

HARMS FROM ABROAD

IMPACT OF GLOBAL SECURITY MEASURES ON CIVIC SPACE IN NIGERIA

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AGFCS:	Action Group on Free Civic Space
AML/CFT:	Anti-money Laundering/Combating the Financing of Terrorism
CAC:	Corporate Affairs Commission
CBN:	Central Bank of Nigeria
CCD:	Centre for Citizens with Disabilities
CDD:	Customer Due Diligence
CISEC:	Civil Security Cooperation
COVID19:	Coronavirus Pandemic
CSOs:	Civil Society Organizations
CT:	Counter Terrorism
CTC:	Counter Terrorism Committee
CTED:	Counter Terrorism Committee Executive Directorate
DDRR:	Demobilisation, Disassociation, Reintegration Reconciliation
DNFBPS:	Designated Non-Financial Businesses and Professions
DNFIs:	Designated Non-Financial Institutions
DRR:	Deradicalization, Rehabilitation, and Reintegration
ECLN:	European Center for Non-Profit Law
ECOWAS:	Economic Community of West Africa States
EFCC:	Economic and Financial Crimes Commission
ESN:	Eastern Security Network
ESW	Egmont Secure Web
FATF:	Financial Action Task Force
FGHR:	Fund for Global Human Rights
FSIPI:	Forestall, Secure, Identify, Prepare and Implement
FSRBs:	FATF-styled Regional Bodies
GAFI:	Groupe d'Action Financiere
GCFT:	Global Counter Terrorism Forum
GCERF:	Community Engagement and Resilience Fund
GCTF:	Global Counter Terrorism Forum
GCTS:	Global Counter Terrorism Strategy
HSC:	Human Security Collective
ICNL:	International Center for Non-Profit Law
IDP:	Internally Displaced Persons
IMN:	Islamic Movement of Nigeria
IMF:	International Monetary Funds.

INGO:	International Non-Governmental Organization
IPOB:	Indigenous Peoples of Biafra
ISWAP:	Islamic State West Africa Province
IYC:	Ijaw Youths Congress
JAS:	Jama'atul Ahlus Sunnah
JRI:	Justice Right Initiative
JTAB:	Joint Terrorism Analysis Branch
RULAAC:	Rule of Law and Accountability Advocacy Centre
MEND:	Movement for the Emancipation of the Niger Delta
MOSOP:	Movement for the Survival of Ogoni People
NACTEST:	National Counter Terrorism Strategy
NAF:	Nigerian Armed Forces
NAICOM:	National Insurance Commission
NCCT:	Non-corporative Countries and Territories
NHCC:	National Humanitarian Coordination Council
NDPVF:	The Niger Delta's People Volunteer Force
NFIU:	Nigeria Financial Intelligence Unit
NGOs:	Non-Governmental Organizations
NHCTWG:	National Humanitarian Co-ordination Technical Working Group
NPOs:	Non-Profit Organizations
NRA:	National Risk Assessment
OECD:	Organization for Economic Corporation and Development
ONSA:	Office of the National Security Adviser
OSC:	Operation Safe Corridor
PCVE:	Preventing and Countering Violent Extremism
P2P:	Peer-to-peer
PIL:	Public Interest Litigation
PNG:	Person Non-grata
SBI:	SB Morgen Intelligence
SCUML:	Special Control Unit against Money Laundering
SEC:	Securities and Exchange Commission
SSS:	State Security Services
SPAN:	Security and Policy Alternatives Network
STR:	Suspicious Transaction Report
TIERS:	The Initiative for Equal Rights
TPA:	Terrorism Prevention Act
UN:	United Nations
UNICEF:	United Nations Children Emergency Funds
UNOCT:	United Nations Office of Counter Terrorism
UNSC:	United Nations Security Council
VSI:	Vision Spring Initiative
WIDEF:	World Impact Development Foundation

Introduction

Nigeria is a signatory to numerous security-related treaties at the global and regional levels, professing its commitment to international cooperation on diverse security issues ranging from terrorism, organized crimes, weapons of mass destruction, nuclear non-proliferation, cybercrimes, human rights, and other transborder crimes. What regional or bilateral security partnerships does Nigeria have with other countries and how do they influence the development and implementation of national security measures that could potentially be repurposed to limit fundamental freedoms and civil society? How does the transnational security architecture designed to prevent and counter global threats manifest in key national contexts? Are countries effectively transplanting the norms and measures entrenched in “global security playbooks”—such as the UN Global Counter Terrorism Strategy, Financial Action Task Force (FATF) Standards, UN Security Council Resolutions and others—in ways that align with the social, economic and political realities in the local context? What evidence exists to show that global security norms are providing countries with additional legal impetus to restrict civil liberties and tighten the civic space?

Indeed, Nigeria is struggling to rein in several theaters of insecurity in different parts of the country. As the severity and lethality of these security threats heighten, the country is deploying military and non-military measures mostly copied from abroad or transplanted from global security playbooks. This paper examines whether any links exist between the transnational security arrangements and the increasing constraints on the civic space in Nigeria built on the rhetoric of countering terrorism and defending national security. The enquiry starts by tracing the global norms where national counterterrorism and security initiatives mostly draw inspiration from. This is done by identifying the specific international treaties and arrangements that countries like Nigeria feel under pressure to comply with, the global networks the country is under pressure to join and the consequences attached to non-compliance.

The trends and patterns of governmental restrictions arising from the implementation of international counterterrorism norms at the local level illuminate whether the way Nigeria is following these standards is problematic or not. The findings show that the incorrect transplantation or misapplication of global security measures can and does happen even where the country has good intentions, creating opportunities for the weaponization of security laws and measures to suppress fundamental freedoms and tighten the civic space. Findings build evidence showing how the accelerated use of the global security playbook provides national governments with the justification to stifle civic freedoms, target dissenters and protesters under the guise of “national security.” Based on the collective intelligence and diagnosis of this security

playbook, the paper concludes by highlighting the opportunities that exist in short-term and long-term for civic actors to push back, to disrupt, to reform, and over long-term to transform the influence of security on the civic space in Nigeria and beyond.

TERRORISM AND INSECURITY IN NIGERIA: OVERVIEW OF LOCAL CONTEXT

● **Illegal armed groups and designated terrorists**

Jama'atul Ahlus Sunnah (JAS), led by Abubakar Shekau until May 2021, and the Islamic State West Africa Province (ISWAP)—a break-away group from JAS in 2016—are the two major armed groups operating in Nigeria's north-east. Both groups, globally designated as terrorists,¹ have two striking similarities: they emerged from the Boko Haram insurgency that started in 2009. Though they differ on strategy, their primary objective is to establish an Islamic Caliphate that practices 'pure Islam'. In terms of strategy, JAS routinely declares all opponents of their ideology as “takfir”, meaning an infidel. This means that killing such a person is justified. Consistent with this disposition, JAS has carried out wanton acts of violence against communities, suicide bombings and massacres across the northern region of Nigeria. On the other hand, ISWAP has narrowed the focus of its attacks to military targets, Christians, aid workers (irrespective of their faith, accusing them of attempting to proselytize Muslim populations to Christianity). While ISWAP holds sway in areas around the Lake Chad basin in Borno and Yobe States, JAS operates predominantly in the expansive Sambisa Forest, which stretches across the middle part of Borno State to parts of Adamawa, Yobe, Bauchi and Jigawa states. Because of the activities of these groups, Nigeria was ranked 3rd on the 2019 Global Terrorism Index.²

● **Ethnic militias**

Ethnic militias add to the list of armed groups operating in the north-east region of the country. Their operational bases include the Numan, Lamurde and Demsa Local Government areas of Adamawa State, where Fulani and Bachama militias have engaged in internecine violence over land and water. Attacks by ethnic militias are also commonplace in the north-central part of the country, especially in Plateau, Taraba and Benue States. The attacks are rooted in protracted conflicts over land and water for cattle-rearing and as revenge for previous attacks. In the north-central region, the militias—mostly of Fulani origin—have been accused of incessant attacks in

1. National Counterterrorism Center. “Boko Haram.” Accessed via https://www.dni.gov/nctc/groups/boko_haram.html

2. GCERF. “Nigeria.” Accessed via <https://www.gcerf.org/nigeria/>

Benue State, where between 600,000³ and 1.5 million⁴ people are said to have been displaced. In Plateau State, the attacks are concentrated in Jos South, Riyom, Barkin Ladi and Bassa Local Government Areas, and have displaced at least 170,000⁵ persons. There have also been attacks by Fulani militias in parts of Nasarawa and Taraba States, albeit far fewer and less frequent.

● Vanguard for the Defence of Black Muslims

Ansarul fi Muslimah biladis Sudan (Vanguard for the Defence of Black Muslims) known as Ansaru (also known as al-Qaeda in the Lands Beyond the Sahel) is a former splinter group of Boko Haram operating mainly in Kogi State—Nigeria's north-central region. Claiming to act in defence of Muslims, the group mainly targets Christian populations. In August 2012, a church was attacked⁶ in Okene town in a manner similar to Boko Haram attacks in the north-east and two soldiers were killed⁷ at a mosque; in January 2013, members of the sect attacked⁸ a contingent of the Nigerian Army heading to Mali for peacekeeping operations. However, since the arrest of its leader,⁹ Khalid al-Barnawi, in 2016, no further attacks have been recorded in the region.

● Fulani pastoralists

In past five years, insecurity has degenerated into a free-for-all in the North-West region, particularly in the states of Kaduna, Katsina, and Zamfara. Triggered by a confluence of factors—such as poorly-managed conflicts between Fulani pastoralists and farming communities, proliferation of light weapons, cattle rustling and illegal gold mining—numerous armed groups have emerged collectively identified as “bandits” by the Nigerian government and security forces. The Fulani pastoralists were originally cattle rustlers before they morphed into monstrous armed operations that involve kidnappings along major highways, mass abductions and indiscriminate attacks on communities.

● Farmer-herders' conflicts

In West Africa, herders have had a long history of migrating and establishing relationships with various sedentary farming populations with which they co-exist, co-operate and compete for shared renewable resources. In the pre-colonial era, records of conflict between herders and farmers were lean and the socio-economic interaction between both groups, symbiotic. Lately, especially since the beginning of the 21st century, conflicts between farmers and herders assumed dangerous dimensions. The conflict between herders and farmers in Nigeria—centered in the Middle Belt, but spreading southward—has escalated sharply. The first half of 2018 had

3. [Herdsman attacks: Over 600,000 persons displaced in Benue](#) (Daily Post Nigeria)

4. [Herdsman Attacks: Benue facing worst humanitarian crisis with 1.5million IDPs — Ortom](#) (Vanguard Nigeria)

5. [Stopping Nigeria's Spiralling Farmer-Herder Violence](#) (Crisis Group)

6. [UPDATED: Gunmen Attack Deeper Life Bible Church In Okene, Kill 15 Worshipers](#) (Sahara Reporters)

7. [Nigeria Okene city gunmen target soldiers](#) (BBC News)

8. [Two Killed, Four Injured In Bomb Attacks On Mali-bound Nigerian Troops At Okene](#) (Sahara Reporters)

9. [Khalid al-Barnawi: Nigeria Islamist group head 'arrested'](#) (BBC News)

seen more than 100 incidents of violence and more fatalities than any previous six-month period since the conflict started worsening in 2014.¹⁰ The surge of violence is concentrated in Plateau, Benue and Nasarawa states in the north-central geopolitical zone and in the adjoining Adamawa and Taraba states in the north-east zone. The deadliest sequence of events was the 23-24 June attack on eleven villages in BarkinLadi and subsequent reprisals on a highway, which altogether killed more than 200 people.¹¹ As a result of the conflict in these states, the number of Internally Displaced Persons (IDPs) sheltered in very inhospitable conditions, has doubled, placing additional strain on scarce resources.¹² Apart from displacement and homelessness, IDPs suffer the deprivations of food, rape, abductions, and massive destructions of their traditional livelihoods of farmers and farming households.¹³

● Unknown gunmen in south-east Nigeria

Unknown gunmen have been terrorizing southeastern communities in Nigeria inhabited by the Igbo tribe. Since 2020, these gunmen are responsible for coordinated attacks on major security institutions like the police and correctional facilities. There are competing responses and views regarding the origin and identity of the “unknown gunmen”. Nigeria's President Buhari proscribed the activities of the separatist movement, Indigenous Peoples of Biafra (IPOB), designating them a terrorist group despite the rebuttal by foreign governments especially the United States and the United Kingdom.¹⁴ Irked by the decades of institutionalized marginalization of the Igbos, IPOB clamors for the secession of the south-eastern region from Nigeria. It is believed that the increasing face-off between Nigeria's security agencies and IPOB birthed the new security lexicon called the 'unknown gunmen'. While government actors and security agents link the unknown gunmen with IPOB and their security wing, Eastern Security Network (ESN), local populations in the southeastern region disagree vehemently, alleging that 'unknown gunmen' are criminal elements from outside the region, launching violent attacks in south-eastern communities in order to give IPOB a bad name by creating an atmosphere of fear and insecurity where they operate.

● Gang and cultists wars in the south-south

In the oil-rich south-south region which constitutes most of Nigeria's Niger Delta, irresponsible oil exploration activities by multinational corporations, environmental degradation, underdevelopment, poverty, youth restiveness and unemployment lie at the root of the protracted violent conflicts in the area. The crises in the region started in the 1990s, arising from

10. International Crisis Group, Stopping Nigeria's Spiralling Farmer-Herder Violence, https://www.jstor.org/stable/resrep31476.4?seq=1#metadata_info_tab_contents

11. International Crisis Group, *ibid.*

12. Abass I M. (2018) No Retreat No Surrender; Conflict for Survival Between Fulani Pastoralists and Farmers in Northern Nigeria. *European Scientific Journal* 8(1) 331-346

13. *Ibid*

14. Anthony Ogbonna, Vanguard, IPOB not a terrorist organisation – US govt (2017) Accessed via <https://www.vanguardngr.com/2017/09/ipob-not-a-terrorist-organisation-us-govt/>

the activities of the different militant groups protesting the injustice and environmental degradation that attends decades of oil exploration in the area. Groups like The Movement for the Survival of the Ogoni People (MOSOP), Ijaw Youth Congress (IYC), Movement for the Emancipation of the Niger Delta (MEND), The Niger Delta Vigilante Force (NDVF), The Niger Delta People's Volunteer Force (NDPVF) started to carry out deadly attacks on oil and gas facilities. They also started to attack Nigerian Naval officers, oil company staff, killing some and leaving others badly injured. In addition, they carried out operations which resulted in hostage taking/kidnapping, raping, oil theft, piracy, assassination and perhaps, bombing, as was alleged about the October 1, 2010, incident at Eagle Square, Abuja.¹⁵ With the introduction of an amnesty programme appealing for the repentance and surrender of militants, much of the economic sabotage and violence crimes against the state fizzled out but have emerged in other forms like cultism and gang wars. Cult groups¹⁶ now perpetrate crimes that include the harassment of ordinary citizens, rape, burglary, robbery. They are also involved in vandalism, oil bunkering as well as piracy.¹⁷

● South-west: Self-determination and other agitations

Besides the armed groups named above, there are also ethnic militias operating in different parts of the country, especially the south-south and south-west regions. The south-west's determination to take charge of their own economic independence and regional security to curtail the deadly invasion and land encroachments by herdsmen is igniting fresh demands for secession. The secession campaigns led by Chief Sunday Igboho's Yoruba Nation group¹⁸ for the creation of a Yoruba nation out of Nigeria heightened as criminal herders moved into the hinterlands in Oyo, Ondo, Ekiti and Ogun States killing people, raping women, and setting communities on fire. Herders are hardly ever arrested and punished for these violent crimes, raising concerns that Nigerian security forces are handling the herder-induced conflicts with kid gloves.

● Security-based Restrictions on the Civic Space in Nigeria

Combating the mounting insecurity in different parts of the country necessitated the introduction of numerous security and counter-terrorism (CT) initiatives such as the National Counter-terrorism Strategy (NACTEST), the National Action Plan for Preventing and Countering Violent Extremism (PCVE) policy 2017, the Counterterrorism Center (CTC), the deradicalization, rehabilitation, and reintegration (DRR) programs, among others. Because most of these security

15. Obi, Callistar, Challenges of Insecurity and Terrorism in Nigeria: Implication for National Development (February 28, 2015). OIDA International Journal of Sustainable Development, Vol. 08, No. 02, pp. 11-18, 2015, Available at SSRN: <https://ssrn.com/abstract=2586395>

16. Jamestown Wellington, The Jamestown Foundation, Nigeria's Cults and their Role in the Niger Delta Insurgency; Accessed via <https://jamestown.org/program/nigerias-cults-and-their-role-in-the-niger-delta-insurgency/>

17. <https://issuu.com/fundforpeace/docs/cungr1215-unlock-nigeria-12e>

18. BBC, Sunday Igboho: The Nigerian separatist who wants a Yoruba nation, 2021, Accessed via <https://www.bbc.com/news/world-africa-55934275>

security initiatives draw inspiration from similar interventions implemented elsewhere in the world, local implementation is fraught with numerous challenges and tensions, fueling calls for reforms.

It is within the context of insecurity that civic actors in Nigeria operate, carrying on different types of good works. In Nigeria alone, over 90,000 non-profit entities either registered as incorporated trustees or companies limited by guarantee form a very important part of civil society sector, with their activities reaching millions of people, particularly in the areas of education, health, security, agriculture, policy formulation, democracy, governance, gender, public rights advocacy, and so forth.¹⁹ These civic actors are further organized along the lines of professional associations, trade unions, registered organizations, social movements and individual activists operating online or offline, campaigning against impunity, bad governance, demanding accountability for widespread injustices while mounting pressure on federal and state authorities to address mounting insecurity and other issues of public concern.

Advancements in digital technologies have expanded the spaces for civic engagement, amplifying the agitations and campaigns of civic actors while reaching wider audiences at great speed and at less cost. Official intolerance for criticism and dissent has also mounted, particularly forcing citizens, especially ethnic agitators, religious groups and young people to explore alternative platforms and strategies to express their grievances. The use of highhanded and militarized solutions to IPOB's self-determination agitations in the south-east, the #EndSARS protest of October 2020 and the more recent 2024 #EndBadGovernance protests, illuminate how the state is using its power to crush demonstrators and stifle organized dissent under the guise of national security or preserving national unity. Too many governmental restrictions linked to the enforcement of security measures have considerably narrowed the civic space in the country, while disrupting the continuous functionality and capacity of local organizations to organize and assemble freely. The cumulation of these contractions formed the basis for CIVICUS's rankings which downgraded Nigeria from 'obstructed' to 'repressed' in its People Power Under Attack 2019 report.²⁰

Insecurity in Nigeria is addressed through counter-terrorism laws and measures that are essentially a copy and paste of some global norms, and which confer maximum power on state actors. This report will examine how the climate of insecurity is accelerating the government's use of the security playbook — mostly copied from global security initiatives—to suppress dissent. Beyond deepening understanding of the unintended consequences of global security measures in Nigeria, it builds evidence for the review, rectification and transformation of civic space and security debate to avoid a trade-off.

19. Spaces for Change, Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria, 2019, accessed via <https://spacesforchange.org/unpacking-the-official-construction-of-risks-and-vulnerabilities-for-the-third-sector-in-nigeria/>

20. CIVICUS, People Power Under Attack, December 2019. Please see <https://civicus.contentfiles.net/media/assets/file/GlobalReport2019.pdf>

CHAPTER 1

GLOBAL CONTEXT OF COUNTER-TERRORISM REGULATION

1.1 UNIVERSALISM OF COUNTER- TERRORISM NORMS

Although terrorism had long been an international problem,²¹ it took the centre stage after the September 11, 2001 attacks on the twin towers at the World Trade Center in New York and the Pentagon in the United States. The attack was orchestrated by the Al-Qaeda terrorist group prompting swift global responses and the crystallization of international norms on counterterrorism (CT). Ever since, the war against terror has been accorded high priority on the world's list of cross-border organized crimes such as narcotics, money laundering and illicit arms trafficking. Terrorism is therefore widely considered as a global problem requiring every nation state and territory to support and commit to waging war against terrorists. As a threat to the comity of nations, there are certain rules, policies, principles and measures to combat terrorism that are applicable to every country and persons, irrespective of their origin, colour and race. Countries are expected to adopt or comply with these universal norms despite their status as

21. See Mike Smith "Securing our Future: A Decade of Counter-terrorism Strategies". Available at <https://www.un.org/en/chronicle/article/securing-our-future-decade-counter-terrorism-strategies>, accessed 26 September 2021



independent sovereigns having the autonomy to legislate for their respective territories.

As with other cross-border criminal activities,²² rulemaking on terrorism is based on a top-down approach. Norms developed at the international level are passed down for compliance by states. Compliance often requires states to make laws and establish institutions that enforce international norms within their territories. While states are allowed to develop their own rules and regulations against terrorism, whatever norms that exist within states are viewed as complementary to the international norms. The universalist posture of international CT norms flows from the assumption that the standards in question, and the countries to which they apply, are intrinsically “good”. A universalist posturing overlooks the disparate nuances and realities across jurisdictions that cause uniform rules to produce different consequences in diverse contexts. For example, a law that vests the police with broad powers may not pose a problem in a country with strong institutions and independent judiciary but will likely be abused by authorities in another country with weak institutions and otiose judiciary. There is also a third possibility that countries can use compliance with international norms as an excuse to conceal the real intentions behind overly restrictive laws, policies and countermeasures.²³ This has been referred to as “policy laundering”.²⁴

1.2 INTERNATIONAL NORM-FORMING ENTITIES

The United Nations Security Council (UNSC) sits atop the list of international institutions whose resolutions are legally binding on countries.²⁵ However, since September 11, 2001, there has been a proliferation of new institutions, many with selective membership whose regulatory scope is expanding and whose standards (usually in the form of “soft law”²⁶) crystallise into hard law and become binding on other states.²⁷ While soft laws are not legally binding in international law, CT soft laws have morphed into binding obligations on states that are not even parties to the making of such rules. Any bid by countries to insulate themselves from these norms may attract isolation from the international political and financial systems controlled by the originators of the CT norms.

22. United Nations Office on Drugs and Crimes. “United Nations Convention against Transnational Organized Crime.” 2004. Available at https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREOF.pdf

23. See Ben Hayes “Counter-Terrorism, “Policy Laundering,” and the FATF: Legalizing Surveillance, Regulating Civil Society”. Available at <http://www.statewatch.org/analyses/no-171-fafp-report.pdf>, accessed 26 September 2021

24. Ibid

25. In addition to the UNSC resolutions, countries are bound by CT treaties which they have signed

26. Fionnuala Ní Aoláin “Promotion and protection of human rights and fundamental freedoms while countering terrorism”. Available at <https://undocs.org/A/74/335>, accessed 26 September 2021. “Soft law” has been defined as those international norms, principles and procedures that are outside the formal sources applied by the International Court of Justice and lack the requisite degree of normative content to create enforceable rights and obligations but are still able to produce certain legal effects. Ibid

27. Ibid

Another way soft laws crystallize into binding hard law is through adoption by the UNSC in its resolutions. In fact, certain principles in UNSC resolutions or procedures originated from soft law-forming entities such as Financial Action Task Force (FATF) and the Global Counter-Terrorism Forum (GCTF).²⁸ Although these groups are not representative of the membership of the UN and do not have concrete commitments to human rights, their principles and normative standards take binding forms when included in UNSC resolutions.²⁹

International CT norm-forming entities are broadly classified into four categories: (a) state actors (b) intergovernmental organizations such as the United Nations, African Union, Economic Community of West African States (ECOWAS); (c) financial, trade and customs organisations; and (d) informal forums of states of which we will focus on the Financial Action Task Force (FATF) and the Global Counter Terrorism Forum.³⁰



Global Counter Terrorism Forum
Credit: lcct.nl

1.2.1 State Actors

Some countries make rules that have cross-border application based on their relative international economic and strategic importance. 'State actors' therefore refer to powerful and influential countries that are able to enforce or procure the enforcement of their laws and policies in foreign jurisdictions through the use or threat of force and economic sanctions, or through the regulation of their financial systems in a way that compels foreign sovereign entities to comply with those laws. For instance, the USA has successfully enforced its laws abroad

²⁸. Ibid, p. 11

²⁹. As will be seen later in this research, in one of its resolutions, the UNSC calls on members to abide by FATF Recommendations

³⁰. These forums are informal partnerships between influential states which do not have the structures of international organisations and formal paraphernalia like secretariats, treaties, etc. Such forums include the FATF and the GCTF.



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through several means including its broad sanctions programme – sanctions criminalising doing business with certain countries which they expect other countries or entities to respect or risk access to the US financial system.³¹ Other sanctions take the form of arms embargoes, foreign assistance reductions and cut-offs, export and import limitations, asset freezes, tariff increases, revocation of most favored nation (MFN) trade status, negative votes in international financial institutions, withdrawal of diplomatic relations, visa denials, cancellation of air links, and prohibitions on credit, financing, and investment.³² The USA also assumes universal jurisdiction on issues which pose threats to its national security and can go into other countries to address threats of terrorism against the USA.

Recognizing that the use of sanctions is considered harsh and sensitive, powerful countries are resorting to a range of foreign policy and diplomatic tools in place of sanctions to tackle corruption and human rights abuses more effectively. For example, there is a trend among sanctioning states (e.g. US, Canada, UK) towards using the more targeted 'Magnitsky sanctions' which enable them to impose sanctions on named individuals rather than entire countries or sectors, thereby avoiding broad-based sanctions that can affect entire population.

In addition to the USA, the European Union is another important sanctioning entity. EU sanctions compel targeted countries to make changes to their local laws and institutions to avoid the costs of economic sanctions. Blacklisting is also another strategy for compelling compliance by flagging the target jurisdiction as risky which affects their relationships with other states.³³ Beyond sanctions, wealthy states also enforce CT principles on their aid recipients who must comply or forego their economic assistance programs. As a recipient of international aid, Nigeria is exposed to the whims and vagaries of donor countries and institutions.

The various groups of powerful governments—the G-20s, G-8s, G-7s, etc.—come together to make decisions that influence policy directions across the political and business worlds and have the means to compel compliance from the rest of the world. The outcome is an international agenda skewed in the favour of powerful countries and structured to achieve their political and economic objectives. Established in 1989, by a Group of Seven (G7) Summit,³⁴ the FATF, is the most important AML/CFT watchdog globally. The body is a notable outcome of coalitions of powerful governments. Even without being compelled, less powerful states often model their laws after those applied in powerful countries as best practice benchmarks.

31. The US elaborate sanction program is administered by the Office of Foreign Assets Control of the US Treasury. See <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>

32. Richard N. Haass, Brookings, Economic Sanctions: Too Much of a Bad Thing (1998) Accessed via <https://www.brookings.edu/research/economic-sanctions-too-much-of-a-bad-thing/>

33. The Guardian Nigeria News "Nigeria, EU, money laundering and terror financing." Available at <https://guardian.ng/opinion/nigeria-eu-money-laundering-and-terror-financing/>, accessed 26 September 2021

34. History of the FATF: <https://www.fatf-gafi.org/about/historyofthefatf/>

1.2.2 International Political Organizations

A day after the September 11 attacks in the United States, the United Nations Security Council (UNSC) passed Resolution 1368 (2001) condemning “in the strongest terms, the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington, D.C. and Pennsylvania and regards such acts, like any act of international terrorism, as a threat to international peace and security”. It called “on the international community to redouble their efforts to prevent and suppress terrorist acts* including by increased cooperation and full implementation of the relevant international anti-terrorist conventions and Security Council resolutions”. The resolution expresses its readiness to “take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations.”

Subsequently, the UNSC passed Resolution 1373³⁵ on 28 September 2001 setting out specific obligations of states to prevent and suppress financing of terrorism, criminalize the willful provision and collection of funds for terrorist activities, freeze funds and assets linked to terrorism, and prohibit making funds available for the benefit of persons or entities who commit or attempt to commit or facilitate or participate in the commission of terrorist acts. Resolution 1373 is considered as the bedrock of CT legislation in the world having been made pursuant to the UNSC's powers under Chapter VII of the UN Charter which empowers the Security Council to make binding resolutions on matters related to international peace and security. Resolution 1373 paved the way for the proliferation of security and CT legislation and policies by complying States. It also established the Counter Terrorism Committee (CTC) which is charged with monitoring the provisions of the resolution. The CTC, alongside the United Nations Office of Counter Terrorism (UNOCT) and Counter-Terrorism Committee Executive Directorate (CTED) are key bodies responsible for the outreach, implementation and monitoring of member states' compliance with UN resolutions on counter terrorism.

Regional CT norms have also been developed in the context of the African Union, the Council of Europe, the European Union, the League of Arab States, the Organization for Security and Co-operation in Europe, the Organization of American States, the Organization of the Islamic Conference, the South Asian Association for Regional Cooperation and other organizations.³⁶

1.2.3 Financial, Trade and Customs International Organisations

Financial, trade and customs organisations regulate economic cooperation among its members

*. See UN Security Council https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf

35. See UN Security Council https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf

36. Office of the United Nations High Commissioner for Human Rights “Human Rights, Terrorism and Counter-terrorism.” Available at <https://www.un.org/ruleoflaw/files/Factsheet32EN.pdf>, accessed 26 September 2021



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and clients as a condition for enjoying the benefits of membership. By way of illustration, the Organization for Economic Cooperation and Development's (OECD's) Guidelines are legally non-binding, but adherent countries are encouraged to implement them. Similarly, Bretton Woods institutions like the World Bank and the IMF include counter-terrorism related conditions in funding agreements with developing countries benefitting from their financing, policy advice, and technical assistance.

1.2.4 Financial Action Task Force and the Global Counter Terrorism Forum

The FATF (also known as Groupe d'Action Financière (GAFI)) is an international task force of governments that was formed in 1989 following the G7 Summit in Paris in response to the mounting concern over money laundering across the globe.³⁷ The task force was formed with the responsibility of examining money laundering techniques and trends, reviewing the action which had already been taken at a national or international level, and setting out the measures that still needed to be taken to combat money laundering. In 1990 FATF adopted 40 detailed recommendations to that effect.³⁸

The first forty recommendations adopted in 1989 purely targeted money laundering activities, but all that changed just 6 (six) weeks after the September 11 terrorist attacks on the United States. These attacks propelled the expansion of the FATF's focus to include the development of a framework of recommendations to combat the financing of terrorism. The result was the addition of eight special recommendations on countering financing of terrorism adopted in 2001, with one of them specifically targeting non-profit organizations. In October 2004, another special recommendation was added to bring the special recommendations to nine and the total FATF Recommendations to forty-nine (49).*

Taken together, FATF's 40+9 Special Recommendations and compliance mechanisms represent a comprehensive set of anti-money laundering and countering the financing of terrorism (AML/CFT) recommendations. In 2009, the FATF started the process of reviewing and updating its recommendations, with the aim of addressing deficiencies and loopholes on areas where the standard was outdated or difficult to implement or assess (e.g., customer due-diligence requirements, transparency of legal persons and arrangements, and international cooperation).

³⁹ The FATF also took this opportunity to restructure the recommendations, notably by merging

* Financial Action Task Force. "History of the FATF." Accessed via <https://www.fatf-gafi.org/en/the-fatf/history-of-the-fatf.html>

³⁷. Spaces for Change "Closing Spaces for Democratic Engagement and Civil Society in Nigeria". Available at <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>, accessed 26 September 2021, pp. 22-23.

³⁸. Ibid

³⁹. International Monetary Fund, Revisions to the Financial Action Task Force (FATF) Standard—Information Note to the Executive Board, July 17, 2012, Accessed via <https://www.imf.org/external/np/pp/eng/2012/071712a.pdf>

those dealing with money laundering with those dealing with the financing of terrorism. The revised standard, adopted during the FATF February 15–17, 2012 plenary meeting, among other things, expanded focus to cover targeted financial sanctions pursuant to United Nations Security Council Resolutions (UNSCRs) on the prevention, suppression, and disruption of proliferation of weapons of mass destruction (WMD).⁴⁰

While most international bodies have a formal structure and constitution contained in a treaty, convention, or other agreement, this is not the case for the FATF. Instead, the Task Force is seen as a “partnership between governments, accountable to the Ministers of its member governments, who give it its mandate.”⁴¹ Membership of FATF is selective, with currently 40 members comprising 38 jurisdictions and 2 regional organisations (the Gulf Cooperation Council and the European Commission).⁴² Non-members of the FATF may however join FATF-styled regional bodies (FSRBs) but do not by the virtue of that regional membership participate in the formulation of FATF standards. Expressing similar sentiments about a small group of powerful countries imposing global agenda with no clear legitimacy and wielding sticks for noncompliance, a UN Special Rapporteur stated that:

FATF Standards are universally enforced rules that are “effectively imposed by a rather small core group of States representing the globe's most advanced economies. The weight of financial and economic power underpinning the (technically) legally non-binding set of standards means that following the direction set by the FATF is not merely optional for States with lower levels of financial and economic development. Such circumstances inevitably raise concerns related to state sovereignty and legitimacy of regulatory processes.”⁴³

FATF has a powerful approach to ensure the enforcement of its nonbinding standards. FATF can grey list countries or give ratings to a country which affect its ability to get international loans or influence the price of the stocks or bonds issued by corporate entities in that country. Securities issued by countries or corporate bodies in a company with low compliance level with FATF standards would most likely be rated as risky.⁴⁴ Furthermore, many international organizations such as the Organisation for Economic Co-operation and Development (OECD), World Bank and the International Monetary Fund (IMF) have adopted FATF's Recommendations as the benchmark for assessing donee countries' compliance level with AML/CFT standards.

40. International Monetary Fund, *ibid.*

41. *Ibid*

42. Financial Action Task Force, Accessed via <https://www.fatf-gafi.org/en/pages/frequently-asked-questions.html#tabs-36503a8663-item-cacccf71cf-tab>

43. Fionnuala Ní Aoláin “Promotion and protection of human rights and fundamental freedoms while countering terrorism”. Available at <https://undocs.org/A/74/335>, accessed 26 September 2021, p. 17

44. *Ibid*



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FATF outcomes may have far-reaching effects on the willingness of global lending institutions to extend financial assistance to countries that require support.

Numerous interventions of the United Nations and other international organizations lend credence to FATF. A recent resolution of the UN Security Council “strongly urges all States to implement the comprehensive international standards embodied in the revised Forty FATF Recommendations on Combating Money Laundering and the Financing of Terrorism and Proliferation and its interpretive notes.”⁴⁵ Arguably, that specific call by the Security Council to comply with the FATF's recommendations elevates the Taskforce's Standards to the level of binding international law.

● Global Counter Terrorism Forum (GCTF)

Unlike the FATF famed for its selective membership and domination by the world's most powerful countries, the Global Counter Terrorism Forum (GCTF) is an informal, inclusive, multilateral counterterrorism platform, deploying consensus-based strategies to prevent, combat, and prosecute terrorist acts and thwart recruitment to terrorism. The Forum offers a platform for policymakers and practitioners from around the world to share experiences and expertise, and to develop practical, publicly available tools and strategies on how to prevent and counter the evolving terrorist threat.⁴⁶ Nigeria is a founding member of the GCTF alongside countries like Algeria, Australia, Canada, China, Colombia, Denmark, Egypt, the European Union, France, Germany, India, Indonesia, Italy, Japan, Jordan, Morocco, The Netherlands, New Zealand, Nigeria, Pakistan, Qatar, Russia, Saudi Arabia, South Africa, Spain, Switzerland, Turkey, the United Arab Emirates, the United Kingdom and the United States. The African Union, of which Nigeria is also a key member, participates actively in GCTF activities.

Among other things, the GCTF is responsible for addressing the “foreign terrorist fighters”

45. UNSC Resolution 2462 (2019). Available at [https://undocs.org/S/RES/2462\(2019\)](https://undocs.org/S/RES/2462(2019)), accessed 26 September 2021

46. <https://www.thegctf.org/>

problem, supporting victims of terrorism, taking action against kidnapping for ransom and other sources of terrorism funding, supporting multi-sectoral approaches to countering violent extremism, including community engagement and community-oriented policing and so forth.⁴⁷ Recognizing the protracted hostilities between farmers and herders and other organized criminal activities in the northern and middle-belt regions of Nigeria as a major driver of recruitment and radicalisation to violent extremism, GCTF-inspired Institutions like the Global Community Engagement and Resilience Fund (GCERF), has provided funding support to community initiatives in Nigeria focusing on conflict resolution and prevention of violent extremism.⁴⁸

CONCLUSION

As we have seen, international norm-forming entities abound, dictating standards, guidelines and measures states should follow to counter terrorism. Despite the litany of resolutions passed, norms articulated, and the plethora of enforcement mechanisms created, there is still no globally-acceptable definition of the term, terrorism. Instead, member states have the discretion to define terrorism as they please. As we shall see in this report, the way national governments—like Nigeria—have defined terrorism and enforced the countermeasures have had grave implications on human rights and civic freedoms.

47. International Center for Counter Terrorism, ICCT Hosts Administrative Unit of Global Counterterrorism Forum, <https://icct.nl/update/icct-hosts-administrative-unit-of-global-counterterrorism-forum/>

48. See GCERF website, <https://www.gcerf.org/nigeria/>

CHAPTER 2

INFLUENCE OF UNIVERSAL COUNTERTERRORISM NORMS IN NIGERIA

A very clear connection exists between international counter-terrorism (CT) norms and Nigeria's legal regimes on anti-money laundering and countering the financing of terrorism (AML/CFT). Most of the policy and legislative responses to combat terrorism and terrorism financing sprang from the country's bid to extricate itself from the consequences of non-compliance with international CT and AML/CFT standards. There are five major ways through which universal CT norms influenced the development of national counterterrorism responses in Nigeria. They are compliance/regulatory actions, establishment of complementary structures, copycat-ism, domestication or adaptation of international legislative initiatives and lastly, transborder influences. We examine these external influences below, highlighting the significant impacts on civic space.

2.1 COMPLIANCE/REGULATORY ACTIONS

The first notable regulatory action against Nigeria was recorded in July 2001 when FATF included Nigeria in its list of non-cooperative countries and territories (NCCT). The major goal of the NCCT initiative was ***to secure the adoption by all financial centres of international standards to prevent, detect and punish money laundering, and thereby effectively co-operate internationally in the global***



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effort/action against money laundering.⁴⁹ The FATF conducts periodic mutual evaluations through which it reviews countries' compliance with its Forty Recommendations and the Nine Special Recommendations on Terrorist Financing. Where the mutual evaluation exercises reveal major deficiencies in domestic financial systems, FATF places that country in the NCCT list as a means to extract their commitment to reform and improve their AML regimes, or bring them in alignment with the FATF Standards.

Describing the NCCC list as a “shame-list”, Nigeria took various steps to address the incalculable negative impacts to the country's economy resulting from that listing. Some of the impacts include inflow/outflow of transactions to Nigeria had around it a cautionary flag to the rest of the world; numerous Nigerians operating outside the country had their financial dealings cancelled/ monitored; several Nigerians had their scholarships denied/cancelled; giant eCommerce corporations cited the NCCT status as a reason for not wanting to do business in Nigeria; Nigerian financial institutions had more difficult relationships with correspondent banker; it became very expensive to source for investment capital outside the country, among others.⁵⁰

Beyond placing a country on the NCCC list, FATF takes further steps to assess the progress the country is making to effectively implement the necessary reforms. Specifically, “*jurisdictions that enacted sufficient legislation were asked to submit implementation plans to enable the FATF to evaluate the actual implementation of the legislative changes.*”⁵¹ In other words, requiring the enactment of domestic AML regulations is one of the ways of mounting pressure on countries to import the FATF Forty Recommendations and the Nine Special Recommendations on Terrorist Financing into their national laws. FATF also conducts on-site visit to the country on the NCCT list at an appropriate time to confirm effective implementation of the reforms.

Yielding to this pressure, Nigeria enacted the Money Laundering (Prohibition) Act 2004 and the Economic and Financial Crimes Commission (Establishment) Act.⁵² The FATF acknowledged the progress made by the country in implementing anti-money laundering reforms, including the establishment of a financial intelligence unit and progress on money laundering investigations,

49. Financial Action Task Force | Groupe d'action financière Annual Review of Non-Cooperative Countries and Territories 2006-2007: Eighth NCCT Review (2007) Accessed via <https://www.fatf-gafi.org/content/dam/fatf-gafi/annual-reports/2006%202007%20NCCT%20ENG.pdf>

50. Nigerian Financial Intelligence Unit Newsletter, Issue 2, Volume 1 July, 2006, Accessed via https://www.nfiu.gov.ng/images/Downloads/downloads/nfiu_newsletter-no2vol1.pdf

51. See FATF/GAFI (2007) *ibid*

52. Babajide Komolafe “Inside NFIU and the new regime stopping states from messing with local govt funds.” Available at <https://www.vanguardngr.com/2019/05/inside-nfiu-and-the-new-regime-stopping-states-from-messing-with-local-govt-funds/>, accessed 26 September 2021

prosecutions and convictions as well as other measures to fight corruption. These legislative measures culminated in the removal of the country from the NCCT list.⁵³

FATF scrapped the NCCT list in October 2006 and introduced the grey and black lists.⁵⁴ Following a preliminary review of the Nigerian AML/CFT regime in October 2009, the FATF identified some strategic deficiencies again and placed Nigeria on the grey list in February 2010. The action plan that was developed with the FATF to address those deficiencies included specific actions in five areas, namely:

- a** Criminalize Terrorist Financing (TF) in accordance with the FATF Standards and relevant Conventions
- b** Implement the UNSCRs⁵⁵ 1267 and 1373 through law, regulations or other necessary measures, and ensure that there are appropriate procedures to freeze, seize and confiscate terrorist funds
- c** Establish whether the current money laundering legislation captures all the required predicate offences, and make any necessary amendments to the AML legislation
- d** Ensure that the requirements of FATF Recommendation 5⁵⁶ have been set out appropriately in law or regulation and other enforceable means, and that they apply to all financial institutions covered by the FATF definition; and
- e** Clarify the respective AML/CFT responsibilities of the NFIU and the three financial services supervisory bodies - the Central Bank of Nigeria(CBN), the Securities and Exchange Commission(SEC) and the National Insurance Commission (NAICOM), and demonstrate that they are undertaking effective AML/CFT supervision across the financial sector.⁵⁷

The above conditionalities reveal the extent of the pressure countries face to align their national legal systems with international CT norms whether they are relevant to the local context or not.

53. International Center for Counter Terrorism, ICCT Hosts Administrative Unit of Global Counterterrorism Forum, <https://icct.nl/update/icct-hosts-administrative-unit-of-global-counterterrorism-forum/>

54. Financial Action Task Force (FATF) Annual Review of Non-Cooperative Countries and Territories 2006-2007: Eighth NCCT Review

55. This resolution requires all states to implement an asset freeze; travel ban; and an arms embargo against individuals, groups, and entities subject to sanctions, as identified by the "Consolidated List."United Nations Security Council [https://undocs.org/S/RES/1267\(1999\)](https://undocs.org/S/RES/1267(1999))

56. FATF Recommendation 5 provides measures to assist countries in fulfilling the legal requirements of the International Convention for the Suppression of the Financing of Terrorism (the Terrorist Financing Convention) , and relevant United Nations Security Council Resolutions.

57. GIABA "Nigeria Exits FATF Global Compliance Monitoring List; Sao Tome and Principe Handed Over to GIABA." Available at https://www.giaba.org/media/f/624_Press, accessed 26 September 2021



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Including Nigeria in FATF's list of "jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies"⁵⁸ is tantamount to being placed on the NCCT list. Efforts to extricate the country from this list led to the 2012 amendment to the Money Laundering (Prohibition) Act and the 2013 amendment to the Terrorism (Prevention) Act.⁵⁹ In a public statement dated 18 October 2013, FATF removed Nigeria from the list of countries identified as jurisdictions with significant deficiencies in their AML/CFT regimes.⁶⁰ FATF noted that Nigeria has established the legal and regulatory framework to meet its commitments in its Action Plan regarding the strategic deficiencies that the FATF had identified in February 2010.⁶¹

Another major international regulatory action that propelled changes to the Nigerian AML/CFT landscape is the suspension of Nigeria from the Egmont Group⁶² in 2017 "following repeated failures on the part of the Nigerian Financial Intelligence Unit (NFIU) to address concerns regarding the protection of confidential information, specifically related to the status of suspicious transaction report (STR) details and information derived from international exchanges, as well as concerns on the legal basis and clarity of the NFIU's independence from the Economic and Financial Crimes Commission (EFCC)."⁶³ Again, this led to the enactment of the Nigerian Financial Intelligence Unit Act 2018 to establish the NFIU as a separate unit from EFCC.⁶⁴

Another interesting evidence of international influence on Nigeria's AML/CFT regulation is the link between the FATF's Guidance on Virtual Assets⁶⁵ and the current ban on crypto currency trading in Nigeria in 2021. The FATF defines a "virtual asset" or VA as a "digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes" The guidance notes the potentially heightened AML/CFT risks that peer-to-peer (P2P)

58. FATF Public Statement - 28 October 2011. Available at <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/fatfpublicstatement-28october2011.html>, accessed 26 September 2021

59. GIABA "6th Follow up Report on the Mutual Evaluation of Nigeria." Available at https://www.giaba.org/media/f/838_6th%20FUR%20Nigeria%20-%20English.pdf, accessed 26 September 2021

60. GIABA "Nigeria Exits FATF Global Compliance Monitoring List; Sao Tome and Principe Handed Over to GIABA." Available at https://www.giaba.org/media/f/624_Press, accessed 26 September 2021

61. FATF, Jurisdictions no longer subject to the FATF's on-going global AML/CFT compliance process, Accessed via <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Fatf-compliance-oct-2013.html#:~:text=Mutual%20Evaluation%20Report.-,Nigeria,in%20its%20Mutual%20Evaluation%20Report>.

62. The Egmont Group is a united body of 167 Financial Intelligence Units (FIUs). The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing. See <https://egmontgroup.org/content/about>

63. See Egmont Group "Co-Chairs' Statement - 24th Plenary of the Egmont Group of Financial Intelligence Units." Available at <https://www.egmontgroup.org/en/content/co-chairs%E2%80%99-statement-24th-plenary-egmont-group-financial-intelligence-units>, accessed 26 September 2021

64. The Guardian Nigeria News "Nigeria back as an active member of Egmont Group." Available at <https://guardian.ng/news/nigeria-back-active-member-of-egmont-group/>, accessed 26 September 2021

65. FATF Guidance for a Risk-Based Approach to Virtual Currencies. Available at <https://www.fatf-gafi.org/media/fatf/documents/recommendations/RBA-VA-VASPs.pdf>, accessed 26 September 2021

transactions (transfers to and from “unhosted wallets”) pose. Shortly thereafter, the Central Bank of Nigeria (CBN) prohibited financial institutions to stop facilitating crypto transactions and desist from transacting with entities engaging in crypto.⁶⁶ Two years later, CBN reversed its stance on the ban on cryptocurrency transactions, and introduced a comprehensive regulatory framework, “Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers (VASPs).”⁶⁷

2.2 ESTABLISHMENT OF COMPLEMENTARY STRUCTURES AT THE NATIONAL LEVEL

Jurisdictions are required to implement counterparts of international initiatives at the national level. Accordingly, Nigeria's CT infrastructure complements structures set up by or envisaged by international organisations. The Counter Terrorism Centre (Nigerian CTC) established pursuant to the Terrorism Prevention Act anchors the country's CT strategies by providing guidance to security, law enforcement and intelligence agencies. The CTC as well as its strategies not only mirror the country's obligations to the UN but also domesticates the United Nations CT programmes through the National Counter-terrorism Strategy and the Preventing and Countering Violent Extremism Policy Framework and National Action Plan.⁶⁸ According to the Nigerian CTC, its relationships with relevant partners transcend state actors, but rather include donor agencies and international counterterrorism platforms like the Global Counter Terrorism Forum and its inspired institutions such as the Global Community Engagement and Resilience Fund, Hedayah (based in Abu Dhabi) and the United Nations.⁶⁹



66. Central Bank of Nigeria Newsletter Update, Cryptocurrency Trading: CBN Orders Banks To Close Operating Accounts, ISSN No: 2695-2394 Vol. 3 No. 2 February 2021, Accessed via

<https://www.cbn.gov.ng/out/2021/ccd/volume%203%20number%202%20cbn%20update%20february%202021.pdf>

67. Afriwise, CBN Lifts 'Ban' on Crypto Banking Transactions (2024) Accessed via <https://www.afriwise.com/blog/cbn-lifts-ban-on-crypto-banking-transactions>

68. See <https://ctc.gov.ng/about-ctc/>, accessed 26 September 2021

69. Ibid.



2.3 COPYCATISM

Copycatism simply refers to the habit of imitating the regulatory behavior and practices of other countries with minimal or no adaptation to the local context. Nigeria has increased its surveillance operations and infrastructure, copying from major world economies who have intensified their surveillance programmes, driven by the same CT narratives that are rooted in the notion that human rights are not absolute. Lately, Nigeria has scaled up its investments in surveillance technologies,⁷⁰ ostensibly imitating the elaborate surveillance programmes in countries like the United States,⁷¹ the United Kingdom,⁷² China⁷³ and Russia.⁷⁴ Suppressing terrorism is the official justification advanced for the heightened surveillance agendas.⁷⁵

Lawmaking is another area where copycatism is commonplace. Inspired by certain laws in Singapore containing many restrictive provisions, Nigeria has used national security as an excuse to initiate similar legislative proposals designed to curtail internet freedoms, arguing that such legislations will help to draw a line between protecting national security and the freedom of expression online.⁷⁶ A classic example of copy and paste practices include Nigeria's Infectious Diseases Bill which was copied from Singapore.⁷⁷

A report rightly observed that:⁷⁸

Antidemocratic African governments are not only copying or drawing inspiration and succor from one another, but may also be finding comfort in the shadow of illiberalism cast by major actors on the global stage. The report finds some evidence of learning and support among governments. This includes public declarations by legislators and government officials who defend their anti-NGO actions by referencing measures undertaken elsewhere on the continent and beyond. Evidence can also be found in legal texts that use language similar to foreign laws, and in

70. [Nigeria, Kenya use Israeli surveillance tool to listen to calls — Quartz Africa \(qz.com\)](#); [Nigerian govt moves to control media, allocates N4.8bn to monitor WhatsApp, phone calls \(premiumtimesng.com\)](#)

71. America spying on its citizens [Surveillance of Citizens by Government - The New York Times \(nytimes.com\)](#)

72. [Surveillance - All you need to know - Politics.co.uk](#)

73. [Xxx A Surveillance Net Blankets China's Cities, Giving Police Vast Powers - The New York Times \(nytimes.com\)](#); [What China's Surveillance Means for the Rest of the World | Time](#); [How China harnesses data fusion to make sense of surveillance data \(brookings.edu\)](#)

74. [Russia is growing its surveillance state but not everyone is monitored equally - The Washington Post](#); [Moscow Silently Expands Surveillance of Citizens | Human Rights Watch \(hrw.org\)](#)

75. See Action Group on Free Civic Space, [Security Playbook of Digital Authoritarianism in Nigeria \(December 2021\)](#); [www.closingpaces.org](#)

76. Vanguard, [Anti-social Media Bill: Senator defends alleged Plagiarism of Singapore Statute \(2019\)](#) Accessed via <https://www.vanguardngr.com/2019/11/anti-social-media-bill-senator-defends-alleged-plagiarism-of-singapore-statute/>

77. [Nigeria copies and pastes new laws from Singapore | World | The Times](#)

78. [Nigeria copies and pastes new laws from Singapore | World | The Times](#)

demarches by governments in search of support from other governments. Despite such evidence of transmission, however, it is uncertain whether it is the result of active efforts to disseminate “worst practices” or simple imitation.⁷⁹

The legislative measures introduced during the Covid-19 pandemic exemplifies how states characterized a health emergency as a security threat, using that framing to attempt to introduce excessive emergency powers that undermine civic space and human rights. Another notorious example is the Protection from Internet Falsehoods, Manipulations and Other Related Matters Bill, 2019 (popularly known as the Social Media Bill). The Social Media Bill was copied from Singapore, a country that ranks lower than Nigeria on press freedoms.

2.4 DOMESTICATION OR ADAPTATION OF INTERNATIONAL LEGISLATIVE INITIATIVES

Between 2001 and 2018, at least 140 governments adopted counter-terrorism legislations and other administrative measures often defended by reference to new or perceived threats, or simply to comply with new international requirements.⁸⁰ Presently, the legal, institutional, and operational frameworks for combating terrorism and financing of terrorism in Nigeria are inspired or adapted from those that exist at the international CT levels. In fact, every CT legislation or countermeasures in Nigeria derives inspiration from specific international CT norms and standards. From the National Counter-terrorism Strategy (NACTEST) to the current Money Laundering (Prohibition) Act and Terrorism Prevention (Prohibition) Act both repealed in 2022, to the Cybercrime Act (2015) amended in 2024, up to the banking regulations, all their provisions are modelled after those laid down in international CT standards.

Apart from legal CT initiatives, the institutional mechanisms for enforcing the numerous CT laws and policies also follow a similar trajectory. On its website, SCUML acknowledges that its establishment in 2005 was *'as a commitment by Nigeria, through the Federal Government-constituted Presidential Inter-Agency Committee, to the Financial Action Task Force'*. Similarly, a statement on Nigeria Financial Intelligence Unit (NFIU) website acknowledges that, *NFIU was established in fulfillment of the requirement of FATF*, and in response to the high level of money laundering and advanced fee fraud associated with Nigerians which has led to the blacklisting of Nigeria as a non-cooperative country by FATF.⁸¹ Although the NFIU was established pursuant to

79. [05132019_UPDATED_FINAL_Africa_Special_Brief_Freedoms_Under_Threat.pdf \(freedomhouse.org\)](#) p. 3-4

80. Fionnuala Ni Aoláin “Promotion and protection of human rights and fundamental freedoms while countering terrorism”. Available at <https://undocs.org/A/74/335>, accessed 26 September 2021, p. 3

81. SPACES FOR CHANGE, *Beyond FATF: Trends, Risks and Restrictive Regulation of Non-Profit Organizations in Nigeria*, May 2017, Accessed via <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>



the Economic and Financial Crimes Commission (EFCC) Act, it draws its responsibilities directly from the 40+9 Special Recommendations of the FATF. The above official rationale for the establishment of these two federal agencies demonstrate how international CT norms trickle down to the local context in the form of legal and institutional CT mechanisms.

2.5 TRANSBORDER POLITICAL AND COLONIAL INFLUENCES

State practice shows that the positions of powerful economies and their interpretation of the international counterterrorism norms influence the policy and practice obtained in less powerful countries, especially in their colonies. Nigeria has for the most part, either retained very repressive post-colonial legislations or modelled new laws after those in the United Kingdom. Nigerian courts continue to apply English laws decisions after half a century of their independence from England. In interpreting Nigerian laws, the Nigerian judiciary are also known to follow judicial precedents from the courts in England. Even beyond direct colonial ties, simple imitation and global interconnections motivate countries like Nigeria to copy and paste laws and practices from other countries, which they consider as significant or a strategic ally.

Buzzwords like “International Best Practices” or “international standards” are commonplace justifications for the importation of foreign norms into local policy development. State agents have used this mantra without a clear identification and understanding of what “best practice” actually means. Excerpts from the National Security Strategy states that “in furtherance of this strategy, the national objectives will be to monitor and enforce the implementation of the legislative frameworks regulating cybersecurity in Nigeria in line with international standards and best practices.”⁸² This may mean that Nigeria is open to borrowing from what is obtainable in several other jurisdictions, as it has indeed done with regards to surveillance and other national security initiatives.⁸³

82. [ONSA-UPDATED.pdf \(ctc.gov.ng\) p.25](#)

83. [Nigeria, Kenya use Israeli surveillance tool to listen to calls Quartz Africa \(qz.com\): Nigerian govt moves to control media, allocates N4.8bn to monitor WhatsApp, phone calls \(premiumtimesng.com\)](#)

CHAPTER 3

NATIONAL COUNTERTERRORISM INITIATIVES AND THEIR (MIS)APPLICATION IN NIGERIA

There is a nexus between international counter terrorism (CT) norms and Nigeria's CT responses, especially in the area of legislative and policy developments. As the previous chapter makes clear, nearly all CT legislations and policy-based countermeasures in Nigeria originate from specific international CT norms and standards. The table below traces the origin of the extant policy and legislative measures to counter money laundering and terrorism financing in Nigeria:

Nigerian AML/CFT Regimes and their Origins

Nigerian Law

Nigerian Drug Law Enforcement Agency (NDLEA) Act

Underpinning/Supporting International Documents

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (the Vienna Convention)⁸⁴

84. Section 3(1)(m) of NDLEA Act



Nigerian AML/CFT Regimes and their Origins

Nigerian Law	Underpinning/Supporting International Documents
Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994	The Vienna Convention ⁸⁵
Advanced Fee Fraud and other Fraud Related Offences Act 1995	The Vienna Convention ⁸⁶
Money Laundering Act 1995	The Vienna Convention ⁸⁷
Money Laundering (Prohibition) Act 2003	The Vienna Convention; United Nations Convention Against Transnational Organized Crime 2000 (the Palermo Convention)
Money Laundering (Prohibition) Act 2004, replaced by Money Laundering (Prohibition) Act 2011 as amended in 2012	FATF Recommendations
SCUML Regulations	FATF Recommendations
CBN AML/CFT Regulation 2013	FATF Recommendations
Economic and Financial Crimes Act 2004 as amended in 2014	FATF Recommendations

⁸⁵. Joseph O Sanusi "Central Bank of Nigeria's standpoint of anti-money laundering compliance." Available at <https://www.bis.org/review/r030606c.pdf>, accessed 26 September 2021, p.2

⁸⁶. Ibid

⁸⁷. Ibid

Nigerian AML/CFT Regimes and their Origins

Nigerian Law	Underpinning/Supporting International Documents
Terrorism (Prevention) Act 2011, as amended in 2013	FATF Recommendations, UNSC Resolution 1373
Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations 2011	FATF Recommendations, United Nations Security Council Resolutions
Nigerian Financial Intelligence Unit Act 2018	FATF Recommendations; The Egmont Group requirement
The Cybercrimes (Prohibition, Prevention) Act	The Budapest Convention; ⁸⁸ African Union Convention on Cyber Security and Personal Data Protection
National Counter Terrorism Strategy	The UN Global Counter Terrorism Strategy adopted by UNGA on September 8, 2006
Ban on cryptocurrency	FATF Guidance on Virtual assets
Surveillance Programme	FATF Recommendations; FATF Guidance on Digital Identity; GIABA Assessment of Counter Terrorist Financing Capacities in West Africa; UNSC Resolution 1373

The table above demonstrates how the implementation of international CT norms influences the the content and direction of Nigeria's security policy and legislative responses. It pinpoints the

⁸⁸. The Citizen Lab “Paradigm Initiative Nigeria and the Economic Cost of Cybercrime.” Available at <https://citizenlab.ca/2013/09/paradigm-initiative-nigeria-and-the-economic-cost-of-cybercrime/>, accessed 26 September 2021



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global and regional documents that have influenced the development and content of national legislative initiatives. In the Nigerian context, the Financial Action Task Force (FATF) Standards and the UN Global Counterterrorism Strategy (GCTS) have been particularly instructive. The recommendations and guidance documents of the FATF Standards and the GCTS specifically informed the following legislative, regulatory and institutional mechanisms which we shall discuss below:

- Passage of the Money Laundering (Prohibition) Act 2004, currently 2011 ML (Prohibition) Act
- Enactment of the Terrorism Prevention Act (TPA) Act in 2011, and amended
- Establishment of the Special Control Unit against Money Laundering
- The establishment of the Nigerian Financial Intelligence Unit (NFIU)
- Central Bank of Nigeria Anti-Money Laundering/Combating the Financing of Terrorism Regulations, 2013 (“CBN CT Regulation”)
- National Risk Assessment (2016)
- Nigerian FIU Trends and Typology report (2013)
- Companies and Allied Matters Act (CAMA) 2020
- National Counter-terrorism Strategy (NACTEST) and the Policy Framework and National Action Plan for Preventing and Countering Violent Extremism (PCVE),

As we have seen above, national legislative initiatives to combat terrorism are deeply rooted in the FATF Standards and the UN's GCTS. These legislations, regulations and guidelines impose technical, reporting and due diligence obligations on governments, corporate bodies, including non-profits. Laws like the Money Laundering Act 2004, currently Money Laundering (Prohibition) Act, 2022, the Terrorism (Prevention) Act 2022, the establishment of the Special Control Unit against Money Laundering (“SCUML”) in 2005, and the Central Bank of Nigeria AML/CFT Guidelines are enacted in compliance with FATF requirements. In the same vein, NACTEST and PCVE were also adapted from the UN GCTS adopted by UNGA on September 8, 2006. It also draws from the considerable research from numerous international experts and national departments working on counterterrorism. The document combines the hard military approach—intelligence gathering and use of force—with a soft approach, which aims to win hearts and minds and address the root causes of radicalization within Nigerian communities.⁸⁹



United Nations General Assembly
Credit: Justsecurity.org

89. Office of the National Security Adviser <https://ctc.gov.ng/about-ctc/>

● MISAPPLICATION OF LEGISLATIVE CT INITIATIVES IN NIGERIA

Numerous studies find that countries use legal or quasi-legal, bureaucratic, financial, political, and security related methods to contract the civic space.⁹⁰ The way government's CT initiatives, particularly the laws, policies and regulatory measures framed around the objective of countering terrorism have been implemented have had a negative effect on the ability of citizens to exercise and fully enjoy their democratic freedoms protected by law. How do state actors and agents misuse CT and security laws to tighten the civic space? Some CT legislations contain provisions that are restrictive and impose onerous burdens on entities operating within the political, social, financial and non-financial systems, including the non-profit sector. The most popular legal frameworks invoked by state agents to justify the suppression of civil rights and freedom under the pretext of countering terrorism or protecting national security are discussed below:

3.1.1 Section 45 of the Constitution of the Federal Republic of Nigeria

The constitutional exception to the human rights guarantees in Section 45 of the Constitution of the Federal Republic of Nigeria legitimizes derogations to personal liberties in certain circumstances such as in the interest of defence, public safety, public order, public morality or public health. What this means is that certain constitutional guarantees, specifically Sections 37 (Right to private and family life), Section 38 (freedom of thought, conscience, and religion), Section 39 (freedom of expression and the press), Section 40 (Right to peaceful assembly and association) and Section 41 (freedom of movement) are not absolute. These rights can be breached on the ground of defence", "public safety", "public order", "public morality" or "public health". For instance, the prohibition of public gatherings and the forced closure of places of worship in the course of enforcing COVID-19 social distancing protocols in the country restricted the freedom of assembly and religion. ⁹¹

While the basis for these restrictions is understandable, the flip side is that the phrases, "defence", "public safety", "public order", "public morality" or "public health" are vague and overly broad that any legitimate expression or demonstration of organized dissent can be easily overstretched to come under the ambit of the stipulated offences. National security agencies have often latched onto these vague terminologies to restrict civic activities under the banner of defending national security. For instance, several attempts to introduce bills for the regulation of the social media and non-profit organizations (NPOs) in Nigeria have found a footing in Section 45 of the Constitution. Without evidence or conducting a risk assessment of the sectors, officials

90. Siân Herbert "Restricting space for civil society." Available at www.gsdr.org/wp-content/uploads/2016/03/HDQ1266.pdf, accessed 26 September 2021, p. 3

91. Victoria Ibezim-Ohaeri, Navigating Civic Space in a Time of COVID-19: Reflections from Nigeria, SPACES FOR CHANGE, 2021, Accessed via <https://closingspaces.org/navigating-civic-space-in-a-time-of-covid-19-reflections-from-nigeria/>



have advocated for tighter regulation of NPOs based on the perception that they are vulnerable to abuse for terrorist financing and thus pose a risk to national security. The lead paper in support of the “Bill to provide for the Establishment of Non-Governmental Organisations Regulatory Commission” emphasized the need “to regulate CSOs on matters relating to their funding, foreign affiliation and national security, and ... to check any likelihood of CSOs being illegally sponsored against the interest of Nigeria.”⁹²

3.1.2 The Terrorism Prevention Act 2022

The TPA and the regulations made thereunder tops the list of the most-misused CT frameworks in Nigeria. Though enacted in compliance with Nigeria's international CT obligations and under immense pressure from FATF, the biggest flaw of the TPA is the overly broad classification of acts that constitute terrorism.⁹³ The overbreadth opened the doorway for the government to brand any dissenting group of persons or movements as 'terrorists' and then visit the consequences prescribed under the law upon such person or movement. Persons accused of terrorist activities face immediate repercussions even before being found guilty of the offence such as arrest without bail, freezing of accounts and incalculable reputational damages.

Section 56 of the Terrorism Prevention (Prohibition) Act (TPPA) is a clear footprint of Recommendation 8 of the FATF Standards within the Nigerian legal system. Although Recommendation 8 has been rephrased,⁹⁴ the nasty stains endure. The section of the TPA allows the government agency responsible for registration of organisations to refuse to register, or to deregister any charity “based on security or criminal intelligence reports, where there are reasonable grounds to believe that an applicant for registration as a registered charity has made, is making or is likely to make available any resources, directly or indirectly, to a terrorist group”.⁹⁵ Charities are the only organisations singled out for this kind of measures in the TPA. Although the charity is able to file an action in court to reverse the decision within 60 days after which the charity is foreclosed from challenging the decision, state agents have weaponized this provision to either suspend or order the closure of humanitarian groups for allegedly aiding and abetting terrorism.⁹⁶

⁹². Spaces for Change “Closing Spaces for Democratic Engagement and Civil Society in Nigeria”. Available at <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>, accessed 26 September 2021, p. 17. For a more complete and updated chronology of attempts to legislate restrictive laws and regulations, see www.closingspaces.org

⁹³. Spaces for Change, Policy Brief: Analysis of the Terrorism (Prevention & Prohibition) Act 2022, Accessed via <https://spacesforchange.org/policy-brief-analysis-of-the-terrorism-prevention-prohibition-act-2022/>

⁹⁴. The current iteration of Recommendation 8 prescribes a risk-based approach of regulating NPOs requiring states to assess the TF risks to which NPOs are exposed and then apply commensurate measures aimed at countering the identified risks.

⁹⁵. Section 35(1) of TPA

⁹⁶. Action Against Hunger, Nigeria: Following Forced Closure of Offices in Borno and Yobe States, Action Against Hunger Strongly Rejects Accusations of Supporting Terrorist Groups: <https://www.actionagainsthunger.org/story/nigeria-borno-yobe-action-against-hunger-strongly-rejects-accusations-of-supporting-terrorist-groups>

Furthermore, state agents have also used the TPA to clamp down on opposition groups, ethnic agitators and for frightening activists into silence. Most forms of organized dissent in the country—whether religious, regional, political—have been met with stiff resistance and their organizers have become frequent targets of political crackdowns by the Nigerian government. State actors relied on the provisions of the Section 13(1)(a) and (b) of the TPA and Regulation 31(2)(a) and (3)(b) of the Central Bank of Nigeria Anti-Money Laundering/Combating the Financing of Terrorism Regulations, 2013 (“CBN CT Regulation”) to order the freezing of bank accounts belonging to #ENDSARS campaigners.⁹⁷ Not only that, pro-Biafra agitations led by the Indigenous Peoples of Biafra (IPOB) which started since 1999 traversed the administrations of President Olusegun Obasanjo, late President Musa Yar'Adua President Goodluck Jonathan, with occasional skirmishes between the secessionist campaigners and state agents. From the beginning of the Buhari regime in 2015, the crackdown on IPOB intensified, with hundreds of their members arrested, detained, tortured, and killed by state security forces. The crackdown on IPOB climaxed with the proscription and designation of the group as a terrorist organisation in 2017, raising questions regarding the justification for criminalizing a group famed for its nonviolent agitations.

The brazen differential in the application of the TPA to various security situations in the country fuels fears of deliberate misuse of the CT frameworks to stifle organized dissent. The selective application of the TPA also brings to light how security laws are exploited to perpetuate pre-existing ethno-religious agendas and to deliberately target critics rather than focus on actual threats. Of particular significance is the proscription of the south-east-based Indigenous Peoples of Biafra (IPOB) at a time when extremely-violent Fulani herdsman who bear deadly weapons and engage in terrorist activities in the northern region had not been designated a terrorist group and proscribed by the government.⁹⁸ The Global Terrorism Index named Nigerian Fulani militants as the fourth deadliest terror group in the world.⁹⁹ Miyetti Allah, the umbrella body of Fulani cattle owners, has taken responsibility for some deadly revenge attacks on communities, but the federal government appears to approach the issue more disinterestedly.

The Operation Safe Corridor¹⁰⁰ and the Demobilisation, Disassociation, Reintegration Reconciliation (DDRR) programme implemented in the Northeast Nigeria¹⁰¹ shows the willingness of the government to deal civilly with persons who were “repentant” Boko Haram

97. Nairametrics “#EndSARS: CBN says funds in frozen accounts may be linked to terrorist activities.” Available at <https://nairametrics.com/2020/11/11/endsars-cbn-says-funds-in-frozen-accounts-may-be-linked-to-terrorist-activities/>, accessed 26 September 2021

98. Ugwueze, M.I. (2021). Biafra war documentaries: Explaining continual resurgence of secessionist agitations in the South-East, Nigeria. Civil Wars, DOI: 10.1080/13698249.2021.1903781

99. <https://www.independent.co.uk/news/world/africa/global-terrorism-index-nigerian-fulani-militants-named-fourth-deadliest-terror-group-world-a6739851.html>

100. See the Preventing and Countering Violent Extremism Policy Framework and National Action Plan. Available at <https://ctc.gov.ng/about-ctc/>, accessed 26 September 2021

101. See “Counter-Terrorism Centre Strategic Report 2018.” Available at <https://ctc.gov.ng/wp-content/uploads/2020/03/REVIEW-OF-ACT-Inner-2019.pdf>, accessed 26 September 2021



terrorists than other dissenting groups. The leniency shown to “repented” Boko Haram fighters and the government's continued retention of a federal minister that has previously expressed public support for the Al Qaeda¹⁰² send signals that certain dissident groups enjoy some level of protection from CT measures.

3.1.3 Central Bank of Nigeria Anti-Money Laundering/Combating the Financing of Terrorism Regulations, 2013 (“CBN CT Regulation”)

Numerous provisions of the CBN CT Regulation enunciate the actions undertaken by the Central Bank of Nigeria to prevent laundering money and the financing of terrorism and ensure effective compliance by financial institutions. Invoking section 3)(b) of the CBN CT Regulation to press terrorist financing charges against #ENDSARS protesters, the Federal High Court argued that “there is a grave allegation that the defendants are involved in suspected terrorism financing via their bank accounts in contravention of the provisions of extant laws and regulations. The aforesaid transactions undertaken by the defendants, using their bank accounts, can cause significant economic and security harm to the public and the Federal Republic of Nigeria if left unchecked”.¹⁰³

CBN's CT Regulations have recently provided legal impetus for criminalizing, targeting and dismantling online fundraising campaigns and platforms that protesters have used. #EndSARS protesters primarily raised funds using bitcoins and cryptocurrency, bypassing the Central Bank's restrictions on many accounts, including threats to sanction the payment gateway company—Flutterwave—that facilitated crowdfunding for the movement.¹⁰⁴ In a circular dated February 5, 2021, the Central Bank of Nigeria (CBN) ordered financial institutions to identify people and organizations trading in cryptocurrency and close their accounts immediately, threatening severe regulatory sanctions for non-compliance.¹⁰⁵ CBN attributed the ban to the opacity of cryptocurrency which makes it susceptible to money laundering and terrorist financing. Terrorism-financing charges against protesters have lingered despite verified claims that funds raised through cryptocurrency were solely applied towards coordinating offline and online demonstrations against police brutality. No actual links to terrorist financing have been established, but criminal charges against protesters are still subsisting.

¹⁰². Vanguard “Presidency's defence of Isa Pantami.” Available at <https://www.vanguardngr.com/2021/05/presidencys-defence-of-isa-pantami/> accessed 26 September 2021

¹⁰³. HumAngle. “Using Terrorism As Decoy To Freeze Accounts Unreasonable, Violates Protesters’ Rights — Lawyer.” November 2020. Available at <https://humanglemedia.com/using-terrorism-as-decoy-to-freeze-accounts-unreasonable-violates-protesters-rights-%E3%83%BC-lawyer/>

¹⁰⁴. SPACES FOR CHANGE, UNINTENDED CONSEQUENCES OF FATF STANDARDS ON THE NPO SECTOR AND THE CIVIC SPACE IN NIGERIA, Policy Brief submitted to the FATF Workstream on Unintended Consequences of FATF Standards (2021).

¹⁰⁵. Central Bank of Nigeria, Cryptocurrency Trading: CBN Orders Banks To Close Operating Accounts (2021): <https://www.cbn.gov.ng/Out/2021/CCD/Volume%203%20Number%202%20CBN%20Update%20February%202021.pdf>

3.1.4 Cybercrimes Act 2015 Amended in 2024

The Cybercrimes Act has an uncanny connection with the TPA – especially the provisions on cyber terrorism. The government has maximized this connection to target critics predominantly operating in online spaces. Section 18(1) of the Cybercrimes Act provides that:

“Any person that accesses or causes to be accessed any computer or computer system or network for purposes of terrorism, commits an offence and is liable on conviction to life imprisonment.”

As exemplified by the #EndSARS protests, social media networking sites, especially X (Twitter) and Facebook play a major role in transforming the character of the protests from online rage to street action. Accordingly, Section 18 and 24 of the Cybercrimes Act are the most popular provisions used to justify criminal charges against vocal critics, journalists, bloggers and campaigners actively using the social media to demand political and corporate accountability. Just like Emperor Gabriel Ogbonna who was arrested, arraigned and illegally detained based on allegations of cyber terrorism for his online publication regarding the former Governor of Abia State,¹⁰⁶ the Closing Spaces Database has tracked over 50 incidents involving civic actors currently facing criminal charges, including terrorism on account of critical commentary posted on Facebook or X (Twitter).¹⁰⁷



#EndSARS protest in Nigeria
Credit: International Crisis Group

¹⁰⁶. Sahara Reporters “Abia Government Arrests, Remands Activist in Prison Custody Over Alleged False Publication.” Available at <http://saharareporters.com/2020/04/04/abia-government-arrests-remands-activist-prison-custody-over-alleged-false-publication>, accessed 26 September 2021. The 26 March 2021 charge sheet against the accused reads in part, “That Emperor Gabriel Ogbonna ‘M’ and others now at large within the 18th-19th day of March, 2020, at 118 Market Road, Aba in the Aba North Magisterial District, knowingly and intentionally published false and threat message on the Internet that Governor Okezie Ikpeazu swore on oath before the ancient Harashima (A Hindu god) to abide absolutely by conditions presented by his predecessor in office and subvert the people of Abia State, that he also signed a document between the former governor of Abia State, Senator T. A. Orji, his son, Hon. Chinedum Orji, that the spirits they worship should deal with him if he fails in his undertaking, a publication you know to be false for the purpose of causing annoyance, inconvenience, danger, insult, criminal intimidation, enmity, hatred and ill-will against Okezie Ikpeazu, contrary to Section 27(1) (a) and 18(1) of the Cybercrimes (Prohibition Prevention ETC) Act, 2015.”

¹⁰⁷. <https://closingspaces.org/category/freedom-of-expression/>



3.1.5 National Security Agencies Act

The State Security Service was established pursuant to the National Security Agencies Act to prevent, detect, and protect Nigeria from threats to its national security whether of a military or a non-military nature. The Office of the National Security Adviser (ONSA) and the agencies within that office, particularly the State Security Service (SSS), are powerful tools under the control of the Presidency. As the chief implementer of CT initiatives in Nigeria, the SSS is decorated with undefined powers to proceed against perceived and actual threats of terrorism. This anti-terror mandate is so loosely defined that it encompasses virtually anything so designated by the agency as a terrorist threat. From this excessive loose definition springs a discretion that is wide, unchecked and prone to abuse.

As technology is significantly expanding spaces for civic engagement, so also has the categories of persons at the receiving end of state-ordered crackdowns exponentially expanded in this age of social media. Using narratives backed by limitless CT and PVE mandates, the SSS have been involved in inviting and threatening citizens with arrests¹⁰⁸ and prosecution for terrorism, inciting violence and, indeed, whatever charges that can be derived from their mandates. Activists, journalists, journalists and protesters like Atiku Abubakar Isah, the factional President of the National Association of Nigerian Students (NANS);¹⁰⁹ Dr. Abubakar Alkali, Baze University lecturer;¹¹⁰ Kabir Shehu Yandaki and Habibu Ruma, the two leaders of the “Struggle for Good Governance” protest,¹¹¹ etc. have faced detention, often without charge or arraignment, in breach of their fundamental right to fair hearing and personal liberties.

3.1.6 National Counter-terrorism Strategy (NACTEST)

This overarching strategy for combating terrorism in Nigeria is laid out in the National Counterterrorism Strategy (NACTEST), a service-wide assortment of counterterrorism efforts bordering on the deployment of carrot-and-stick approach in fighting terrorism. NACTEST rests on five pillars: de-radicalization, security of lives and properties, investigation and punishment of violent extremists, threat mitigation and policy formulation and cross-governmental

¹⁰⁸. Nigerian Tribune, Michael Ovat, Fr Mbaka Cries Out Over DSS Invitation, Accessed via <https://tribuneonline.ng/fr-mbaka-cries-out-over-dss-invitation/>

¹⁰⁹. Closing Spaces Database, DSS Detains NANS President Atiku Isah In Hospital After Exposing Seyi Tinubu's N100Million Bribe Offer, Forced To Recant, Made To Pose With Gun For Blackmail, Accessed via <https://closingspaces.org/incident/dss-detains-nans-president-atiku-isah-in-hospital-after-exposing-seyi-tinubus-n100million-bribe-offer-forced-to-recant-made-to-pose-with-gun-for-blackmail/>

¹¹⁰. Closing Spaces Database, DSS 'Arrests' Baze Varsity Lecturer Over #EndBadGovernance Protest, Accessed via <https://closingspaces.org/incident/dss-arrests-baze-varsity-lecturer-over-endbadgovernance-protest/>

¹¹¹. Closing Spaces Database, Day 2 #EndBadGovernanceProtest: DSS Arrests Protest Leaders in Katsina, Accessed via <https://closingspaces.org/incident/day-2-endbadgovernanceprotest-dss-arrests-protest-leaders-in-katsina/>

coordination. Collectively, the five streams are referred to by the acronym FSIPI, meaning Forestall, Secure, Identify, Prepare and Implement (**FSIPI**).

NACTEST is coordinated by the Counter-Terrorism Centre (CTC) in the Office of the National Security Adviser (ONSA), and the Centre houses the Joint Terrorism Analysis Branch (JTAB) and the Behavioural Analysis and Strategic Communications Unit, enabling the ONSA to coordinate intelligence-sharing and cooperation amongst agencies. The primary responsibilities of the CTC include the development, direction, and implementation of the national counterterrorism strategy. The Centre also builds and maintains relationships with non-state actors such as donor agencies and other international actors such as the Global Counter-Terrorism Forum, Global Community Engagement and Resilience Fund, and the United Nations. Although NACTEST arrogates coordination role to the ONSA, the primary responsibility for combating terrorism vests in the Nigerian military, who are operating within the ongoing *Operation Hadin Kai* to counter Boko Haram and its offshoots in the north-east and *Operation Sahel Sanity* to combat bandit gangs in the North-West.

Another key policy for countering terrorism in Nigeria is the Policy Framework and National Action Plan for Preventing and Countering Violent Extremism (PCVE), designed to institutionalize, mainstream and coordinate PCVE programmes at national, state and local levels; strengthen the accessible justice system and respect for human rights and rule of law; enhance the capacity of individuals/communities to prevent and counter violent extremism, and recover from violent occurrences; and institutionalize, mainstream and integrate strategic communication in PCVE programmes at all levels. The PCVE was developed in view of the Report of the United Nation's Secretary General on Plan of Action to Prevent Violent Extremism issued on 24 December 2015, in which member states were encouraged to develop Plans of Action to prevent violent extremism. The UN Office of Counter-Terrorism (UNOCT) was designated by the Secretary-General as the main focal point of the UN System for preventing and countering violent extremism (PCVE) conducive to terrorism.¹¹²

● Unintended Consequences of the War against Terror and P/CVE Programming

NACTEST combines the hard military approach, intelligence gathering and use of force, with a soft approach while the National Action Plan for Preventing and Countering Violent Extremism (PCVE) professes to be non-military in approach, development-funded and employing a whole-of-government approach to combat terrorism and countering violent extremism in Nigeria. Taken together, NACTEST and the National Action Plan for PCVE are detailed and comprehensive in design and strategy, but several gaps remain, especially with regards to their implementation in accordance with the UN Global Counter Terrorism Strategy and the consequential reductions on the civic space.

¹¹² The UNOCT coordinates and complements the work of UN agencies in countries where they are supporting Member States in developing PCVE strategies and plans of action or related legislative and policy frameworks.



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1. **Use of force and high civilian casualties:** With regard to NACTEST's use of force approach, the military's use of kinetic methods to crush terrorist enclaves has been serially documented. Thousands of civilians caught in the crossfire between the terrorist groups and security forces have lost their lives. Reports say Nigerian military forces have extrajudicially executed more than 1,200 people; arbitrarily arrested at least 20,000 people, mostly young men and boys; and have committed countless acts of torture.¹¹³ Hundreds, if not thousands, of Nigerians have become victims of enforced disappearance; and at least 7,000 people have died in military detention.
2. **Tensions between military and humanitarian organizations:** In response to the massive human rights violations, large-scale displacement, property and livelihood losses ravaging the localities where anti-terror military operations take place, a host of humanitarian organizations operate in those areas, providing assistance to the affected local populations. Tensions have often arisen between state agents and humanitarian organizations, with accusations and counteraccusations of affiliation with terrorist groups often renting the air. Borno State Governor, chief executive of the Nigerian state most devastated by Boko Haram's Islamic terrorism in the north-east publicly alleged that only eight of 126 registered agencies in Borno state were there to genuinely help.¹¹⁴ He has regularly accused some U.N. and international aid agencies of aiding and abetting terrorist groups and misusing funds meant for refugees. He further criticized their fixation on the IDP camps and profiting "*from the insecurity and agony of our people*".¹¹⁵ As a result, the narrative linking international non-governmental organizations (INGOs) with terrorist activities has festered in local media¹¹⁶ and the offices of notable international non-governmental organizations (INGOs) have been closed.
3. **Suspension of humanitarian assistance programs:** The sudden declaration of INGOs as persona non-grata (PNG) based on allegations of providing support to non-state armed groups remains a serious concern. Two INGOs, Action Against Hunger (AAH) and Mercy Corps, on the 18 September and 25 September respectively, were ordered to suspend operations in the northeast by the Nigerian Armed Forces (NAF).¹¹⁷ Allegations of this nature directed at humanitarian actors—United Nations (UN), international non-governmental

113. Amnesty International, Nigeria: Stars on their shoulders: Blood on their hands: War crimes committed by the Nigerian military (2015) <https://www.amnesty.org/en/documents/afr44/1657/2015/en/>

114. BBC News, Nigeria Boko Haram crisis: Aid agencies 'wasting funds' (2017): <https://www.bbc.com/news/world-africa-38582457>

115. BBC News, ibid. : <https://www.bbc.com/news/world-africa-38582457>

116. Vanguard, International NGOs complicit in Boko Haram activities in North-East Nigeria, report reveals (2020) <https://www.vanguardngr.com/2020/06/international-ngos-complicit-in-boko-haram-activities-in-north-east-nigeria-report-reveals/>

117. Action Against Hunger, Nigeria: Following Forced Closure Of Offices in Borno and Yobe States, Action Against Hunger Strongly Rejects Accusations of Supporting Terrorist Groups: <https://www.actionagainsthunger.org/story/nigeria-borno-yobe-action-against-hunger-strongly-rejects-accusations-of-supporting-terrorist-groups>

organizations (INGOs), local NGOs—are not new. On 14 December 2018, the United Nations Children's Emergency Fund (UNICEF's) activities in the north-east were temporarily suspended due to allegations that workshops that took place on 12/13 December in Maiduguri, north-east Nigeria were training people for "clandestine" activities that are "sabotaging" counterterrorism efforts.¹¹⁸ The announcements from the military not only included closure of offices and suspension of operations, staff were also declared persona non-grata and asked to leave the country. Suspension and closure of activities threatens to deprive thousands of people from life-saving assistance in devastated communities in critical need of humanitarian assistance, especially in the three most affected states of Borno, Adamawa and Yobe.

4. **Restrictive NGO Bills:** In light of the above developments, the Nigerian federal legislature has revisited the topic of legislation for NGOs, hinting at the possibility of reintroducing the draft NGO Regulatory Commission Bill.¹¹⁹ The National Assembly Senate Committee on Civil Society has also been asked to launch investigations into INGO activities. Not only that, the Nigerian government implemented the Civil Security Cooperation (CiSEC) framework recommendations and established the National Humanitarian Coordination Council (NHCC) to oversee humanitarian operations.¹²⁰ A 27-man National Humanitarian Coordination Technical Working Group (NHCTWG)¹²¹ was constituted to provide technical support to the NHCC. In sum, the forced closures and the tide of legislative and regulatory proposals/initiatives reflect the increasingly restrictive operating environment for implementing humanitarian assistance in crisis-affected areas, where humanitarian aid workers continue to face challenges as they strive to deliver urgent, life-saving assistance to populations in need.
5. **Censorship of media reportage on military operations:** Censorship of the media is commonplace in areas where forceful military operations take place. Consequently, media coverage of military onslaught against insurgents and factions of Boko Haram terrorist groups attracts heavy sanctions such as office raids, equipment seizures, seal-up of premises as well as arrests of editors and journalists¹²² writing and publishing such stories.¹²³ Daily Trust Newspapers have had their offices in Abuja and Maiduguri, Borno State sealed by armed

118. Reuters, 'Nigeria lifts UNICEF suspension hours after accusing staff of spying for Islamists' online available at <https://af.reuters.com/article/chadNews/idAFL8N1YJ4SP>, 14 December

119. Nasir Ayitogo, Premium Times, Updated: Nigerian Lawmakers To Revisit NGO Regulatory Bill – Speaker, <https://www.premiumtimesng.com/news/headlines/354099-just-in-nigerian-lawmakers-to-revisit-ngo-regulatory-bill-speaker.html>

120. Blueprint Newspaper, FG sets up technical group to coordinate humanitarian activities(2020); <https://www.blueprint.ng/fg-sets-up-technical-group-to-coordinate-humanitarian-activities/>

121. The group comprises commissioners in charge of humanitarian issues in Borno, Adamawa and Yobe; heads of NEMA, NEDC and NCFRMI; representatives of Operations of the Armed Forces, the European Union Commission, United States Agency for International Development and United Nations Office for the Coordination of Humanitarian Affairs

122. Ifex, Nigerian soldiers arrest and detain "The Punch" journalist for 2 days (2018) <https://ifex.org/nigerian-soldiers-arrest-and-detain-the-punch-journalist-for-2-days/>

123. Abdulkareem Haruna, Premium Times, Nigerian soldiers arrest journalist 'over Boko Haram report' (2020) <https://www.premiumtimesng.com/news/headlines/375256-nigerian-soldiers-arrest-journalist-over-boko-haram-report.html>



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soldiers for publishing a report detailing how the Nigerian military assembled troops and equipment in preparation for a massive operation to retake Baga and five other towns in Borno from Boko Haram.¹²⁴ The regional editor and reporter working for the newspaper were arrested during the raid described as a “disturbing attempt to stifle media freedom in Nigeria.”¹²⁵

6. **PCVE strategies favor leniency toward extremist groups:** On the other hand, National Action Plan for PCVE's major flaw is not just the emphasis placed on Boko Haram-led terrorism, but also how the so called 'soft' or 'non-military' approach undergirding the PCVE strategies favor leniency toward extremist groups. For instance, the Operation Safe Corridor (OSC) programme was established in 2016 as a national rehabilitation and deradicalization program for “repentant” ex-terrorists and low-risk ex-combatants affiliated with Boko Haram and Islamic State in West Africa (BH-ISWA). Consequently, security resource allocation prioritizes the rehabilitation and reintegration of former fighters far above the displaced languishing in pain and sorrow caused by the activities of the Boko Haram terrorists.

Because of this heavy spending on perpetrators rather than on helping victims recover from losses and secure justice, rising anger towards the CVE programs by victims and communities displaced by BH-ISWA violence has been documented.¹²⁶ Angry protests by displaced communities, currently sheltered in the numerous internally-displaced persons (IDP) camps scattered around the northern region, have frequently erupted. Journalists reporting displaced communities' protests against the diversion of relief materials¹²⁷ and killing of refugees¹²⁸ have equally been arrested and detained based on allegations of “defamation of character and falsehood”.¹²⁹

124. Sani Tukur, Premium Times, Armed Soldiers Raid Nigerian Newspaper Offices, Arrest Journalists (2019) <https://www.premiumtimesng.com/news/headlines/304402-just-in-armed-soldiers-raid-nigerian-newspaper-offices-arrest-journalists.html>

125. Human Rights Watch, Nigeria: Military Raids Newspaper, Detains Staff (2019) <https://www.hrw.org/news/2019/01/08/nigeria-military-raids-newspaper-detains-staff>

126. Brookings, We Don't Want Them Back, Accessed via <https://www.brookings.edu/research/in-nigeria-we-dont-want-them-back/>

127. Joseph Wantu, The Guardian, Benue IDPs protest against diversion of relief materials (2017) <https://guardian.ng/news/benue-idps-protest-against-diversion-of-relief-materials/>

128. Ihuoma Ilo, HumanAngle, Angry IDPs Protest Killing of Colleagues in Northcentral Nigeria, Block Highway (2021), <https://humanglemedia.com/angry-idps-protest-killing-of-colleagues-in-northcentral-nigeria-block-highway/>

129. The Cable, Journalist arrested 'over story on protest at Benue IDP camp' (2017) <https://www.thecable.ng/nan-reporter-arrested-story-protest-benue-idp-camp>

7. **Poor coordination and inter-agency rivalry:** Just the same way international CT functions are fragmented across numerous international bodies and intergovernmental institutions, Nigeria also follows the same tradition, vesting CT functions on a multitude of agencies, departments, ministries, committees, and security formations. Inter-agency rivalry and battle for supremacy between and among the various agencies charged with different mandates under the NACTEST is commonplace because of their overlapping roles and duplicated duties.

CONCLUSION

As we have seen in this chapter, well-intentioned international norms designed to combat terrorism generate unintended consequences in national contexts. Governments are overstretching counter-terrorism laws and powers to achieve purposes unrelated to enforcing law and order. This is consistent with the UN's findings that *“most countries, when meeting their obligations to counter terrorism by rushing through legislative and practical measures, have created negative consequences for civil liberties and fundamental human rights.”*¹³⁰

While most international norms from which national CT laws are borrowed from have scant accountability provisions for punishing or deterring the misuse or abuse of their standards, opportunities are emerging that can be leveraged to evaluate anti-terror operations and initiate reforms. For instance, the CTC and CTED plan to undertake a hybrid follow-up visit to Nigeria to assess the country's progress in implementing relevant Security Council resolutions and to discuss and facilitate the provision of technical assistance aimed at enhancing national counter-terrorism capacities.¹³¹ Nigeria is also enhancing its cooperation with the United Nations Centre for Counter Terrorism (UNCCT) in the area of capacity building.

While the introduction of these evaluation mechanisms, including onsite visits and technical assistance reflects efforts to embed accountability procedures in the security architecture at the global level, several challenges remain. The biggest challenge is that the strategic reviews of international norms at the global level often defy gravity. These upstream changes hardly trickle down because they are made when borrowed norms have crystallized into hard law passed by national parliaments characterized by complex, elongated rule-making and amendment procedures.

¹³⁰. Office of the United Nations High Commissioner for Human Rights “Human Rights, Terrorism and Counter-terrorism.” Available at <https://www.un.org/ruleoflaw/files/Factsheet32EN.pdf>, accessed 26 September 2021, p. 20

¹³¹. Statement By H.E. Ambassador George Edokpa Deputy Permanent Representative of Nigeria to the United Nations on “Measures to Eliminate International Terrorism” at the 76th Session of the United Nations General Assembly New York 5 October, 2021

CHAPTER 4

EFFECTS OF THE INTERNATIONAL COUNTERTERRORISM ARCHITECTURE ON THE CIVIC SPACE IN NIGERIA

The term, “civic space” refers to those human rights key to a healthy functioning of any democratic society which enable individuals and groups, whether converging online or offline, to express themselves, organize, participate and influence how they are governed. Those rights include the freedom of expression, freedom of association, freedom of assembly, and participation right. The evidence emerging from the incidents tracked across the 16 countries in West Africa shows that the civic space is narrowing and heavily under attack, with press freedoms, assembly/association rights and the freedom of expression backsliding more than ever.¹³² A contracting or closing civic space depicts a situation where the state or non-state actors, under whatever guise, interferes with the ability of citizens and groups to freely exercise their civic participation rights.¹³³

In the past, the civic repression in Nigeria was associated with military regimes. On the assumption of power often attained through bloody coups, military dictators usually began their reign of terror by suspending the operation of the national

132. Spaces for Change, CIVIC SPACE IN WEST AFRICA: TRENDS, THREATS AND FUTURES (2023) Accessed via <https://spacesforchange.org/civic-space-in-west-africa-trends-threats-and-futures/>

133. CIVICUS, People Power Under Attack, December 2019. Please see <https://civicus.contentfiles.net/media/assets/file/GlobalReport2019.pdf>

constitution, in whole or in part, replacing them with military decrees. Civic actors operating within the civil society spaces were common preys of the military junta as many suffered physical harassments, arbitrary imprisonments and extrajudicial executions.¹³⁴ Ironically, the return to democratic rule in 1999 did not end the culture of civil society repression. The oppressive tactics deployed to stifle dissent have persisted despite the handover of political power to democratically elected civilians and the restoration of the suspended constitutional provisions.¹³⁵ With the democratic rule now in place, what has changed is that the era of absolutism common with military dictators has been replaced with legitimization of repressive governmental behaviour using the instrumentality of the law.

4.1 EXPLOITING INTERNATIONAL CT NORMS TO NARROW THE CIVIC SPACE

We have demonstrated in the preceding chapters that there is a strong nexus between international CT norms and Nigeria's CT legal regimes as there is practically no national CT legislation or countermeasure that does not have an international foundation. National governments bear ultimate responsibility for the formulation and implementation of global CT policies within their territories. However, implementing international CT norms locally is quite problematic. For instance, new counterterrorism legislations rolled out in compliance with international norms often results in the duplicity of regulations at the domestic level, often overlapping or conflicting with each other thereby causing regulatory confusion while increasing operational burdens and multiple reporting obligations for entities, including NPOs.

Another problematic area is the hurried revision of national laws to bring them in conformity with international CT standards. Nigeria has at various times hurriedly amended their respective AML/CFT laws as part of efforts to address their strategic deficiencies. Such legislative amendments and enactments are often made hastily in obedience to FATF pressure and global counter terrorism norms without recourse to the peculiarities of the local context. The rules-making processes for security happen behind closed doors, with minimal civil society participation and without the new legal provisions

Terrorism Prevention (Prohibition) Act 2022 attempts to address the problem of definitional uncertainty by defining the term, “terrorism”, in very broad and descriptive terms. The law goes further to list a wide range of acts that constitute terrorism, most of which have been previously criminalized under extent criminal statutes.

¹³⁴. Spaces for Change “Closing Spaces for Democratic Engagement and Civil Society in Nigeria”. Available at <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>, accessed 26 September 2021, pp. 20-21.

¹³⁵. Ibid



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subjected to public hearings or robust independent scrutiny.

Who then bears responsibility for the misuse of the counterterrorism architecture as well as the unintended consequences that they produce in national contexts? Below, we outline how international norms are exploited to narrow the civic space and why the onus to repair those gaps—and end that exploitation—rests on regional and international CT norm-forming organizations, including soft law-making entities.

4.1.1 Terrorism lacks definitional certainty

Terrorism Prevention (Prohibition) Act 2022 attempts to address the problem of definitional uncertainty by defining the term, “terrorism”, in very broad and descriptive terms. The law goes further to list a wide range of acts that constitute terrorism, most of which have been previously criminalized under extant criminal statutes. Terrorism Prevention (Prohibition) Act 2022 attempts to address the problem of definitional uncertainty by defining the term, “terrorism”, in very broad and descriptive terms.¹³⁶ The definition covers a variety of criminal acts against a country, or an international organization willfully performed with the intention of furthering an ideology, whether political, religious, racial, or ethnic. The law goes further to list a wide range of acts that constitute terrorism, most of which have been previously criminalized under extant criminal statutes. What this means is that the same set of offenses criminalized under pre-existing criminal codes are re-criminalized in national terrorism legislations,¹³⁷ vesting a wider discretion on the law enforcement agencies to cherry-pick which law to invoke to justify terrorist charges.¹³⁸ Overly broad definitions like this are very problematic as they fail to make any distinction between terrorism and other violent crimes. This uncertainty is routinely exploited by governments, allowing them to widen the dragnet to clamp down on real and perceived opposition and stifle dissent.

4.1.2 Urgent compliance timelines and consequences of non-compliance

The consequences of non-compliance to international CT norms are dire, such as blacklisting, economic sanctions, low ratings during Mutual Evaluation and peer reviews exercises. When a country is blacklisted as a non-cooperative country or territory—or more recently classified as jurisdictions under increased monitoring (i.e. “grey list”), it impacts the country's ability to undertake international transactions and its nationals might be unable to access the benefits of the international financial systems. In 2017, the Egmont Group suspended Nigeria citing the

¹³⁶. Section 2 of TPA

¹³⁷. Spaces for Change, Victoria Ibezim-Ohaeri: [‘S4Cs Remarks At UNOCT Malaga Conference: UN High-Level International Conference On Human Rights, Civil Society & Counter-Terrorism](#)

¹³⁸. Action Group on Free Civic Space, [NIGERIA: SHRINKING CIVIC SPACE IN THE NAME OF SECURITY](#)

country's inability to comply with the directive to ensure autonomy of the Financial Intelligence Unit (FIU). The suspension immediately activated the shutdown of the Egmont secure web (ESW) against Nigeria with the implication that Nigeria can no longer exchange sensitive information with other member countries in order to carry out investigative and regulatory responsibilities such as sharing criminal intelligence and financial information bothering on money laundering, terrorism financing, proliferation of arms, corruption, financial and economic crimes.¹³⁹ The suspension was lifted only after a hurriedly-enacted legal framework making the NFIU independent of government's control met the expectations of the Egmont Group.

Determined to attain a compliant rating and to avoid the consequences of non-compliance, it has been the practice of the Nigerian government to introduce tighter regulatory measures and establish new institutions without conducting sufficient analysis, meaningful consultations, and the outreach required to produce an organic framework. Where legislative processes are considered lengthy, expensive or inconvenient, governments may resort to delegating rule-making powers to ministries and agencies to make byelaws and regulations that bypass parliamentary scrutiny. Nigeria exemplifies this typology with the CBN making regulations on asset freezing and confiscation without going through the parliament. In the same way, the Special Control Unit against Money Laundering (SCUML)—in 2013—made regulations listing non-profit organizations (NPOs) as designated non-financial institutions (DNFIs) without having to go through formal law-making processes and avoiding the public scrutiny that they would have otherwise encountered.

The Global NPO Coalition on FATF has noted that the urgency expected of countries to implement FATF requirements is one of the drivers of abuse of CT norms to restrict the civic space. The abuse often stems from the direct findings and recommendations in the mutual evaluation reports and the lack of nuance as well as international human rights context when transposing the requirements of Recommendation 8 to the national context.¹⁴⁰

4.1.3 No clear human rights provisions in international CT norms

International CT standards pay lip service to the tenets of human rights and neither do the routine use of cosmetic phrases like “*in compliance with international law, including human rights, humanitarian and refugee law*”¹⁴¹ translate into positive obligations for states. The UN Security Council Resolution 1373 does not contain any functional provision on human rights.¹⁴² This set the tone for the proliferation of extreme CT measures resulting in massive contractions of the civic space across jurisdictions.

¹³⁹. Spaces for Change “Closing Spaces for De

¹⁴⁰. Ibid

¹⁴¹. Ibid., p. 9

¹⁴². The only mention of Human Rights is in resolution 3(f) which calls upon states to “Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts.”



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Furthermore, the FATF Recommendations contain only three mentions of human rights in the Interpretative Notes which are all framed along these broad lines without concrete guidance and commitments on how to implement CT measures in HR compliant way.¹⁴³ This approach implicitly places CT norms above the human rights framework rather than mandating it to be led by the HR framework in application of CT measures. According to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, institutions responsible for producing CT soft law are themselves not well grounded on human rights.¹⁴⁴ In her words:

“The establishment of new global, regional and selective institutions, many of novel legal status, created with limited reference to human rights in their constitutive documents means that structured, consistent and well-defined human rights inputs are lacking in these settings. Access to such institutions has proven difficult and inconsistent for many human rights entities, including the Special Rapporteur. These bodies have no formal accreditation mechanism, leading to ad hoc and inconsistent access for civil society and human rights organizations. The norm production process itself is ad hoc, not announced in advance, and in some cases moves so swiftly that the capacity for external human rights experts to mobilize input will be virtually nil.”

Even though the concept of “promotion and protection of human rights and fundamental freedoms while countering terrorism” has become a mantra within the UN structures¹⁴⁵ coupled with the resolutions of both the UN General Assembly and of the Security Council admonishing respect of human rights while countering terrorism, human rights have remained a secondary consideration in formulation of CT norms in practice. It has been observed that the fourth pillar of the Global Counter Terrorism Strategy, which deals with human rights is the least developed.¹⁴⁶ The recent and most significant strategic review of the UN's Global Counterterrorism Strategy replicated previous shortcoming by failing to ensure that human rights are hardwired into CT norms at the point of origination.¹⁴⁷ There is also a significant discrepancy between international documents. For example, the Global Counter-Terrorism

¹⁴³. It could be argued that since it is not a human rights document, it need only reference existing obligations. However, this argument would miss the point. The onus is on a person who is prescribing standards with potential effects on human rights to take initiatives for the preservation human rights while complying with the standards.

¹⁴⁴. Ibid

¹⁴⁵. In April 2005, the Commission on Human Rights, in resolution 2005/80, created a mandate of a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

¹⁴⁶. Fionnuala Ní Aoláin “Promotion and protection of human rights and fundamental freedoms while countering terrorism”. Available at <https://undocs.org/A/74/335>, accessed 26 September 2021, pp. 9-10

¹⁴⁷. Saferworld Joint Statement: Joint statement: UN should ensure independent oversight of UN Counter-Terrorism architecture (2021) Accessed via <https://www.saferworld.org.uk/resources/news-and-analysis/post/969-un-should-ensure-independent-oversight-of-un-counter-terrorism-architecture>

Strategy reviewed in 2021, did not fully align its language on counter-terrorism financing of nonprofits with the FATF Recommendation 8 and UN Security Council Resolution 2462. In this regard, UNSC 2462 recognizes the vital role played by non-profit organizations in national economies and social systems, and calls on Member States to periodically conduct a risk assessment of its non-profit sector or update existing ones to determine the organizations vulnerable to terrorist financing and to inform the implementation of a risk-based approach.¹⁴⁸

Security Council resolutions on CT and PCVE are all characterized by lack of or insufficient engagement with civil society actors regarding the legal, political, social and cultural impacts of such resolutions so much so that the first resolution to contain a reference to civil society in its operative part is Resolution 2178 of 2014.¹⁴⁹ Not infrequently too, UN human rights entities and organizations are only invited 'late in the game' to give views on almost fully finalized norms. At this stage, critical reviews are hardly considered or perceived as unhelpful, or out of sync with the thinking of States, and unconstructive to the process.¹⁵⁰

4.1.4 Specific provisions targeting NPOs

The International CT norms have provided a legal impetus for the proliferation of local laws targeted at NPOs, including human rights defenders, activists, campaigners and critics demanding transparency from the government. FATF's Recommendation 8, as initially drafted, ostensibly heightened preexisting tensions between governments and NPOs. That initial language laid the foundation for governments' suppression of NPOs. The initial language of Recommendation 8 was that *"NPOs possess characteristics that make them particularly attractive to terrorists or vulnerable to misuse for terrorist financing"* and called on countries to "review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism."



148. UNSCR 2462: <http://unscr.com/en/resolutions/doc/2462>

149. Fionnuala Ní Aoláin "Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders." Available at <https://undocs.org/pdf?symbol=en/A/HRC/40/52>, accessed 26 September 2021, p. 6

150. Ibid., p. 10



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This recommendation triggered a global push back from human rights watchdogs, specifically the Global NPO Coalition on FATF, who identified the dangers in the phraseology of the recommendation. As feared, there was a hike globally in the number of restrictive regulations targeting NPOs under the preamble that NPOs were vulnerable to terrorist financing. One study¹⁵¹ identified other subsequent reports of FATF on NPOs which adumbrated FATF's sentiment linking NPOs to terrorist financing. For instance, the FATF's 2015 Best Practices Report reiterated that long after the abuse of NPOs by terrorists and terrorist organisations was formally recognised as a concern, some NPOs continue to be misused and exploited by terrorists through a variety of means particularly those in conflict regions. The report further finds that well-planned deceptions by terrorists abusing the NPO sector are difficult to penetrate with the resources available to non-governmental actors, making state-based oversight and its capabilities a necessary element to detecting the most sophisticated terrorist threats to the NPO sector.¹⁵²

FATF recommended several measures to counter abuse of NPOs for terrorist activities. Some of these measures include registration, maintaining information on the purpose and objectives of the organization's activities, issuing detailed annual statements and maintaining records of all transactions. Other dissuasive sanctions such as the freezing of accounts, removal of trustees, fines, decertification, delicensing and deregistration were also envisaged.¹⁵³ These recommended measures, majorly developed without consultation with civil society actors, continue to be exploited to impose onerous operational burdens that limit and disrupt civil society. Although Recommendation 8 has been rephrased¹⁵⁴ following intense push back by NPO actors under the auspices of the Global NPO Coalition on FATF, the sentiment that NPOs were prone to misuse for terrorist financing had caused extensive damage in local contexts. Extensive work has already been done by the Global NPO Coalition on FATF in curating evidence of repressive legislation and policies targeted at NPOs in the wake of FATF's recommendations.¹⁵⁵

● SPECIFIC BURDENS ON NPOS: BLANKET GENERALIZATIONS

As of 2013, the major legislative burden imposed on NPOs in the wake of Recommendation 8 is the 2004 Anti-Money Laundering Act (MLA) which introduced the term, 'Designated Financial

151. Spaces for Change "Closing Spaces for Democratic Engagement and Civil Society in Nigeria". Available at <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>, accessed 26 September 2021, p. 23

152. Ibid

153. Fionnuala Ní Aoláin "Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders." Available at <https://undocs.org/pdf?symbol=en/A/HRC/40/52>, accessed 26 September 2021, p. 10

154. The current iteration of Recommendation 8 prescribes a risk-based approach of regulating NPOs requiring states to assess the TF risks to which NPOs are exposed and then apply commensurate measures aimed at countering the identified risks.

155. Global NPO Coalition on FATF "Section-iii-and-iv-Global-Coalition-submission." Available at <https://fatfplatform.org/assets/Section-iii-and-iv-Global-Coalition-submission.pdf>, accessed 26 September 2021

Institutions and Designated Non-Financial Institutions, (DNFIs). A ministerial regulation made pursuant to the 2004 law, included NPOs in the list of Designated Non-Financial Institutions (DNFIs). The term, DNFIs, substantially shares similar definition and characteristics with designated non-financial businesses and professions (DNFBPs). The interpretation section of the MLA defines DNFIs the same way FATF defines DNFBPs. That designation lumped NPOs together with other businesses as DNFBPs, subjecting NPOs to the FATF requirements for DNFBPs. The terrorist financing reporting requirements for DNFBPs are onerous, time-consuming, with attendant high compliance costs.

One of the positive outcomes of the 2022 repeal of Nigeria's money laundering law is the delisting of NPOs from the list of obliged entities in Nigeria.¹⁵⁶ The new [Terrorism \(Prevention and Prohibition\) Act 2022](#) also revalidates the delisting of NPOs from the DNFI list and attempts a more precise definition of the act of “terrorism”. Laying the foundation for the NPO delisting, GIABA's Mutual Evaluation Report found that *“Nigeria had not undertaken a categorisation of at-risk NPOs, and the nature of threats posed by terrorist entities as well as how terrorist actors abuse those NPOs. Classifying all NPOs as DNFBPs and subjecting them without discrimination to the full suite of AML/CFT responsibilities is not a substitute for this exercise and goes against the intent of R.8.”*¹⁵⁷ Consequent upon this designation, NPO have less time to devote to the actual work they are supposed to do, as a lot of time is devoted to compliance and paper work. This results in project delays and help not reaching those in greatest need in real time.

● SPECIFIC BURDENS ON NPOS: MULTIPLE REGISTRATION CONTROLS

Relying again on the particularly vulnerable classification that FATF introduced, Section 56 of the Terrorism Prevention (Prohibition) Act 2022 allows the government agency responsible for registration of organisations to refuse to register, or to deregister any charity “based on security or criminal intelligence reports, where there are reasonable grounds to believe that an applicant for registration as a registered charity has made, is making or is likely to make available any resources, directly or indirectly, to a terrorist group”.¹⁵⁸ In keeping with FATF's elevation of security over human rights (in this case the presumption of innocence), the TPPA places the obligation on the charity to file an action in court to reverse the decision within 60 days after which the charity is foreclosed from challenging the decision.

Glaringly, charities were the only organisations singled out for this kind of measures listed in Section 35 of the TPA. This provision has already been wielded by the government to either suspend or order the closure of charities accused of aiding and abetting terrorism.¹⁵⁹

156. Spaces for Change PRESS RELEASE: Non-Profits No Longer Listed as DNFIs in Nigeria, Accessed via <https://spacesforchange.org/press-release-non-profits-no-longer-listed-as-dnfis-in-nigeria/>

157. See GIABA Mutual Evaluation Report 2021: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GIABA-Mutual%20Evaluation%20Report%20of%20the%20Federal%20Republic%20of%20Nigeria.pdf>

158. Section 35(1) of TPA

159. [Nigeria: Following Forced Closure of Offices in Borno and Yobe States, Action Against Hunger Strongly Rejects Accusations of Supporting Terrorist Groups | Action Against Hunger](#)



Flowing from the above provision, NPOs are subjected to multiple registration controls in over 6 different entities. To acquire a legal status needed to operate in Nigeria, NPOs are required to register with the Corporate Affairs Commission (CAC), Special Control Unit against Money Laundering (SCUML), Ministry of Budget and National Planning, Federal Inland Revenue Service, various line ministries and security agencies for verification such as the Office of the National Security Adviser (ONSA), Ministry of Justice, Department of State Security Services, National Intelligence Agency, Ministry of Health, Environment and other agencies. Adherence to multiple AML/CFT compliance obligations of diverse regulatory entities tilts towards overregulation.

● SPECIFIC BURDENS ON NPOS: TIDAL WAVE OF RESTRICTIVE LEGISLATIVE PROPOSALS

Further, the NPO community has faced a barrage of attempts by the government to make laws regulating NPOs in Nigeria and interfering with their funding in the form of NGO Bills.¹⁶⁰ The bill, popularly known as the NGO Bill, aimed to empower the Nigerian government, through various bodies, including a proposed regulatory commission to regulate, monitor and interfere with the funding and operation of non-governmental organizations (NGOs) and civil society groups (CSOs).¹⁶¹

Although Nigeria conducted a national risk assessment of money laundering and terrorism financial risks in the country in 2016, no risk assessment of the NPO sector was undertaken, and the tide of regulatory proposals advanced for the regulation of the non-profit sector crafted blanket legislation aimed at the entire NPO sector (which is not in line with Recommendation 8 or other FATF recommendations). As sector-led study revealed¹⁶² that the 2016 NRA neither identified the NPOs which face TF threats nor reviewed the specific NPOs vulnerable to potential TF abuse, as required by revised Recommendation 8 of the FATF Standards. A number of stringent restrictive measures proposed in the national risk assessment (NRA) for countering the ML/TF risks had enormous potential to constrain non-profit activity, thereby contracting the civic space even further.¹⁶³

The opportunity to put up a strong challenge and dismantle the perception of NPO's as conduits for money-laundering or the financing of terrorism emerged in the last quarter of 2019 during

160. See <https://closingspaces.org/category/anti-ngo-bills-restrictive-laws/>

161. Victoria Ibezim-Ohaeri, *Galvanizing Collective Action to Protect Nigeria's Civic Space*, published by Shehu Musa Yar Adua Foundation, 2021, <https://yaraduafoundation.org/files/Galvanizing%20Collective%20Action.pdf>

162. Spaces for Change "Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria." Available at https://spacesforchange.org/wp-content/uploads/2019/03/FULL-REPORT-UNPACKING-THE-OFFICIAL-CONSTRUCTION-OF-RISKS-AND-VULNERABILITIES-FOR-THE-THIRD-SECTOR-IN-NIGERIA_compressed.pdf, accessed 26 September 2021, pp. 43-49

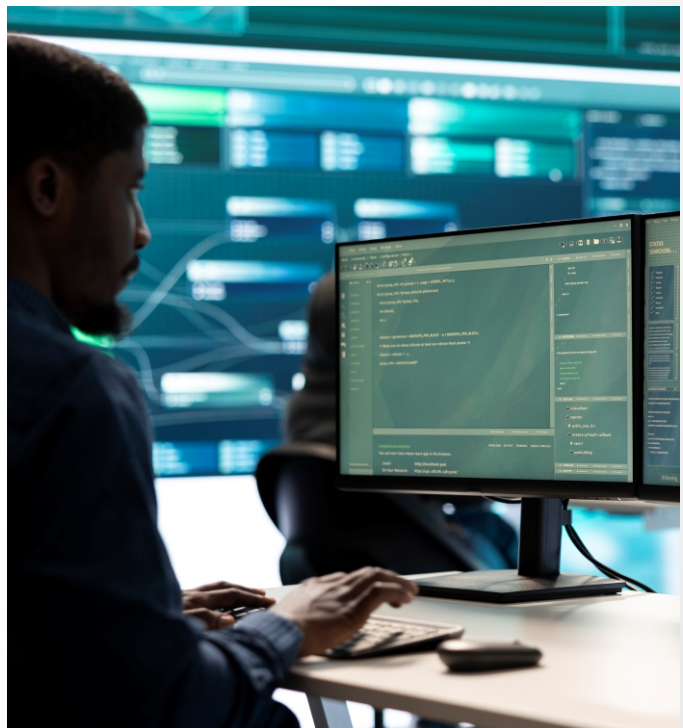
163. Victoria Ibezim-Ohaeri, *FATF and Civic Space: Lessons from Nigeria* (2020), <https://fatfplatform.org/stories/fatf-and-civic-space-lessons-from-nigeria/>

the FATF Mutual Evaluation and onsite visit to Nigeria. Spaces for Change's 2019 research report, [Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria](#), challenged the official classification of NPOs as DNFI, disputing the evidential basis for the identification and classification of ML/FT risks, threats and vulnerabilities in the sector. This report builds on a previous 2017 study that examined the link between the FATF Recommendation 8 and restrictions on civic freedoms in Nigeria.¹⁶⁴

The research findings not only laid the foundation for massive awareness-creation and sensitization of civil society and non-profit organizations on the AML/CFT drivers of governmental restrictions, but also expanded the space for dialogue and engagement between NGOs and Nigeria's AML/CFT regulators on the need for a standalone risk assessment of the non-profit sector in Nigeria.¹⁶⁵ It is against this backdrop that Nigerian NPOs considered the sectoral risk assessment of the NPO sector as well as the eventual delisting of NPOs as DNFI as a major victory.¹⁶⁶

4.1.5 Specific statements and recommendations on surveillance

FATF and its regional-styled body, the Intergovernmental Action Group against Money Laundering (GIABA) strongly recommend surveillance by countries as part of their customer due diligence (CDD) obligations and as tools for tracing and curbing the financing of terrorism. FATF Recommendations require countries, financial institutions and DNFI to collect information about customers and to report suspicious transactions to a government regulator – the financial intelligent unit. FATF Recommendation 10 requires that each country to determine how it imposes specific CDD obligations, either through law or enforceable means. As a result of this, governments have overstretched this provision in ways that violate privacy rights.



¹⁶⁴. SPACES FOR CHANGE, Beyond FATF: Trends, Risks and Restrictive Regulation of Non-Profit Organizations in Nigeria, May 2017, Accessed via <https://spacesforchange.org/wp-content/uploads/2017/06/Beyond-FATF.-Trends-Risks-and-Restrictive-Regulation-of-Non-Profit-Organisations-in-Nigeria.pdf>

¹⁶⁵. Victoria Ibezim-Ohaeri, FATF and Civic Space: Lessons from Nigeria (2020), <https://fatfplatform.org/stories/fatf-and-civic-space-lessons-from-nigeria/>

¹⁶⁶. Spaces for Change PRESS RELEASE: Non-Profits No Longer Listed as DNFI in Nigeria, Accessed via <https://spacesforchange.org/press-release-non-profits-no-longer-listed-as-dnfis-in-nigeria/>



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Recognizing that this gap exists, FATF noted in its 2017 Supplement on Customer Due Diligence and Financial Inclusion:

Industry feedback highlights a number of practical difficulties regarding identification and verification requirements, most of which arise pursuant to national legislative or regulatory requirements, and not the FATF Recommendations. For instance, in a normal CDD scenario, the FATF Recommendations do not require information to be gathered on matters such as occupation, income or address, which some national AML/CFT regimes mandate, although it may be reasonable in many circumstances to seek some of this information so that effective monitoring for unusual transactions can occur. Similarly, although a majority of countries specify the use of a passport or government-issued identification card as one of the methods that can be used to verify the identity of customers, the FATF Recommendations do allow countries to use other reliable, independent source documents, data or information. This flexibility is particularly relevant for financial inclusion, since low-income migrant workers, for example, often lack standard identification documents. Rigid CDD requirements that insist on government-issued identification documents, adopted by some countries or financial institutions, have acted as barriers to these disadvantaged populations obtaining access to the formal financial system.¹⁶⁷

According to GIABA's Assessment of Counter Terrorist Financing Capacities in West Africa (Burkina Faso, Cote D'Ivoire, Mali, Niger, and Nigeria), “the lack of rigorous supervision and surveillance of activities, including the funding of several NPOs in these countries, constitutes further risks of TF.”¹⁶⁸ Despite the revision of Recommendation 8 few years ago, GIABA specifically singles out NPOs for rigorous surveillance”. When the requirement for CDD is joined to Recommendation 8 discussed above, it becomes clear why NPOs have been subjected to extensive financial surveillance.

UNSC resolutions empower states to conduct physical surveillance of persons. Resolution 2(c) of UNSC Resolution 1373 mandates that states “*take necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.*”

167. [Anti-money laundering and terrorist financing measures and financial inclusion \(fatf-gafi.org\)](https://www.fatf-gafi.org/publications/fatfrecommendations/documents/amlcftmeasuresandfinancialinclusion.pdf)

168. [1132_ENG-Assessment of the CFT Capacities in GIABA MS.pdf](#) p. 53

Resolution 3(a) of the UNSC calls on states to *“find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist group.”* A study by the Action Group on Free Civic Space revealed how the massive financial resources, equipment and technologies originally procured in the name of counterterrorism and curbing insecurity have been diverted to monitor the movement of citizens, to track activities of civic actors online, intercept private communications, restrict online civic space, and limit the ability of civic actors to organize, associate and assemble freely.¹⁶⁹

4.1.6 Transborder political influences of powerful countries

Powerful countries also wield a strong influence on CT policy development in developing countries through international trade and development assistance or aid programs, further reinforcing global north's CT norms. Advanced economies are often invested in protecting the commercial interests of their indigenous businesses abroad irrespective of their ethical shortcomings. Israel and the United States are primary suppliers of invasive surveillance technologies to Nigeria. Countries like the United States and Israel with deep vested interests in the export of surveillance technologies to Nigeria will continue to exert influence on less powerful countries to protect the export market for their technologies.¹⁷⁰ Private corporations, including major producers of surveillance technologies, can also notoriously influence government policies through lobbying.¹⁷¹

In the same vein, development countries receiving aid money including international and national nongovernmental organisations (NGOs) have begun to feel the impact of counter-terrorism law and measures embedded in cooperation or grant agreements. Because they often impose conditions or set the parameters for national policy initiatives and security interventions, these agreements produce two effects at the national levels. On one hand they inspire governments to adopt and implement the CT norms enforced in the donor country. On the other hand, it provides a legal impetus for governments to criminalize or suspend the work of humanitarian actors.

In Nigeria, donor contracts with NGOs have favored organizations with legal registration status with numerous entities, resulting in the concentration of donor funding in few elite organizations mainly operating in the city centers. Because of this donor requirement, NGOs have also been

¹⁶⁹. Action Group on Free Civic Space, Security Playbook of Digital Authoritarianism in Nigeria (December 2021):

www.closingpaces.org

¹⁷⁰. See Action Group on Free Civic Space, Security Playbook of Digital Authoritarianism in Nigeria (December 2021):

www.closingpaces.org

¹⁷¹. [Companies selling surveillance technologies to govts lobby for more militaristic approaches to migration - Business & Human Rights Resource Centre \(business-humanrights.org\)](https://www.business-humanrights.org/en/latest/news-and-events/press-releases/detail/12/2021/12/12-companies-selling-surveillance-technologies-to-govts-lobby-for-more-militaristic-approaches-to-migration)



under pressure to register with the litany of ministries, agencies, and submit to annual audits. On the other hand, the suspension or forced closure of humanitarian organizations operating in the north-east have also affected community acceptance not just of the affected INGOs but of the entire humanitarian response.

CONCLUSION

From the foregoing, international CT norms intended to curb terrorist activities have expressly given governments the impetus to hide under the guise of compliance with global security norms to curtail individual freedoms and impose restrictions on targeted entities. In 2021, FATF's launched a workstream to gather data regarding the “unintended consequences” of its Recommendations. Based on the outcomes of that initiative, FATF amended its Recommendation 8 in November 2023, in order to address the misapplication and misinterpretation of that particular Recommendation which led countries to apply disproportionate measures on NPOs, impeding their ability to operate and pursue their missions effectively, to access resources, and in some cases, to continue their legitimate operations.¹⁷² Previous efforts to clarify the language of the FATF Standards had resulted in many improvements, but serious issues remain.

So, where does accountability lie for the consequential harms of international norms at the national level? The government of any country bears ultimate responsibility for the formulation and implementation of CT policies within their territories. In Nigeria, civic freedoms are clearly enshrined in the Constitution and other binding international law instruments like the African Charter on Human and Peoples' Rights¹⁷³ and the Universal Declaration of Human Rights which has attained the status of binding customary international law. International CT norms do not release Nigeria from its obligations under a plethora of international human rights frameworks. The constitutional authorization of derogations to personal liberties in certain circumstances such as in the *interest of defence, public safety, public order, public morality or public health* should not be inconsistent with other obligations under international law. Both national and international law require that measures taken in those circumstances must be reasonably justifiable for the purpose of dealing with the situation that necessitated those derogations.

¹⁷². FATF, Protecting non-profits from abuse for terrorist financing through the risk-based implementation of revised FATF Recommendation 8, Accessed via <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/protecting-non-profits-abuse-implementation-R8.html>

¹⁷³. This treaty has been domesticated as a national law in Nigeria

One thing is clear: well-intentioned international norms and laws are having unintended consequences at the national levels. The propensity of state agents to misapply standards in ways that overreach statutory authority is a continuing concern across the globe. Change can come about when international laws, especially the UN-driven counter-terrorism regimes (which often transmute to national law) are reviewed to specify with exactitude, the acceptable standards of official behaviour in internal and external skirmishes that may have implications for security, as well as other situations that do not rise to the level of terrorism and of violent extremism. And for the reviews to trickle down, the same tactics used by international norm-forming entities to secure collective compliance as well as the consequences attached to non-compliance can be applied to encourage states to attain the goals of proportionality and prevent abuse of its standards. Glaring inaction in the face of massive human rights violations arising from the misapplication of international CT norms at the national level contributes to normalizing overreaching state conduct for counterterrorism purposes. This sort of inaction shifts the burden of accountability for the abuses happening at the local level to international CT norm-forming organisations.



CHAPTER 5

FORWARD LOOKING APPROACHES

The previous chapters explained how the application of these international harms produce unintended consequences in the local contexts where they are implemented. What are the opportunities available to the civil society to challenge, disrupt, reform and transform the influence of CT and security on the civic space in Nigeria? First, we identified some of the core issues NPOs should primarily focus on as they grapple with the misuse of CT norms and security narratives for the suppression of civic freedoms. We have also identified some strategies and mechanisms for challenging the abuse of CT norms and security narratives that contract the civic space. How then can civil society use these strategies as levers to get results? How do we make those mechanisms more meaningful?

5.1 AREAS OF FOCUS

5.1.1 Clear Definitions

The ambiguity in the definition of terrorism is a global problem. It is not peculiar to Nigeria, especially as new threats emerge as a result of the advancements in digital technologies. This results in countries violating the rights of their own or other citizens, including provisions laid out under international human rights law during their counter-terrorism efforts.¹⁷⁴ While it may be difficult to clearly delimit

¹⁷⁴. Global NPO Coalition on FATF “Section-iii-and-iv-Global-Coalition-submission.” Available at <https://fatfplatform.org/assets/Section-iii-and-iv-Global-Coalition-submission.pdf>, accessed 26 September 2021, p. 2

the term “terrorism”, it is very much possible to clearly set out what terrorism is not. Definitions of terrorism and of violent extremism in national laws must not be overly-broad and vague. They must be precise and sufficiently clear to avoid including members of civil society, or non-violent acts carried out in the exercise of fundamental freedoms. The protection of national security must be narrowly construed. Emergency measures must be strictly limited, and not be used to crackdown on civil society actors and stifle freedom of expression.¹⁷⁵

Lack of definition and overly broad definition of terrorism are two sides of the same coin. Law enforcement agents latch on to the often vague and broad language in anti-terrorism legislations to overstretch and import new meanings unintended by the legal draftsmen.¹⁷⁶ The state's ability to overstretch the meaning and application of security laws also renders them susceptible to political interference and judicial fragility.¹⁷⁷ In this way, security laws become easy tools that can be weaponized against dissenters and persecute political opposition.

Consistent with the overbroadness or definitional uncertainty for terrorism, the 'terrorist' designation process in Nigeria is equally problematic. As we have seen from prosecution of #EndSARS protesters for terrorism financing and the proscription of the Indigenous Peoples of Biafra (IPOB) and the Islamic Movement of Nigeria (IMN), there are concerns that the proscription of certain groups have been unduly politicized, giving way for the misuse of the term "terrorism" to restrain non-terrorist (or sometimes even non-criminal) activities of civic actors, protestors, religious and ethnic agitators alike.

Following the repeal of the Terrorism Prevention (Prohibition) Act in 2022, the Sanctions Committee operates both as a clearing house for terrorism designation decision-making and a mechanism for facilitating regular interactions between national authorities responsible for combating terrorism. In addition, the recent anti-terrorism law sets out the rules for determining the legality of the designation process, making it easy to identify persons/entities that have been designated and equally ascertain whether the appropriate procedure and criteria have been duly followed to proscribe them.¹⁷⁸ Designated entities can also seek the revocation of designation, de-listing and unfreezing of funds or other assets, using the specified procedure. In other words, TPA creates a procedure for challenging and upturning designations made under the Act.

As an independent analysis revealed, updating the country's terrorism designation procedure in Nigeria does not translate to increased legal protection for sanctioned persons and entities.¹⁷⁹

175. David and Theado, The United Nations Counter-Terrorism Complex (2017) found here (https://www.fidh.org/IMG/pdf/9.25_fidh_final_compressed.pdf)

176. Action Group on Free Civic Space, NIGERIA: SHRINKING CIVIC SPACE IN THE NAME OF SECURITY, (2021) <https://closingspaces.org/7965-2/>

177. Victoria Ibezim-Ohaeri, Spaces for Change, SECURITY FIRST! Impact of Security Laws on the Civic Space in West Africa, (2025), Accessed via <https://spacesforchange.org/security-first-impact-of-security-laws-on-the-civic-space-in-west-africa/>

178. Spaces for Change, Policy Brief: Analysis of the Terrorism (Prevention & Prohibition) Act 2022, Accessed via <https://spacesforchange.org/policy-brief-analysis-of-the-terrorism-prevention-prohibition-act-2022>

179. Spaces for Change, Policy Brief: Analysis of the Terrorism (Prevention & Prohibition) Act 2022, *ibid*.



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The new legal regime does not, prior to the designation, give proscribed persons and entities the chance to defend themselves in front of a judge, contrary to the principles of fair hearing firmly enshrined in the Constitution. Likewise, it does not offer the entity any compensation upon the revocation of the proscription order or any other sanctions against the government for improper proscription. The entity is left to reclaim its battered goodwill and identity by own self efforts.

5.1.2 Hardwiring Human Rights into Compliance Ratings

One way to ensure that human rights are kept at the forefront of CT efforts is to hardwire human rights into country compliance ratings such as the Universal Peer Review and FATF Mutual Evaluations. This would mean including human rights conditions as a parameter for the assessments, thereby placing the onus on countries to demonstrate how they have (both in design and in action) met each CT requirements while respecting human rights. For example, in monitoring compliance with its Recommendation 4 (Confiscation and provisional measures), FATF can require that countries demonstrate the adequacy of measures in place to avoid, minimize and correct any interference with the property and privacy rights of innocent citizens. Failure to demonstrate this should automatically be counted as a non-compliance with the standard.



5.1.3 Reparations

Countries should be required to set up and maintain an adequate reparation programme for compensation of persons inadvertently affected by CT measures. A reparation mechanism is imperative because of the high likelihood of human rights infringements in counter-terrorism operations, especially where security forces are engaged in armed combat with terrorist groups in locations inhabited by indigenous communities. Reparation programmes may include funds administered by the judiciary for direct payment to persons or groups who have established that they suffered injuries as a result of CT measures taken by the government. In this connection, Nigeria's Terrorism Prevention (Prohibition) Act 2022 now provides a statutory framework for compensating victims of terrorism through the establishment of the Victims Trust Fund and the Special Victims Trust Fund Committee to oversee the funds' administration.

5.1.4 National Risk Assessments

National risk assessment (NRA) of money laundering and terrorism financing risks in a country's financial and non-financial systems plays a pivotal role in the FATF's counterterrorism framework. It is the NRA that justifies any action taken by the country to address identified threats and vulnerabilities of sectors exposed to money laundering and terrorism financing. As was evident in Nigeria's previous 2016 NRA, a poorly-conducted risk assessment may impose blanket restrictions and justify the foisting of stringent measures on sectors. To reduce this risk, the sectoral NPO Risk Assessment conducted in 2022 corrected the shortfalls of the previous NRA, while identifying the subsets of NPOs at risk and the development of a proportionate terrorism financing response to identified threats. The NPO sector is diverse both in structure, objectives and the causes they take on. Each subsector faces a unique risk spectrum. Therefore, the inclusion and participation of NPOs in the sectoral risk assessment ensured that the exercise to some extent, preserved the rights key to civil society: freedom of expression and opinion, freedom of association, freedom of assembly, and participation rights.

Since then, NPOs have leveraged the outcomes of the sectoral risk assessment to show that the NPO sector is diverse both in terms of numbers, types, structures, and complexity. Also, AML/CFT regulation is no longer uniformly applied to the entire universe of NPOs operating in the country, but targeted at subsets identified to be at risk of terrorism financing abuse. While noting the progress that has been made, Spaces for Change's studies reveal that there is hardly any characteristics of NPOs that makes them inherently vulnerable for abuse over and above other kinds of organisations requiring any targeted regulation.¹⁸⁰

5.2 STRATEGIES

5.2.1 Advocacy

Major success stories have been recorded as a result of advocacy by the civil society on a wide range of issues. The revision of Recommendation 8 from its original sweeping iteration to a risk-based approach was a major achievement in challenging the misbranding of NPOs as conduits for terrorist financing. In fact, persistent advocacy has resulted in some changes at FATF in a bid to address the criticisms regarding its lack of engagement with the civil society. Since 2016, the Global NPO Coalition on the FATF has been permitted to nominate four representatives to participate in the annual Private Sector Consultative Forum, ensuring some human rights/humanitarian presence in the room.¹⁸¹ In addition, the FATF committed to enhancing

¹⁸⁰. Spaces for Change "Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria." Available at https://spacesforchange.org/wp-content/uploads/2019/03/FULL-REPORT-UNPACKING-THE-OFFICIAL-CONSTRUCTION-OF-RISKS-AND-VULNERABILITIES-FOR-THE-THIRD-SECTOR-IN-NIGERIA_compressed.pdf, accessed 26 September 2021, pp. 43-49

¹⁸¹. Fionnuala Ní Aoláin "Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders." Available at <https://undocs.org/pdf?symbol=en/A/HRC/40/52>, accessed 26 September 2021, p. 23



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engagement with NPOs by holding annual meetings on specific issues of common interest and organizing ad hoc exchanges on technical matters.

In Nigeria, advocacy by the civil society organizations has been instrumental in defeating many attempts to enact restrictive regulatory codes for NPOs built on the rhetoric of terrorism. Nigerian NGO, Spaces for Change, led research¹⁸³ and advocacy efforts, challenging the official classification of NPOs as DNFIs. It also interrogated the evidential basis for tagging DNFIs—of which NPOs are a subset—amongst those sectors most vulnerable to money laundering (ML) and terrorist financing (TF). Consequently, Nigeria's money laundering law and the Terrorism (Prevention and Prohibition) Act 2022 were both repealed in 2022, delisting NPOs from the list of obliged entities in Nigeria.¹⁸⁴ Sustained advocacy at the national and international levels are necessary to keep issues of over-securitization of the civic space on the front burner of public, political and global consciousness.

5.2.2 Policy and Political Engagements

AML/CFT advocacy is technical, complex and often involves extensive balancing acts. Civil society must therefore continue to maintain cordial relationships with public and private actors, including seeking out opportunities to collaborate with policy makers to exchange information and work out lasting and feasible solutions. For instance, the detailed and systematic analysis by Spaces for Change of Nigeria's 2016 National Risk Assessment from the perspective of FATF Recommendation 8¹⁸⁵ captured the attention of the Nigeria's regulatory bodies such as the Nigeria Financial Intelligence Unit (NFIU) and the Special Control Unit against Money Laundering (SCUML) as well as a five-member team of FATF/GIABA assessors which opened doors for meaningful engagements and information exchanges between the Nigerian civil society on the one hand and the aforementioned CT actors on core issues such as regulation of NPOs, classification of NPOs as DNFIs and adequacy of existing regulatory framework for NPOs.¹⁸⁶ These engagements translate to better perspectives for the policy makers as well as the opportunity for the civil society to take on board intelligence-driven insights from the policy circles.

¹⁸³. See Spaces for Change, [Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria, 2019](#)

¹⁸⁴. Spaces for Change PRESS RELEASE: Non-Profits No Longer Listed as DNFIs in Nigeria, Accessed via <https://spacesforchange.org/press-release-non-profits-no-longer-listed-as-dnfis-in-nigeria/>

¹⁸⁵. Spaces for Change “Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria.” Available at https://spacesforchange.org/wp-content/uploads/2019/03/FULL-REPORT-UNPACKING-THE-OFFICIAL-CONSTRUCTION-OF-RISKS-AND-VULNERABILITIES-FOR-THE-THIRD-SECTOR-IN-NIGERIA_compressed.pdf, accessed 26 September 2021, pp. 43-49

¹⁸⁶. Victoria Ibezim-Ohaeri, FATF and Civic Space: Lessons from Nigeria (2020) Accessed via <https://fatfplatform.org/stories/fatf-and-civic-space-lessons-from-nigeria/>

5.2.3 Training and Research

To adequately challenge the abuse of CT norms, a strong knowledge of the interrelations between the law, politics, international relations around the issues of CT and PCVE, as well as clear understanding of the workings of the major CT actors, are imperative. Civic organizations have successfully used research to push for the reform of the CT regimes applied to the non-profit sector in Nigeria. In its detailed review of the Nigeria NRA, Spaces for Change challenged the official classification of NPOs as DNFI, disputing the evidential basis for the identification and classification of ML/FT risks, threats and vulnerabilities in the sector.¹⁸⁷ GIABA's Mutual Evaluation Report 2021 agreed with this view when it found that Nigerian authorities' understanding of NPOs' TF risks do not justify their categorisation and regulation as DNFBPs.

Furthermore, many actors in Nigeria's NPO sector are unaware of how CT norms handed down by organisations like FATF influence some of the frequent regulatory shocks and stresses disrupting civil society operations in Nigeria. Improved understanding of FATF and similar CT norm-forming bodies—through trainings and capacity development—will uniquely position NPOs to engage with the regulators and policy makers to proffer well-informed arguments to counter attempts to pass restrictive legislations. This underscores the importance of continued research and training on this subject and the dissemination of the findings through a wide range of media channels.

5.2.4 North-South Collaborations and Partnerships

Coordination between actors across countries is another strategy that has helped to facilitate a cross-issue learning exchange between organisations in the Global North and the Global South.¹⁸⁸ Collaborative partnerships are highly recommended between local and international organizations working around this remit such as the Global NPO Coalition on FATF, Human Security Collective (HSC), International Center for Non-profit Law, (ICNL), European Center for Non-profit Law (ECNL), Security and Policy Alternatives Network (SPAN) and the CSO Coalition on Human Rights and Counter-Terrorism etc. to foster knowledge-sharing and knowledge transfer.

Opportunities to conduct workshops with relevant agencies like the Office of the National Security Adviser (ONSA), the Nigerian Financial Intelligence Unit (NFIU), Special Control Unit against Money Laundering (SCUML), Economic and Financial Crimes Commission (EFCC), and the Nigeria Police, should be maximized to inject human rights perspectives into national CT programmes and where possible to arrive at shared conclusions.¹⁸⁹ Finally, inroads should be

¹⁸⁷. Spaces for Change “Unpacking the Official Construction of Risks and Vulnerabilities for the Third Sector in Nigeria.” Available at https://spacesforchange.org/wp-content/uploads/2019/03/FULL-REPORT-UNPACKING-THE-OFFICIAL-CONSTRUCTION-OF-RISKS-AND-VULNERABILITIES-FOR-THE-THIRD-SECTOR-IN-NIGERIA_compressed.pdf

¹⁸⁸. Victoria Ibezim-Ohaeri, *Confronting Closing Civic Spaces in Nigeria*, Issue 26, SUR International Journal on Human Rights, September 2017

¹⁸⁹. A similar workshop was organized by ONSA and UNDP on observance of human rights in the prevention of violent extremism. See <https://ctc.gov.ng/onsa-and-undp-collaborate-to-train-law-enforcement-and-security-officials-on-observance-of-human-rights-in-the-prevention-of-violent-extremism/>, accessed 26 September 2021



sought into the Nigerian legislature to proactively educate and deconstruct long-held perception of NPOs as prone to terrorist financing abuses, and to demonstrate that the stringent regulation of NPOs is unnecessary based on prevailing evidence.

5.2.5 Training Judicial Officers

Local media have often reported stories that accused judges hearing cases bordering on terrorism of “judicial rascality and impunity” based on their apparent demonstration of prejudice and bias. In one case, locking out the legal representatives defending ethnic agitators charged with terrorism from the courtroom attracted widespread condemnation, casting doubts on the ability of the courts to give justice and fair hearing.¹⁹⁰

An independent and informed judiciary is statutorily mandated to check the excesses of security agencies through judicial reviews, court pronouncements and injunctive orders. The judiciary has not yet featured prominently in the discourse around the abuse of CT norms. This may be attributable to paucity of deep understanding of the interface between counterterrorism and human rights. Technical knowledge updates through capacity building are necessary to equip judicial officers to adjudicate and preside over human rights applications violated during CT operations.

5.2.6 Litigation

Public interest litigation (PIL) is a potent tool for addressing the adverse impacts of CT regulation on human rights. Under Nigerian law, any person whose right has been violated by a public or private person can bring court action challenging the breach or potential breach of human rights of other persons without being hampered by locus standi objections.¹⁹¹ There are successful examples of cases wherein Nigerian courts have curbed restrictive security legislation such as the Public Order Act which requires Nigerians to obtain police permits before holding public gatherings.¹⁹² Whilst the constitution allows for certain limitations to certain rights, the circumstances for such derogations are limited. Unlike a commonly held notion, the constitutional provision on human rights derogation requires that such derogation must be backed by a law that is reasonably justifiable in a democratic society.¹⁹³ This empowers the court, upon an application by citizens to appraise whether actions of security agencies in Nigeria that tramples on human rights are justifiable.

A major reason while PIL lags behind in Nigeria is the cost of litigation. This can be ameliorated

190. P.M. News, Nnamdi Kanu: Justice Binta Nyako engaging in judicial rascality, impunity – IPOB (2021); <https://pmnewsnigeria.com/2021/11/13/nnamdi-kanu-justice-binta-nyako-engaging-in-judicial-rascality-impunity-ipob/>

191. See The Fundamental Rights (Enforcement and Procedure) Rules 2009

192. Inspector General of Police v All Nigeria Peoples Party (2007) 18 NWLR (Pt.1066) 457

193. Section 45 of the Constitution of the Federal Republic of Nigeria

through the establishment of litigation funds by donor bodies or coalitions of NPOs in Nigeria for the prosecution of, or provision of support for, cases deemed to be of a significant national importance for the preservation of human rights in Nigeria. In this regard, partnerships between NPOs and the Nigerian Bar Association¹⁹⁴ and the pro bono departments of private law firms can also be considered.

5.2.7 Engaging the Military Formations



Very few advocacy groups have access to military institutions working to combat terrorism in the country. There is a need to undertake high-level advocacy targeting high-ranking serving military personnel, advocating for the compelling need to review the enforcement of NACTEST and PCVE programming, as well as anti-protest operations, in ways that align with the country's domestic and international human rights obligations. Targeted workshops for military personnel will offer a platform for influencing and refining the Nigerian government's policy and military response to humanitarian assistance in the north-east as well as civil remonstrations while laying the foundation for increasing adherence to the applicable rules of national and international law governing the containment measures.

5.2.8 Civic Actors' Clinics

Modelled after the NGO Regulatory Compliance Clinic,¹⁹⁵ it is useful to introduce a Civic Actors' Clinic drawing from the lessons learned from this scanning exercise to produce resources designed to equip citizen advocates, social movements, especially ethnic agitators, human rights defenders, journalists, local and international NGOs with the resources needed to counter CT-scented restrictions in advance before they materialise.

5.2.9 Further Research Inquiry on Downstream CT Harms is Necessary

There is a need for much more research by a raft of actors into the influence of global mechanisms (such as the United Nations Office of Counterterrorism (UNOCT) and CTED) work and programs

¹⁹⁴. which has a Section on Public Interest and Development Law,

¹⁹⁵. Spaces for Change <https://spacesforchange.org/?s=compliance+clinic>



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in the country. In 2022, CTED concluded its second follow-up assessment visit to Nigeria to assess the country's progress in implementing relevant Security Council resolutions.¹⁹⁶ While this visit is a positive move, it creates an opportunity for civic actors and organizations impacted by CT operations to engage global mechanisms. That engagement needs to be preceded by indepth inquiries mapping the drivers and impact, as well as looking into the influences of other international non-forming institutions and softlaws on the ground.

5.2.10 Tri-sector Dialogues

In 2022, Nigeria's Special Control Unit against Money Laundering (SCUML), a unit within the Economic and Financial Crimes Commission (EFCC), conducted the Terrorism Financing Risk Assessment (TFRA) of the NPO sector, identifying subsets of NPOs at risk of TF abuse. However, financial institutions (Fis) were not considering the TRFA results and TF risk determinations of non-profits in their assessment and due diligence regimes with NPO customers. Consequently, FIs regarded all NPO customers as high-risk despite the TFRA's evidence showing that most NPOs were low-risk.

● BANKS AND NPOs DIALOGUE

In February 2024, Spaces for Change, in partnership with the Special Control Unit Against Money Laundering (SCUML), organized [the banks and civil society in Nigeria conference](#), which brought stakeholders together to mutually explore ways of addressing financial access restrictions faced by non-profit organizations (NPOs) arising from the implementation of banking policies and regulatory measures to counter the financing of terrorism in Nigeria. Based on the evidence presented by civil society representatives to stakeholders, there was consensus among policy makers, regulators, banks and other financial institutions that counter-terrorism measures were, indeed, impacting nonprofits negatively. Stakeholders resolved to set up a multi-sectoral dialogue platform for NPOs, financial institutions, regulatory bodies, and government agencies whether they can jointly develop holistic solutions that balance regulatory imperatives with the need for financial inclusion and safeguarding civil liberties while combating TF abuse. It was this stakeholder consensus that birthed the Multi-Stakeholder Working Group on Charities (MSWGC) also called Nigeria Dialogues.

Banks, policymakers, law enforcement agencies and nonprofits in Nigeria kicked off the tri-sector dialogues on April 30, 2024, to address bank derisking of non-profit organizations (NPOs) from a multi-sectoral perspective. The tri-sector dialogues commenced with the inauguration of the Multistakeholder Working Group on Charities (MSWGC) facilitated by Spaces for Change [S4C]

¹⁹⁶. United Nations, [Security Council - Counter-Terrorism Committee \(CTC\)](#), Counter-Terrorism Committee Executive Directorate (CTED), CTED concludes second follow-up assessment visit to Nigeria, Accessed via <https://www.un.org/securitycouncil/ctc/news/cted-concludes-second-follow-up-assessment-visit-nigeria>

in Lagos. The MSWGC consists of stakeholders including FIs, NPOs, regulators of financial institutions, NPO regulators, and AML/CFT experts. Since its establishment, stakeholders converge periodically to discuss and proffer solutions to the financial services and AML/CFT challenges that NPOs face.

5.3 ENTRY POINTS

Finally, what are the available opportunities that civil society can explore to disrupt, rectify or transform the defects in CT norms? What platforms can NPOs leverage to push back against the weaponization of the CT architecture by state security agents and regulatory bodies? We have identified some entry points at the local, regional and global levels. An example is the UN Counter-Terrorism Executive Directorate's (UNCTED's) refresh of the UN Compendium on recommendations to states for implementing biometric technologies to counter terrorism.

5.3.1 Periodic Reviews of CT Frameworks

The various national CT and cybersecurity strategies such as the National Counter Terrorism Strategy 2016 (subject to review biennially), the National Cybersecurity Policy and Strategy 2021 (subject to review every 5 years), the Policy Framework and National Action Plan for Preventing and Countering Violent Extremism 2017 (to be reviewed after 3 years), the National Security Strategy 2019 (to be reviewed every 5-10 years).¹⁹⁷ While the timelines for some of these reviews may have elapsed,¹⁹⁸ several civil society organizations took proactive steps to participate during the review processes of the various strategies, ensuring that positive consideration is given to civic spaces in their design.

International CT frameworks are subjected to periodic review.¹⁹⁹ These are opportunities to carry out human rights audits of the CT strategies and to reinject learnings from across the globe into the frameworks.

5.3.2 Mutual Evaluations

Mutual Evaluations under the auspices of FATF or FATF-Styled Regional Bodies (such as GIABA for West Africa) present an opportunity for the civil society to engage with the representatives of these bodies. Nigeria's latest mutual evaluations report by FATF regional body (GIABA) clearly identifies over-regulation of civil society in Nigeria. The report found that Nigeria has extended AML/CFT requirements on the Not-for-profit (NPO) sector which is not in line with the FATF requirements and does not reflect a risk-based approach. Nigeria was re-added to FATF greylist in

¹⁹⁷. Based on documents available on CTC website – nctc.gov.ng, accessed 26 September 2021

¹⁹⁸. Ibid

¹⁹⁹. UN Global Counter-Terrorism Strategy is due for review every 2 years. See <https://www.un.org/counterterrorism/un-global-counter-terrorism-strategy>, accessed 26 September 2021



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2023. The country committed to implement the nine-point FATF Action Plan,²⁰⁰ committing to, among other things, enhance implementation of preventive measures for high-risk sectors; and conduct a risk-based and targeted outreach to NPOs at risk of terrorism financing abuse and implementing risk-based monitoring for the subset of NPOs at risk of TF abuse without disrupting or discouraging legitimate non-profit activities.

Both the mutual evaluation procedures as well as action items to exit the grey list involve outreach to civil society during which anti-NPO narratives of the government can be challenged. This is also a channel for feedback to the entities on the impacts of the legislation and regulation passed by Nigeria to comply with FATF standards. In addition, NPO representatives would be able to challenge negative narratives towards the NPO sector contained in official reports.

5.3.3 FATF Unintended Consequences Workstream

In February 2021, FATF launched a new project to study and mitigate the unintended consequences resulting from the incorrect implementation of the FATF Standards.²⁰¹ The outcome of this workstream provided the FATF plenary with tangible evidence of the impact of the CT standards on human rights and the civil society and to present practical solutions for refining the FATF standards in 2023. As of July 2025, the FATF has introduced a new process to address unintended consequences arising from the misapplication of its Standards on non-profit organisations (NPOs), strengthening global efforts to protect legitimate NPO activity from disproportionate disruption.²⁰² This is a positive development and provides the civil society with the opportunity to engage with a major CT norm actor on the issues highlighted in this research.

5.3.4 The mandate on promotion and protection of human rights and fundamental freedoms while countering terrorism

The Special Rapporteur is an independent expert appointed by the UN Human Rights Council (HRC) and is mandated by HRC resolution 15/15 to among other things, make concrete recommendations on the promotion and protection of human rights and fundamental freedoms

²⁰⁰. Templars, The What and Why of Nigeria's Grey Listing by the Financial Action Task Force and its Implications on Businesses Operating in Nigeria (2023). Accessed June 20, 2025. <https://www.templars-law.com/app/uploads/2023/05/THE-WHAT-AND-WHY-OF-NIGERIAS-GREY-LISTING.pdf>

²⁰¹. FATF "Mitigating the Unintended Consequences of the FATF Standards." Available at <https://www.fatf-gafi.org/publications/financialinclusionandnpoissues/documents/unintended-consequences-project.html>, accessed 26 September 2021

²⁰². FATF, FATF launches new procedure to address unintended consequences affecting Non-Profit Organisations (2025) Accessed via <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/new-procedure-unintended-consequences-npos-2025.html#:~:text=Paris%2C%2010%20July%202025%20%2D%20The,NPO%20activity%20from%20disproportionate%20disruption.>

while countering terrorism, including, at the request of States, for the provision of advisory services or technical assistance on such matters. The office of the Special Rapporteur is an opportune channel for transmitting human rights concerns of CT norms identified by the civil society to the UN. Several reports of the Special Rapporteur indicate a positive disposition of the office towards engagement with the civil society.

Recently, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism called for input to a Report on the Protection of Human Rights by Regional Organizations when Countering Terrorism which illuminated the human rights dimension of CT technical assistance and capacity building provided to States by regional and global entities.²⁰³ This and similar opportunities should be maximally utilized by the civil society.

5.3.5 GCTF-inspired Initiative on Ensuring Implementation of Countering the Financing of Terrorism Measures While Safeguarding Civic Space currently has

Morocco, the Netherlands and the United Nations as co-leads as of 2020. This provides a platform for stakeholders to discuss perspectives and experiences, share lessons learned and existing good practices, and develop a good practice memorandum on ways to achieve implementation of proportionate and risk-based CFT measures that avoid negatively affecting civic space and humanitarian operations. Through their series of expert meetings, Nigerian activists and advocates can create linkages and contribute to strengthening the dialogue and coordination on CT measures in African countries among government representatives, regulatory agencies, counterterrorism and counterterrorism financing (CFT) practitioners, civil society organizations, humanitarian actors, the private sector, United Nations bodies, and other relevant stakeholders.



5.3.6 What can be done at the continental level?

- Most of the regional frameworks are dated and due for periodic review. What actions can we take to push for review of the following frameworks?:

²⁰³. See OHCHR Call for inputs on the Protection of Human Rights by Regional Organizations when Countering Terrorism (2024) Accessed via <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-protection-human-rights-regional-organizations-when-countering>



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- ▶ Convention to Combat and Prevent Terrorism in 1999
- ▶ The '[Algeria Guiding Principles](#)' on 'preventing, detecting and disrupting the use of new and emerging financial technologies for terrorist purposes
- ▶ Algiers Plan of Action on the Prevention and Combating of Terrorism (2002). Read more here: <https://issafrica.org/ctafrika/international-regional-counter-terrorism-related-legal-instruments/african-union-au/african-union-au-conventions-and-protocols>

5.3.7 At the subregional level:

- ▶ **GCTF Capacity-Building in the West Africa (WA) Region Working Group** currently has Algeria and Germany as Co-Chairs. In addition to having more West African representatives in the leadership of the working group, Nigerian and West African civic actors can leverage this platform to share information on efforts made to counter terrorism financing, the results being achieved, and the lessons learned. Information shared can feed into the strengthening of institutional frameworks (including policy, legislation, etc.) and remodelling of best practices in financial intelligence and investigations across the subregion.
- ▶ **Ecowas Political Declaration and Common Position Against Terrorism** was adopted in Yamoussoukro, Côte d'Ivoire, on 28 February 2013. The document is ripe for review through engagement with various ECOWAS mechanisms in Senegal, Abuja etc.
- ▶ Another document due for an update is the **ECOWAS Counter-Terrorism Strategy**. Member States are obligated to carry out a periodic evaluation and reporting on the measures taken and challenges encountered in the implementation of this Strategy, with civil society obligated to be consulted as well.
- ▶ ECOWAS adopted the **2020-2024 Action Plan in 2019**. Its eight priority areas range from pooling of efforts and coordination of counter-terrorism initiatives to promoting inter-community dialogue and preventing violent extremism.
- ▶ What is the status of implementation of the 2020-2024 Action Plan? What progress has been made and what are the next steps forward?

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