


Friend not Foe: Civil Society and the Struggle against Violent Extremism

A report to Cordaid from the
Fourth Freedom Forum
and Kroc Institute
for International Peace Studies
at the University of Notre Dame



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*with George A. Lopez, Alistair Millar,
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Acronyms

APRODEV	Association of World Council of Churches-related Development Organizations in Europe
CAJ	Committee for the Administration of Justice, Belfast
CIDSE	Coopération Internationale pour le Développement et la Solidarité International Cooperation for Development and Solidarity
CIVICUS	World Alliance for Citizen Participation
CoE	Council of Europe
CSO	civil society organization
CTM	counterterrorism measure
DAC/OECD	Development Assistance Committee of the Organisation for Economic Co-operation and Development
DANIDA	Danish International Development Agency
DFID	Department for International Development, Britain
DoD	Department of Defense, USA
DPP	Director of Public Prosecutions, Britain
FARC	Fuerzas Armadas Revolucionarias de Colombia Revolutionary Armed Forces of Colombia
FATF	Financial Action Task Force
GONGO	government-run ersatz nongovernmental organization
GWOT	Global War On Terror
ICCO	Interchurch Organisation for Development Co-operation
ICNL	International Center for Not-for-Profit Law
INTRAC	International NGO Training and Research Centre
JATF	Joint Antiterrorism Task Force, Uganda
KONTRAS	Commission on Disappearances and Victims of Violence
NCVO	National Council for Voluntary Organisations
NGO	nongovernmental organization
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
OMB	Office of Management and Budget
OSCE	Organisation for Security and Co-operation in Europe
PRT	provincial reconstruction team
RAB	Rapid Action Battalion, Bangladesh
USAID	U.S. Agency for International Development
WGAT	Working Group Against Torture, Indonesia

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Executive Summary

Repressive counterterrorism measures (CTMs) have led to an erosion of civil liberties and human rights in many countries. The repercussions have been felt keenly by civil society groups, especially in the global South. Overly restrictive security policies have contributed to a climate of suspicion toward nongovernmental groups, particularly those that challenge social exclusion and unequal power relations. Many of the organizations that work against extremism by promoting human rights and development are themselves being labeled extremist and are facing constraints on their ability to operate.

Counterterrorism measures include a wide range of policies with differing impacts, which can be loosely characterized as the good, the bad, and the ugly. In the bad and ugly categories are CTMs that overemphasize security and distort development priorities, and that lead to extrajudicial killings, greater state repression, and increased human rights abuse. Repressive counterterrorism measures constrain the operational capacity of civil society actors and impede the work of groups promoting rights-based development. On the positive side are cooperative nonmilitary measures that enhance the capacity of governments to thwart terrorist attacks. Also in the good category are policies that encourage support for sustainable development and the defense of human rights, as recommended in the *Global Counter-Terrorism Strategy* adopted by the UN General Assembly in 2006. The evaluation of particular policies should be based on the degree to which they contribute to genuine security and democratic governance, while also upholding the rule of law and protecting the work of those striving to defend human rights, promote development, and resolve conflict.

The recent trend toward the use of development funding for security-related programs has stirred controversy among development agencies and civil society actors. In the United States a growing percentage of development funding is being channeled through the Pentagon or integrated with military operations. Development advocates recognize the connections that exist between development and security, but they oppose the diversion of development funding to serve the security interests of governments in the global North. The integrity and autonomy of development and human rights activities must be respected as ends in themselves, not as means to other purposes.

International policies to prevent the financing of terrorism have adversely affected nonprofit charities and have created a chilling effect in the donor community. Transnational Islamic NGOs have experienced particular difficulties in fulfilling the almsgiving obligation of the *zakaat*. In several countries, governments have adopted legislation and regulations curbing remittances and imposing conditions on foreign funding. Such restrictions have made it more difficult to finance independent humanitarian assistance, development, and conflict mediation activities.

In response to the repressive pressures and restrictions that have been imposed on civil society groups and their supporters, NGOs have established a set of core principles, based on international legal conventions, for protecting the operational and political space of civil society groups. These are:

- the right to entry, defined as the freedom to associate and form organizations;
- the right to operate without unwanted state interference;
- the right to free expression;

- the right to communicate and cooperate freely internally and externally;
- the right to seek and secure resources; and
- the right to have these freedoms protected by the state.

States have a duty under international law to assure all citizens the full range of human and civil rights, including freedoms of association and expression.

Through their efforts for development and human rights, civil society groups are working to dry up the wells of extremism from which violence springs. Civil society organizations address political grievances, socio-economic injustices, and power imbalances that are among the roots causes of armed conflict. This work is not labeled counterterrorism, nor should it be, but it is exactly what is needed to counter violent extremism. International policymakers must recognize and protect this vital civil society mission and take action to eliminate counterproductive CTMs. In the global struggle against terrorism civil society groups should be welcomed as friends, not hounded as foes.

Friend not Foe: Civil Society and the Struggle against Violent Extremism

Many of the policies carried out in the name of counterterrorism are making the terrorist danger worse. An overemphasis on security measures has eroded civil liberties and human rights in many countries and diverted attention from the policies needed to counter the complex challenge of contemporary global terrorism. Preventing terror attacks requires not only improved security but better efforts to address the underlying conditions that can give rise to violent extremism. Resolving conflicts, ending foreign occupations, overcoming oppression, eradicating poverty, supporting sustainable development, defending human rights, promoting good governance—all are vital to the struggle against terrorism, yet addressing these challenges is made more difficult by misguided counterterrorism policies.

The repercussions have been felt keenly by civil society groups, especially in the global South. Nongovernmental organizations (NGOs) have multiplied in number and assumed growing importance in defending human rights, promoting development, and mediating conflicts. Transnational civil society networks have emerged to bring nonstate actors into global policymaking and international diplomacy.¹ In recent years, however, some governments have become more skeptical of civil society and have imposed obligations and conditions that restrict the operational and political space of civil society actors. Repressive counterterrorism measures have added to these restrictions and created a climate of suspicion toward nongovernmental groups, especially those that challenge social exclusion and unequal power relations. Many of the organizations that work against extremism by promoting development and human rights are themselves being labeled extremist and are facing constraints on their ability to operate.

This paper examines the contradiction of counterterrorism measures (CTMs) that can hinder the work of countering terror. It is based on a series of workshops sponsored by the Dutch development agency Cordaid, the U.S.-based research team of the Fourth Freedom Forum and the Kroc Institute for International Peace Studies at the University of Notre Dame, and civil society partners in Europe, Asia, Latin America, and Africa. Meetings were held in Maastricht, the Netherlands, in January 2008; Davao City, the Philippines, in May 2008; and Kampala, Uganda, in July 2008. The working sessions brought together more than 150 representatives of civil society organizations (CSOs), donor agencies, research centers, and government to examine the impact of CTMs on local development and human rights activities and to consider appropriate government, intergovernmental, and nongovernmental responses.

The paper begins with a look at the indispensable role of civil society in addressing the root causes of violent extremism and reviews the debate over the meanings of “terrorism” and “counterterrorism.” It offers a critical analysis of the so-called war on terror and examines the harmful impacts of repressive policies that constrict the political and operational space of civil society groups working to promote development and human rights. It questions the subordination of development policy to the logic of security and short-term political and military objectives—and the wisdom of counterterrorism financial measures that impede the funding of development and humanitarian NGOs. The paper proposes a range of options for protecting the ability of civil society actors to advance human security. It concludes with recommendations for more concerted civil society action to reorient counterterrorism policy toward holistic approaches based on economic development, human rights, and good governance.

The Role of Civil Society

In recent decades the political arena has opened up to an evolving and ever-widening array of civil society groups around the world.² The term “civil society” has been described by the UN Secretary-General’s Panel of Eminent Persons on United Nations-Civil Society Relations as encompassing associations of citizens (outside families, friends, government, and businesses) entered into voluntarily to advance interests, ideas, and ideologies. The definition includes professional associations, social movements, indigenous people’s organizations, religious and spiritual bodies, women’s organizations, academic centers, and NGOs that operate in individual countries or transnationally.³ The term does not apply to profit-making businesses or organizations within the governmental sector. The Centre for Civil Society at the London School of Economics has defined civil society as “the arena of uncoerced collective action characterised by shared interests, purposes, and values.”⁴ NGOs are a distinct part of civil society as formally registered organizations, which may or may not be membership-based, engaged in development, humanitarian relief, policy advocacy, poverty reduction, and other forms of nonprofit activity. Organizations such as Cordaid play an important role in supporting empowerment-based development and human rights. They engage in advocacy on behalf of and in partnership with marginalized communities, with the goal of shifting power relations so that the previously excluded have a voice in political decision making and can gain access to resources and assets needed for autonomous development.

Civil society includes an array of organizations and movements that mobilize social energies to voice deeply felt values and visions.⁵ Many CSOs promote peaceful democratic change, but civil society as a whole is extremely diverse and unbounded and cannot be categorized according to any single political tendency. Citizen movements and NGOs have become major players in public advocacy on a range of social and economic issues. They often seek to limit the excessive accumulation of political power. They help to advance international norms and treaties on behalf of an array of important causes, including human rights, the environment, development, democratic governance, and conflict prevention. They speak against the worst forms of human rights abuse and articulate evolving moral and political standards that in some cases have crystallized into policy. Examples of significant civil society movements include the Nobel Prize-winning campaign to ban land mines, the worldwide opposition to the U.S. invasion of Iraq in 2003, and women’s campaigns in Beijing and beyond that have called attention to the gendered dimensions of war and peace.

Some civil society groups have been active over the decades in promoting the principles of international law, as embodied in the UN Charter and other multilateral agreements and institutions. Citizen groups have been prime movers of some of the most innovative initiatives to deal with emerging global challenges.⁶ Civil society groups are seen by many states as assistance providers and implementing agencies for service delivery, capacity building, and technical assistance programs. This reflects an instrumentalist approach, as opposed to a negotiating dynamic that reflects the diversity of civil society. CSOs and NGOs can also provide feedback to governments and offer bottom-up approaches to development and the prevention of violence that are often more appropriate and effective than top-down measures.

CSOs can be constructive outlets for the redress of grievances. In many instances civil society groups have access to communities where states have little contact or influence. Nongovernmental groups often have a wealth of knowledge concerning the human rights and development situations in specific regions and countries, information that may not be available to states and international organizations. CSOs play a key role in grassroots conflict prevention, and in some instances can serve as impartial mediators. Nongovernmental organizations can help public officials understand the internal dynamics of conflict and the repercussions of failed development and human rights policies.⁷

The presence of CSOs, even in concentration, is no guarantee of success for efforts to promote development or prevent violence. Rwanda prior to the 1994 genocide was characterized by a “dense associational fabric” of civil society organizations and had one of Africa’s most highly developed NGO sectors. Yet the country quickly descended into genocidal violence.⁸

In Rwanda many of the NGOs were recent creations and were almost wholly dependent on external donors and the state. Few had specific programs to challenge racism and ethnic hatred. Many were created by state officials and had government employees as their managers. NGOs were allowed to operate by the state but they were kept within “tight political constraints.”⁹

Some political leaders, especially in authoritarian regimes and “managed democracies,” are hostile toward independent civil society groups.¹⁰ Governments sometimes create ersatz nongovernmental organizations, dubbed “GONGOs,” which serve to reinforce government positions and often obfuscate the authentic voice of civil society.¹¹ CSOs are distrusted by these regimes because they work among marginalized populations and may be perceived as supporting political opponents. Organizations and movements that challenge the abusive policies of unaccountable governments inevitably arouse the ire of those in power, but in recent years such pressures have mounted as policymakers have appropriated the language of counterterrorism to intensify their attacks against civil society-based critics.

Defining Terrorism

Counterterrorism has climbed to the top of the international policy agenda, yet the meaning of the word “terrorism” remains highly contested. There is no universally accepted definition. Scholars examining the question have counted more than one hundred different definitions.¹² The lack of an agreed definition allows those in power to interpret the term for their own purposes. Political leaders often take advantage of the term’s ambiguity to label their opponents terrorists. In a number of countries governments have been able to manipulate public fears to institute repressive measures against groups striving for social justice or contesting unequal power relationships.

While there is no universal definition, it is possible to describe the fundamental features of terrorism. The *National Security Strategy* of the United States describes terrorism as “premeditated, politically motivated violence perpetrated against innocents.”¹³ The 2004 report of the UN Secretary-General’s High-level Panel on Threats, Challenges and Change defined it as “any action . . . that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.”¹⁴ The definition can be broadened to include not only physical attacks but acts designed to coerce people and sow fear.

A major limitation of conventional definitions is that they exclude acts of terror perpetrated or supported by states. Terrorism is usually understood as the work of nonstate actors, but states also engage in actions or attacks against civilians to intimidate and manipulate. As scholar Jeffrey Record noted in a paper for the U.S. Army War College, terrorist acts committed by governments over the decades have killed many more people than the attacks of nonstate networks such as Al Qaeda and the Tamil Tigers.¹⁵ Throughout history tyrants have attacked and coerced civilians to maintain their rule. Contemporary policies of “shock and awe” and air strikes into urban neighborhoods are meant to frighten and coerce, and they inevitably kill civilians.

Terrorism can be classified in many ways, but for the purposes of this paper, three broad categories are relevant. In the first category are the mass casualty attacks that are characteristic of Al Qaeda and associated networks. These pose the greatest threat to international security and are the primary concern of international counterterrorism efforts at the United Nations and among major states. A second category includes the use of terror methods in localized insurgency campaigns, which some describe as freedom fighting. Insurgencies are often rooted in indigenous disputes distinct from global agendas (although they can be exploited by Al Qaeda) and are usually settled through political agreements and negotiated power sharing.¹⁶ The third category includes actions by states, which can support terrorism or take actions that induce or exacerbate social sup-

port for terrorism. War itself can be a source of terrorism. Policies of invasion and military occupation have generated terrorism and armed resistance and have deepened the feelings of humiliation and marginalization that fuel jihadist recruitment.¹⁷

Counterterrorism Measures: The Good, the Bad, and the Ugly

Counterterrorism is also a contested concept. The term embodies a wide range of measures with differing impacts, which can be loosely characterized as the good, the bad, and the ugly. In the bad and ugly categories are CTMs that overemphasize security and distort development priorities, and that lead to extrajudicial killings, greater state repression, and increased human rights abuse. Overly restrictive counterterrorism measures constrain the political and operational capacity of civil society actors and impede the work of groups promoting human rights and development. On the positive side are cooperative nonmilitary measures that enhance the capacity of governments to thwart terrorist attacks while promoting and protecting human rights. Also in the good category are policies that encourage support for sustainable development and good governance, as recommended in the *Global Counter-Terrorism Strategy* adopted by the UN General Assembly in 2006.

The proposed categorization is figurative and is not meant to suggest absolute judgments about particular policies. The range of counterterrorism measures is extremely wide, and specific policies can have differing impacts in varying conditions and settings. Strengthened law enforcement efforts are good when they prevent attacks and bring perpetrators to justice, but these same measures can be bad if they lead to abuses and increased repression. Efforts to prevent the financing of terrorism are positive, yet programs intended to prevent such funding may have negative implications for nongovernmental groups and charities seeking to overcome oppression. The evaluation of particular counterterrorism measures depends greatly on context and the way in which specific actors implement policies. Judgments about particular policies should be based on the degree to which they contribute to genuine security and democratic governance, while also upholding the rule of law and protecting the work of those striving to defend human rights, promote development, and resolve conflict.

Counterterrorism measures are usually weighted toward the executive branch of government, with little attention to enhancing judicial independence, legislative oversight, and citizen involvement. Emergency measures passed in the name of fighting terrorism have had the effect of undermining civil liberties, restricting the ability of civil society groups to operate, and impeding development and relief activities in marginalized communities. Repressive CTMs have reversed progress achieved in recent years toward the integration of human rights and accountable governance into development policy. Individual rights and political freedoms have eroded as states have accumulated greater security powers. As the examples below illustrate, CTMs have distorted development priorities and made the work of civil society organizations more difficult, especially for groups seeking to overcome social exclusion and structural inequalities.

War on Terror?

The United States has framed its counterterrorism policies under the rubric of war, but the struggle against terrorism is not really a war at all. Military means alone cannot deter a shadowy force of nonstate fighters fired by religious zeal and willing to die for their cause. Overcoming the contemporary global terrorist danger requires a range of complex political, economic, and social responses that go beyond and in many cases are incompatible with the use of armed force. Militarized policies of invasion and military occupation undermine international security and have generated armed resistance and increased levels of violence in Iraq, Afghanistan, Pakistan, and Somalia.

Military officials have acknowledged that success in the struggle against terrorism and insurgency requires diminishing the sociopolitical sources of support that enable militant groups to operate. Counterterrorism experts traditionally argued that the struggle against terrorist insurgency is 80 percent nonmilitary.¹⁸ A senior Pentagon advisor has stated more recently

that the struggle is 100 percent nonmilitary.¹⁹ To counter terrorism and insurgency it is necessary to win hearts and minds, to reduce the appeal of extremism by supporting sustainable development and responsive governance.²⁰

In response to criticisms of their war on terror policies, Bush administration officials attempted in 2005 to reframe the meaning of counterterrorism. National Security Adviser Steven J. Hadley told the *New York Times* that the campaign against terror is “more than just a military war.” It is also a “global struggle against extremism.”²¹ Other policymakers referred to the broader dimensions of the policy, employing the phrase “global struggle against violent extremism.” The staff of the House Armed Services Committee in the U.S. Congress circulated a memo urging discontinuation of the term “global war on terror.”²² In September 2006 the *White House National Strategy for Combating Terrorism* stated that the struggle against terrorism is a “different kind of war” that involves not only military power but diplomatic, financial, intelligence, and law enforcement tools—“a battle of arms and a battle of ideas.”²³ The document outlined a range of policies for defeating extremist threats by promoting freedom and human dignity.

Notwithstanding these declared intentions, U.S. government actions to the present have continued to emphasize the militarized battle of arms. President Bush and the inner circle at the White House rejected the attempt to reframe the policy debate, perhaps fearing that a change in rhetoric might lead to an erosion of support for their war policies. The United States and its allies are indeed engaged in a war against terror, they declared. By far the largest share of U.S. government resources continued to go into military operations in Iraq and Afghanistan and for support of security programs around the world. The White House maintained its practices of lawless apprehension, interrogation, and detention against so-called enemy combatants. With war terminology dominating the U.S. debate, the phrase “global struggle against violent extremism” faded from the policy lexicon.

Yet an emphasis on preventing violent extremism is more accurate and less politically loaded than the rhetoric of war. It is preferable in describing the task as a global effort, and as a genuine struggle with political, economic, and social dimensions in addition to needed security protections. It focuses on the combination of violence and extremism as the specific danger, with no prejudice to any ideology or political actor.

This emphasis also elevates the importance of development and human rights NGOs. Those who work for rights-based development are performing the work of peace. They are unequivocal in condemning all forms of terrorism, including the actions of states. They subscribe to the cardinal principle of nonviolence, that no political cause can justify the taking of innocent life. Through their efforts for development and human rights, CSOs are attempting to dry up the wells of extremism from which violence springs. They are addressing political grievances, socio-economic injustices, and power imbalances that are among the root causes of armed conflict. In the global struggle against violent extremism civil society groups should be welcomed as friends, not hounded as foes.

Bad and Ugly CTMs

Counterterrorism measures and governmental distrust of CSOs have had adverse impacts on civil society groups. In many countries legislative and regulatory measures have made it more difficult for civil society actors to operate freely and effectively. Negative impacts have been especially noticeable in conflict zones and among groups that challenge government policies through their work in peace building, democratization, and human rights.

The mantle of suspicion that has been cast over the activities of nonstate actors has led to tighter controls on civil society by governments as well as donors. Registration requirements imposed on nongovernmental groups have created administrative burdens and prevented some groups from obtaining government approval. Some CSOs have been denied registration due to the alleged threat they pose to existing government policy because of their advocacy of human rights and democracy.

Repressive counterterrorism measures are not only unjust, they are ineffective. According to the Belfast-based Committee on the Administration of Justice, “[t]he Northern Ireland experience shows that emergency law corrodes the normal criminal justice system and politicises the rule of law.” Counterterrorism action creates a climate of fear that is often misused against minority groups, according to the committee. It “prioritises the gathering of information for intelligence/political purposes rather than for evidential reasons; [and] corrupts individuals and institutions, especially undermining the vital non-political and independent role that must be played by judges, lawyers, and police. Emergency legislation is ineffective in deterring terrorism because it demonises and alienates the very communities that could be of most assistance in fighting terrorism.”²⁴ The head of the Crown Prosecution Service in the United Kingdom noted in January 2007, “The fight against terrorism on the streets of Britain is not a war. It is the prevention of crime, the enforcement of our laws and the winning of justice for those damaged by their infringement.”²⁵

Many examples of adverse impacts from counterterrorism measures have been documented by research centers and nongovernmental groups and were reported at the international working meetings in 2008 organized by Cordaid and its partner groups. CTMs, counterinsurgency operations, emergency measures, and repressive actions have combined, with the distinctions often blurred, to create hardships for those who contest unequal power relations. Many of the punitive acts carried out by governments have been targeted against women and children.

The following are examples of abuses that are being carried out in the name of fighting terrorism and insurgency, and of the difficulties civil society groups face in many countries as a result of increased security restrictions and counterterrorism measures.

Abusive security operations

In a number of countries the creation of special security forces and intensified operations against insurgents and alleged criminals and terrorists have led to a sharp rise in the number of unsolved cases of extrajudicial killings and abductions of human rights workers and political activists.

- In Bangladesh the government established the Rapid Action Battalion (RAB) in 2004 as a special military force to fight the Jama’atul Mujahideen Bangladesh and other terrorist groups and criminal gangs. The Asian Human Rights Commission and other human rights groups have charged the RAB with numerous abuses and unlawful activities, including extrajudicial killings, torture, ill-treatment, and corruption.²⁶ In December 2005, human rights groups in Bangladesh charged that to date some 190 people had been killed in shoot outs and so-called “cross-fires” in RAB operations. Government officials admitted to approximately 150 deaths from RAB operations but claimed that the dead were “all known terrorists and criminals.”²⁷ Extrajudicial killings by RAB have continued under the caretaker government, according to the Dhaka-based human rights monitoring organization Odhikar.²⁸ Journalists and NGO workers have received anonymous phone threats from individuals claiming to be part of the military or RAB warning against defaming the army or government.²⁹
- The military-led government of Pakistan allegedly committed grave, widespread human rights abuses as part of its counterterrorism operations. Lawyers and independent activists campaigning for democracy were subjected to harassment and arrest. Human Rights Watch has documented scores of cases of illegal detentions, torture, and “disappearances” against alleged terrorism suspects in Pakistan’s major cities. The Pakistan Supreme Court was investigating 400 cases of enforced disappearances before it was shut down in the state of emergency in 2007.³⁰
- In Mindanao and other troubled regions of the Philippines, military and security operations against insurgent groups and terrorist organizations have led to killings and abuse. Human Rights Watch has reported cases of “harassment, physical assaults, arbitrary arrest, and even torture” of civilians.³¹ The Philippine government’s

Commission on Human Rights estimates the number of fatalities from internal counterterrorism operations between 2001 and May 2007 at 403 people—more than one per week.³²

- In Indonesia following the Bali bombing in 2002 the government established a special counterterrorism unit within the national police, the “88 Detachment.” The force has had considerable success in disrupting the Jemaah Islamiyah terrorist movement in Central Java, but it also has faced criticism from human rights advocates. The Institute for Policy Research and Advocacy and other Indonesian groups have charged police forces with torture and other violations of the rule of law.³³ Several cases have been reported of extrajudicial killings and of individuals being detained indefinitely in secret.³⁴
- In Kenya military units that received training and equipment under Britain’s “Operation Monogram” counterterrorism program have been accused of torture and abuse of detainees. Human Rights Watch documented dozens of cases of victims who were subjected to beatings and severe mistreatment.³⁵ The government has used the Anti-Terrorism Police Unit to victimize Somali refugees, Kenyan Muslims, and others who are considered regime opponents. Some refugees and Muslims have been arrested arbitrarily and illegally detained, and rendered to Somalia and Ethiopia—all in the name of fighting terrorism.
- The government of Uganda has established a special anti-terrorism unit, the Joint Antiterrorism Task Force (JATF), also known as the black mambas. The Task Force has detained people incommunicado for indefinite periods. Victims have been subjected to torture and denied the right to petition for a writ of habeas corpus. An illustration in point is the Wembley Case, where the victims were arrested for holding divergent political views, released on bail, and immediately rearrested by the JATF. It took demonstrations from various groups, including advocates and legal professionals, for the victims to be released. In October 2004 the Uganda Human Rights Commission reported that torture was used widely by security agencies in the country.³⁶

Challenges to peace building

- In Sri Lanka, Colombia, the Palestinian Territories, Somalia, and other zones of conflict, peace and reconciliation groups are sometimes seen by governments as political adversaries, suspected of sympathy if not actual support for groups labeled as terrorist. In the Philippines, Colombia, Uganda, and other countries facing long-term internal violence and insurgency, civil society groups attempting to overcome violence and inadequate development face pressures from both armed rebels and the government—a problem described as fire below and fire above. Some conflict areas have been declared off limits, and NGOs have been denied access. In other areas—such as Mogadishu and parts of Iraq and Afghanistan—CSO operations have become untenable because of extreme dangers.
- Colombia has experienced some reduction in the number of kidnappings and killings in recent years, but little progress has been made in addressing the underlying problems that prompted the decades-long conflict. Government policies have partially tamed right wing militias and have isolated FARC-led insurgents, but they have not ameliorated the conditions of social exclusion and inadequate development that fuel extremism. Civil society groups working in communities to overcome the causes and consequences of the conflict face limitations on their ability to operate and are accused by the government of aiding the insurgents. The social space available for those seeking nonviolent solutions is limited and has diminished as a result of repressive security measures.
- In Nepal efforts to promote reconciliation and consolidate the recent democratic transition have been impeded by the U.S. government’s terrorist designation against the country’s largest political party, the Communist Party of Nepal-Maoist. The Maoists were branded terrorists in October 2003, although they were barely able to sustain an armed insurgency in the country and posed no threat to global or regional security. In 2006 the party declared a ceasefire and participated in the nonviolent movement overthrowing the monarchy. In constituent assembly

elections in April 2008, judged free and fair by international observers, the Maoists won the largest popular vote, gaining nearly 40 percent of the seats, and subsequently formed a coalition government in cooperation with other political parties. The U.S. government refused to lift the terrorist designation, however, despite the Party's demonstrated commitment to democracy. This has made it difficult to pursue peace building and reconciliation programs that include Maoist participation.³⁷

- Because of widespread violence and government restrictions, much of northern Uganda remains a no-go zone where nongovernmental actors are unable to travel. As a result conflict resolution and peace building efforts in the region have become more difficult. The 2002 Antiterrorism Act branded any organization establishing a dialogue with the Lord's Resistance Army as a collaborator, which stifled the efforts of groups such as the Acholi Religious Leaders' Peace Initiative to resolve the conflict through nonviolent means.³⁸

Repressive legislation and pressures against civil society

In many countries the fight against terrorism and insurgency has led to the adoption of special legislation and regulations that restrict fundamental freedoms and undermine human rights. Counterterrorism legislation and measures against "extremism" have been used to crack down on NGOs and political activists who criticize government policies. The USA PATRIOT Act set the pattern for many states in widening the authority of police, intelligence, and security forces to investigate and detain suspects, with little regard for judicial oversight or the protection of individual rights.

- In Egypt, sweeping authority granted under emergency measures and counterterrorism law has allowed security services to scrutinize and harass civil society groups without constraint.³⁹ The law governing associations provides criminal penalties for NGOs that carry out activities without prior official authorization and that receive donations without government approval. The offices of some relief and development groups have been closed and their activities restricted.⁴⁰ Egyptian human rights groups have estimated that emergency laws have been used to place between 4,000 and 5,000 people in prolonged detention without charge.⁴¹

- In Jordan NGOs have been subjected to tighter restrictions, and some have been shut down or absorbed by government organizations. NGOs must now have government approval to receive foreign funding.⁴² In 2006 four men were sentenced to death for allegedly planning terrorist attacks, although they testified to being tortured and forced into signing confessions. Terrorism suspects are subject to indefinite detention, in some cases in solitary confinement, in Jordan's al-Jafr prison.⁴³

- In Yemen dozens of people have been held without trial and denied legal representation in the context of counterterrorism. Yemen has established a Special Criminal Court on Terrorism, which grossly fails to meet international fair trial standards.⁴⁴

- In Tunisia the government has used its 2003 antiterrorism law to arrest, detain, and allegedly torture hundreds of youths. The suspects have been charged with supporting jihadist movements but have not been accused of planning or committing acts of violence.⁴⁵ Several human rights groups have been denied registration and have faced harassment.⁴⁶

- In Russia the Duma has passed legislation giving security officials greater authority to monitor nongovernmental organizations suspected of funding political extremism.⁴⁷ Russian officials have established cumbersome registration procedures that effectively prevent many NGOs from being able to comply. Organizations are required to provide passport data and home addresses of founding members and to amend their charters to explain why they should be allowed to operate in Russia.⁴⁸ The Society for Russian-Chechen Friendship, which accused the Russian government of murder, torture, and the displacement of civilians in Chechnya, was closed and its director was placed on probation for "incitement of hostility and xenophobia."⁴⁹

- In Uzbekistan government authorities have clamped down on the domestic NGO sector and driven nearly all independent organizations underground. In 2004 the government introduced new regulations requiring international NGOs to gain government approval of the content, agenda, timing, and place of planned activities and to invite government officials to attend. All women's NGOs were required to re-register with the government.⁵⁰ Following the events in Andijan in May 2005 Uzbek officials shut down many NGOs and international organizations, including the BBC, Freedom House, and the Eurasia Foundation, and threatened others with closure.⁵¹ More than 300 people have been convicted and sentenced, mostly in secret trials, for their role in the Andijan uprising.⁵² Thousands of activists, including some 4,000 adherents of the nonviolent group Hizb ut-Tahrir (Party of Liberation), have been incarcerated.⁵³
- China has used the pretext of counterterrorism to intensify efforts to control the Turkic-speaking Uighur Muslim population in the Xinjiang region. Pressure has been applied against cultural and religious organizations that are unwilling to implement government-controlled directives.⁵⁴
- The new counterterrorism ordinance adopted in Bangladesh in 2008 violates the rights of citizens and establishes overly broad definitions of terrorist acts. The military-backed interim government kept the ordinance secret until it was announced, preventing public and civil society input. The law broadens the definition of terrorism to include "damage to any property of any person" and allows convictions for financing terrorism on the basis of "reasonable suspicion" rather than proof beyond a reasonable doubt.⁵⁵
- The Human Security Act passed as a counterterrorism measure by the Philippine Congress in 2007 has been criticized for having an overly broad definition of terrorism, and for permitting the indefinite detention of terrorism suspects and the rendition of persons to countries that commit torture.⁵⁶
- In Sudan emergency laws have given government officials the arbitrary right to designate individuals and groups as regime opponents. Citizens are denied the right to assemble and are unable to gather in groups to express grievances without government approval. CSOs in Sudan are caught in a dilemma where their government has been branded by the U.S. and other major powers as a terrorist regime, while they are urged by international donors to engage with that government in support of peace building initiatives. Several organizations have been closed down by the Sudanese government for supposedly engaging with "suspicious" donors (those considered to be part of the international movement that has branded Sudan a terrorist state). Leaders of international NGOs that criticize human rights abuses have been expelled.
- In Ethiopia development and humanitarian groups have been expelled from the eastern Ogaden region and have found it difficult to provide assistance to communities affected by the conflict there. In Oromia, Ethiopia's largest state, opposition groups and human rights activists have faced harassment for allegedly supporting the outlawed Oromo Liberation Front. Among more than 200 people arrested in western Oromia in 2007 were members of the Oromo Federalist Democratic Movement, a registered opposition party, and the Nekemte chapter of the Ethiopian Human Rights Council.⁵⁷ Ethiopian regulations on NGO registration are vague and open to discretionary interpretation, allowing government officials to delay and deny applications at will.⁵⁸
- In Uganda, CSOs are not permitted to enter local communities without the permission of a government-appointed district executive committee. In 2005 an anti-corruption group in the country was confronted with demands from government officials for a seat on the organization's board of directors and the right to use the group's vehicles and equipment. The demands were rebuffed, but the incident forced the group into a reactive posture that diverted attention from other program priorities.
- In Zimbabwe the government has charged political opponents with supporting terrorism, citing as evidence the fact that they receive financial support from western governments. Distributing humanitarian food assistance without government participation in Zimbabwe has been labeled a terrorist act.

- In El Salvador in July 2007 several hundred people preparing to attend a forum criticizing the privatization of water utilities in the small town of Suchitoto were accused of blocking the road and were attacked by riot police firing rubber bullets and tear gas. Thirteen people were arrested and initially charged with public disorder, but the attorney general later changed the charges to “terrorism,” citing the country’s “Decree 108: The Special Law Against Acts of Terrorism” enacted in 2006.

Good CTMs

The litany of repressive counterterrorism measures is long, but the list of positive policies for preventing violent attacks is also extensive. Efforts to enhance law enforcement capacity within a human rights framework have been effective in many countries. Especially helpful are programs that emphasize community policing and that promote the rule of law and protect the rights of citizens. International police cooperation and intelligence sharing have been successful in thwarting attacks, perhaps most dramatically in foiling alleged plans to bomb flights over the Atlantic in August 2006. After the bombing of the U.S. embassies in Kenya and Tanzania in 1998, police officials in East Africa worked together through the Intergovernmental Authority on Development to coordinate counterterrorism responses, resulting in the interdiction of a planned attack in Uganda. Many other successes have been recorded.

The United Nations has established a range of programs for improving international police cooperation and strengthening nonmilitary pressures against terrorists and those who support them. Targeted sanctions applied under UN Security Council Resolution 1267 (1999) and subsequent resolutions have exerted pressure on designated Al Qaeda and Taliban leaders and supporters—although concerns about the lack of due process in listing and delisting procedures have undermined public support for sanctions. Security Council Resolution 1373 (2001), adopted immediately after the 9/11 attacks in the U.S., directed all UN member states to take mandatory measures to deny finances, travel, or assistance of any kind to terrorists and those who support them. The UN Counter-terrorism Committee established by the resolution has focused on strengthening international cooperation and encouraging the provision of capacity-building assistance to states that need help in implementing counterterrorism mandates. The Nonproliferation Committee created by Resolution 1540 (2004) has strengthened international efforts to prevent weapons of mass destruction from falling into the hands of terrorists.

In 2004 UN Secretary-General Kofi Annan cautioned that security-oriented measures alone are not sufficient to overcome the global terrorist danger. The report of his High-level Panel on Threats, Challenges and Change called for a comprehensive approach that balances security concerns with the rule of law and the defense of human rights.⁵⁹ In his March 2005 report, *In Larger Freedom*, Annan emphasized the need for a holistic approach: “development, security, and human rights go hand in hand. . . . we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.”⁶⁰

In 2006 the UN General Assembly adopted a *Global Counter-Terrorism Strategy* that on paper embodies Annan’s call for a more comprehensive and integrated approach. The *Strategy* transcends the narrow security-oriented focus of Security Council resolutions and links the struggle against terrorism to a broader set of principles for avoiding violent conflict through development, democracy, and diplomacy. The *Strategy* identifies four pillars of international policy:

- I. Measures to address the conditions conducive to the spread of terrorism;
- II. Measures to prevent and combat terrorism;
- III. Measures to build States’ capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard;

IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.

It is significant that the first of the pillars focuses on conditions conducive to the spread of terrorism. This places the primary emphasis on efforts to advance development and good governance, not on security measures. The *Strategy* defines 'conditions conducive' as "prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization, and lack of good governance." The way to fight terrorism, according to the *Strategy*, is not only to enhance security, through such measures as improving border controls, but to adopt preventive measures such as resolving conflict, ending foreign occupation, overcoming oppression, eradicating poverty, and promoting sustainable economic development and good governance. The *Strategy* notes that success in realizing development objectives and improving human rights and governance could "reduce marginalization and the subsequent sense of victimization that propels extremism and the recruitment of terrorists."⁶¹

While the *Strategy* is an improvement over approaches that are focused narrowly on security, it can be interpreted as subordinating development and human rights imperatives to the logic of security. Civil society groups have expressed concern that development and human rights efforts are being placed at the service of security agendas and short-term political and military strategies.⁶² This undermines the integrity of rights-based development, which is critically important in its own right and should be supported fully without reference to other priorities.

The UN *Strategy* is nonetheless important because it helps to shift the focus of international policy away from a narrow focus on security toward a more holistic approach that prioritizes development, human rights, and democratic governance. Because it is approved by all 192 UN member states, the *Strategy* has enormous political legitimacy. It gives prominence to conflict prevention rather than security protection. Pillar I pays specific attention to the advancement of development, while Pillar IV emphasizes the promotion of human rights and the rule of law. The protection of human rights cuts across all four pillars of the *Strategy* with the instruction "that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law."⁶³ The *Strategy* creates an opportunity for promoting these goals through the cooperation of states and the support of multiple stakeholders, including civil society.

Civil society groups play an indispensable role in advancing human rights. Repressive governments by their very nature lack effective mechanisms for considering these issues. They are loath to consider policy changes that can lead to more representative governance and greater economic and political equity. These are precisely the areas where CSOs can be most helpful. Development and human rights groups can prevent violent extremism by pursuing their core mission of rights-based development. If governments are serious about countering terrorism they should support rather than impede this vital work.

Securitizing Aid

The global emphasis on counterterrorism has accelerated a trend among donor governments and agencies to incorporate security concerns into development policy. The Development Assistance Committee of the Organisation for Economic Co-operation and Development (DAC/OECD) has adopted guidelines permitting quasi-military programs such as security sector reform to be classified as Official Development Assistance (ODA). Aid agencies within the European Union have shifted resources toward security-related programs. The EU's security framework of June 2003 emphasized the use of development aid for security purposes.⁶⁴ The Danish development agency DANIDA announced in 2004 that security would be a top criterion for deciding aid allocations.⁶⁵ The British development agency DFID has increased its funding for security related programs.⁶⁶

Japan has long been known for its generous and depoliticized aid budgets.⁶⁷ With the onset of the war on terror, however, Japan's ODA budget began to incorporate security concerns. In August 2003 the government revised its ODA charter to allow consideration of security and counterterrorism interests in its aid policies. As part of this shift Japan has assisted Indonesia, the Philippines, and other Asian governments with capacity building programs to enhance law enforcement and police forces. Japan has also made commitments to assist reconstruction in Afghanistan and Iraq, including \$29 million for equipped vehicles for the Iraqi police.⁶⁸

This convergence of development and security is reflected in the 2003 DAC/OECD policy statement, "A Development Cooperation Lens on Terrorism Prevention." The statement argued that "donors can reduce support for terrorism by working towards preventing the conditions that give rise to violent conflict in general and that convince disaffected groups to embrace terrorism in particular." The paper interpreted terrorist insurgency as stemming from the frustration and anger that arise from social exclusion and political injustice, conditions that effective development policies can help to overcome.⁶⁹ The "Lens on Terrorism" paper has served as the basis for the allocation of ODA funds to security sector reform and other military and police related programs.

The policy of funding security activities through ODA budgets has aroused controversy among development groups and civil society actors. Development advocates have sought to shield aid programs from military encroachments, even as they recognize the deep and inexorable connections that exist between development and security. Accepting the need for a more integrated and coherent approach to development and security does not justify "the slow bleeding of financing for development purposes into security-related military activities," declared a report for CIDSE, the coalition of Catholic development agencies in Europe and North America.⁷⁰ Nor does it mean that all development and security goals are compatible. APRODEV, the Association of World Council of Churches-related Development Organizations in Europe, acknowledged that development can contribute to security, but only if the integrity and autonomy of development activities are respected fully. Faith-based agencies emphasize their commitment to the preferential option for the poor and the powerless, and to the vision of a more just and peaceful world. They support a holistic human security strategy that prioritizes the well being of individuals and communities rather than a narrow approach that protects the interests of states. They argue that human rights and development should be seen as ends in themselves, not as means to other purposes. Development cooperation should not be subsumed to an idea of security based on defending the interests and preserving the way of life of states in the global North. Peace cannot be imposed "from above." For peace to be sustainable, it must grow "from below."⁷¹

Militarized Development

The United States has increasingly viewed development assistance as a tool of national security strategy. In January 2006 the State Department announced a program of "transformational diplomacy" in which development programs would work in support of larger U.S. national security objectives. Critics have charged that this subordinates traditional goals of mitigating poverty and promoting freedom to the broader agenda of counterterrorism and international security. It turns USAID into a "quasi-security agency."⁷² The new mandate blurs the analytic boundaries between security and development while politicizing both and detracting from efforts to improve the lives of the world's most disadvantaged communities.

An increasing amount of USAID's budget is being allocated to security-related activity. In some of the countries where such assistance is provided, police forces are highly repressive and unaccountable. Assistance provided to such forces in the absence of needed structural reforms may simply reinforce repressive tendencies and undermine civil society efforts to defend human rights and establish democratic oversight.⁷³

The percentage of U.S. ODA channeled through the Pentagon has increased to 21.7 percent in 2005, from 3.5 percent in 1998.⁷⁴ The major recipients of USAID funding are the governments of Iraq, Afghanistan, Pakistan, Colombia, Ethiopia, and

other states participating in the U.S. global war on terror. In Afghanistan, U.S. and NATO forces have established Provincial Reconstruction Teams (PRTs) in which soldiers play a direct role in providing humanitarian and development assistance. Similar PRTs have been established by U.S. forces in Iraq.

PRT programs are “overwhelmingly military in scope and operation,” with a primary focus on force protection and security assistance. The PRTs have suffered from “generally poor development practice” and “relative lack of attention to promoting good governance and the rule of law.” Problems identified with the PRTs in Afghanistan and Iraq include “an overly-militarized focus, the absence of inter-agency doctrine, inadequate civilian resources and personnel, no baseline assessments, meager strategic planning, and few metrics for assessing the impact of activities.”⁷⁵

Concerns have been raised about the use of the armed services to perform duties that traditionally are the exclusive province of civilian agencies. Development programs seek to empower local partners and build long-term relationships, while military forces typically serve a narrow, short-term security agenda.⁷⁶ Members of the armed forces are not well-equipped by their mandate and training to address the sources of underdevelopment, alienation, and instability in marginalized communities. Few soldiers possess the needed expertise in matters of governance, development, and the rule of law.⁷⁷ Assigning these tasks to soldiers rather than civilians displaces the role of civil society and undermines the principles of local self-reliance and grassroots empowerment that are vital to genuine development and democratic governance. It also militarizes international policymaking. U.S. Defense Secretary Robert Gates recently referred to the “creeping militarization” of U.S. foreign policy. He described concerns about this trend as “not an entirely unreasonable sentiment.”⁷⁸

Many development and humanitarian professionals are alarmed at what they see as the redirection of aid away from poverty reduction and social development toward a counterterrorism and security agenda that serves the interests of states in the global North rather than the needs of marginalized people in the South. The increasing role of military forces has undermined the independence and impartiality that are necessary for effective humanitarian activity. NGOs under these circumstances may be perceived by the local population as accomplices of western military occupation.⁷⁹ Peace builders and aid workers are often caught in the middle—distrusted by governments as terrorist sympathizers while facing skepticism and even hostility from local communities because of perceived connections to repressive government policies. Partly as a result aid workers have been targeted more frequently by insurgents and terrorist groups. The bombing of UN offices in Baghdad in August 2003 and Algiers in December 2007 were tragic manifestations of this phenomenon.⁸⁰ Other examples include recent attacks and abductions of civilian aid workers in Somalia.

The UN report following the Algiers bombing noted that “in many places the UN is no longer seen as impartial and neutral,” but rather as serving “a pro-western agenda.” The UN humanitarian mission has been “negatively affected” by its association with “international and national military forces, security arrangements that do not seek acceptance from local communities” and the perceived “subordination of humanitarian activities to partisan political considerations.” In such circumstances, said the report, the UN is seen as being “on the wrong side of justice.”⁸¹ These negative repercussions also affect civil society groups that attempt to uphold the development and humanitarian principles upon which the UN was founded.

Interaction between civilian and military actors is increasingly common in UN operations and in development, humanitarian, and peace building activities. While some NGOs try to avoid involvement with armed forces, others adopt a more pragmatic approach under the dictum ‘as civilian as possible, as military as necessary.’ A recent Cordaid-commissioned report identifies principles for managing civilian-military interactions.⁸² The report highlights the valuable protection that security forces can provide but emphasizes the importance of civil society actors performing functions for which civilians are uniquely suited, such as promoting human rights and development and enhancing democratic governance.

De-funding Civil Society

Tighter restrictions on international financial transactions are a central element of international counterterrorism policy. These measures have had a negative impact on civil society groups, however, especially those that depend on funding from overseas donors and diasporas. The Financial Action Task Force (FATF) has issued nine Special Recommendations against the financing of terrorism. Recommendation VIII instructs governments and financial institutions to “ensure that nonprofit organizations cannot be misused to finance terrorism.” In its Interpretive Note on Recommendation VIII, FATF claimed, without providing evidence, that nonprofit organizations are particularly vulnerable to terrorist manipulation and that terrorist groups have exploited the nonprofit sector to raise and move funds in support of their operations.⁸³

The European Commission takes a more cooperative approach to addressing the risks of terrorist financing. The Commission has issued guidelines and a draft code of conduct for engaging with civil society groups.⁸⁴ The EU Justice and Home Affairs Council has highlighted the need to safeguard the integrity of the nonprofit sector and called for greater dialogue between states, civil society groups, and relevant stakeholders. Accountability and transparency are “at the heart of donor confidence,” according to the Justice and Home Affairs Council. The challenge of preventing terrorist finance requires “effective, proportionate measures of oversight,”⁸⁵ which are best achieved through cooperation rather than accusation.

The suspicion of wrongdoing by nonprofit groups has created a chilling effect in the donor community. Some donor agencies have become fearful that funds intended for humanitarian purposes might be frozen by governments.⁸⁶ Charities face the risk that counterterrorism financial restrictions will be applied to their activities.⁸⁷ As a result donors have become risk averse and reluctant to fund initiatives that address controversial issues or challenge inequalities. Philanthropic agencies that previously supported track two diplomacy and informal peace processes have scaled back some of their work in conflict zones due to designations of certain actors as terrorist.

The new restrictions on nonprofit financing undermine trust and cooperative relations between donors and overseas partners.⁸⁸ Programs in Arab and/or Muslim countries are particularly susceptible to critical scrutiny and in many cases have been subjected to asset freezes and legal or administrative barriers to continued operation. A 2004 survey by the U.S.-based Foundation Center found that making grants internationally has become more difficult due to a “more demanding and uncertain regulatory environment” and “increased security risks abroad.”⁸⁹

The U.S. Treasury has established a Risk Matrix for charitable giving that stigmatizes social change philanthropy, i.e., programs that address and seek to overcome social, economic, and environmental inequalities.⁹⁰ Such programs help oppressed communities find opportunities for democratic expression and nonviolent means of attaining justice. They are means of overcoming conditions conducive to violent extremism, yet they are defined as high risk and are becoming more difficult to fund.⁹¹

Under new guidelines established by the U.S. government, foundations and donor agencies are being urged to collect information on their partners and to certify that no funds are being provided to individuals or entities associated with terrorism. Foundation executives are highly critical of this vetting system and view such guidelines as “useless and embarrassing, damaging trust . . . with the very groups that could make a difference in improving conditions that lead to terrorism.”⁹² Requiring nonprofit groups to collect personal information on their partners puts them at risk of being perceived as law enforcement or intelligence agents. A major health care NGO wrote in a letter to USAID that such data collection “can only serve to incite animus and increase the likelihood of attacks” against donor agencies and their local partners.⁹³ Cordaid recently declined a USAID co-financing grant for a partner group in North Kivu in the Democratic Republic of Congo because of the rigid conditions attached, including participation in the partner vetting system. In 2008 it declined a similar financing opportunity in Pakistan for the same reasons, a refusal to compromise relationships of trust with local partners.

In several countries, governments have adopted legislation and implemented regulations curbing remittances and imposing conditions on foreign funding.⁹⁴ In June 2007 the government of Bangladesh notified NGOs that at least half of all foreign grants must be spent on visible development projects such as roads and canals.⁹⁵ Grants to NGOs from external sources often must be approved by government officials, who are likely to reject projects that challenge government policies or existing power relations. Local groups are often required to raise “counterpart funds” to match a percentage of the funding offered from external sources, a condition that is difficult to meet in low-income countries. Hardest hit by such regulations and financial restrictions are communities in war-torn areas, such as the Gaza Strip in Palestine, which depend upon the support of charitable agencies and funding from diasporas and external donors.

Islamic NGOs have experienced particular difficulties because of CTMs and tighter restrictions on transnational funding. The Oxford-based International NGO Training and Research Centre (INTRAC) has reported that Muslim NGOs “in the USA and elsewhere . . . are finding it harder to raise funds” and fulfill their religious duty of almsgiving, the *zakaat*, which is one of the five pillars of Islam.⁹⁶ Muslim charities and trusts in the UK have been exposed to high levels of scrutiny under anti-terror legislation.⁹⁷ Since 2001, three of the largest Islamic organizations in the United States—the Holy Land Foundation, Global Relief Foundation, and Benevolence International Foundation—have had their assets frozen.⁹⁸ The overall effect of such measures is a decline in giving to Islamic charities and challenges to the religious obligation to serve the needy.⁹⁹

Protecting Civil Society

In response to the repressive pressures and restrictions that have been imposed on civil society groups and their supporters, NGOs have established a set of core principles for protecting the ability of civil society groups to promote development, good governance, and conflict prevention. As civil society groups seek to uphold the rights of people in the communities they serve, they have also sought to assert their own right to operate freely without government interference and harassment. The International Center for Not-for-Profit Law (ICNL) spelled out these principles in the recent report, *Defending Civil Society*. As the ICNL study indicates, the principles of civil society protection are based on universal human rights conventions and declarations to which virtually all governments have subscribed. The principles are as follows:

- The right to entry, defined as the freedom to associate and form organizations;
- the right to operate without unwanted state interference;
- the right to free expression;
- the right to communicate and cooperate freely internally and externally;
- the right to seek and secure resources; and
- the right to have these freedoms protected by the state.¹⁰⁰

The right to associate is guaranteed by numerous international legal agreements, including the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights, and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The latter agreement, adopted by the General Assembly in 1998, states that “everyone has the right, individually and in association with others, at the national and international levels to form, join and participate in non-governmental organizations, associations or groups.”¹⁰¹ The right to communicate and cooperate is implicit in these guarantees and is further specified in legal agreements that protect the right of organizations to send and receive information across borders.

The right to free expression is guaranteed in the Universal Declaration of Human Rights and many other international legal instruments. Freedom of expression is closely linked to freedom of association, as the two form the essence of democratic liberty. Freedom of expression includes the right to criticize government policies or express views that may “offend, shock or disturb.”¹⁰² The right of free expression does not extend to inciting violent attacks, however. The UN Security Council in Resolution 1624 (2005) calls on states to prohibit incitement to commit acts of terror, and the Council of Europe Convention on the Prevention of Terrorism (2005) includes similar language urging governments to criminalize public provocation to commit terrorist acts—although both agreements provide that restrictions on incitement or provocation comply with international human rights law. Balancing these seemingly contradictory requirements is a demanding and complex task, made more difficult by the use of vague terms such as “glorifying terrorism” and by the lack of precise definitions for “extremism” and “terrorism” itself.¹⁰³

International legal agreements provide protections against unwarranted state intrusion or interference in the internal operations of the nongovernmental sector. These agreements also guarantee citizens the right to seek and secure funding from legal sources. As noted above, some governments have imposed restrictions on funding from foreign sources. Such policies violate the spirit and the evolving trend of international law.¹⁰⁴ The UN Defenders Declaration states in Article 13: “Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means.”¹⁰⁵ The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) declares that freedom of thought includes the right to “solicit and receive voluntary financial and other contributions from individuals and institutions.”¹⁰⁶

States must not only refrain from interference with human rights and fundamental freedoms, they must defend these rights and assure their free exercise. It is critically important that governments create an enabling environment in which civil society actors can operate freely. Article 55 of the UN Charter urges states to respect human rights and fundamental freedoms. The International Covenant for Civil and Political Rights obligates states to ensure the full range of rights to all individuals within their territory and jurisdiction. Many other international and regional legal agreements specify the duty of states to assure citizens the full range of human and civil rights, including freedoms of association and expression.¹⁰⁷ States that take actions to limit the exercise of these rights are violating international law and are acting contrary to covenants and legal agreements they themselves have adopted.

A Voice for Change

Civil society groups and the development community generally have not engaged sufficiently in the public debate over counterterrorism strategy and the proper approach to overcoming violent extremism. Cordaid, CIVICUS, INTRAC, the Interchurch Organisation for Development Co-operation (ICCO), OMB Watch, Urgent Action Fund, Frontline Defenders, Global Grantmakers without Borders, Human Rights Watch, and other research and action groups have produced reports and sponsored workshops and conferences to identify the problem of counterproductive CTMs, but to date little concerted action has been mounted to alter the harmful impacts that have been identified. The securitization of aid and the harmful impacts of counterterrorism policy have created a “defining moment” for the development community, according to a report from CIDSE.¹⁰⁸ It is imperative that civil society groups mobilize to protect their operational and political space and advocate more effectively on behalf of rights-based development.

Development actors should join together in an international network to express a coherent voice and engage in a common set of activities to address the challenge of repressive CTMs.¹⁰⁹ A two-pronged effort is needed. The first task is to agree on a set of principles and policy recommendations for ending bad and ugly CTMs and supporting those that are good. The second challenge is to develop a coordinated advocacy campaign and allied communications effort to persuade policymakers

and the public on the need to adopt the agreed principles and recommendations. Both efforts should be framed as part of a broad international effort to reorient counterterrorism policy away from a war paradigm toward a more holistic approach that addresses the social, economic, and political roots of extremism. By compiling examples of positive and negative development practice CSOs can establish a basis for constructive engagement with states and donor agencies. They can help to craft and encourage support for counterterrorism policies that align the quest for stability with social justice, the protection of human rights, the resolution of conflict, and sustainable development.

Development NGOs are well-suited to these challenges. They have extensive field experience in zones of conflict. Their mission of reducing poverty and overcoming social exclusion are exactly what is needed to ameliorate conditions conducive to terrorism. They have important knowledge from working with partners in many of the most desperate and marginalized communities in Africa, Asia, and Latin America on the specific local conditions that fuel extremism. They have experience and wisdom that should be communicated more widely to policymakers and the public.

CSOs need to be more proactive, and should take the lead in reframing the political discourse on terrorism and counterterrorism. Civil society groups should craft a new narrative and shape the terms of the debate through an innovative policy framework that is empirically based and ethically grounded. CSOs should communicate this perspective through more effective use of established mass media outlets and through new communication tools such as the Internet and social networking, to raise public awareness and counter false claims and misinformation.

Development NGOs and agencies should not shy away from the requirement for greater transparency and accountability in their finances and program operations. Legitimacy and public integrity are vital to CSOs and are essential to the effectiveness of their mission of helping the needy and empowering the marginalized. As transparency and accountability are demanded of NGOs, however, the same transparency and accountability are needed from governments and donor agencies. Officials who make public claims and establish policies on the basis of alleged NGO associations with terrorism have a responsibility to justify such assertions. Responsible NGOs should not be made to invest resources in proving their bona fides in the absence of legitimate charges or verifiable evidence.

Conclusion

Civil society groups are performing work that is essential to the challenge of countering global terrorism by advancing development, human rights, and conflict prevention. This work is not labeled counterterrorism, nor should it be, but it is what the UN *Strategy* proposes as the key to preventing terrorism. Civil society groups make a decisive contribution to reducing the threat of global terrorism through their work for development, human rights, and democracy. International policymakers must recognize and protect this vital mission and take action to eliminate counterproductive CTMs.

Civil society groups themselves must engage more actively in the counterterrorism debate and take necessary steps to strengthen their role in eliminating conditions conducive to violent extremism. Independent citizen groups must stand together to protect their operational space and assert their right to serve community needs free of state interference. CSOs can respond most effectively to repressive counterterrorism measures by continuing to expose and challenge abuses and by building public support for more accountable governance based on the rule of law. Civil society groups can contribute to the struggle against oppression and global terrorism by pursuing their core mission of human rights and economic empowerment and by emphasizing that development, freedom, and security are indivisible.

Recommendations to States

Governments should:

- Support and encourage civil society organizations to continue their work for development, human rights, and democratic governance as a way of ameliorating conditions conducive to the spread of violent extremism, without insisting that this work be linked specifically to or be described as counterterrorism activity, but with the understanding that it contributes to the implementation of the UN General Assembly *Global Counter-Terrorism Strategy*.
- Defend and protect the rights of civil society organizations and allow them the space they need to operate effectively. Fulfill obligations under international law to guarantee the right of civil society organizations to associate freely, to operate without interference, to communicate freely, to cooperate with others internally and externally, to seek and secure resources, and to have these freedoms protected by the state.
- Recognize the harmful impact counterterrorism measures may have on civil society organizations and take steps to ensure that such measures do not hinder the work of legitimate rights-based development groups. Include sunset clauses in all counterterrorism and emergency security measures. Involve CSOs in the process of reviewing and assessing the effectiveness and impacts of such measures before they are reenacted.
- Take special precautions to ensure that measures to prevent the financing of terrorism do not hinder the funding of legitimate humanitarian, development, and human rights activity by reputable civil society organizations and charities, especially in Muslim countries. Invite major foundations and nongovernmental donor agencies to join with government officials and financial officers to establish more effective measures to protect the funding of humanitarian, development, and human rights activity while taking appropriate measures to prevent the financing of terrorism.
- Assess the impact on civil society organizations in recipient countries of counterterrorism capacity building and technical assistance measures, especially measures that enhance the power and authority of security forces and police agencies. Include criteria for the assessment of civil society impacts in evaluations of counterterrorism assistance programs, including assessments of human rights impacts. Seek the input and advice of civil society organizations when conducting evaluations of counterterrorism assistance programs.
- Take advantage of the unique knowledge and access some civil society organizations have in zones of conflict. Respect the right of civil society groups to engage in conflict transformation activities and to promote human rights and democratic governance among populations that governments and security forces may consider unfriendly. Invite relevant civil society groups to undertake assessments of the impacts of counterterrorism measures on local efforts to enhance development and human rights and to resolve and prevent conflict.
- Rescind repressive counterterrorism measures and special or emergency legislative provisions that violate the fundamental rights and freedoms of citizens. Ensure that security forces operate under rigorous standards of compliance with humanitarian and human rights law. Disband special security forces and detachments found guilty of extrajudicial killings and abuses of human rights.
- Cooperate with other nations in placing strict limits on the diversion of ODA funding for security-related activities. Respect and preserve the independence and priority role of civilian agencies in administering and delivering humanitarian assistance and development aid. Limit military involvement in development and humanitarian activity to essential protective and support functions that are unavailable from civilian providers.

- Engage in dialogue with civil society organizations on issues related to the implementation of the UN *Strategy*. Encourage nongovernmental organizations to offer suggestions and proposals for more effective policies to address the conditions conducive to violent extremism and human rights abuse.
- Encourage the creation of mechanisms for civil society organizations to provide input and advice in international policymaking on security and counterterrorism issues. Invite civil society organizations to bring to the attention of the United Nations and other international bodies evidence of practices or policies that are impeding the implementation of measures to prevent violent extremism.
- Give consideration to the formation of a civil society advisory committee that could provide input to the United Nations Task Force on Counterterrorism Implementation and other UN agencies and international bodies charged with implementing counterterrorism mandates.

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FRONT COVER PHOTO: An unidentified woman participates at the Afghan Civil Society Meeting in Bad Honnef, a small city near Königswinter where the UN organized talks on Afghanistan, on Friday, November 30, 2001. The meetings were organized by the Swiss Peace Foundation and the German Institute for International and Security Affairs. (AP Photo/Markus Schreiber).