

Strategies and tactics with commentary for CSOs' advocacy efforts against undue counter-terrorism restrictions



Principled leadership

1. Champion humanitarian and human rights values - stress the independence of civil society.

Explain their value in saving lives (humanitarian principles) and addressing the drivers of conflict (peacebuilding, human rights defense, etc.)

Refer to legal authorities such as UNSCR 2462 and other guidance on how international humanitarian law/international human rights law (IHL/IHRL) should be interpreted.

2. Exert moral and intellectual leadership.

Civil society is uniquely placed to represent humanitarian and human rights principles in discussions about counter-terrorism measures (CTMs), due to its independence from government and adherence to ethical standards. It brings the experience and voice of those most affected by conflict, economic exclusion and human rights abuses to the table.

Show you are a constructive force and a resource that can save them work.

3. Ground proposals for revised CTMs that impact civil society organisations (CSOs) in the IHL/ IHRL language.

Make it clear that your proposals, and any counterproposals, for change have compliance with IHL and IHRL principles as a starting point. Be clear that these principles are not trumped by terrorism concerns. Cite specific provisions in IHL and IHRL that provide guidance on how and when security concerns can be accommodated.

4. Forge political alliances.

To gain the attention of the officials who must act to make the changes you want and move them to action it helps to show broad support from diverse stakeholders. The more CSOs can create political “safe space” by showing the change has benefits and is not controversial, the more likely they are to succeed. This is necessary to counteract politicians’ fear of accusations that they are “soft on terror.”



Tactical engagement

1. Engage officials beyond security agencies/Financial Intelligence Unit (FIU) officials to bring in those from other agencies with a stake in the outcome - foreign policy, aid/development, human rights, non-profit regulators. This widens the lens to a more holistic view of terrorism.

Government officials that work in FIUs and security agencies generally have little or no awareness of what CSOs do or how they do it. CSOs can build awareness and appreciation for their work through engagement with these officials. However, even sympathetic FIU and security officials may not be willing to make the changes you ask for. Their mandate is limited to combating the financing of terrorism (CFT) concerns only, and their goals and objectives do not include humanitarian, human rights or peacebuilding or diplomatic criteria. They generally do not get credit for taking account of these non-CFT factors. As a result, it is often necessary to broaden engagement to include other ministries and agencies whose mandates include humanitarian, development, diplomacy, peacebuilding and human rights. These agencies can support your concerns and ideas in dialogues with meetings with government. They can also engage FIU and security officials behind the scenes. Most importantly, multi-agency engagement can bring your issues to the attention of executive level officials who can instruct FIU and security officials to address CTMs that are not risk-based, disproportionate and disrupt your work.

With this wider focus, the importance of protecting civil society space is clearer and more likely to gain support.

2. Insist on a risk-based approach based on FATF R8.

The process of the Financial Action Task Force (FATF) requires states to take specific steps to assess risk and review CTM measures for effectiveness. Because FATF requires outreach to the non-profit sector in this process, there is an opportunity to directly engage with government on the actual level of risk from CSOs and what appropriate risk mitigation measures should look like. States that do not take this approach face a lower rating in FATF's periodic evaluation, so they have an incentive to do so.

For more information see fatfplatform.org, the website of the Global NPO Coalition on FATF, and ECNL's learning packages: [Impact of Security Standards on Civil Society Work](#) and [Risk Based Approach: the Need for Collaboration](#).

3. Demonstrate the need for change and support through petitions, sign-on letters, etc.

These mechanisms can build awareness, create a record that defines the problems and solutions and serve as a focal point for ongoing engagement and advocacy. Organising support for letters and petitions is also a way to build alliances.

4. Propose new language for laws, regulations or amendments to old ones. Redraft and revise existing exceptions to make them workable, proportionate, consistent with IHL/IHRL.

This is a constructive step that provides decision-makers with a clear idea of what solution you are asking for. It can be an incremental step toward a long-term solution or the ultimate change you are seeking. It is a legal vehicle for change.

A proposed law or regulation also can be a means of raising your issue, even if the chances of it passing are small. It builds awareness, can give you a springboard for future attempts and gives you and your allies a focal point to rally around.

It is essential to find a champion for your proposal who can push it from inside the government. When drafting your proposal make sure it is grounded in IHL/IHRL principles.

5. Drafting legal analysis supporting your position.

Legal analysis can debunk technical justifications for existing restrictions and show legal authority behind values and principles embodied in your proposal. It can demonstrate your expertise and blunt attempts to use legal smokescreens to resist change.

6. Litigate.

Successful litigation can force or pressure government officials to make changes they would not make otherwise.

However, there are drawbacks to investing too many resources in a litigation strategy. The impact may be limited to the parties in the case and not lead to system change.

Litigation also diverts resources away from advocacy to push back against the narrow post 9/11 security framework to a human security framework.

Even in jurisdictions with strong legal foundation to protect human rights, litigation can take years to wind its way through the courts and appeals process. In the meantime, other branches of government may decline to act pending the outcome of the litigation, leaving all parties in limbo until the final court decision.

Litigation also puts the issues in the hands of lawyers handling the case, limiting the participation of those most directly affected.



Awareness building

1. Publishing field-based reports on negative impacts and provide evidence about adverse impacts.

There are numerous resources that can be drawn on to demonstrate negative impact. See [Global NPO Coalition Input to FATF Unintended Consequences Workstream](#) and [High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards](#).

CSOs can also:

- Ask CSOs that are willing to provide first-hand accounts of their experiences;
- Cite numerous studies by experts, especially in the humanitarian field, that bring together a combination of anecdotal evidence and aggregate data;
- Use trade groups, lawyers or others that represent numerous CSOs to describe the common experiences of their members and clients.

While such evidence can be a powerful tool to demonstrate the need for change and gain sympathy, it is notoriously difficult to collect. For example, CSOs may be reluctant to share concrete examples with governments that may use the information in bad faith.

Where possible, anecdotal evidence should be supported by statistics. However, experience has shown that the complexity of the environment where CSOs are attempting to operate is such that it is impossible to collect in depth statistical data.

2. Conduct multistakeholder workshops with counter-terroris m(CT) actors, donors, FIUs, etc.

Changing CTMs is a long-range process that require changing the narrative that CSOs are at high risk for terrorist financing to build awareness about the importance of civil society action and the negative impacts of CT restrictions. By bringing stakeholders together or participating in events, CSOs can foster discussion, build relationships, network and encourage open discussion of the issues.

3. Establish multi-stakeholder dialogues.

Multi-stakeholder dialogues as an important mechanism for addressing negative impacts CTMs have on civil society. (See [GCTF Good Practices Paper](#)) They can provide opportunities for sustained dialogue and relationship building. However, it can be difficult to get meaningful participation from government or banks.

To date few such dialogues between government, banks and CSOs have led to concrete changes grounded in IHL or IHRL. CSOs participating in these dialogues can be pressured to accept the flawed premises of the CT architecture that skew the outcomes that compromise fundamental values.

4. Show officials CSOs are serious about good governance and implementing CTMs in a manner consistent with IHL/IHRL.

Experience has shown that educating counterterrorism officials about regulatory requirements for CSOs and sector codes of conduct can get them to consider changes based on a realistic view of the CFT risk and move away from the myth that CSOs are inherently high-risk. It also opens the door to discussion of humanitarian and human rights principles, as these are values that CSOs must reflect in their governance and operations.

The danger of this approach is that the issue becomes compliance with CTMs only, which may be inherently inconsistent with humanitarian and human rights values and cannot be complied with without violating those imperatives. Examples include beneficiary vetting against blacklists and submitting staff and/or beneficiary lists to authorities for pre-approval.

5. Do media outreach.

Getting media attention for CT issues should prioritize outlets that targets of advocacy efforts will see and view as credible. Experience indicates that broad based media campaigns are not a good use of civil society resources.

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