

Conference Report:  
“Financial Inclusion for Freedom and Security”  
October 2, The Hague



Organized by  
the Women Peacemakers Program, Duke Law International Human Rights Clinic, Human Security Collective,  
Transnational Institute, Charity & Security Network  
in cooperation with the Knowledge Platform Security and Rule of Law



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## Introduction

On October 2, 2017, the Women Peacemakers Program (WPP), Duke Law International Human Rights Clinic (Duke IHRC), Human Security Collective (HSC), Transnational Institute (TNI), the Charity & Security Network (C&SN), in cooperation with the Knowledge Platform Security and Rule of Law, organized an interactive event entitled “**Financial Inclusion for Freedom and Security**” in The Hague. The event brought together 60 members of civil society, government, inter-governmental organizations, academics and the financial sector to discuss the implications of countering terrorism financing regulations (CTF) in the aftermath of the events of 9/11 on shrinking civil society space, and to formulate a set of policy recommendations.

Civil society is a crucial actor in the maintenance of human rights and the building of peaceful and democratic societies. Civil society organizations draw attention to, and address the root causes of conflict. They play a watchdog role when it comes to human rights abuses and signs of conflict escalation; and are often able to engage with relevant stakeholders to mitigate conflict and build peace. They provide a voice to people’s concerns and basic services in times of crisis.

Although international policy frameworks focusing on human rights, security and justice recognize this unique and indispensable role of civil society, there has been a different and rapidly evolving trend in recent years. Civil society organizing and activism, in particular linked to democracy, peace and human rights, are facing a global pushback, from democratic and non-democratic states alike, as well as from armed non-state actors.

Constraints on civil society space occurs not just directly, via crackdowns on civil society protests and organizing or the harassment, jailing or killing of activists, but also increasingly in the form of restrictive legislation and regulation for civil society organizations justified by national and international security policies. An important challenge in this regard comes from regulations to counter terrorism financing. These regulations increasingly inform national and global policies regulating civil society, and are a driving force in banks’ de-risking behavior towards the sector, as well as shaping restrictive donor policies towards non-governmental organizations (NGOs).

The conference provided the audience with an opportunity to reflect on the impact of the CTF architecture on civil society organizing, informed by the latest research findings presented by the organizers during the plenary discussion. The data presented addressed some of the data gaps that existed in this field until recently, and are drawn from the following (recent) research publications:

- “**On ‘Shrinking Space’**” (April 2017), a framing paper produced by the Transnational Institute, which considers who is most affected by ‘shrinking space’, and why. It looks at where the trend is headed, how it relates to the other dominant paradigms of the 21st century, and how progressive social movements may respond.<sup>1</sup>
- The Research Report “**Financial Access for U.S. NPOs**” (February 2017), published by the Charity & Security Network, which found that two-thirds of U.S.-based nonprofit organizations (NPOs) working abroad are facing problems accessing financial services, and that these problems impact all types of programs in all parts of the world.<sup>2</sup>
- The Research Report “**Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security**” (March 2017), published by the International Human Rights Clinic at Duke University School of Law and the Women Peacemakers Program, which describes how responses to terrorism and violent extremism in practice play a role in squeezing women’s rights and their defenders between terror and counter-terror.<sup>3</sup>
- “**Drivers and Impact on Derisking of Nonprofit Organizations**”, which is a study (ongoing) on derisking of civil society, conducted by the Human Security Collective in collaboration with European Center for Not-for-Profit Law (ECNL) and TNI researcher Ben Hayes.<sup>4</sup>

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<sup>1</sup> On Shrinking Space: A Framing Paper by the Transnational Institute [https://www.tni.org/files/publication-downloads/on\\_shrinking\\_space\\_2.pdf](https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf)

<sup>2</sup> Financial Access for US Nonprofits by the Charity & Security Network <https://www.charityandsecurity.org/FinAccessReport>

<sup>3</sup> Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security, by Women Peacemakers Program & Duke International Human Rights Clinic <https://law.duke.edu/sites/default/files/humanrights/tighteningpursestrings.pdf>

<sup>4</sup> De-risking and non-profits: how do you solve a problem that no-one wants to take responsibility for? by Ben Hayes, Lia van Broekhoven and Vanja Skoric <https://www.opendemocracy.net/ben-hayes-lia-van-broekhoven-vanja-skoric/de-risking-and-non-profits-how-do-you-solve-problem-that-n>

- The WPP policy report “**Women Peacebuilders from the MENA Region Discussing Shrinking Civil Society Space due to Countering Terrorism Financing**”, which highlights experiences and policy recommendations from women rights activists from Jordan, Lebanon, Tunisia and Iraq, documented during the WPP MENA Consultation in Beirut (January 2017).<sup>5</sup>

After the panel discussion, the audience broke up into four working groups to jointly define policy recommendations to address the negative impacts on civil society organizing and program operation<sup>6</sup>. This report captures the key discussion points and findings presented during the plenary discussion, and concludes with a set of recommendations formulated during the working group discussions. As a summary of those recommendations presented during the working group discussions, this report does not present these recommendations as being those of the conference organizers.

## Background: Countering Terrorism Financing (CTF)

In response to the attacks of September 11, 2001, a broad spectrum of counterterrorism (CT) measures have been implemented on a global scale. For example, a 2012 research project looking into the effectiveness of EU counterterrorism measures (CT) found that between 2001 and 2013, 239 CT measures were adopted<sup>7</sup>. These measures have permeated every aspect of policy, with countries increasingly operating on a proactive instead of reactive model to address terrorism. Besides the emergence of a separate criminal justice system, it has also facilitated the creation of a range of exceptional measures to deal with the threat of terrorism. A key component of these measures concern **countering terrorism financing policies**, aimed at addressing criminal or terrorist organizations through the targeting of their financial activities, and using financial trails to identify possible terrorists and their supporters.

*“Measures are adopted by everyone from educational institutions to banks. This has led to targeting of non-profits and civil society that are purportedly linked to terrorists. Now states have an obligation to ensure non-profit sectors are not being abused or vulnerable. Banks have to ensure that customers are not involved in financing of terrorism. This has led to generic checks and risk aversion”,* stated Ben Hayes from TNI.

The criminalization of terrorism financing (TF) encompasses different components, and varies across jurisdictions. In 2015, only 4 of 194 countries did not have stand-alone policies that criminalized terrorism financing<sup>8</sup>. This means that to date, **the large majority of countries in the world criminalize the financing of terrorist groups and/or individuals**. Several countries also criminalize the *intent* to finance terrorist groups or actions. Some countries, such as the United States, go further and also criminalize unintentional financing. Key components of countering terrorism financing regulations include: criminalization of terrorist financing, the use of sanctions, asset freezing, and the inclusion of counterterrorism clauses in donor contracts. *“The US government played a key role in this”,* stated Duke IHRC’s Jayne Huckerby, *“because domestic provisions were exported globally rapidly. The global reach of US law really matters in terms of driving some of the behavior of banks and donors that we are witnessing today.”*

## Countering Terrorism Financing: The Role of the Financial Action Task Force (FATF)

The Financial Action Task Force plays an important role in the CTF architecture. Established in 1989 by the G7, the FATF’s original mandate was to tackle money laundering through the international banking system. **After the September 11 attacks, the FATF’s mandate grew to include a global framework for the detection, prevention and suppression of the financing of terrorism and acts of terror.** Hayes added: *“After 9/11, the FATF’s AML framework was quickly expanded to counter terrorism financing. This process had no democratic oversight or legitimacy. It was quickly pushed through, with minimal discussion.”*

<sup>5</sup> Women Peacebuilders from the MENA Region Discussing Shrinking Civil Society Space due to Countering Terrorism Financing by Women Peacemakers Program <https://www.womenpeacemakersprogram.org/assets/CMS/Reports/WPP-WomenPeacebuildersfromMENADiscussShrinkingSpaceCTF.pdf>

<sup>6</sup> The working group sessions were facilitated by Transnational Institute, Human Security Collective, European Center for Not-for-Profit Law, Charity & Security Network, Women Peacemakers Program and Duke Law International Human Rights Clinic.

<sup>7</sup> EU Observer (2015) “EU Counter-terror bill is ‘indiscriminate’ data sweep” <https://euobserver.com/justice/131457>

<sup>8</sup> FATF, Terrorist Financing – FATF Report to G20 Leaders – Actions Being Taken by the FATF 3 (2015), available at <http://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-financing-actions-taken-by-FATF.pdf>

(“Only four of the 194 jurisdictions reviewed (Brazil, the Czech Republic, Libya, and the Palestinian Authority) do not have a stand-alone offence of terrorist financing.”)

The FATF has evolved into an extremely influential institution, though its inner workings remain unknown to most. It is not underpinned by any international treaty or convention, and operates as a task force with a fixed lifespan (currently until 2020), which requires explicit agreement among Ministers of Finance of the member countries to extend it. To date, the 40 recommendations adopted by the FATF<sup>9</sup> have become **the international standards for combatting terrorist financing and money laundering (AML) with the endorsement of over 190 countries**. The assumption underpinning the FATF is that “effective standard implementation protects the financial systems and broader economy from the threats of money laundering and terrorism financing”<sup>10</sup>.

Human Security Collective’s Sangeeta Goswami explained: *“It is important to remember that the FATF was originally created as a Task Force, and was meant to be temporary or, at least, more agile. Nowadays, most of the world’s countries have committed to implementing its standards, and its regulations have far reaching impact. Countries feel under immense pressure to comply, as a result of evaluations that measure how countries implement CTF regulations.”*

As explained by Goswami, countries are rated on technical compliance and effectiveness as measured against the FATF recommendations. They are regularly evaluated through a peer-to-peer evaluation mechanism. **Not meeting the FATF standards can have negative consequences for a country’s economy, influencing its financial standing and foreign investments.** This has driven many countries to translate the FATF standards into national laws, rules and regulations.

### Civil Society and FATF Recommendation 8

In 2001, after the inclusion of CTF in its mandate, the FATF published its Special Recommendations report. This included then-Special Recommendation VIII—since 2012 known as Recommendation 8 (R8) - which is **dedicated to the NPO sector’s supposed vulnerability to being misused for terrorist financing**. According to the FATF’s Special Recommendation VIII at the time, “[NPOs] possess characteristics that make them particularly attractive to terrorists or vulnerable to misuse for terrorist financing”. As such, R8 makes governments responsible for protecting their NPO sector from abuse, through the passing of laws and regulations. Financial institutions are required to act as watchdogs.

In response to these developments, **civil society organizations started to dispute these flawed assumptions**, citing a lack of evidence to back up the claims about the sector’s vulnerability to terrorist financing abuse. Civil society warned that R8 would, and has, worked to stifle civil society’s activism and on-the-ground interventions, including those focused on providing humanitarian aid, building peace and defending human rights.

**Labeling the entire CSO sector as at-risk for terrorist financing has not only led to added bureaucratic pressures (taking time, energy and resources away from CSOs’ much needed work on the ground), it directly has put the work of some CSOs in harm’s way.** For example, in March 2016, a Thomson Reuters investigation revealed that 21 international and local CSOs (including a consortium of 90 Syrian CSOs) reported that countering terrorism finance policies were forcing aid agencies in Syria to avoid communities controlled by extremist groups, making it even more difficult to deliver life-saving supplies and leaving locals dependent on warring factions for vital help.<sup>11</sup>

Over the years, growing research on the topic – i.e. institutions such as the United States Department of the Treasury, European Commission, World Bank, and even the FATF’s own mutual evaluations – has demonstrated that **CSOs actually “pose little to no risk for terrorist financing”**.<sup>12</sup> Nonetheless, in practice, the measures advocated by the FATF’s R8 have constrained the operating space for civil society worldwide.<sup>13</sup> It has

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<sup>9</sup> FATF, Terrorist Financing – FATF Recommendations <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

<sup>10</sup> FATF Website. (2016) Remarks for the Opening Ceremony of FATF TREIN <http://www.fatf-gafi.org/publications/fatfgeneral/documents/david-lewis-trein-opening-ceremony.html>

<sup>11</sup> Reuters. 2016. Syrians suffer as anti-terror laws squeeze charities - survey - <http://uk.reuters.com/article/mideast-crisis-syria-banking-idUKL8N15M0GV>

<sup>12</sup> Transnational Institute / Statewatch. Ben Hayes. 2012. Counter-terrorism, ‘policy laundering’ and the FATF: legalising surveillance, regulating civil society - <http://www.statewatch.org/analyses/no-171-fafp-report.pdf> p.27

<sup>13</sup> Transnational Institute / Statewatch. Ben Hayes. 2012. Counter-terrorism, ‘policy laundering’ and the FATF: legalising surveillance, regulating civil society - <http://www.statewatch.org/analyses/no-171-fafp-report.pdf> p.27

led to increased **financial surveillance and profiling of civil society, increasingly complicated financial processes, and even loss of financial access for some civil society organizations.**

Several countries have seen a rise in restrictive CSO policies and legislation leading up to, or right after, an FATF evaluation. Although countries often deny that it is the FATF standard that forces them to design and enact laws and regulations that go against civil liberties and civil society freedoms, mounting evidence has shown that upcoming FATF evaluations have a preemptive effect on civil society space. This is a direct result of governments' often over-eager desire to show the FATF that they are capable of preventing terrorist financing abuse through their CSO sector. In addition, some countries have passed more restrictive CSO laws *after* a FATF evaluation.<sup>14</sup> Also, countries seeking to limit the activism of critical civil society organizations have regularly done so under the guise of combatting terrorist financing and complying with the recommendations of the FATF.

In 2014, the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association at the time, Maina Kiai, expressed concern that R8 and the FATF's assertion of NPO vulnerability posed **"a serious, disproportionate and unfair threat to those, who have no connection with terrorism, including civil society organizations"**.<sup>15</sup>

In the years following the implementation of R8, CSOs started to use their influence to – both individually and collectively – raise awareness about its impact, advocating for the need to revise R8. As a result, the Global NPO Coalition on FATF<sup>16</sup> was created in 2013, with over 200 non-profit organizations worldwide endorsing its work. With the advent of growing research on the impact of R8 and through the establishment of regular engagements between the FATF Secretariat and the NPO sector, the FATF eventually agreed to set into motion a process to review and update R8, based on civil society's input.

In June 2016, the new R8 and its Interpretive Note were presented. Changes included the **removal of the characterization of non-profits as "particularly vulnerable to terrorist abuse" from R8**, and various changes to the Interpretive Note that accompanies the Recommendation. In short, the new R8 moved from a blanket categorization of all CSOs as vulnerable to terrorist abuse, to the categorization of 'at-risk NPOs' being vulnerable. The removal of the original designation and the inclusion of civil society voices in the FATF process have been an important step forward. The review is also a **testament to the years of dedicated civil society advocacy work and collective engagement on these issues.**

Nevertheless, it is important to note that the FATF leaves it up to the discretion of the countries on *how* to determine which NPO is at risk for terrorism financing. Neither are countries required to provide an explanation in writing on how 'risk' is defined. Still, the FATF evaluators will look into the way the government conducted a national risk assessment and will determine whether outreach to all relevant sectors, including NPOs, has taken place in relation to the outcome of the risk assessment.

Furthermore, it remains to be seen to what extent the change in R8 will impact the financial sector, which has become **increasingly risk-averse in response to counter-terrorism regulations**. Goswami explained: *"The banks feel required to carry out extensive due diligence, because they face large fines if they fail to comply with AML/ CTF requirements."*

**Around the world, banks are increasingly engaging in de-risking practices. De-risking refers to financial institutions terminating or restricting business relationships to avoid, rather than manage, risk.**

This includes limiting financial services to NPOs in order to avoid the risk of being penalized under countering terrorism financing legislation. As a result, CSOs have been facing the denial of financial transfers and sometimes even the closing of their accounts, mostly without any warning or proof of wrongdoing.<sup>17</sup>

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<sup>14</sup> See also papers submitted to the conference on "Regulation or Repression: Government Policing of Cross-border Charity", at the National Center on Philanthropy and the Law of the NYU, in 2014 (in press).

<sup>15</sup> UN General Assembly. 2014. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association - <http://freeassembly.net/wp-content/uploads/2014/10/Multilaterals-report-ENG.pdf>

<sup>16</sup> FATF Platform Website - <http://fatfplatform.org/>

<sup>17</sup> BBC News. 2015. Why did HSBC shut down bank accounts? - <http://www.bbc.com/news/magazine-33677946>

## Impact on NPOs and Civic Space

During the plenary, Professor Jayne Huckerby from Duke IHRC and WPP Director Isabelle Geuskens spoke about the impact of countering terrorism financing by highlighting the effects on women's rights activism and their organizations. Early 2017, Duke IHRC and WPP published the research "**Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security (2017)**"<sup>18</sup>. The report analyzes how CTF impacts women's rights organizing, women's rights organizations, and gender equality. It represents the culmination of research, interviews, surveys, and statistical analysis carried out by the International Human Rights Clinic at Duke University School of Law and the Women Peacemakers Program in the Netherlands, to begin to fill the gap in understanding how responses to terrorism and violent extremism may in practice squeeze women's rights and their defenders between terror and counter-terror. Significantly, 86,67% of the surveyed women's organizations indicated that their work for human rights and peace has an upstream effect on combatting terrorism, yet 90 % indicated their work was being impacted negatively by CTF measures.

The research found that, as a direct and indirect result of these rules, women's rights organizations are losing critical access to resources, as well as the ability to fully use banking facilities, all of which circumscribe how, where, and in some cases, even if, women's rights organizations can undertake their core work on mobilizing human rights, gender equality, and advancing the women, peace, and security agenda.

*Huckerby outlined 5 core areas of impact, including:*

- 1. Use of Countering Terrorism Finance Measures Reduce Space for Women's Rights Organizing and Organizations.** Examples of this include legislation prohibiting women's rights organizations from accessing funding as well as increased compliance demands (for example, 85% of surveyed women's organizations have experienced increased demands on their organizations in the form of compliance conditions that must be met to receive or transfer funds from/to third parties). Regarding impacts on access to resources, 48,33% of women's organizations reported that CTF demands impacted their access to funds; 41,67% have not applied for certain grants due to CTF demands; and 16,67% have refused offered grants due to CTF demands.
- 2. Programmatic, Partner and Beneficiary Impacts.** These impacts include the sustainability of women's organizing and women's organizations working in "at risk" areas and communities; impacts on women and girls as beneficiaries, including diminished humanitarian assistance in areas under terrorist control, female "formers," and victims; and donor preference for larger and well-known international organizations and larger and fewer grants to the detriment of grassroots women's civil society.
- 3. Financial Exclusion and Restrictions on Access to Financial Services.** Survey respondents experienced delays or not receiving funds from donors (56,67%); onerous requests for project information from banks before fund release (56,67%); government limits on transfer of funds (50%); refusal of banks to transfer cash to other countries (30%); request for information from security/intelligence agencies (26,67%); refusal of banks to release funds altogether (20%); refusal of banks to open an account for their organization (16,67%); and actual closure of accounts (3%).
- 4. Prohibitive Costs of Due Diligence and Other Administrative Burdens.** Survey respondents indicated they are experiencing increased administrative burdens, which affects their operational capacity. These challenges stem from donors (61,67%), governments (58,33%) and banks (36,67%).
- 5. Adaptive measures affecting the Safety and Security of Women's Rights Organizing and Organizations.** These adaptive measures including carrying cash (53,3%); use of accounts of other organizations (23,33%); other adaptive measures (18,33%); use of foreign private bank account (16,67%); and use of domestic accounts of family and/or friends (15,00%). Further, 15% of surveyed women's organizations expressed they faced harassment or prosecution under CTF measures, while 60% expressed concern about harassment or prosecution under CTF measures.

Next, Kay Guinane of Charity & Security Network (C&SN) presented the key findings of their research publication "Financial Access for U.S. Nonprofits (2017)".<sup>19</sup> **This research is the first-ever empirical study of the global phenomenon known as derisking, as it relates to U.S.-based NPOs.**

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<sup>18</sup> Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security, by Women Peacemakers Program & Duke International Human Rights Clinic <https://law.duke.edu/sites/default/files/humanrights/tighteningpursestrings.pdf>

<sup>19</sup> Charity & Security Network (2017). Financial Access for US Nonprofits. <https://www.charityandsecurity.org/FinAccessReport>

C&SN's report provides a clear insight into how CTF impacts NPOs in the United States, as well as globally. It shows that the scope and prevalence of challenges that U.S.-based nonprofits face in accessing financial services are far greater than previously understood, with two-thirds of U.S.-based nonprofit organizations working abroad facing problems accessing financial services. The challenges include delays in wire transfers, requests for unusual additional documentation, increased fees, account closures and account refusals. In short, major findings include:

- Delays in wire transfers, which can last up to several months, are the most common problem, affecting 37% of nonprofits;
- 15% of nonprofits report having these problems constantly or regularly;
- One-third of NPOs have experienced fee increases, and 26% have faced additional, unusual documentation requests;
- Transfers to all parts of the globe are impacted; the problem is not limited to conflict zones or fragile and failing states;
- All kinds of organizations that work internationally are being impacted, ranging from NGOs providing humanitarian and health services, to organizations engaged in peace work and democracy building, to universities sending students abroad;
- NPOs, categorically treated as high-risk, are sometimes forced to move money through less transparent, traceable, and safe channels as a result of delays in wire transfers and requests for additional documentation. When money cannot be transmitted in a timely manner, 42% of nonprofits report that they carry cash.
- Financial institutions point to lack of regulatory clarity as a driver of derisking for CSOs.

These practical financial hurdles can have very severe consequences for people on the ground. Citing examples from the C&SN study, Guinane shared: *"One group had its accounts closed, which meant they could not pay their staff abroad, who in turn could not pay their vendors. One day the vendors showed up with guns, demanding payment. Another example concerned a hospital in Syria. Due to not being able to get the money in time, they could not pay for fuel for their generator and ran out of electricity and people died. In the beginning we thought that this would only really be concentrated in global hotspots, but we have found it to include all parts of the world. Only 10% of respondents had issues with sending money to the MENA region. 19% had problems with sending money to Europe. To mitigate this, civil society is turning to cash carrying. During our research, we learned that 42% of the respondents use this as an adaptive measure, though, this is a big safety concern."*

Although CTF is impacting all civil society organizations, it is important to take into account that some are hit harder than others, said Goswami: *"There is a broader impact with cumbersome registration and licensing laws, onerous accounting and reporting, increased state intimidation, and violence. Governments use CTF to crackdown on civil organizations that work on human rights, civil, and environmental issues, etc. Civil society has multiple sectors, which are impacted differently depending on mission, size, and location. Space is not shrinking equally for everyone."*

Hayes added: *"What we see now, is that there are parallel universes at work. You have the bigger civil society organizations, which have the human and financial resources to mitigate the challenges thrown at them. They have compliance teams and can hire lawyers to handle the hurdles. The Palestinian Solidarity Campaign is an example of a small organization that lacks these kind of support mechanisms, and whose bank account was closed. And once the bank closes their account, it is unlikely another bank will take them on as a client. Challenges like these can end up destroying an organization."*

*"The other problem with the current shrinking space discourse is that it tends to airbrush Western governments' role; it tends to export the issue to "totalitarian governments far away cracking down on human rights defenders", he continued. He explained how several EU countries have laws and policies in place that actively discredit civil society initiatives, such as migrant solidarity groups.<sup>20</sup> "European citizens, who decide to step in as they witness their government not being able or willing to address the human catastrophe, are nowadays being prosecuted under government laws. These are not a few isolated cases, it is happening systematically across the EU", Hayes pointed out.*

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<sup>20</sup> Europe's quiet offensive against people helping refugees By Ben Hayes and Frank Barat | Transnational Institute <https://www.euractiv.com/section/global-europe/opinion/europes-quiet-offensive-against-people-helping-refugees/>



The current debate tends to treat civil society as homogenous, while it is very diverse in nature. Across the board, organizations face very different realities when it comes to shrinking space and how to address it. For example, suggestions for solutions such as governments creating an “NGO white list” for banks so that civil society organizations listed are no longer hampered in their financial transactions might work for some larger organizations. Yet it will not work for smaller activist groups, which often work on controversial issues and challenge those in power. Regularly these kinds of groups are labeled “terrorists” by their own governments, which then puts them outside the risk appetite of banks and donors, with the result that the groups that are doing the most needed and risky work on the ground then end up being cut off from access to resources at the very moment such resources are most needed.

Huckerby added that this is often the case for women’s rights organizations and other groups with similar features. She explained: *“They tend to work on controversial issues around gender and power; are mostly smaller in size; rely heavily on short-term project-based funding; are largely dependent on foreign funding; and tend to be new or emerging organizations in conflict and post-conflict areas. For banks, they are low-profit and high-risk customers, which means they easily fall outside of the banks’ risk appetite. Donors also increasingly have a bias in favor of repeat, known and bigger players. The public profile of many up-and-coming grassroots women’s organizations does not match their actual risky work on the ground, because they have to keep a low profile for fear of repercussions. Some women’s groups that work on sensitive and confidential issues have had to turn down funding because donors require information about their beneficiaries. Their beneficiaries are often vulnerable women – e.g. women living in shelters to seek protection from domestic violence - so information cannot be provided about them.* Huckerby shared how a woman leader from Nigeria, interviewed for the research, had said how CTF is killing their activist work; while the terrorists are still able to get their money, as they are always able find a way.

Geuskens added: *“Many women’s rights groups, are very resilient when it comes to their inner drive. They are willing to risk their lives on a daily basis, so that the population can see its rights met. It is therefore extra bitter that these groups so often bear the brunt of the impacts. We have heard from organizations having their office raided, of officials coming in and occupying the office, demanding an audit of the past five years. This kind of bullying increases the level of insecurity and anxiety these groups already have to grapple with.”*

She continued: *“These kind of measures are hitting everyone. The good thing about that is that it means that more actors are recognizing the problem, and are willing to look for ways to solve it. As the group being impacted is growing, the urgency level increases, which can create a stronger push to change matters. Yet it will be important to assure that the solutions people are coming up with are actually inclusive.”*

She explained that several of the partners interviewed for the WPP-Duke IHRC research expressed concern about donors increasingly opting to deliver bigger chunks of funding to larger organizations, rather than trying to reach mid-size and smaller organizations directly, such as women’s organizations. As a consequence, women’s groups said they are increasingly made dependent on the willingness of larger “middle-men” organizations – which are able to process larger amounts of funding – to include them in funding proposals. Often, this kind of partnership means they actually become subcontracted to do the difficult work on the ground. Geuskens explained: *“This should not become the modus operandi, the only way that women’s groups are still able to operate. It puts women’s groups into a very uncomfortable position, which ultimately has impact on their mandate as activists. It forces them to choose between either applying for the small grants (seed funds) that are still out there, which do not allow their organizations to grow and create something sustainable, or finding a “rich partner” that is willing to take them along. The latter turns their accountability upwards as they become merely subcontractors, instead of operating based on bottom-up, movement-oriented accountability, centered around the people they serve. For decades, feminists around the globe have fought for financial independence. Any solution that undermines women’s groups’ independence and financial autonomy is not a real solution.”*

Guinane added that in C&SN’s research, it found that certain groups, including Muslim charities, NGOs that serve Muslim communities, as well as smaller organizations, are facing disproportionate impacts from CTF.

The conversation needs to be urgently moved from one of national security to one that takes human rights just as seriously, the panelists concluded. Goswami expressed: *“The discourse around countering terrorism financing tends to focus a lot on national security, but whose security are we talking about when we push dimensions of human security, such as the safeguarding of rights of freedom of speech and assembly, to the side?”*

Huckerby pointed out that countering terrorism is not an unlimited prerogative, and that many of the impacts infringe on countries' international legal obligations to uphold human rights.

Guinane stated: *"When you look at the evidence since 9/11, we have done nothing but make it worse. There has been a huge failure in terms of understanding that civil society is an integral part in the fight against terrorism. Much of what civil society is doing is cleaning up the mess, and preventing terrorism. Making CTF a priority when addressing terrorism is a strategic mistake. Instead, we need to focus all our efforts on addressing the root causes of terrorism. Civil society can do things governments cannot do, and should not do. As currently constructed, the counter-terrorism regime is actually counterproductive."*

Geuskens wondered how it is possible that progressive groups, who are helping society to address the root causes that play a role in fuelling violence and extremism, are increasingly facing a stifling reality. *"They should be supported, but instead they are drowning in a sea of bureaucracy, which slows them down and makes it difficult for them to organize themselves. How are we ever going to create a more secure world if we undermine those forces that make up the immune system of our societies?"*

The panelists also pointed to another policy contradiction at work: At the same time as civil society is facing increasing difficulties accessing financial services, many governments and large international (financial) institutions are rolling out extensive programs aimed at including more people in the financial system. The countering terrorism financing and financial inclusion agenda are currently at odds with each other. *"These are two entirely separate agendas. And CTF is given a higher priority than the fall out from de-banking"*, concluded Huckerby. Hayes added: *"Two billion people in world now have no access to financial services. Huge commitments have been made via the Sustainable Development Goals, by governments as well as the financial sector, to increase financial access. At the same time banks continue vetting and profiling customers at a high pace, and we are witnessing a wholesale exclusion of whole categories of people from the financial system."*

To kick-off the afternoon session, during which the audience broke into interactive working sessions to discuss recommendations, each panelist provided a short reflection on what is needed to address some of the key impacts discussed.

Hayes pointed out the importance of **increasing political ownership and will**: *"These rules have permeated the entire financial sector. There are a lot of stakeholders playing a role in this phenomenon - central banks, the FATF, etc. It is now beyond the control of those, who created the FATF. Without some kind of collective political leadership and ownership of the problem, we will continue tinkering around the edges."*

Geuskens highlighted that *"any effective engagement starts with broad awareness, and this is particularly important for smaller activist groups, which won't automatically have access to this kind of information, nor the policy areas where decisions are made that impact on them."* She mentioned how, to push effectively for increased political will and ownership, continuous "pushing from below" remains needed. For this, civil society organizations across the spectrum need to **increase their awareness of how CTF impacts their area of work, and next build their collective advocacy power**. Critical engagement needs to happen at different levels – with governments, the FATF, the World Bank, the different U.N. bodies, etc. It will be of key importance that a wide diversity of civil society groups is represented in these efforts. She explained: *"Women's groups need to be versed in the rhetoric of CTF, so they can push back and ensure that any solutions proposed to mitigate negative impact for civil society, will also work for their particular reality."*

Goswami highlighted that **organized civil society action** around CTF is key, yet creating actual practical change takes time: *"Civil society has been successful in terms of shifting the view and discourse of the FATF around nonprofits. They are now no longer considered "particularly vulnerable" by definition. So it is possible to shift the discourse, yet it takes time to trickle down into the implementation."*

Huckerby pointed to the need to **invest in further research on particular areas**: *"We are seeing a growing body of documentation of patterns of financial exclusion and prevalence. The evidence is there. We now also need to start looking at ways in which these rules cut off money to victims of terrorism and extremism, we already see that groups and donors are unwilling to work with victims because of fear of CTF rules. Also, how do these rules cut off programs for people seeking to leave terrorist groups?"*

Guinane highlighted the importance of investing in **multi-stakeholder dialogues**. She added: *"Recently, with understanding that NPOs are among the parties being impacted by derisking, we have seen the World Bank*

*setting up an initiative to bring the different stakeholders together. The World Bank/ ACAMS Multi-stakeholder Dialogue on De-risking is an important initiative, as it allows the three key stakeholders to come together and discuss solutions. Civil society needs to make sure it gets involved.”*

Nonetheless, it is important to have different tools at one’s disposal, because fundamental human rights are at stake, and the CTF system is not easy to bend. Hayes described how some civil society organizations have started to **seek redress through the legal system** by starting up discrimination cases against their banks. He concluded: *“EU law is pretty strong when it comes to the right of non-discrimination. Hence it is important to find out what is in banks’ risk profiles – are we talking about objective assessments, or are these criteria biased?”*

## Policy Recommendations

During the event, the audience split into various thematic working groups to deepen discussion, exchange experiences and discuss recommendations moving forward. The following are some of the core observations and recommendations from these groups.

### "Whose Space is Shrinking: The Importance of Broadening the Current Shrinking Space Debate"

- **Avoid speaking about shrinking space in general terms.** Focus on the specifics, in order to bring out the differences in impact amongst different civil society actors; the political and economic motives behind these realities; and develop response mechanisms that take the disproportionate impacts into account.
- **Developing redress mechanisms and engage in capacity building on how to use redress mechanisms.** Civil society organizations need to be made aware of their rights (or lack thereof) when it comes to losing banking services and government over-regulation. Where rights are lacking, civil society should engage in joint action and advocacy to secure these rights.
- **The private sector, including corporate philanthropy, is playing a role in further deepening the divide between those whose space is shrinking and those whose space is not.** With less state funding available, CSOs are pushed towards corporate funding, including by states that are less interested in supporting their own civil society and stimulate it to get its funding from corporate philanthropy/ the private sector. This is a development that needs urgent discussion and further analysis. The shift to corporate funding for civil society may carry risks in terms of limiting the kinds of initiatives that can receive funding (e.g., it could undermine the activism of civil society working against the interests of the corporate sector).

### "The Need for Multi-Stakeholder Solutions: Engaging the Financial Sector"

- The NPO sector should organize itself to **create a long-term collective dialogue with the financial sector and governments.**
- The NPO sector is not the most economically rewarding sector for banks. Banks have to invest heavily in due diligence and compliance, making onboarding increasingly expensive – ranging from \$ 6,000 to \$ 20,000 per client. This reality, combined with the risk of high fines in case of failure to comply, sustains banks' low risk appetite. This means the "business case" is not likely to be a successful strategy to address banks' de-risking behavior towards civil society. Civil society needs to invest in moral as well as legal strategies, e.g. by pointing to **social corporate responsibility duties** (moral), as well using the **non-discrimination and freedom of assembly cases under international law** (legal).
- **Reasonable risk sharing** among all stakeholders – government, financial institutions and CSOs – is needed. There needs to be an understanding that some level of risk is acceptable; zero tolerance policies are not the answer.
- Banks do not have an objective to limit financial access for civil society. Instead, their behavior is the result of their desire to avoid liability and enforcement action that results in large fines. As a result, **engaging government in dialogue in order to encourage more regulatory clarity is important.**
- Civil society needs to make the case to government and the financial sector that de-risking is adding to risk. It is actually **contributing to risky financial behavior and less transparency**, by pushing more groups into unregulated channels.

### "FATF Recommendation 8 has been Changed - What's Next?"

- FATF evaluators must reach out to the NPO sector, as this will help in identifying and assessing risk levels. The FATF has already identified that banks' derisking and states' over-regulation are not based on a proper assessment of risks and that this poses a problem for the NPO sector. The FATF's mandate requires them to address this problem and as such, the FATF can potentially be an ally to NPOs. Currently most governments are not able to properly identify which NPOs fall within the risk category, something the new R8 requires them to do. Non-profits can therefore **choose to engage and try to influence the process, either by engaging with the government in the National Risk Assessment process or, failing that, conducting its own sectoral risk assessment.** A shadow risk assessment can be submitted to the FATF; the caveat being that any report shared with the FATF will also be shared with the government.
- **Civil society needs to get acquainted with the FATF's procedures**, for example via the [www.FATFplatform.org](http://www.FATFplatform.org), so it can get involved.

Civil society should try to engage with allies within government to address issues around shrinking space due to CTF. Sometimes finding one person in government willing to help can make a difference. Bad FATF evaluations also help to open up space up for civil society to engage.

## "Women Activists: Squeezed between Terror and Counter Terror: Challenges and Solutions"

- **Donors need to invest in setting up direct funding mechanisms** to promote and safeguard a **diverse civil society**, including to women's rights organizations. This is key, as a diverse civil society makes a resilient civil society, and contributes to democracy and stability. Avoiding risk by only working via large (international) organizations that can process large bulks of funding, which often end up subcontracting women's groups, undermines local resilience and bottom-up driven change.
- Local civil society groups, such as activist women's groups, which often are newly emerging in conflict settings, need to receive **support so they can build their capacity to recognize and take part in initiatives to address and mitigate adverse CTF impacts.**
- Inclusive **coalition building among the broader civil society sector** is required to effectively address the financial exclusion issues that affect specific groups due to banks' derisking and donors' exclusionary tender processes.
- **Multi-stakeholder dialogue and commitments need to take place at the local level as well**, so that groups that operate locally (often women's groups), and which lack the resources to take part in high-level international processes, can participate in policy discussion.
- **Civil society needs to pro-actively identify red lines**, e.g. when regulations and procedures compromise the safety and security of persons, in line with "do no harm" principles (e.g. don't name individual beneficiaries).
- **The challenges women's groups face in term of banking must be addressed**, and alternatives explored beyond that of cash-carrying, which increases risk.