

Special Resource

Weaponisation of the FATF Standards

A Guide for Global Civil Society

Stephen Reimer



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Executive Summary

The standards and processes of the Financial Action Task Force (FATF) are intended to uphold transparency and integrity within the global financial system, which in turn should curb the laundering of the proceeds of crime, stem corruption and protect the financial system from terrorist-financing abuse. Yet, as with other global policy instruments, the FATF standards have been weaponised by authorities worldwide as part of holistic campaigns to crack down on targets who threaten their interests, most often civil society actors such as watchdog organisations, journalists, opposition figures and other critics who threaten regime interests or stability.

Focusing solely on laws and powers related to the FATF's domain of anti-money laundering and counterterrorist financing (AML/CTF), and without attempting to compare this with misuse of other laws and policy areas, **this guide outlines the distinct attributes of AML/CTF measures that expose them to abuse - attributes that interact with factors outside the FATF's control to yield detrimental effects for civil society.** It highlights the identities and behaviours of the actors and organisations most susceptible to targeting and indicates where and when abuses are most likely to occur. Five major typologies of abuse are identified:

1. Intelligence fishing and scraping.
2. Strategic bank account freezing.
3. Harassment and prosecution of organisations.
4. Politically motivated (pre-trial) detention.
5. Lawfare for transnational repression.

The guide also outlines the unique impacts of such abuses on their targets, and offers civil society both tested and untested response options.

This guide endeavours to convert anecdotal evidence of abuses and misuses of the FATF system into an impartial body of research that can support existing advocacy and policymaking efforts.

Introduction

A protest movement against police brutality.¹

A human rights lawyer investigating state harassment of election observers.²

An anti-corruption watchdog run by a prominent opposition figure.³

The president of a politically independent newspaper.⁴

A religious organisation providing aid to individuals and communities experiencing marginalisation in rural areas.⁵

A successful business owner refusing to sell the military a controlling stake in their company.⁶

A journalist from a country's religious minority reporting on sexual violence.⁷

These are just a handful of the victims/survivors from around the world who have had their organisations closed, colleagues imprisoned, or bank accounts indefinitely frozen because of their pro-accountability and pro-transparency work as members of civil society. All of these incidents, and countless more, arise from a perversion of tools and powers stemming from anti-money-laundering and counterterrorist financing (AML/CTF) measures within the global anti-financial crime regime.

The anti-financial crime standards or '40 Recommendations' of the Financial Action Task Force (FATF),⁸ the global standard-setter for AML/CTF, are intended to 'protect financial systems and the broader economy more widely from threats of money laundering and the financing of terrorism and proliferation, thereby strengthening the financial sector integrity and contributing to safety and

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1. William Clowes, ' – Probes Protesters Under Terror-Financing Law', Bloomberg, 11 November 2020.
 2. Samuel Okiror, ' – Detains Leading Lawyer for LGBT Rights on Money-Laundering Charges', The Guardian, 23 December 2020.
 3. Reuters, ' – Critic – Takes – to European Court over Money Laundering Case', 6 March 2020.
 4. Nina Lakhani, 'Outrage in – as Crusading Journalist Given Six-Year Prison Term', The Guardian, 14 June 2023.
 5. Joseph Peter Calleja, ' – Nuns Accused of "Financing Terrorism"', Union of Catholic Asian News, 16 August 2022.
 6. Human Rights Watch, ' – : Terrorism Laws Abused in Businessmen's Arrests', 18 November 2021.
 7. Hannah Ellis-Petersen, ' – Journalist Freed on Bail After Being Jailed for Two Years Without Trial', The Guardian, 2 February 2023.
 8. Financial Action Task Force (FATF), 'International Standards on Combating Money-Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations' ('The FATF Recommendations'), updated November 2023, <<https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf>>, accessed 23 May 2024.

security’.⁹ Yet these very same standards have been seized upon by authorities worldwide to crack down on distinct targets that threaten their interests, most often civil society actors such as watchdog organisations, journalists, lawyers and other critics. Undoubtedly, the underlying philosophy of the FATF, its mission and its structures, are desirable and worthwhile. But the FATF’s manner of pursuing its mission through its universal standards has proven to be highly vulnerable to selective interpretation at best, and downright abuse at worst.

Such deliberate misuses of the global anti-financial crime regime represent a double threat. Attacks on civil society weaken the sector’s ability to pursue government accountability and entrench democracy. They also bring into disrepute tools intended to prevent financial crime, further exposing societies to the harms of illicit finance, crime and corruption, and enabling environments conducive to further suppression of civil society, democracy and an open society.

Authoritarian Abuses: Looking Beyond Recommendation 8

This guide uses the term ‘Authoritarian Abuses’ to bring much-needed attention to this problem and to distinguish it from related phenomena, such as the over-implementation of FATF Recommendation 8. This standard on preventing terrorist-financing abuse in the non-profit organisation (NPO) sector has been directly linked to the systematic exclusion of NPOs from the banking sector, and used by states as justification for enacting draconian oversight measures that serve to encumber the NPO sector in general.¹⁰

Authoritarian Abuses represent an expansion and evolution of the adverse secondary impacts brought on by Recommendation 8. The term refers to deliberate state misuse of various elements of the anti-financial crime regime underpinned by the FATF, with the purpose of suppressing specific targets and pursuing other regime interests. Whereas the downstream impacts of Recommendation 8 are, generally, sector-wide and concern misuse of CTF measures to suppress NPOs, Authoritarian Abuses are perpetrated against selected and discrete targets using AML as well as CTF measures, and against a much wider range of civil society actors than NPOs alone, including journalists and lone political activists and opposition figures. Put another way, perpetrators of Authoritarian Abuses draw on many FATF standards beyond Recommendation 8.

9. FATF, ‘Mandate of the Financial Action Task Force’, <<https://www.fatf-gafi.org/en/the-fatf/mandate-of-the-fatf.html>>, accessed 30 May 2024.

10. FATF, ‘High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards’, 27 October 2021, <<https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf.coredownload.pdf>>, accessed 23 May 2024.

Crucially, Authoritarian Abuses may be perpetrated by all regime types. Cases have been observed in autocracies and hybrid regimes, but, in addition, a handful of robust democracies have also been found to misapply anti-financial crime measures to meet ulterior objectives. As such, Authoritarian Abuses should be understood as actions taken by regimes to advance authoritarian ends – such as restricting freedom of assembly or opinion, or curtailing the freedom or fairness of elections – not as actions taken by authoritarian regimes alone.

At present, although instances of Authoritarian Abuses of FATF standards are scattered across the globe, governments appear to be drawing on a common playbook of tactics. This cross-fertilisation of techniques is providing authoritarian regimes in particular with another set of tools to enable domestic repression,¹¹ strengthening their hands at a time when democratic and liberal norms are already in retreat. On the receiving end, many civil society advocacy organisations lack a bird’s-eye view of the phenomenon, depriving them of opportunities to exhibit transnational solidarity, share response options and advocate for reform, while national and regional civil society organisations have a deeper understanding of other contexts and the global picture.

Further, for many members of civil society, anti-financial crime legislation and regulation, and their relationship with the FATF’s standards, are highly complex, not well known and appear high level, with little connection to their lived realities and experiences. This area of global norms translating into state policy can be challenging to comprehend at all, let alone understand how it might be misused or contorted to target regime critics.¹² This obstacle is greatest for civil society actors operating at local levels, whose community-focused activities are not often connected to policy debates on such issues. Without a better understanding of both the FATF rules and techniques for abusing them, civil society actors are at a distinct disadvantage in anticipating or responding to circumstances where administrative and other anti-financial crime measures are used to intimidate them.

A Guide for Civil Society

The purpose of this report is to supply civil society actors globally with a guide, grounded on an impartial evidence base, to both the weaponisation of the anti-financial crime regime that is enshrined within the FATF standards, and to identifying and responding to these abuses.¹³ The guide compiles identified case

11. Author interview with C2, 14 February 2023.

12. Author interview with C3, 15 February 2023.

13. This guide is published in conjunction with a Policy Brief intended for an expert-level policy and advocacy audience, which calls attention to the suite of FATF standards that have been implicated in Authoritarian Abuses and offers policy avenues for mitigating some of the worst outcomes for civil society. See Stephen Reimer, ‘Suppression Laundering: Using FATF as a Fig Leaf to Target Civil Society’, RUSI Policy Brief, 13 June 2024.

studies¹⁴ and material from expert interviews to offer an accessible resource for civil society groups to aid their own efforts in dealing with abuse and intentional misuse of the FATF standards. Its analysis is based on more than a year of research and consultation with experts and past victims and survivors of those misuses.

Specifically, the researchers carried out 25 interviews with victims/survivors and other civil society actors, including researchers and representatives of international organisations. Four online and in-person roundtable discussions with these victims/survivors and other civil society experts were also held to examine initial findings from the research.¹⁵ Three of these engagements were held in specific country contexts, one each in East Africa, Latin America and the Middle East and North Africa (MENA), with the fourth roundtable comprising international-level experts. In total, 126 distinct targets of Authoritarian Abuses from 34 countries across the Americas, Eurasia and Africa were collected in a qualitative database,¹⁶ featuring instances occurring between 2013 and 2023.

The guide has five chapters. Chapter I outlines the precise aspects of the FATF system and standards that make them vulnerable to Authoritarian Abuses. Chapter II outlines the most typical targets of Authoritarian Abuses, as well as when and where abuses are most likely to occur. Chapter III provides a taxonomy or ‘playbook’ of the most common tactics used by states when weaponising anti-financial crime laws and measures. Chapter IV discusses the outcomes of those attacks and their impacts and consequences for civil society actors. Chapter V turns to the question of responses, and focuses on several response options that have been chosen by victims/survivors of Authoritarian Abuses, including to rectify damages suffered themselves, to take steps towards insulating their peers from abuse, and to advocate for reforms to curtail future such abuses. The guide concludes with some of the author’s reflections on the future, based on more than a year of research on the subject, which may help civil society in designing and framing the advocacy actions this guide hopes to inform.

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14. A choice was made to refer to case studies by region, to avoid ‘naming and shaming’ certain countries and distracting from the more important issue of evidencing how tactics of Authoritarian Abuses are used globally. This choice was also a consequence of a limitation of the study, which means that, because a substantial number of cases will not be reported in the media, the sample of collected cases is likely to be skewed. In other words, it would be methodologically unsound to name a country only because of the relatively high rate of reported cases there, while others that may have higher rates of unreported Authoritarian Abuses are not named. Anonymisation of cases in this way was also undertaken to protect the identities of individuals interviewed for the study. Country names have been removed from footnote citations for the same reason.
 15. Interviews and roundtable discussions have been anonymised to protect the identities of participants. For referencing purposes, an alphanumeric code was assigned to each interview or engagement. Interviews held with victims/survivors of Authoritarian Abuses are denoted by V/S; researchers by R; representatives of international organisations by IO; other civil society actors by C; and roundtable engagements by E. Interviews and roundtables were held online and during a research trip to East Africa between February and December 2023. Individual locations for interviews and roundtables have been anonymised to protect the identities of participants.
 16. All entries in the database were subjected to two ‘tests’ to determine if they qualified as Authoritarian Abuses. Test 1 asked if the case involved a suspected manipulation or perversion of the FATF’s anti-financial crime standards, and whether the context reasonably suggested that anti-financial crime powers/measures had been used to pursue an interest beyond preventing, detecting or countering financial crime. Test 2 asked whether the case involved any form of state action to meet an authoritarian end or that resulted in an authoritarian outcome, with authoritarian end/outcome defined as an intended or unintended consequence that erodes or undermines transparency, accountability, rule of law, human rights or the sustainment of democratic institutions or processes.

I. Why AML/CTF?

What is it about the current framework of anti-financial crime powers and regulations – shaped by the FATF, its standards and its systems – that makes it susceptible to Authoritarian Abuse?

The FATF System

Originally established as a temporary task force by the G7 in 1989, the FATF has evolved over time into a highly influential organisation with 40 members (38 jurisdictions and two regional organisations) and a network of associated FATF-Style Regional Bodies (FSRBs) responsible for overseeing the implementation of the FATF standards in almost every country in the world. These standards are not binding in and of themselves because the FATF has no formal basis in international law. Nonetheless, FATF's impact is substantial, as to gain membership, states are expected to adopt domestic laws and policies to implement the standards, thus turning international 'soft law' into domestic 'hard law'.¹⁷ States are compelled to comply with the FATF standards by the grave consequences for a jurisdiction's economy of not doing so. Should a state score poorly in their mutual evaluation, FATF's regular peer review system for assessing members' compliance with the standards, they risk being entered on the organisation's 'grey list', which may result in a reduction in capital inflows,¹⁸ and economic impacts on development aid and funding.¹⁹

The FATF's approach to preventing money laundering and terrorist finance involves a 'one-size-fits-all' application across countries. This means that states with varying levels of entrenchment of the rule of law are all expected to implement the same minimum suite of anti-financial crime measures, including the criminalisation of money laundering and terrorist financing, and to create institutions such as financial intelligence units (FIUs). The problem here is that while these principles may be suitable for countries with a long history of judicial oversight and rule of law, they are more problematic to apply in countries that lack the strength of democratic institutions necessary to see these standards implemented without distortion. Simply put, instruct some countries with

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17. UN, 'Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism', A/74/335, 29 August 2019, <<https://www.ohchr.org/en/documents/thematic-reports/a74335-promotion-and-protection-human-rights-and-fundamental-freedoms>>, accessed 1 March 2024.
 18. Mizuho Kida and Simon Paetzold, 'The Impacts of Gray-Listing on Capital Flows: An Analysis Using Machine Learning', IMF Working Papers, 27 May 2021, <<https://www.imf.org/en/Publications/WP/Issues/2021/05/27/The-Impact-of-Gray-Listing-on-Capital-Flows-An-Analysis-Using-Machine-Learning-50289>>, accessed 1 March 2024.
 19. Louis de Koker, John Howell and Nicholas Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force', *Risks* (Vol. 11, No. 5, 2023).

entrenched rule of law and accountability measures to establish a new intelligence agency with the ability to survey private bank accounts (as FIUs are), and you can trust that this will be done responsibly and with respect for human rights. Give the same instruction to ill-intentioned states and they will certainly do so enthusiastically, but not necessarily with the prevention of financial crime in mind. In the words of one victim/survivor of Authoritarian Abuses, the FATF ought to ‘disabuse [itself] of the notion that [it] is dealing with democracies’.²⁰

Vague phrasing in much of the FATF’s language – intended to give states the necessary flexibility to implement the standards in their domestic contexts – paves the way for Authoritarian Abuses. For example, FATF’s Recommendation 3 on the money-laundering offence requires states to criminalise the laundering of the proceeds of predicate crimes.²¹ While the standards clarify different ways that states could define predicate offences, and include some minimum thresholds, there is nothing in the standard to prevent a state from making almost anything a predicate offence – for example, fundraising online, or holding a public meeting without state approval. Similarly, the FATF standards offer no clarity or specificity about how the terrorist-financing offence should be applied to terrorist acts, organisations or individual terrorists,²² thus allowing Authoritarian Abuses to piggy-back off politically motivated terrorism designations of groups or people. In this way, Authoritarian Abuses interact with various factors outside the FATF’s control to yield their impacts.

Transposing the FATF standards into national legislation and institutions provides an opportunity for ill-intentioned states to misrepresent the intention of these standards and to craft tools that are nominally for the purposes of fighting financial crime but can be used for a secondary function: the suppression of critics. This is a process of suppression laundering: using AML/CTF as a pretence for ‘laundering’ suppression executed by ill-intentioned regimes. If money laundering is the use of techniques to make dirty money (the proceeds of crime) appear ‘clean’ or legitimate, suppression laundering follows the same logic, as it uses AML/CTF regulation and powers to mask everyday suppression of opponents and critics in the name of preventing financial crime. Making use of the FATF system and its standards in this way offers a convenient false pretence for suppressing opponents and critics.

Clear examples of suppression laundering have been seen in the passage of legislation in response to FATF country assessments, in which lawmakers cite the legislation’s intention to respond to FATF requirements in the preambles of their bills (see Box 1).

20. Author interview with V/S11, 19 October 2023.

21. A predicate crime (or offence) is the proceeds-generating crime that gives rise to the separate crime/offence of laundering those funds. See FATF, ‘The FATF Recommendations’, p. 38.

22. See FATF, ‘The FATF Recommendations’, p. 43.

Box 1: Enabling Legislation that Cites the FATF Standards/System

A draft amendment to a southern African country's primary legislation governing NPOs includes in its preamble an explanation that amendments to the law were to be made 'in order to comply with the Financial Action Task Force's recommendations' made to the country, specifically requirements indicated in its 2016 assessment for improving technical compliance related to the FATF's Recommendation 8 on preventing terrorist-financing abuse of the non-profit sector.²³ In December 2021, the mandates of four UN Special Rapporteurs, including the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, submitted a communication outlining various human rights concerns with the draft legislation, all of which 'have grave consequences for the exercise of civil and political rights, including the freedom of association'.²⁴

Similarly, a FATF member state responded to a poor grading in its 2019 Mutual Evaluation by rushing through new legislation enabling Authoritarian Abuses, the stated purpose of which was to 'ensure full compliance with the United Nations Security Council resolutions and related FATF Recommendations'.²⁵ Among other things, this new legislation gave authorities sweeping powers to suspend the board members and employees of targeted organisations (and replace them with government-approved substitutes), and to dissolve non-profits without appropriate safeguards.²⁶ In the government response to a communication on the law from the mandates of three UN Special Rapporteurs,²⁷ the law is justified again on the grounds of responding to the FATF's recommendations. The response stated that new measures requiring organisations to seek state authorisation before collecting donations online were based on the FATF's own 2015 guide to emerging terrorist-financing risks, and were in response to the FATF's own requests.²⁸ But NPOs in the country have opted to forgo all online fundraising due to ambiguity in the law's wording, which they fear would be used against them to sanction any form of fundraising on their websites.²⁹

23. 'Private Voluntary Organisations Amendment Bill 2021', H.B. 10A, 2021.

24. Letter from Clément Nyaletsossi Voule et al., Mandates of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; the Special Rapporteur on the Situation of Human Rights Defenders and the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, OL ZWE 2/2021, 17 December 2021.

25. See Third Sector Foundation of —, 'An Analysis of the Application of Financial Action Task Force Recommendations and its Implications on Civil Society in —', February 2021.

26. Amnesty International, '— : Weaponizing Counterterrorism', June 2021.

27. Letter from Fionnuala Ní Aoláin, Clément Nyaletsossi Voule and Mary Lawlor, Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism; the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; and the Special Rapporteur on the Situation of Human Rights Defenders, OL TUR 3/2021, 11 February 2021.

28. Permanent Mission of — to the United Nations Office in Geneva, 'Information Note in Reply to the Joint Communication from the Special Procedures', OL TUR 3/2021, 16 April 2021.

29. Amnesty International, '— : Terrorism Financing Law has Immediate "Chilling Effect" on Civil Society: Impact of Law No. 7262 on Non-Profit Organizations', 19 October 2021.

In other cases, it is the allure of full FATF membership that motivates states to pass or amend legislation that enables Authoritarian Abuses. For example, in pursuit of FATF membership, in 2012 a south Asian country passed amendments to its main anti-financial crime law in response to the FATF's requirement that its members allow asset freezes based purely on suspicion (rather than conviction) of financial crimes.³⁰

Suspicion v. Conviction

This capacity to use tools and powers based on mere suspicion of illicit activity (rather than criminal conviction, or even evidenced suspicion) is a further characteristic that makes the anti-financial crime laws and institutions enshrined in the FATF standards susceptible to abuse. Such measures are often referred to as 'administrative' or 'provisional' since their intention is not to punish but rather to collect further information or prevent capital flight³¹ or tipping off,³² all important administrative steps towards preventing financial crime, limiting its impacts, or preserving evidence for use in criminal prosecution. However, as well as being highly subjective, suspicion of financial crime is often completely unsubstantiated, particularly in cases when CTF measures are misused and grounds for suspicion are classified for security reasons.³³ This means that, for example, asset freezing powers can be misused where the intelligence basis or justification is not fully disclosed or corroborated, and where the victim cannot meaningfully review the evidence given as justification.³⁴

Counterterrorism and Terrorist Financing

Longstanding misuse of counterterrorism legislation and powers is an enabling factor for Authoritarian Abuses involving misuse of CTF measures. Abuse of both counterterrorism and CTF measures typically hinges on deliberately vague definitions of both terrorism itself and the criteria for classifying an act as a terrorist (financing) offence in national law.³⁵ Vague definitions combined with

30. Author interview with R1, 22 August 2023.

31. Capital flight is where funds suspected to be the proceeds of crime or suspected of being used for a terrorist purpose are removed from an account as a means of evading anti-financial crime measures.

32. Tipping off is the act of providing a suspected perpetrator of financial crimes with prior warning that they, their assets or transactions they carry out have become known to law enforcement authorities. To prevent tipping off, where banks suspect financial crime, they are required to report this in a way that does not alert the account holder, to avoid capital flight.

33. See UN Human Rights Special Procedures, 'Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space', p. 62, <https://defencivicspace.com/wp-content/uploads/2024/01/SRCT_GlobalStudy-1.pdf>, accessed 26 February 2024.

34. *Ibid.*

35. See Global Counterterrorism Forum, 'Good Practices Memorandum for the Implementation of Countering the Financing of Terrorism Measures while Safeguarding Civic Space', September 2021, p. 5; UN Human Rights Special Procedures,

wide-ranging powers enshrined in such legislation make it easy for authorities to paint nearly anyone they like with a terrorist brush, and subsequently target them using CTF measures. This targeting is often more pronounced for already marginalised communities, including LGBTQ+ activists, indigenous lands defenders and human rights advocates, or any civil society organisation that supports these or other actors deemed to be a threat to the regime.³⁶ States demonstrating an aptitude for Authoritarian Abuses typically legitimise the misuse of CTF measures enshrined in anti-financial crime law by making use of excessively broad counterterrorism legislation, which widens the scope of activities that fall within the offence of terrorist financing.³⁷ For example, upon arresting, accusing or charging an individual pursuant to counterterrorism law, almost any of that person's financial dealings could be misrepresented as terrorist financing under anti-financial crime law. Here, rampant abuse of counterterrorism measures serves to expand the potential for abuse of measures, laws and powers intended to prevent terrorist financing.

'The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures', June 2022, pp. 17–18, <<https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf>>, accessed 6 June 2024.

36. E3 roundtable, November 2023.

37. Author interview with C1, 9 February 2023; author interview with C6, 10 March 2023; E2 roundtable, October 2023.

II. Authoritarian Abuses: Who, What, When, Where?

This guide takes an inclusive approach to defining civil society, and what actors or organisations comprise it. Drawing on the concept of ‘civic space’ as an environment conducive to the enjoyment of human rights and core freedoms, its definition of civil society encompasses all people and groups seeking to enjoy or pursue the entrenchment of those rights and freedoms.³⁸ More precisely, this guide emphasises civil society actors who are engaged in efforts to enhance democratic principles, including government transparency and accountability, and who critique in words and/or actions the shortcomings of their governments in these areas.

Target Identities

While anti-financial crime measures and powers can plausibly be wielded against any potential opponent, the research for this guide identified three major target groups within civil society.

The first target group consists of individuals or groups representing ethnic or religious minorities or social movements (such as LGBTQ+ rights), and self-determination movements premised on minority identities. At any given time, these identities may or may not be activated for political purposes, such as the pursuit of minority rights and representation, but members of the target group are most readily identified by their mere belonging to a minority ethnicity or religion or social movement. Targets in this group have disproportionately suffered from terrorist associations based on their minority status, which opens space for misuse of CTF laws and powers in particular.

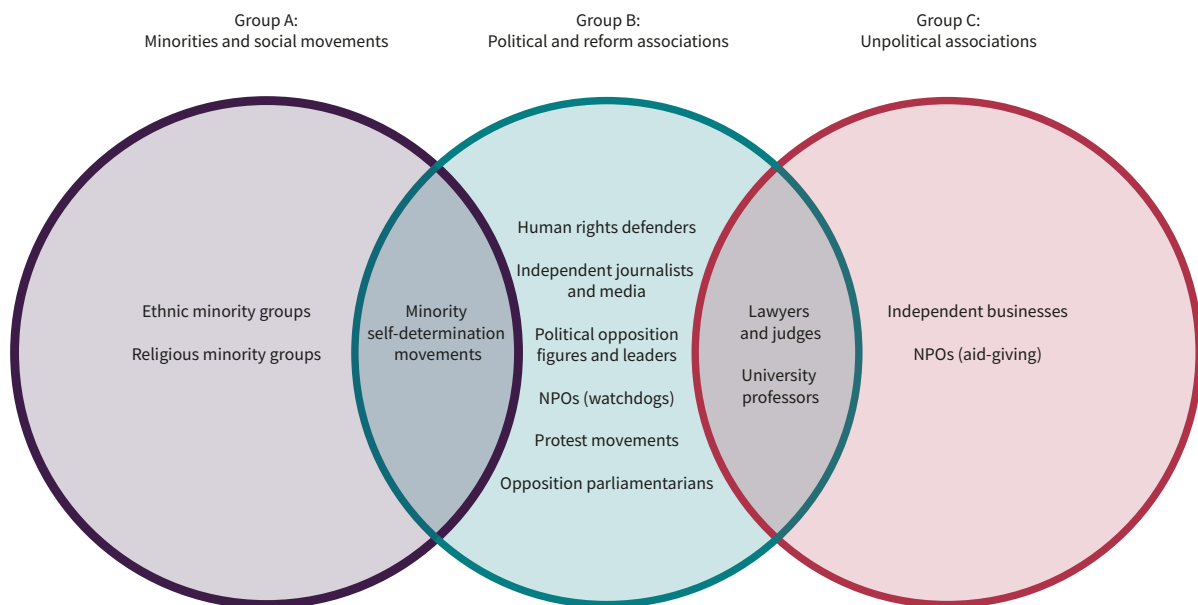
The second target group is by far the most diverse in its composition, comprising all manner of individuals and groups forming associations or movements seeking government transparency and accountability and political reform. This group includes human rights defenders, independent journalists and media organisations, political opposition leaders and figures (including opposition parliamentarians), pro-accountability/transparency NPOs (watchdog organisations), and protest movements. Where they are pursuing political activities outside their usual

38. See, for example, The Fund for Global Human Rights, ‘Fund 101: What is Civic Space?’, 26 July 2021, <<https://globalhumanrights.org/commentary/fund-101-what-is-civic-space/>>, accessed 3 May 2024.

duties, lawyers and judges and university professors and lecturers (particularly of schools of law and political science) may also be included in this category.

The third group includes formally unpolitical actors and groups whose activity or refusal to conform with the demands of the state may attract the displeasure of authorities. This includes independent business owners and NPOs taking part in exclusively humanitarian or aid-giving activities. While most definitions of civil society exclude the private sector, this guide recognises private businesses that challenge inappropriate state interference in their operations as members of civil society too, insofar as they stand in opposition to their own disenfranchisement. The distinct circumstances under which actors in this group may be targeted are by far the most nuanced and unpredictable.

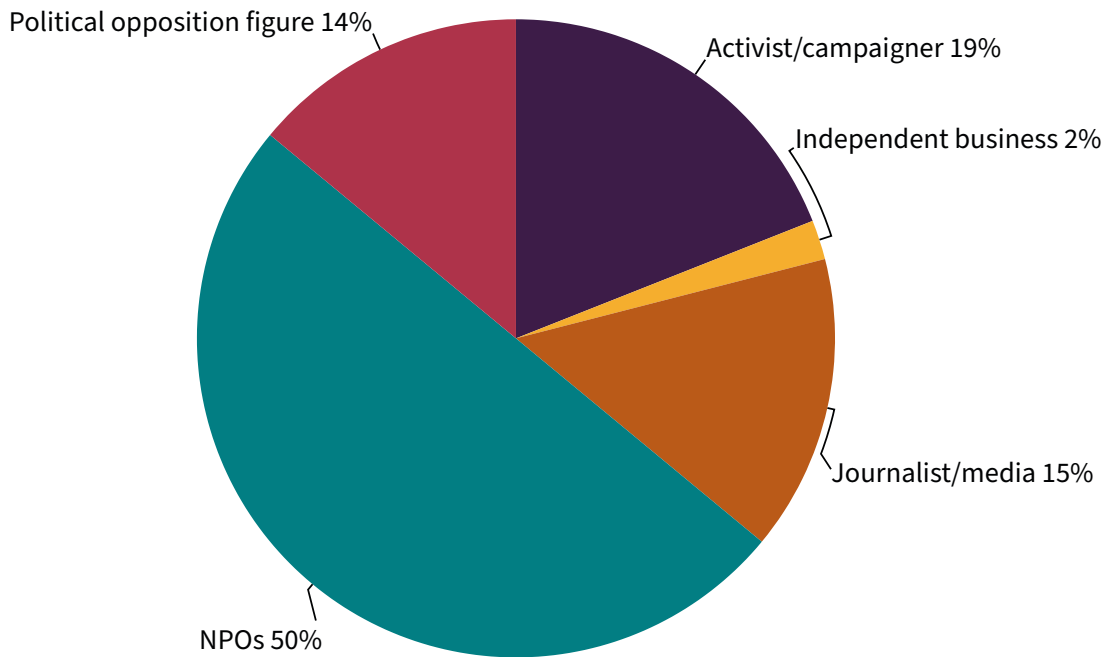
Figure 1: Authoritarian Abuses Target Categories



Source: Author generated.

Interviews for this study also indicated other targets of Authoritarian Abuses, underscoring the potential for a state to direct its anti-financial crime machinery against other internal targets, such as high-level members of its armed forces or others involved in intra-elite power struggles. While such targeting is illustrative of the wide-ranging utility of Authoritarian Abuses to suppress regime threats of all sorts, these examples fall outside the scope of this study, which focuses on civil society, albeit defined in broad terms.

Figure 2: Victims/Survivors of Authoritarian Abuses by Target Type



Source: Author generated from database of 126 collected instances of Authoritarian Abuses.

Box 2: Bogeyman Groups

Some offending states make ample use of socially prominent scapegoats when targeting regime critics with Authoritarian Abuses. This ‘blacklisting’ or ‘tagging’ of targets can be performed against nearly anyone who is not fully supportive of the state, including all three target groups outlined above. Such ‘bogeyman groups’ are typically domestically designated as terrorist groups, enabling states to fabricate cases of support for or membership of such groups. Once a target is perceived to be involved with a bogeyman group, authorities are at liberty to misuse CTF measures to further suppress it.

Target Behaviours

Most targets of Authoritarian Abuses display common characteristics that draw attention and make them vulnerable to targeting. Predominantly, Authoritarian Abuses were found to be levelled against individuals and organisations with ‘convening power’ or the capacity to catalyse engagement and action among other members of civil society.³⁹ Such targets typically have some level of urbanite, elite status among civil society in the country, especially those that are popular

39. Author interview with R2, 17 October 2023; author interview with V/S8, 18 October 2023; author interview with V/S10, 18 October 2023.

among, and well connected with, international-level civil society actors.⁴⁰ Conversely, small, rural-based actors are typically too benign in the eyes of the state to attract Authoritarian Abuses. However, an exception to this was seen in a handful of examples where NPOs delivering aid and livelihood support in rural areas were perceived as a threat to state supremacy in the lives of rural peoples.⁴¹ For example, assumed co-location of an aid-giving NPO with a designated terrorist group in Southeast Asia was perceived by authorities as a mutually beneficial and reinforcing relationship between the two. The state accused the NPO of using its international funding connections to acquire funds and transfer a portion to the terrorist group, successfully convicting several of the NPO's workers of terrorist financing.⁴²

The risk of being targeted by Authoritarian Abuses is exacerbated where organisations are in receipt of grants and operational funding from foreign sources, which are often misconstrued by ill-intentioned states as foreign state interference. For a country in East Africa, it was reported that grantees of a consortium of mostly European bilateral donors were more likely to be financially surveyed by the national FIU.⁴³ The same unwanted attention can be attracted by organisations that are sub-grantees of larger international organisations, or who implement programming under these sub-grants.⁴⁴

Timing of Abuse

Authoritarian Abuses can be committed at any time, although common flashpoints emerged from the research that could help predict when abuses are likely to occur:

- Abuses occurred around major constitutional reforms or the passing of controversial laws. For example, several cases of Authoritarian Abuses were found to occur around the time legislation was passed to extend presidential term limits or to ease restrictions on the maximum age of presidential candidates.
- Cases of Authoritarian Abuses also tend to spike in the run up to elections or national referendums, as incumbent governments perceive this as a crucial time to crack down on reform-minded civil society actors.⁴⁵
- Other cases occurred amid ongoing conflicts between states, or during periods of military rule or heightened tension between states and domestic self-determination groups or movements.

40. Author interview with R2, 17 October 2023.

41. Author interview with C1, 19 February 2023.

42. Calleja, '— Nuns Accused of "Financing Terrorism"'.

43. Author interview with C5, 17 February 2023.

44. Author interview with V/S5, 7 August 2023.

45. Author interview with R1, 22 August 2023; author interview with C4, 15 February 2023.

In addition, Authoritarian Abuses may be employed opportunistically when states see a chance to misconstrue financial transactions or activities as alleged financial crime. Several examples of this were highlighted in the research, including a case from East Asia where a victim/survivor was arrested and detained for alleged terrorist financing over money they had sent to their parents and sister in Australia to buy a house.⁴⁶ In a case from south Asia, an ethnic-religious diaspora community group sent funds to support a protest movement by their community in their home country, which was misconstrued by the state as illicit financial flows in support of violent separatism.⁴⁷

In other cases, it is the use of an unregulated financial instrument that is seized upon by authorities to mischaracterise activities and pursue Authoritarian Abuses. For instance, the use by a victim/survivor group in Latin America of pre-paid debit cards in a rural food assistance programme was distorted by authorities as a money-laundering operation. In this case, the local organisation was administering the cards on behalf of a large international NGO that preloaded them with funds.⁴⁸

Finally, where bank de-risking⁴⁹ of NPOs forces them to adopt financial workarounds, this exposes individuals and organisations to considerable risks. For example, a not-uncommon practice adopted by NPOs that are deprived of an organisational bank account is for donors to deposit operating funds into the personal bank accounts of board members or others working for the organisation, which is easily mischaracterised as money laundering or terrorist or malign foreign financing.⁵⁰ A case from East Asia similarly showed how authorities succeeded in portraying the use of a protest leader's private bank account to process crowdfunding donations from supporters as money laundering.⁵¹

46. Amnesty International, 'Urgent Action: — Indicted for Money Transfer', 22 May 2020.

47. Author interview with R1, 22 August 2023.

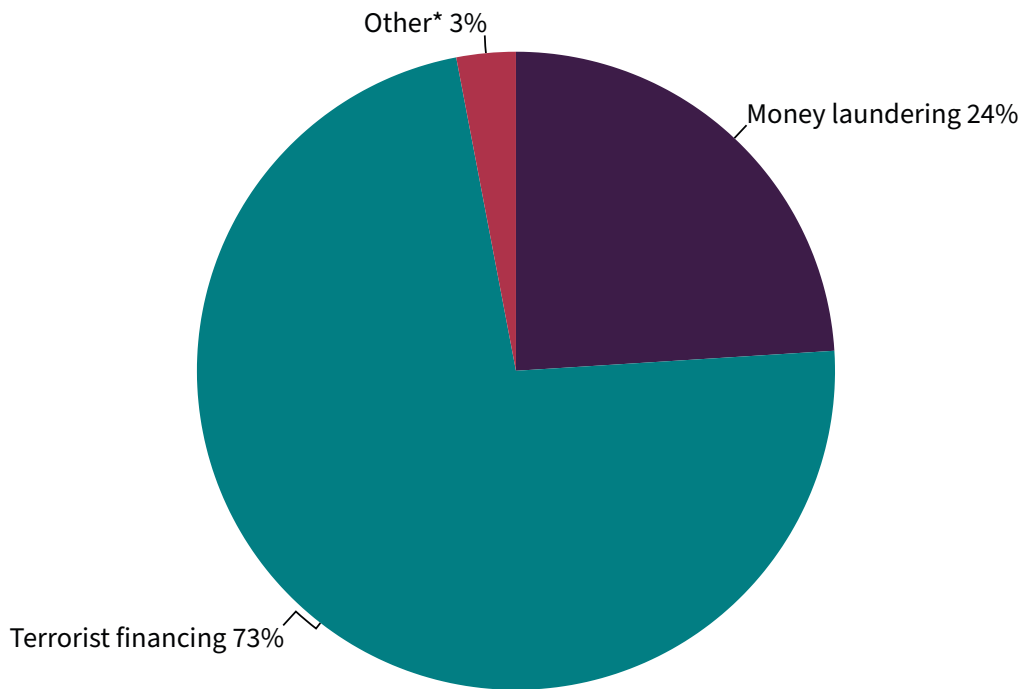
48. Author interview with V/S5, 7 August 2023.

49. De-risking involves NPOs being excluded from the financial system by banks that perceived them to be high-risk clients, typically due to assumed exposure to terrorist-financing abuse. See, for example, Lia van Broekhoven, 'Article – Derisking and Civil Society: Drivers, Impact and Solutions', Human Security Collective, <<https://www.hscollective.org/news/timeline/article-derisking-and-civil-society-drivers-impact-and-solutions/?acceptCookies=663398dbc3cc7>>, accessed 2 May 2024.

50. Author interview with V/S5, 7 August 2023.

51. Helen Davidson, '— Activist — Jailed Under National Security Law', *The Guardian*, 23 November 2021.

Figure 3: Authoritarian Abuse Cases, by Cited Offence Type



Source: Author generated from database of 126 collected instances of Authoritarian Abuses.

* Charges include related offences such as 'illicit financial transactions' and 'laundering of the proceeds of terrorist acts'.

Perpetrators of Abuse

Why do some regimes resort to weaponising anti-financial crime to suppress civil society, while others do not? Analysis from the database of collected instances shows that the most ruthlessly autocratic countries are unlikely to commit Authoritarian Abuses. This could be because in such societies there is no need for authorities to mask antidemocratic practices using international standards. Indeed, crackdowns of all kinds on civil society can be carried out in the open with impunity in such states. Abuses were more likely to occur in hybrid democratic-autocratic regimes that wish to suppress dissent and perceived threats to regime stability, while also having an interest in maintaining a democratic pretence and being seen as adhering to the rules-based international order.

Of the 15 countries identified as repeat offenders, having perpetrated Authoritarian Abuses more than once, seven had a Freedom House Index Score of 'Not Free'; eight had a score of 'Partly Free'; and one had a score of 'Free'.⁵²

For this subset of states, the strategic weaponisation of the FATF standards offers a convenient fig leaf to operate behind. To be sure, it is highly likely that these

52. See Freedom House, 'Countries and Territories', <<https://freedomhouse.org/countries/freedom-world/scores>>, accessed 23 May 2024.

states would pursue the noted crackdowns even if the FATF standards did not exist. That is to say, the FATF has certainly not offered such states singular opportunities to suppress their critics, but merely a repertoire of tools and pretence behind which to conceal and 'launder' suppression that would in all likelihood be carried out in any case.

III. Taxonomy of Tactics

Witnessed across various country contexts, the anti-financial crime standards of the FATF have engendered laws and measures misused by states in five major ways:

1. Intelligence fishing and scraping.
2. Strategic bank account freezing.
3. Harassment and prosecution of organisations.
4. Politically motivated (pre-trial) detention.
5. Lawfare for transnational repression.

These five tactics of Authoritarian Abuses are flexible and their execution is open to gradual use, from surveillance to hindrance to total incapacitation, so they can be applied over time to put increasing pressure on targets.

Table 1: Authoritarian Abuses of the FATF Standards: A Taxonomy of Tactics

	Relevant FATF Standards			
	R29 and R31	R3 and R5	R4	R37, R38 and R39
Laws/powers the FATF standard requires of states	Establish national FIU with power to collect financial information from obliged entities; law enforcement and investigative authorities have access to records held by obliged entities.	Money-laundering and terrorist-financing offences inserted into national penal code. (Sometimes combined with law unrelated to FATF, such as vague definition of ‘terrorism’ and ‘predicate offences’ for money laundering.)	Asset freezing as a provisional or administrative measure, meaning measures can be undertaken without a court order.	Mutual legal assistance and extradition related to financial crime, including international cooperation mechanisms such as Interpol Red Notices.
Corresponding tactics of Authoritarian Abuses	Intelligence fishing and scraping; harassment and prosecution of organisations.	Politically motivated (pre-trial) detention; harassment and prosecution of organisations.	Strategic bank account freezing.	Lawfare for transnational repression.

Source: Author generated.

Intelligence Fishing and Scraping

Here, offending states utilise institutions and processes of financial intelligence collection for surveillance and evidence collection on individuals and organisations deemed to pose a threat.⁵³ States make use of the private sector’s financial crime compliance resources, such as software to monitor client transactions, which is required under the FATF’s anti-financial crime regime. In this way, the private sector’s own investments in AML/CTF compliance subsidise the state’s intelligence collection on assumed regime threats.

Acquired information is typically used to either fabricate a criminal charge of financial crime or surveil the activities of individuals and organisations of interest. This is most often done through intentional misuse of the national FIU, which states are required to establish in accordance with Recommendation 29 of the FATF standards. According to Recommendation 29, FIUs are the national body responsible for receiving and analysing financial information related to suspected financial crime, and are required to have authority to ‘obtain additional information from reporting entities’, meaning that FIUs have the power to request data from financial institutions.⁵⁴ FIUs are expected to be operationally independent and autonomous and should be able to operate ‘free from any undue political, government or industry influence or interference, which might compromise [their] operational independence’.⁵⁵ This is echoed by the Egmont Group of FIUs, which highlights how ‘undue political influence in the operations, resource deployment and decision making of an FIU is in clear violation of concepts of operational independence and autonomy’.⁵⁶ Egmont is an international organisation of member FIUs focused on information sharing and cooperation. States are required to seek membership in Egmont by FATF Recommendation 29.

Nonetheless, interviews and case studies collected for this guide demonstrate how FIUs have been directed time and again by security services to conduct actions against targets. This demonstrates how the FIU – as an institution within the civil criminal justice system and an important player in the anti-financial crime architecture – can come to be captured by the state. Under this influence, FIUs can be directed to, among other things, intimidate and break the will of opposition parliamentarians, or include an independent media organisation on a national list of organisations with ‘criminal income’.⁵⁷ Misuse of a national FIU in this way was brought to light in East Africa in 2019 when a letter from a country’s FIU director to a major financial institution was leaked. It asked for financial details – including account opening documents and bank statements

53. See UN Human Rights Special Procedures, ‘The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures’, p. 25.

54. FATF, ‘The FATF Recommendations’, p. 24.

55. *Ibid.*, p. 108.

56. Egmont Group of Financial Intelligence Units, ‘Understanding FIU Operational Independence and Autonomy’, October 2018, p. 16.

57. Author interview with V/S2, 2 June 2023; author interview with R2, 17 October 2023.

from the previous three years – of 13 NGOs known for their criticism of the government on political and human rights issues.⁵⁸

To be clear, regimes that choose to capture and utilise national FIUs in this way tend to exhibit similar behaviours with regard to the police, judiciary, security services and other nominally independent agencies. In view of this, it should be noted that national FIUs are not uniquely or especially vulnerable to state capture for purposes of furthering regime interests.

Strategic Bank Account Freezing

Central to fighting financial crime is the need to prevent the proceeds of crime or money intended for terrorist purposes from disappearing from an account during an investigation. To prevent this capital flight, FATF's Recommendation 4 includes provisions requiring states and their authorities to have the capability to freeze assets and deny financial transactions involving individuals or organisations suspected of money laundering or terrorist financing. These asset freezing powers may be exercised without a court order, to allow authorities to freeze assets quickly enough to prevent capital flight. Such asset freezing powers are distinct from obligations put on states to implement targeted financial sanctions imposed by the UN Security Council, which require states to freeze assets based on a target's identity (in other words, their inclusion on sanctions lists maintained by the UN Security Council), whereas the asset freezing powers under Recommendation 4 enable states to freeze assets based on their own suspicion of illegal behaviour.

58. See *Eagle Online*, 'Equity Bank in Dilemma as Gov't Asks for Financial Details of Critical NGOs', 14 August 2019.

Box 3: Case Study: Use of Asset Freezing Powers to Disrupt Protests

A 2020 protest movement against police brutality in a West African state was supported through crowdfunded donations to pay for items such as phone chargers, food and other supports to help keep activists engaged in street-level protest activities for as long as possible. The donations were deposited directly into the bank accounts of protest leaders. Amid the action on the street, the country's central bank and regulator of the financial sector filed a request to temporarily freeze 20 bank accounts pending the outcome of a terrorist financing investigation initiated by the country's FIU.⁵⁹

As a result, 19 individuals were left without access to funds, as was one public affairs company that had raised funds for independent journalists to report on the protests.⁶⁰ When a court order for the account freezing was provided many months later (long after the protesters had dispersed), details of the supposed terrorism that was being financed were sparse.⁶¹ Here, the prevailing issue around vague and malleable definitions of 'terrorism' allowed authorities to use asset freezing tools to effectively disrupt freedom of assembly.

At its core, asset freezing is an administrative tool that can be used without criminal conviction and based on mere suspicion of an offence. This aspect is part and parcel of anti-financial crime law and regulation and is susceptible to abuse, particularly where the state's evidence or basis for suspicion of money laundering or terrorist financing is treated as operationally sensitive and kept confidential or secret. As often happens, individuals or organisations with frozen assets will not have been notified of this action beforehand, and will be denied the presentation of evidence of behaviours that generated the suspicion of misdeeds. For the targets of this form of Authoritarian Abuse, it goes without saying that losing access to individual or organisational bank accounts makes it extremely difficult for those targeted to carry out their work. One victim/survivor in the MENA region reported that governments sometimes prefer the asset freezing tactic to imprisonment in certain situations, as it attracts less attention and allows for Authoritarian Abuses to be committed 'under the radar'.⁶²

Asset freezing actions, according to Recommendation 4, are 'reviewable through judicial proceedings within a period of time', but in reality, many victims of Authoritarian Abuses via asset freezes are unable to access the judicial review of freezing orders made against them. A victim/survivor from the MENA region who has had their assets frozen for more than three years has appealed against this numerous times, and while the law in their country states that asset freezes can be appealed every three months, they have been unable as of yet to secure

59. Federal High Court of — in the — Judicial Division, 'Suit No. FHC/ABJ/CS/2020 Between Governor, Central Bank of — and — et al', 10 November 2020.

60. Clowes, ' — Probes Protesters Under Terror-Financing Law'.

61. *Ibid.*

62. Author interview with V/S3, 7 June 2023.

a court hearing date.⁶³ The same circumstance was outlined in a communication from the mandates of four UN Special Rapporteurs to a country in the MENA region, where victims of Authoritarian Abuses sought to exercise their right to appeal asset freezes but were met with silence from public authorities.⁶⁴ This administrative impediment means that while the letter of the law provides opportunities for appeal by the victim, ultimately the state can effectively keep assets frozen for as long as it likes.

Here, the role of financial institutions as the custodians of frozen accounts is also important. For fear of breaching AML/CTF regulations, banks are typically conservative in their handling of asset freezes, and may keep assets frozen until they receive a clear signal or express permission from authorities to unfreeze accounts. In such cases, the negative impacts of strategic bank account freezing can be prolonged where banks elect not to unfreeze accounts on the expiration of a freezing order.⁶⁵

Harassment and Prosecution of Organisations

In targeting whole organisations, states perpetrating Authoritarian Abuses have appealed to the prevention of financial crime laws to justify aggressive measures, including office raids and other forms of extrajudicial harassment, and criminal investigations and charges.

Several cases identified in the sample involved office raids by law enforcement agencies, typically premised on suspicion of an organisation's involvement in money laundering or terrorist financing. During these raids, documents, computers and other materials were confiscated and information was extracted and used to construct criminal cases against the organisation or individuals working with the organisation. Such actions were also identified by multiple respondents to the 2023 Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space, who reported that homes and offices of victims were raided 'in phishing attempts for CFT-related inquiries and investigations ... often the precursor to arrests, prosecutions and other judicial harassment of human rights defenders and civil society actors'.⁶⁶ Such raids were sometimes

63. *Ibid.*

64. Letter from Mary Lawlor et al., Mandates of the Special Rapporteur on the Situation of Human Rights Defenders; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, AL EGY 2/2022, 21 March 2022.

65. Author interview with C1, 9 February 2023.

66. UN Human Rights Special Procedures, 'Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space', p. 68.

authorised by a court order, but at other times were illegal nighttime break-ins in which material was simply stolen.⁶⁷

In another case, the arrest of the HR manager of a victim/survivor organisation preceded arrests of staff on terrorist-financing charges. The organisation suspected that the authorities chose first to target the manager for the information he was expected to have about the organisation and other staff, which could be used to justify further arrests.⁶⁸

Further cases from the sample collected outline state attempts to permanently close down organisations using financial crime charges as justification, including a media outlet in Central Asia, political parties in the MENA region and Latin America, and other associations in South Asia and the MENA region.

Box 4: Case Study: Criminal Investigation Aimed at Paralysing an Organisation

When a Eurasian civil society organisation focused on countering corruption was charged with money laundering in 2019, bank accounts of the foundation's head and regional offices were frozen, as well as the accounts of associated individuals. When the organisation's treasurer informed authorities that the amount they had fundraised that year was below the figure claimed to have been laundered, the charge was adjusted accordingly, illustrating the apparent non-existence of an evidence base for the criminal charges being made, corroborating the notion that these charges were politically motivated.⁶⁹ The resulting court case served to distract the foundation's staff from their mandated work of exposing corruption and kleptocracy among the country's elites, all the while being further restricted by being unable to access frozen funds and suffering the consequences of a targeted character assassination by state-controlled media.

Politically Motivated (Pre-Trial) Detention of Individuals

Lawfare – or the use of national legal systems to target, delegitimise or otherwise incapacitate opponents – is a common tactic seen in the playbook of many autocratic or ill-intentioned regimes.⁷⁰ When combined with national-level provisions permitting lengthy pre-trial detention, lawfare can be wielded by regimes to effectively imprison targets, cut them off from their supporters or

67. Author interview with V/S9, 18 October 2023; author interview with V/S13, 23 October 2023.

68. Author interview with V/S3, 7 June 2023.

69. See *Radio Free Europe/Radio Liberty*, ' – Probes Alleged Money Laundering by Opposition Leader – ', 3 August 2019.

70. See Charles J Dunlap Jr, 'Lawfare Today: A Perspective', *Yale Journal of International Affairs* (Winter 2008).

mute their dissent, all without providing the necessary evidence base to secure a criminal conviction. In this way, misuse of the FATF's Recommendations 3 and 5 on the establishment of money laundering and terrorist financing as criminal offences enable a common tactic of Authoritarian Abuse, whereby individual targets are stuck in lengthy periods of pre-trial detention awaiting a court date.⁷¹ In several cases observed, individual targets charged with terrorist financing were simultaneously charged with other offences, including membership of a terrorist organisation.⁷² According to a report from UN Human Rights Special Procedures, 'CTF criminal proceedings and apparatuses have been misused as convenient tools to target and silence civil society actors, human rights defenders and others critical of the State'.⁷³

Typically, the state's accusation is based on little or poor evidence or, in some cases, no evidence at all.⁷⁴ This is not an oversight, but intentional, as offending states have an incentive to put off impending court dates and drag out the pre-trial detention phase and thus incapacitate or silence the target for as long as possible. In jurisdictions that retain at least a partially independent and effective judicial system, authorities are aware that a thin or non-existent evidence base for their claims of money laundering or terrorist financing offers little to no chance of yielding a guilty verdict. The ultimate aim is thus the paralysing effects of pre-trial detention on targets, rather than a successful prosecution and conviction.

Cases from states with fully captured or complicit judicial systems may hold such prosecutions in exceptional courts with restrictions on legal representation and access to evidence, which is often withheld on grounds of state or military secrecy.⁷⁵ Such cases typically result in convictions and long prison sentences. One political opposition figure in Southeast Asia was executed on politically motivated terrorist-financing charges in July 2022.⁷⁶

71. In several cases identified for this report, targets were charged with money laundering and placed in pre-trial detention in countries where money laundering is an unbailable offence. Two cases from East Africa resulted in victims/survivors being forced to enter plea bargains and confess to lesser charges as a means of securing their freedom. See International Federation for Human Rights, '— : Release of Human Rights Defender —', 11 January 2021; *BBC News*, '— Journalist — Freed After Seven Months', 24 February 2020.

72. Author interview with V/S3, 7 June 2023.

73. UN Human Rights Special Procedures, 'The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures', p. 29.

74. In their own study on the human rights impacts of CTF measures, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism highlighted how some states have 'pursued baseless investigations, surveillance, detentions, prosecutions, and disproportionate sentencing in the name of CFT – often in flagrant contravention of fundamental fair trial and due process rights'. See *ibid.*

75. *Ibid.*, p. 30.

76. See Amnesty International, '— : First Executions in Decades Mark Atrocious Escalation in State Repression', 25 July 2022.

Lawfare for Transnational Repression

The FATF's standards for facilitating international cooperation, including Recommendation 37 on mutual legal assistance, Recommendation 38 on cross-border asset freezing and confiscation, and Recommendation 39 on extradition, create opportunities for transnational repression of dissidents when used in combination with other international mechanisms for law enforcement cooperation, which may lack their own adequate safeguards to prevent politicised misuse.⁷⁷ A June 2023 report of the Parliamentary Assembly of the Council of Europe includes 'misuse of Interpol Red Notices, extradition proceedings, and other forms of interstate legal assistance such as anti-money laundering and anti-terror financing measures' as one of four main methods of transnational repression.⁷⁸ In such cases, ill-intentioned states seeking to repress dissidents who have fled to another country fabricate money-laundering or terrorist-financing charges against their targets and use architectures such as the Interpol Red Notice system and extradition treaties to launch their attacks.⁷⁹

Box 5: Case Study: Misuse of International Legal Instruments

A lawyer in a Central Asian state known for working with the country's political opposition movement was granted political asylum in an EU country because of risks to their safety. Their home country tried several times to have them arrested and extradited on financial crime charges using the Interpol Red Notice system, and submitted mutual legal assistance requests for banking information, which two banks in the host EU country did eventually provide. After the host country's minister of justice accepted one of the mutual legal assistance requests, the host country's high court ruled in favour of the victim/survivor, recognising the questionable legitimacy of the request for mutual legal assistance and affirming their right to appeal in the host country, which was deemed necessary to be able to challenge the legitimacy of the request for mutual legal assistance made by the home country.⁸⁰

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77. See Nate Schenkkan and Isabel Linzer, 'Out of Sight, Not Out of Reach: The Global Scale and Scope of Transnational Repression', Freedom House, February 2021, <https://freedomhouse.org/sites/default/files/2021-02/Complete_FH_TransnationalRepressionReport2021_rev020221.pdf>, accessed 3 May 2024.
 78. Parliamentary Assembly of the Council of Europe, 'Transnational Repression as a Growing Threat to the Rule of Law and Human Rights', 5 June 2023, <<https://pace.coe.int/en/files/32828/html>>, accessed 3 May 2024.
 79. On misuses of the Interpol Red Notice system and the Interpol charter, see Rasmus H Wandall, 'Ensuring the Rights of EU Citizens Against Politically Motivated Red Notices', Study for the LIBE Committee of the European Parliament, February 2022, <[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/708135/IPOL_STU\(2022\)708135_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/708135/IPOL_STU(2022)708135_EN.pdf)>, accessed 3 May 2024.
 80. Open Dialogue Foundation, 'Joint Submission of the Civil Society Coalition Regarding the Proposal for the Regulation of the European Parliament and of the Council on the Prevention of the Use of the Financial System for the Purposes of Money Laundering and Terrorist Financing: Can the EU's Anti-Money Laundering Reform Help Dictators?', 7 March 2023.

The FBI also recognises freezing financial assets as a form of transnational repression,⁸¹ highlighting the potential for cross-border asset freezing powers conferred to states under FATF Recommendation 38 to be implicated in Authoritarian Abuses.

Among the five tactics of Authoritarian Abuses described in this guide, the link between the FATF standards and lawfare for transnational repression is admittedly the most tenuous. For this tactic to be deployed, offending states will rely on modes of interstate legal cooperation which, while promoted and encouraged by the FATF, are factors well beyond the FATF's control, but which nonetheless enable the misuse of its standards.

81. FBI, 'Transnational Repression', <<https://www.fbi.gov/investigate/counterintelligence/transnational-repression>>, accessed 3 May 2024.

IV. Outcomes and Consequences for Civil Society

We need to sleep with our shoes on.⁸²

These Authoritarian Abuse tactics can have numerous outcomes and adverse consequences for the both the civil society actors being targeted and the wider sector of onlookers.

Reputational Damage and Smear Campaigns

Rather than prosecuting civil society actors outright for their opposition to the government, which could cause the public to see them as noble or martyrs, states committing Authoritarian Abuses charge their targets with malfeasance, framing them as criminals and serving to tarnish reputations and sever links of trust between the public and civil society. When levelled against high-profile targets that are in the public eye through their advocacy, such smear campaigning is especially damaging, given the centrality of public support and trust to the work of advocacy groups and opposition figures.⁸³ Once such doubt or mistrust in the target is achieved, repairing the damage is difficult. In the case of politically motivated criminal charges, the dropping of charges is rarely (if at all) as widely publicised as the initial accusation, causing negative perceptions against the target to linger long after charges may have been formally withdrawn or concluded.⁸⁴

In other words, resolution of criminal accusations or charges in a court of law can have little impact on repairing one's reputation in the court of public opinion. At an individual level, victims/survivors of politically motivated criminal charges have described being saddled with enduring labels such as 'criminal' or 'terrorist'. The resulting stigma, even after acquittal of criminal charges, severely limited

82. Author interview with V/S10, 18 October 2023.

83. Author interview with R1, 22 August 2023.

84. Author interview with V/S10, 18 October 2023.

their employment options after their cases were resolved or dropped, resulting in social isolation and financial and psychological hardship.⁸⁵

Disruption of Operations and Incapacitation

It is not difficult to imagine how the use of many of the tactics of Authoritarian Abuses can come to impact targets' operations, ranging from mild disruption or distraction all the way to complete incapacitation.

Impacts on Individuals

Simply put, individuals' capacity to carry out pro-accountability and transparency work, produce critical journalism or investigations, or represent a national political opposition movement is severely hindered when they are imprisoned and awaiting trial. Where individuals carry out their activities with an affiliated organisation, their imprisonment is designed to distract and divert time and resources away from the core work of the organisation.

Short of imprisonment, asset freezing makes living an ordinary life next to impossible for any individual, effectively 'shutting them out of capitalism'.⁸⁶ Individual victims/survivors have trouble securing employment in the formal economy or elsewhere unless salaries are paid in cash, and they are ineligible for loans, mortgages and other financial services. Some are forced to seek and complete work contracts under the names of friends or family members.⁸⁷ Targets based outside their home country can also be denied access to financial products and services. This is most common when data providers incorporate national-level terrorism lists into the data packages they sell to financial institutions for conducting customer due diligence screening. Where terrorism designations are politically motivated, their effects on victims/survivors are inadvertently amplified by these data providers, with accounts being closed on the basis of this risk screening. Existing AML rules for the private sector mean that victims have no right to know the information (or its source) that may have led to account closures or refusals.⁸⁸

85. E1 roundtable discussion, October 2023; UN Human Rights Special Procedures, 'Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space', p. 68.

86. Author interview with V/S3, 7 June 2023.

87. E1 roundtable, October 2023.

88. Author interview with V/S4, 10 July 2023. The intention of this practice is to prevent circumstances where explanations for account closures inadvertently tip off suspected criminals about authorities' investigative priorities. See, for example, Kalyeena Makortoff and Anna Isaac, 'Bank Rule Changes After Nigel Farage Furore Could Tip off Criminals, Say Experts', *The Guardian*, 22 July 2023.

Impacts on Organisations

Asset freezing actions against organisational targets are similarly disruptive, having the most impact on smaller organisations with fewer resources. Victim/survivor organisations interviewed described how prolonged asset freezes forced many of their staff to quit and seek employment elsewhere, as the organisation was unable to pay salaries, serving to further destabilise and grind down the organisation.⁸⁹ Where organisations are able to continue operations without access to their bank accounts, the range and depth of their programming and activities will naturally be limited, especially as what resources remain are redirected towards legal fees and clearing the organisation's name by bringing to a swift conclusion criminal charges or allegations of illicit financial activity.⁹⁰

Box 6: Case Study: Impacts of Bank Account Freezes

A communication from the mandates of five UN Special Rapporteurs in late 2023 clearly illustrates some of the tangible consequences of strategic bank account freezes carried out in a Southeast Asian country.⁹¹ The Special Rapporteurs raised concerns over an enduring government campaign against human rights, indigenous and humanitarian organisations, human rights defenders, indigenous peoples, journalists and lawyers in the country, all in the name of CTF.

As part of this campaign, the bank accounts of an aid-giving NPO were frozen in response to claims that the organisation was providing financial assistance to a recently designated terrorist group. As a result of the asset freeze, the targeted organisation was forced to close one of its urban offices, while its activities across the country, including a recruitment drive to attract new members, were disrupted for a prolonged period. Another organisation similarly accused of financially supporting the same terrorist group was unable to execute its scholarship programme for underprivileged schoolchildren, and a further 290 children were unable to access developmental services from the organisation.⁹²

89. Author interview with V/S10, 18 October 2023.

90. Author interview with V/S12, 19 October 2023; author interview with V/S13, 23 October 2023.

91. Letter from Fionnuala Ní Aoláin et al., Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; the Special Rapporteur on the Situation of Human Rights Defenders; the Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on Freedom of Religion or Belief, AL PHL 4/2023, 10 October 2023.

92. *Ibid.*, p. 7.

Donor Responses

Such immediate disruption to operations may be compounded or prolonged by the actions taken by a target's donor, particularly in cases involving NPOs. Victims/survivors reported that on being targeted with Authoritarian Abuses, their donors prioritised recovering their own funds from the target's frozen bank account over providing support for their grantee.⁹³ This illustrates how donors perceive themselves to be in a complicated position in cases of Authoritarian Abuses. From their perspective, the fact that their grantee is suspected of financial crime reflects badly on them, suggesting that they failed to conduct sufficient due diligence on their grantee before making a grant.⁹⁴ Further, like targets themselves, donors stand to suffer reputational damage through association with a target of Authoritarian Abuses, which could then jeopardise their other grantees.⁹⁵ Going to court with or even publicly defending a targeted organisation will, effectively, pit the donor against a host government. In the case of country donors, the diplomatic calculation is highly unlikely to ever result in the donor government deciding to antagonise the host government in this way.⁹⁶

Chilling Effects

Although it is difficult to measure their severity, many victims/survivors and observers describe second-order impacts of Authoritarian Abuses, whereby use of a tactic against one target can have a chilling effect on the rest of the civil society sector, fuelling an atmosphere of intimidation that discourages potential targets from carrying out their pro-accountability or pro-transparency work. In cases where the state uses Authoritarian Abuses against well-known and respected targets, the chilling effect is likely an intended consequence, as the offending state seeks to 'make an example' of the organisation, discouraging and intimidating other organisations away from conducting similar activities.⁹⁷ Signals or indications that the civil society sector is suffering a chilling effect could include some of the following:⁹⁸

- Diminished connectivity and poorer relationships between members of civil society, including decreased trust between civil society leaders, serving to divide and weaken the sector.
- Fewer critical reports and documents published, as disruptive ideas and research are stifled.

93. Author interview with V/S12, 19 October 2023.

94. Author interview with V/S9, 18 October 2023.

95. Author interview with R2, 17 October 2023; UN Human Rights Special Procedures, 'The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures', p. 31.

96. Author interview with V/S11, 19 October 2023.

97. Author interview with C1, 9 February 2023.

98. Author interview with V/S9, 18 October 2023; author interview with V/S11, 19 October 2023.

- Faced with pressure to pacify the regime, potential targets enter a kind of ‘survival mode’, becoming more risk averse and being forced to make decisions based only on the short term, limiting the scale and impact of activities.

In some countries that have recently passed new restrictive laws that enable Authoritarian Abuses, a chilling effect was observed even before those tools were used, with potential targets choosing to self-censor amid an atmosphere of demotivation and demoralisation.⁹⁹ A 2021 study by Amnesty International sought to evidence this chilling effect in relation to the passing of highly restrictive legislation by a FATF member state.¹⁰⁰ The findings illustrate a profound chilling effect on the country’s civil society even before the law in question had been fully implemented. These chilling effects include domestic organisations declining to work with international organisations for fear of undergoing enhanced scrutiny by authorities suspicious of their funding sources. States committing Authoritarian Abuses in this way will benefit from the stifling effect on civil society actors who would otherwise push back against such restrictive laws.

99. Author interview with C7, 8 March 2023.

100. Amnesty International, ‘ – : Terrorism Financing Law has Immediate “Chilling Effect” on Civil Society’.

V. Responses: Resilience and Advocacy Pathways

While it is not the purpose of this guide to recommend how civil society actors should respond to Authoritarian Abuses used against them or their colleagues, during the course of the research for this report, several possible pathways for building resilience and advancing advocacy were discussed by participants. Just as instances of Authoritarian Abuses are replicated by states on a global level, knowledge of how victims/survivors have successfully responded is similarly disseminated. Actual and potential victims/survivors are therefore invited to consider how this menu of response options could inform their own strategies.

Compliant Resistance

Be on the good side of a bad law.¹⁰¹

Fundamentally, all attempts at resisting the misuse of anti-financial crime measures will be thwarted if the individual or organisation accused is not fully compliant with all facets of the laws and regulations that could be weaponised against them. Being on ‘the good side of a bad law’ as a necessary pre-condition for resistance means adhering to all compliance demands set by authorities, including having the correct registration and licensing in place and meeting all financial and other reporting requirements.¹⁰²

‘Compliant resistance’ should also serve to protect, to some degree, potential targets from becoming actual ones. Where organisations have strong and transparent financial management processes and strict internal guidelines in place, this may act as a defence against Authoritarian Abuses by denying authorities the opportunity to identify a financial ‘loose end’ and contort this into grounds for suspicion of financial crime or a criminal charge.¹⁰³ Radical transparency on the part of donors can dissuade authorities from using Authoritarian Abuses by depriving them of opportunities to mischaracterise funding arrangements as criminal activity, for example.¹⁰⁴ However, even full compliance is no guarantee that organisations will be safe from Authoritarian

101. Author interview with V/S11, 19 October 2023.

102. E3 roundtable engagement, November 2023.

103. Author interview with V/S5, 7 August 2023.

104. Author interview with V/S8, 18 October 2023; author interview with V/S13, 23 October 2023.

Abuses. In fact, full compliance with objectively onerous or illegitimate regimes may pose its own risks if, for example, these regimes require entities to divulge highly sensitive information about an organisation's staff or operations, disclosures which could invite scrutiny or attacks that would not have materialised otherwise. So, while keeping one's house in order is essential, entities should nonetheless be mindful of the inherent risks.

Practising solidarity with civil society colleagues who have been targeted has been shown to mitigate the negative impacts of Authoritarian Abuses. Where the beneficiaries of a targeted organisation come out in support of the target – including attending court proceedings to demonstrate solidarity and providing supporting testimonies on the target's work – this can serve to shift the balance back in favour of the target, in terms of crafting positive wider public opinion of the accused.¹⁰⁵

Past victims/survivors of Authoritarian Abuses have also spoken of the merits of definitively 'closing off' accusations, criminal charges or investigations made against them. This could entail a court decision that resolutely finds the victims/survivors to be innocent of any wrongdoing, or the return of all property confiscated in the course of an investigation. Aside from the benefits of receiving full vindication for purposes of repairing one's public image, successfully completing these steps would make it more difficult for authorities to reopen criminal cases later on, thus preventing Authoritarian Abuses from lying dormant for some time before resurfacing unexpectedly.¹⁰⁶

Litigation Approaches

In contexts where a state's judicial system has not been entirely captured by the regime, victims of Authoritarian Abuses and their supporters may consider pursuing litigation as a form of response. Even in cases where the chances of success are next to none, pursuing so-called 'nuisance litigation', if carried out in volume, has the potential to have an indirect effect on perpetrators,¹⁰⁷ possibly through attracting unwanted local or international attention. Discussing nuisance litigation, one research participant remarked that it was about 'making more jiggers in the feet of officialdom'.¹⁰⁸ Judgments in successful cases also help in setting legal precedents that such misuses are indeed unlawful. Of course, not all victims/survivors will have access to the necessary resources to take this form of action, although lessons could be learned from those who have taken this approach in the past:

105. Author interview with V/S10, 18 October 2023; author interview with V/S13, 23 October 2023.

106. Author interview with V/S10, 18 October 2023; author interview with V/S12, 19 October 2023.

107. Author interview with V/S11, 19 October 2023.

108. *Ibid.*; 'jiggers' refers to small flea-type parasites that burrow into the skin, mostly the feet. The phrase describes causing incremental irritation by many small actions.

- For two organisations in an East African country facing terrorist financing-related administrative measures, including an asset freeze, their litigation approach involved going to court to compel government authorities to provide the evidence on which their suspicion of terrorist financing was based. After nine months in court no such evidence was provided and the organisations' accounts were unfrozen. However, secondary litigation against the government asking for compensation for the long period of the asset freezes was thrown out.¹⁰⁹
- In another East African country, a similar strategy yielded positive results when the court ruled in the victim's favour, as the national FIU was unable to produce the credible evidence on which suspicion of financial crimes was founded. Damages were also not awarded in that case, only the legal fees of the claimants would be covered and only after all appeals were finalised.¹¹⁰
- At the time of writing, a similar strategy was being pursued in a European jurisdiction, this time in response to an intelligence fishing and scraping action taken by the FIU. Legal action was taken only after the victims' out-of-court requests for justification and further information were ignored by the FIU.¹¹¹

Innovative and untested litigation approaches that could overcome some limitations and risks were discussed by several interviewees and are worthy of consideration, including:

- **Litigation exchange arrangements:** Given the risks and high stakes faced by victims/survivors who might choose to pursue litigation, there could be value in supporters from outside a country launching external legal challenges on their colleagues' behalf. Here, litigants would make use of evidence and information collected by the victims/survivors and shield them from the brunt of possible negative repercussions.¹¹²
- **Friends of court:** A strategy that could be employed in the course of prosecutions against victims/survivors themselves is the use of an *amicus curiae* (usually an independent expert who is called on to offer non-argumentative, factual input into a case), which could aid in highlighting where FATF standards have been misinterpreted or anti-financial crime laws and regulations abused.¹¹³
- **Adverse actions:** This strategy involves presenting a case to the court regarding an institution's abuse of anti-financial crime law or powers, using a relevant politically motivated criminal charge as an entry point. While indirect, this approach allows for an argument defining Authoritarian Abuses to be heard in court and for the judge to take it into account in their judgment.

109. Author interview with V/S13, 23 October 2023.

110. Author interview with V/S12, 19 October 2023.

111. Author interview with V/S1, 22 February 2023.

112. Author interview with R2, 17 October 2023.

113. *Ibid.*

Attracting the Attention of International Organisations

Drawing outside attention to the misuse of anti-financial crime measures in a country has shown to go some way in effectively pressuring offending states to change course. In Latin America, an international organisation threatened to withdraw from the country if staff of an aid-giving NPO who were detained on trumped-up money-laundering charges were not released.¹¹⁴ International financial institutions hold particular sway in this regard, and civil society actors have been successful in flagging up Authoritarian Abuses to these bodies to ensure they are on the agenda in debt relief or loan negotiations with national governments. In a country in southern Africa, this approach succeeded in getting a controversial piece of legislation that would have enabled widespread Authoritarian Abuses shelved in the national parliament,¹¹⁵ while in the MENA region, the same tactic played a role in securing the release of victims from prison.¹¹⁶

This response strategy has found particular success where aggrieved civil society actors and their supporters are able to flag up Authoritarian Abuses with the FSRB that has jurisdiction over the offending state (see Box 7). On several occasions, victims/survivors of Authoritarian Abuses have made use of the UN Office of the High Commissioner for Human Rights, including in particular the mandate of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, as a channel to communicate concerns and bring Authoritarian Abuses, or legislation that enables them, to international attention.¹¹⁷

Here, taking advantage of inventive opportunities to raise the alarm about the execution of an Authoritarian Abuse enabled civil society actors to secure a positive outcome outside the country's regular FATF evaluation cycle, which is often the only opportunity civil society has to voice concerns about over-implementation or misuse of AML/CTF laws and regulations.¹¹⁸ This early warning action was taken before the gravest of consequences might have been felt.

114. Author interview with V/S5, 7 August 2023.

115. Author interview with C7, 8 March 2023.

116. Author interview with V/S3, 7 June 2023.

117. See, for example, communication sent to a FATF member state from UN Special Rapporteurs concerning new abuse-prone legislation that was allegedly passed in response to the country's most recent mutual evaluation report. See Fionnuala Ní Aoláin, Clément Nyaletsossi Voule and Mary Lawlor, Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism; the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; and the Special Rapporteur on the Situation of Human Rights Defenders, OL TUR 3/2021, 11 February 2021.

118. Author interview with IO2, 31 July 2023.

Box 7. Case Study: Alerting an FSRB to Authoritarian Abuses

In November 2020, a communication was sent from several UN Special Rapporteurs to the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), an FSRB housed within the Council of Europe, concerning information they had received from civil society actors in a member state about the misuse of national legislation on preventing money laundering and terrorist financing.

The communication outlined an intelligence fishing and scraping campaign against 20 individuals and 37 NPOs all known for their work on ‘human rights, investigation of war crimes, monitoring of the government’s work, and other forms of investigative journalism’.¹¹⁹ In its reply, the Chair of MONEYVAL outlined their engagement and subsequent exchanges with national authorities on the issue, including specifically on whether the FATF’s standards (including Recommendation 29 on FIUs) were inappropriately applied in this case.¹²⁰ MONEYVAL followed up by raising the issue in its plenary meeting in April 2021, where it recalled limitations contained in the FATF standards on the power of the FIU and called on its members to ensure that the standards are not intentionally (or unintentionally) used to suppress civil society.¹²¹ The European Commission’s 2021 report on the country also conveyed concern over the situation, signalling consequences for the state regarding its candidacy for EU membership.¹²²

Under the current FATF system, aggrieved civil society actors are deprived of opportunities to engage with international-level actors to raise awareness of Authoritarian Abuses. Where there are opportunities for civil society to engage with the FATF and other international bodies directly, this is almost always done through the state itself. Typically, for example during a FATF assessment, states act as gatekeepers, and will put forward government-friendly civil society actors for these opportunities and block aggrieved actors from communicating grievances (Figure 4, Row A).

Examples from this study show that successful strategies for responding to Authoritarian Abuses have bypassed the state altogether to reach and attract the attention of international-level actors, who in turn are in a position to engage with the state directly (Figure 4, Row B). Groups such as the Global NPO Coalition on FATF have adopted this practice to address issues with the FATF directly.¹²³

119. Letter from Clément Nyaletsossi Voule and Mary Lawlor, Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism; the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; and the Special Rapporteur on the Situation of Human Rights Defenders, AL OTH 71/2020, 6 November 2020.

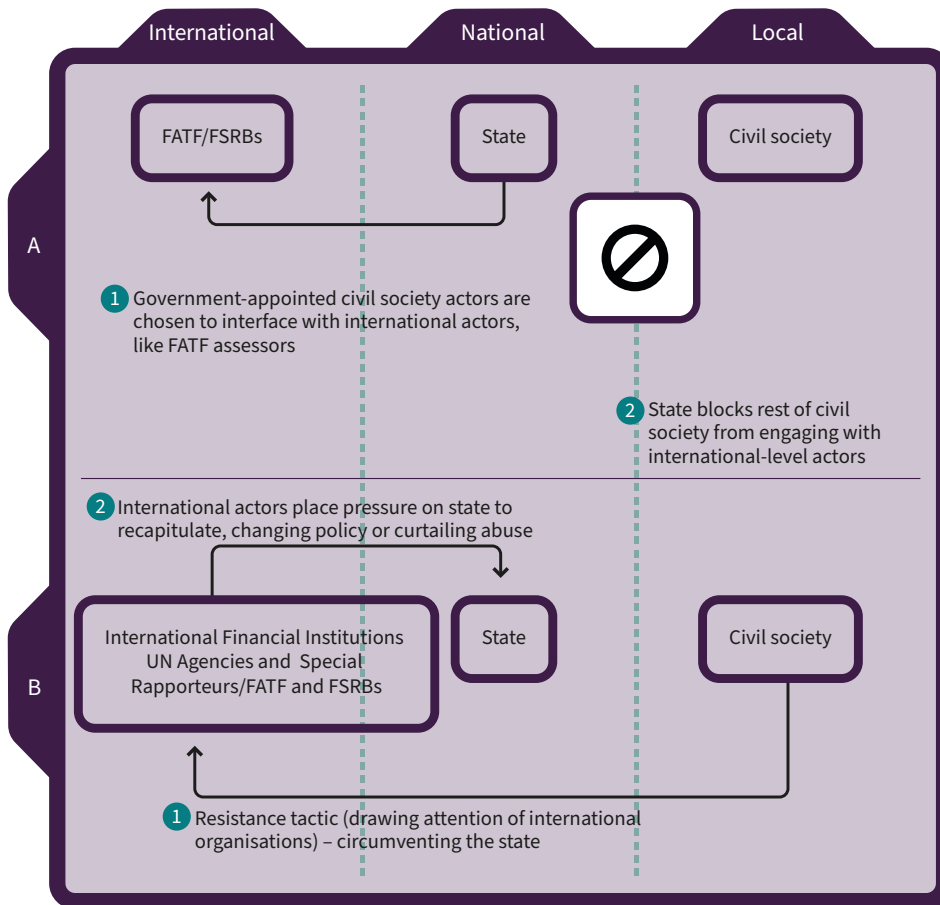
120. Letter from The Chair, MONEYVAL to Fionnuala Ní Aoláin, Clément Nyaletsossi Voule and Mary Lawlor, DGI/IN, 15 December 2020.

121. MONEYVAL, ‘Meeting Report: 61st Plenary Meeting’, 30 April 2021.

122. See European Commission, ‘— 2021 Report’, 19 October 2021.

123. See Global NPO Coalition on FATF, <<https://fatfplatform.org/>>, accessed 3 May 2024.

Figure 4: Response Strategies that Circumvent Ill-Intentioned States



Source: Author generated.

Conclusion and Looking Forward

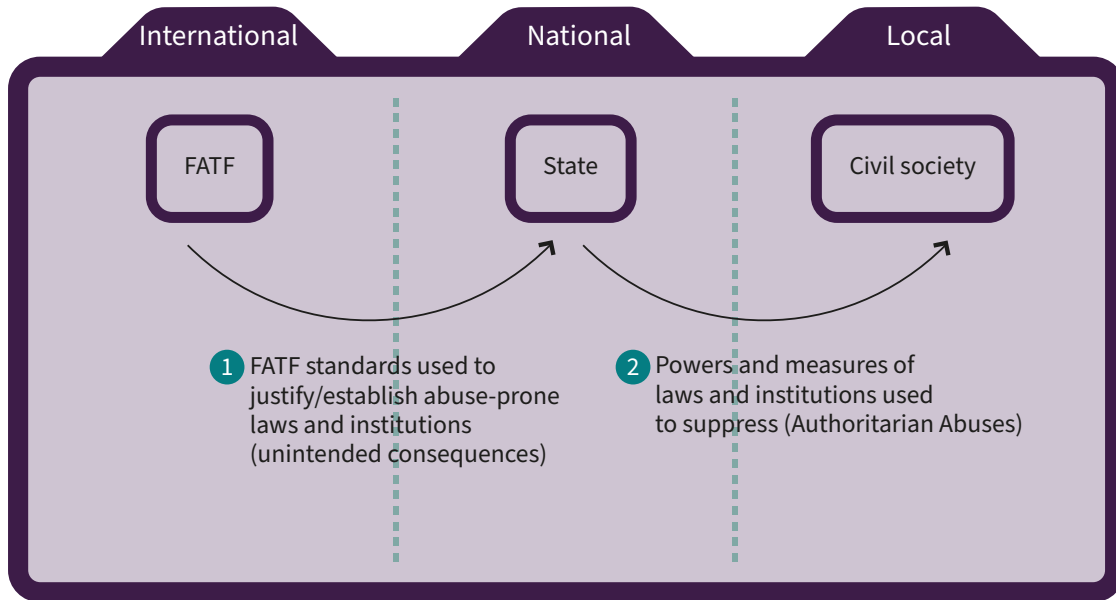
The tactics and consequences of Authoritarian Abuses discussed in this guide link back to the misuse of powers, laws and measures that states have implemented to satisfy the FATF and meet its expectations. The FATF is not wholly ignorant of this reality, but has conceptualised it in a different way, stating in its own work on mitigating what it describes as ‘unintended consequences’ of its standards that, for example, due process and procedural rights have been abused by states pursuing terrorist-financing charges, and that such misuses have not been reflected in FATF assessments.¹²⁴ Regrettably, the FATF has not pursued further due process and procedural rights in its follow-up activities to a self-initiated investigation into the ‘unintended consequences’, a missed opportunity to widen the body’s appreciation of the adverse human rights impacts of its standards and systems, going beyond an as yet singular focus on Recommendation 8.¹²⁵ In this way, unintended consequences of the FATF’s standards, and what this guide has outlined as Authoritarian Abuses of the standards, are related but distinct. Defining the relationship between them should help to clarify where accountability lies, and the way forward in mitigating further abuses (see Figure 5).

From the FATF’s point of view, consequences are indeed unintended where states misuse the organisation’s standards to craft legislation and create institutions that meet its requirements for preventing financial crime, but which can also be used to target critics and pursue other objectives. At the same time, states perpetrate Authoritarian Abuses by using those laws and powers – mandated by the FATF and wielded by the state – which have intended adverse consequences for civil society and regime opponents. This illustrates how, while states are ultimately responsible for perpetrating Authoritarian Abuses with their adverse outcomes for civil society, they draw on the FATF, its standards and systems and the convenient pretence of meeting international soft-law requirements.

124. FATF, ‘High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards’.

125. To date, the only outcome of the FATF’s Unintended Consequences project has been further revision of Recommendation 8. See FATF, ‘Protecting Non-Profits from Abuse for Terrorist Financing Through the Risk-Based Implementation of Revised FATF Recommendation 8’, 16 November 2023, <<https://www.fatf-gafi.org/en/publications/Fatfrecommendations/protecting-non-profits-abuse-implementation-R8.html>>, accessed 3 May 2024.

Figure 5: The Relationship Between Unintended Consequences and Authoritarian Abuses



Source: Author generated.

The FATF’s system of placing under-performing countries on its ‘grey list’¹²⁶ also risks reinforcing the misperception that Authoritarian Abuses are tolerated or even celebrated, when countries known for, and continuing to commit, prolific abuses are permitted to leave the FATF grey list. In the case of a jurisdiction in Latin America, whose government has systematically misused AML/CTF laws and powers to pursue journalists, civil society actors and all major political opponents, leaving the grey list in 2022 constituted a win for the regime and a validation of Authoritarian Abuses, which was just one part of a much wider anti-democratic campaign to close civic space.¹²⁷

By recognising its own contribution to the problem of Authoritarian Abuses, the FATF should come to appreciate what can and should be done to mitigate these specific types of abuses and reduce harms. This is necessary because, simply put, there is no reason to expect that offending states will stop abusing FATF systems on their own, unless there are direct consequences for doing so. Several policy recommendations for the FATF and other institutions can be found in the Policy Brief that accompanies this guide.¹²⁸

126. Countries with identified weaknesses in their AML/CTF systems are entered onto the ‘grey list’ of jurisdictions under increased monitoring by the FATF. See FATF, “Black and Grey” Lists, <<https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html>>, accessed 23 May 2024.

127. Author interview with C2, 14 February 2023.

128. See Reimer, ‘Suppression Laundering’.

While this guide is unable to determine the full scale of Authoritarian Abuses, including whether the trend of using them is increasing or decreasing, its main objective lies in illustrating the truly international scope of the phenomenon: tactics witnessed in one corner of the globe were identified in entirely different contexts in far-off places. This on its own speaks to the international nature of how the FATF system is manipulated to commit Authoritarian Abuses and explains some of the cross-pollination this study has revealed. By the same token, an international approach should be taken in responding to the problem: whether in sharing resilience strategies among actual and potential victims/survivors at the local level, or advocacy pathways that civil society actors with more access and resources may pursue. Both will be required to close off opportunities for the FATF's important architecture – aimed at fighting financial crime and ensuring integrity of the global financial system – to be egregiously abused for suppression laundering.

About the Author

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