and collaboration in CVE efforts.

The impact and sustainability of community-based interventions in countering violent extremism depend on various factors, including the level of community participation, resource mobilization, and ongoing support from government and external partners (Mattsson, 2019). While community-led initiatives have demonstrated significant potential in preventing radicalization and promoting peace, challenges remain, including limited funding, capacity gaps, and political interference (KOTAJOKI, 2018). Moreover, the success of community-based interventions hinges on their ability to address underlying socio-economic grievances, build trust between communities and security forces, and foster inclusive governance structures that empower marginalized groups (Nordic Africa Institute, 2016). Therefore, sustained investment in community engagement, capacity-building, and conflict prevention measures is essential to maximize the impact and sustainability of community-based interventions in Kenya and beyond.

#### IV. CHALLENGES AND OPPORTUNITIES

Implementing alternative justice policies and punishments in countering violent extremism faces several challenges in the Kenyan context (Mwangi, 2019). One significant challenge is the lack of institutional capacity and resources to support comprehensive rehabilitation and reintegration programs for violent extremists (Goldsmith, 2018). Additionally, entrenched socio-economic disparities, political instability, and corruption undermine efforts to address the root causes of radicalization and promote community resilience (Halakhe, 2020). Moreover, societal stigma and discrimination against former extremists hinder their successful reintegration into society, perpetuating cycles of marginalization and re-radicalization (Breidlid, 2019). Furthermore, the politicization of counter-terrorism efforts and securitization of governance pose risks of human rights abuses and erosion of democratic principles, undermining the legitimacy and effectiveness of alternative approaches (KOTAJOKI, 2018).

Despite these challenges, there are opportunities for overcoming obstacles and promoting alternative justice policies and punishments in countering violent extremism (Woodhams, 2016). Building upon existing community resilience and social networks, interventions can leverage local knowledge, traditions, and resources to address the underlying grievances driving radicalization (Lid, 2020). Moreover, investment in education, youth empowerment, and economic development can mitigate the socio-economic vulnerabilities that contribute to extremist recruitment (Nordic Africa Institute, 2016). Additionally, efforts to strengthen governance, transparency, and rule of law can enhance trust in government institutions and promote accountability, reducing the appeal of extremist ideologies (Munene & Thakhathi, 2017). Furthermore, harnessing technology and social media platforms can facilitate community engagement, disseminate counter-narratives, and mobilize support for alternative approaches to violent extremism (Silva, 2018).

Partnerships and collaboration among government agencies, civil society organizations, communities, and international partners are crucial for advancing alternative justice policies and punishments in countering violent extremism (Speckhard & Shajkovi, 2019). By pooling resources, expertise, and networks, stakeholders can develop comprehensive and sustainable interventions that address the multi-dimensional nature of radicalization (Mattsson, 2019). Moreover, partnerships enable the sharing of best practices, lessons learned, and innovative solutions, fostering a collective response to the challenges posed by violent extremism (UNDP, 2017). Additionally, collaboration facilitates greater coordination and coherence in policy development, implementation, and evaluation, maximizing the impact and effectiveness of alternative approaches (Hansen, 2020). Therefore, fostering partnerships and collaboration is essential for overcoming challenges and promoting alternative justice policies and punishments in countering violent extremism in Kenya and beyond.

#### V. CONCLUSION

This paper has provided a comprehensive examination of alternative justice policies and punishments in countering violent extremism within the context of Kenya. By scrutinizing existing literature and initiatives, we have highlighted the limitations of traditional prosecution methods and underscored the necessity of exploring alternative approaches. Embracing principles of restorative justice, rehabilitation programs, and community-based interventions offers promising avenues for addressing the root causes of radicalization while promoting peace, justice, and strong institutions. These alternative approaches prioritize prevention, reconciliation, and community engagement, aligning with broader objectives of fostering social cohesion and resilience.

It is imperative for policymakers and practitioners in Kenya to heed the call to action for adopting alternative approaches to countering violent extremism. By shifting the focus from punitive measures to proactive interventions that address the underlying grievances driving radicalization, Kenya can enhance its capacity to prevent extremism and build a more just and resilient society. Moreover, future directions for research and implementation should prioritize rigorous evaluation, capacity-building, and partnerships to maximize the impact and sustainability of alternative justice policies and punishments. By fostering collaboration among government agencies, civil society organizations, communities, and international partners, Kenya can navigate towards a more inclusive and effective approach to countering violent extremism that prioritizes reconciliation, rehabilitation, and community resilience.

#### REFERENCES

- Breidlid, T. (2019). Daily Disappearances and Murders. Should the Kenyan Government Rehabilitate or Monitor Returned Al Shabaab Fighters? *Dagsavisen*.  
<https://www.dagsavisen.no/debatt/daglige-forsvinner-og-mord-1.1545700>
- Goldsmith, P. (2018). Comparative Perspectives on Islamic Radicalism in Kenya. In M. Ruteere & P. Mutahi (Eds.), *Confronting Violent Extremism in Kenya. Debates, Ideas and Challenges* (pp. 9–41). Nairobi: Centre for Human Rights and Policy Studies.
- Halakhe, A. B. (2020). Police, Reform, and Counter-terrorism. In N. Cheeseman, K. Kanyinga, & G. Lynch (Eds.), *The Oxford Handbook of Kenyan Politics* (pp. 422–435). Oxford: Oxford University Press.
- Hansen, S. J. (2020, April 30). What Kenya Stands to Lose and Gain by Withdrawing from Somali. *The Conversation*.  
<https://theconversation.com/what-kenya-stands-to-lose-and-gain-by-withdrawing-from-somalia-133640>
- Hansen, S. J., Lid, S., & Okwany, C. C. O. (2019). Countering Violent Extremism in Somalia and Kenya: Actors and Approaches (Working Paper 2019.106). Norwegian Institute for Urban and Regional Research (NIBR).

- Kere, S. U. (2019). Factors influencing Access to criminal justice and sustainability of Countering Violence extremism Projects in Isiolo County Kenya (Unpublished Ph.D. thesis). University of Nairobi Press.
- KOTAJOKI, J. (2018). Preventing Violent Extremism and Crime in the Nordic Countries: Similarities, Synergies and Ambiguities.
- Lid, S. (2020). Local Governments' Role in Disengagement, Deradicalization and Reintegration Initiatives. In S. J. Hansen & S. Lid (Eds.), *Routledge Handbook of Deradicalization and Disengagement* (pp. 128–142). New York: Routledge.
- Lind, J., Mutahi, P., & Oosterom, M. (2017). 'Killing a Mosquito with a Hammer': Al Shabaab Violence and State Security Responses in Kenya. *Peacebuilding*, 5(2), 118–135.
- Lowe, D. (2017). Prevent strategies: The problems associated in defining extremism. The Case of the United Kingdom. *Studies in Conflict & Terrorism*, 40(11), 918.
- Mattsson, C. (2019). Policing Violent Extremism: How the Global War on Terror Meandered into Local Municipal Policies in Sweden. *SAGE Open*. doi:10.1177/2F2158244019837462
- Mastroe, C., & Szmania, S. (2016). Surveying CVE Metrics in Prevention, Disengagement, and deradicalization Programs. Report to the Office of University Programs, Science and Technology Directorate, Department of Homeland Security (START: College Park, MD).
- Munene, J. W., & Thakhathi, R. (2017). An analysis of capacities of civil society organizations (CSOs) involved in promotion of community participation in governance in Kenya. *Journal of Public Affairs*, 17(4).
- Mwangi, O. G. (2019). The 'Somalinisation' of Terrorism and Counterterrorism in Kenya: The Case of Refoulement. *Critical Studies on Terrorism*, 12(2), 298–316. doi:10.1080/17539153.2018.1498190
- Nordic Africa Institute. (2016). Radicalization and Terrorist Recruitment Among Kenya's Youth (Policy Paper No. 1). Retrieved from <http://nai.diva-portal.org/smash/get/diva2:906144/>
- Silke, A., & Veldhuis, T. (2017). Countering violent extremism in prisons: A review of key recent research and critical research gaps. *Perspectives on Terrorism*, 11(5), 2–11.
- Silva, D. M. D. (2018). Radicalisation: The Journey of a Concept Revisited. *Race & Class*, 59(4), 1–17. doi:10.1177/0306396817750778
- Speckhard, A., & Shajkovci, A. (2019). The Jihad in Kenya: Understanding Al-Shabaab Recruitment and Terrorist Activity inside Kenya—in Their Own Words. *African Security*, 12(1), 3–61. doi:10.1080/19392206.2019.1587142
- UNDP. (2016). Preventing Violent Extremism through Promoting Inclusive Development, Tolerance and Respect for Diversity. United Nations Development Programme. Retrieved from <http://www.undp.org>
- UNDP. (2017). Journey to Extremism in Africa: Drivers, Incentives, and the Tipping Point for Recruitment. New York: United Nations Development Program.
- Wairuri, K. (2018). 'Operation Sanitize Eastleigh': Rethinking Interventions to Counter Violent Extremism. In M. Ruteere & P. Mutahi (Eds.), *Confronting Violent Extremism in Kenya. Debates, Ideas and Challenges* (pp. 135–145). Nairobi: Centre for Human Rights and Policy Studies.
- Woodhams, K. M. (2016). Connections among communities: preventing radicalization and violent extremism through social network analysis in the Threat and Hazard Identification and Risk Assessment (THIRA) framework. Naval Postgraduate School Monterey United States.

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