

Tom Keatinge
December 2013

SAFEGUARDS IN INTERNATIONAL COUNTER-TERRORISM STRATEGIES

Who am I...?

- Career in banking for 20 years
- Studied Masters in Intelligence & International Security at King's College London
 - Dissertation: 'What Role Does CFT Play in International Security? Can it Be Deemed Effective?'
 - Co-author: 'Draining the Ocean to Catch one Type of Fish: Evaluating the Effectiveness of the Global Counter-Terrorism Financing Regime' (Perspectives on Terrorism, Vol. 7, No. 4)
 - Blog: 'A War of Proportion: Regulating the Financial Sector in the Name of Counterterrorism' charityandsecurity.org
 - Contributor to HMG commissioned Somali MSB report
 - Contributor to current Home Affairs Committee CT inquiry

What is the HSC...?



- 2008: started as a innovation unit within Cordaid
 - Became separate in 2012
- Focuses on impact of CTMs on civil society ('CS')
- Researches impact of CTMs (Friend not Foe) / FATF R8
- Builds relations with UN CTED/CTITF to engage CS in the CT reviews and policy
- Convenes, coordinates, and facilitate dialogue between CS, policy shapers, and other actors to enhance alternative approaches to current security and counter terrorism practice

The thesis...

'CT measures are usually weighted toward the executive branch of government, with little attention to enhancing judicial independence, legislative oversight, and citizen involvement. Emergency CT measures have had the effect of undermining civil liberties, restricting the ability of civil society groups to operate, and impeding development and relief activities...'

Cordaid commissioned report by Kroc Institute (2008)

More specifically...

'...emergency law corrodes the normal criminal justice system and politicises the rule of law... Emergency legislation is ineffective in deterring terrorism because it demonises and alienates the very communities that could be of most assistance in fighting terrorism.'

Belfast-based Committee on the Administration of Justice

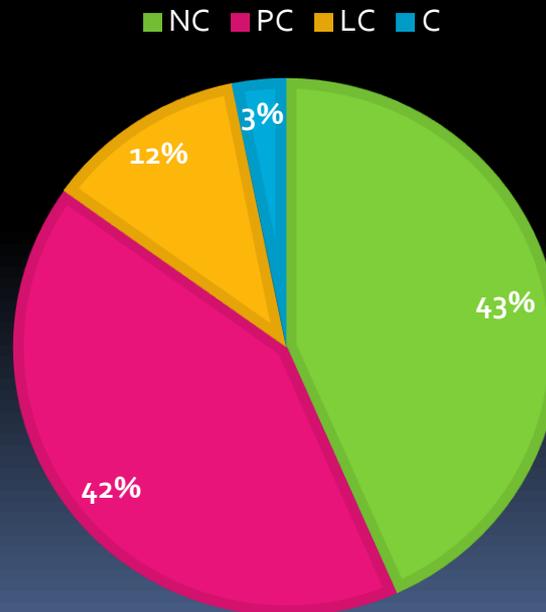
Some brief history...

- 9/11 triggered systematic global CT effort
 - Driven by US, directly or via global fora
 - FATF created 9 Special Recommendations
 - R8 specifically highlighted vulnerability of NGOs
 - Regulation of remittances / foreign funding
 - Banks remove services (transfers / accounts)
 - NGOs required to 'vet' beneficiaries: spying?
- Underlying issue, what is 'material support'?

Further action could be expected...

- FATF evaluations highlight levels of compliance
- New risk-based approach may help but...

FATF SRVIII COMPLIANCE SCORE



Notes: n=159;
Compliant includes
Tunisia and Egypt; data
from MEVAL 2005-11

A framework for enhancing safeguards...

- CT measures weighted toward executive branch of government
- Safeguards should focus on key areas of neglect
 - Enhance judicial independence
 - Enhance legislative oversight
 - Enhance citizen involvement
 - Restore individual rights and political freedoms
- Safeguards should also be equally applied

ICNL's core principles...

- International law requires states to assure human / civil rights and freedoms of association / expression
- State should therefore provide
 - Right to entry (associate/form organisations)
 - Right to operate without unwanted state interference
 - Right to free expression
 - Right to communicate and cooperate freely
 - Right to seek and secure resources
 - Right to have freedoms protected by the state
- Test appropriateness of new/existing CT measures
 - Are rights threatened? Do CT measures curtail rights?

CT in the context of IHL...

- CT and IHL goals significantly overlap
- Clear evidence that terrorist groups fill vacuum left by CT restrictions on humanitarian aid
- Consider goals of CT effort in terms of IHL
 - Balance military necessity with humanity
 - Current balance excludes aiding many victims
 - Maintain neutrality and impartiality (avoid perceived 'Western bias' of NGOs)
- Reframing CT policy v's IHL should be considered, recognising the impartiality of humanitarian action

Concluding thoughts.. (1)

- NGO ethos is generally aligned with CT goals
 - NGOs perform work that is key to CT
- Clear and consistent guidelines are required
 - Currently too much room for interpretation
- States should be monitored and held to account by the UN
- Engagement between authorities and NGOs
 - Current FATF engagement is welcome – needs strong support from key nations

Concluding thoughts.. (2)

- Identify 'quick wins' to relieve or improve current situation
 - Rapid, situation/crisis-specific guidance
 - Greater use of exemptions
 - UK Safer Corridors project
 - US HAFA
 - ICRC code of conduct test
 - Use of independent CT legislation 'watchdogs'
- Ensure future CT measures are assessed against widely held principles such as IHL and UN-defined human and civil rights treaties
- Work of NGOs and security authorities is complementary not adversarial and regulation should reflect this

Contact details and selected sources...

- Tom Keatinge
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- Selected Sources
 - Kroc Institute et al (2008) *Friend not Foe: Civil Society and the Struggle against Violent Extremism*
 - HPG (2011) *Counter-Terrorism and Humanitarian Action: Tension, Impact, and Ways Forward*
 - UNOCHA (2013) *Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action*
 - UN Special Rapporteur (2013) *Report on the Rights to Freedom of Peaceful Assembly and of Association*
 - Ben Hayes (2012) *Counter-Terrorism, 'Policy Laundering', and the FATF: Legalising Surveillance, Regulating Civil Society*
 - World Bank (2010) *NPOs and the Combatting of Terrorism Financing*
 - ACLU (2009) *Blocking Faith, Freezing Charity*
 - Charity & Security Network website <http://www.charityandsecurity.org/>