

SHADOW REPORT ON UNSCR 2242

PROTECTING US BY TYING OUR HANDS

Impact of measures to counter terrorism financing on Dutch NGO's working on women's human rights and gender equality



WORD OF THANKS

This shadow report was initiated by the Gender, Peace & Security Working Group of WO=MEN Dutch Gender Platform and conducted in close collaboration with Human Security Collective. The authors of the report would first and foremost like to thank all the respondents for their time and courage to share their stories. It has been an awareness raising process for all of us. We would also like to thank the Ministry of Foreign Affairs for their openness and positive attitude towards this shadow report. Finally, we would like to thank the members of the GPS Working Group Kees van den Broek (CARE), Tamara Kool, Anne Kwakkenbos (Cordaid), Marloes Verholt (Hivos), Ghada Zeidan (Palestine Link), Dirk Jan Jalvingh (Oxfam Novib) and Florence Andrew (Stichting STAD), and Human Security Collective's experts Lia van Broekhoven, Fulco van Deventer and Sangeeta Goswami for their time and effort to read and provide input throughout the process.

COLOPHON

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DUTCH EXECUTIVE SUMMARY

(Nederlandse samenvatting)

Introductie

Regelmatig ontvangen we signalen van Nederlandse leden en partners die problemen ervaren als gevolg van financiële anti-terreurmaatregelen. Zij worden beperkt in banktransacties naar partners en kampen met verhoogde administratieve lasten en rapportageverplichtingen. Soms worden tegoeden bevroren zonder duidelijke reden of moeten zij zelfs een bankrekening sluiten. Al eerder kaartten ook Duke International Human Rights Clinic en Women Peacemakers Program, en Human Security Collective aan dat vrouwenorganisaties en andere *non-for-profit* organisaties dergelijke problemen ervaren. Toch worden de gevolgen van financiële anti-terreurmaatregelen in Nederland nauwelijks (h)erkend. Om beter zicht te krijgen in de aard en omvang van de problematiek, besloot de Gender, Vrede & Veiligheid Werkgroep van WO=MEN Dutch Gender Platform tot deze schaduwrapportage. De schaduwrapportage schreven we in nauwe samenwerking met Human Security Collective.

Context

Internationaal wordt steeds meer gefocust op het stoppen van terrorisme financiering, ofwel *countering financing of terrorism* (CFT). De verschillende interpretaties van internationale CFT wet- en regelgeving door landen en financiële instellingen, leiden wereldwijd tot verminderde operationele ruimte voor het maatschappelijk middenveld. Soms per ongeluk en indirect, soms expres en direct. CFT-maatregelen hebben specifieke gevolgen voor organisaties die werken aan gendergelijkheid en vrouwenrechten in fragiele en conflict contexten. Vaak komen deze maatregelen bovenop de sociale en politieke onderdrukking die deze organisaties al ervaren. Als gevolg daarvan staat de ruimte van vrouwenrechtenactivisten, vredeswerkers en humanitaire en ontwikkelingsorganisaties onder druk. Op de lange termijn ondermijnt het hun capaciteit om overheden te controleren, noodzakelijke hulp en ondersteuning te bieden, of te werken aan cruciale politieke en sociale verandering.

In 2015 nam de Veiligheidsraad van de Verenigde Naties Resolutie 2242 (VNVRR 2242) aan, om onder andere te waarborgen dat anti-terreurmaatregelen vrouwenrechten en vrouwenorganisaties respecteren. Ook spoort VNVRR 2242 lidstaten aan gerichte en op bewijs gebaseerde strategieën te ontwikkelen en data te verzamelen over de effecten van anti-terreurmaatregelen op vrouwenrechten en vrouwenorganisaties. Nederland promoot vrouwenrechten in haar buitenlandbeleid en betreft actief het maatschappelijk middenveld bij de preventie van gewelddadig extremisme en het tegengaan van terrorisme. Desondanks blijft onderzoek naar de effecten van anti-terreurmaatregelen op vrouwenrechten en vrouwenorganisaties uit. Ook vragen van de Tweede Kamer en WO=MEN, Human Security Collective en Women Peacemakers Program over de coherentie van Nederlands buitenlands beleid tegen gewelddadig extremisme en terrorisme enerzijds, en de steun aan mensenrechten, vrouwenrechten en robuuste democratieën anderzijds, leidden niet tot duidelijkheid.

Methodologie

Voor deze schaduwrapportage interviewden we 20 Nederlandse organisaties die werken aan vrouwenrechten en gendergelijkheid wereldwijd. De respondenten werden gevraagd over hun ervaringen met banken, donoren en samenwerking met andere organisaties. Alle interviews werden anoniem verwerkt. Ook voerden we een *cross reference* gesprek met vertegenwoordigers van het ministerie van Buitenlandse Zaken. De respondenten vertegenwoordigen een variëteit aan Nederlandse maatschappelijke organisaties werkend in Afrika, Azië, Latijns-Amerika en het Midden-Oosten. 95% van de organisaties werkt in een (post) conflictgebied. De grootte varieert van klein, met 2-3 stafleden of draaiend op vrijwilligers, tot ruim 1400 stafleden. 50% van de organisaties verdeelt ook zelf fondsen.

Bevindingen

Banken

Een belangrijke bevinding is dat het leeuwendeel van de ondervraagden (85%) meer *compliance* eisen ervaart. Ondanks aangepaste richtlijnen van de Financial Action Taskforce (FATF) om de *non-for-profit* sector niet langer expliciet aan te duiden als kwetsbaar voor misbruik ten behoeve van terrorisme financiering. 70% van de respondenten rapporteert de regelmatig of continue problemen te ervaren bij het overmaken van geld. Waaronder voortdurend en opnieuw dezelfde informatie moeten aanleveren en vertraagde (70%) of geweigerde (45%) transacties. 30% ervaarde ooit problemen bij het openen van een bankrekening en 25% ervaarde hogere kosten om geld over te maken. De mate waarin organisaties kunnen omgaan met deze problemen bleek sterk afhankelijk van hun omvang, mate van invloed die zij kunnen uitoefenen op een bank en organisatorische capaciteit. Ook het wel of niet toegewezen krijgen van een accountmanager door een bank, blijkt van invloed.

Donoren en partnerschappen

Alle respondenten ontvangen fondsen van de Rijksoverheid. Het merendeel van de respondenten (95%) voor projecten, vaak niet langer dan 3 jaar (70%). De geïnterviewde organisaties gaven aan dat vaak beperkte percentages kunnen worden ingezet om medewerkers en overheadkosten te betalen. Waardoor zij minder flexibel zijn om te kunnen voldoen aan de toenemende *due diligence* vragen. 75% van de respondenten ervaart een toegenomen werkdruk als gevolg van de *compliance* eisen. Hetzelfde percentage (75%) gaf aan onvoldoende (financiële en organisatie) ondersteuning te ontvangen van donoren. 40% van de organisaties heeft wel eens contracten moeten ondertekenen voor een fonds met expliciete CFT-clausules. Een aantal organisaties gaf aan lijsten te ontvangen van donors of partners met organisaties waarmee zij niet mogen samenwerken. 3 van de 10 geïnterviewde donor-organisaties laat begunstigden ook contracten met CFT-clausules tekenen.

Coping mechanismen

Hoewel het merendeel van de respondenten negatieve gevolgen ervaart van CFT, bleek slechts 20% programma's te hebben gestopt en gaf maar 30% aan programma's te hebben gewijzigd. Om geld alsnog naar het land van eindbestemming te krijgen, zochten respondenten alternatieve en tijdelijke oplossingen. Soms namen respondenten daarbij veiligheidsrisico's. Zo rapporteerde 60% van de respondenten met cash te reizen. 50% van de geïnterviewde gebruikte wel eens een persoonlijk bankaccount om geld over te maken. Een derde gebruikt regelmatig diensten als MoneyGram en Western Union. Ook Payment

Service Providers, *hawala*, pinnen in het land van eindbestemming, en gebruik van creditcards werden genoemd. Respondenten rapporteerden dat ook het gebruik van deze alternatieve systemen vaak leidden tot (meer) vragen van hun bank.

Aanbevelingen

De Nederlandse Bank

De Nederlandse Bank (DNB) controleert en monitort de navolging van FATF-richtlijnen door banken. Het is cruciaal dat DNB erbij banken op aanstuurt, conform deze richtlijnen, de potentiële risico's af te wegen op basis van empirisch bewijs om *de-risking* te vermijden. Daarnaast is van belang dat DNB toezicht houdt op financiële inclusie van maatschappelijke organisaties en dat banken geen onnodige beperkingen aan organisaties opleggen. We bevelen aan dat DNB diverse maatschappelijke organisaties consulteert om tot oplossingen te komen die aansluiten bij hun capaciteit en ervaring.

Banken

Evenals DNB moeten banken de FATF-richtlijnen toepassen en potentiële risico's afwegen op basis van empirisch bewijs. Het is belangrijk dat banken proportionele en doelmatige risico verminderende processen opzetten, in plaats van een zero-risk benadering hanteleren. Het is daarom cruciaal dat banken, net als DNB, de werkwijze van maatschappelijke organisaties, in al hun diversiteit, begrijpen. We bevelen dan ook aan dat banken capaciteit en middelen beschikbaar stellen voor betere klantenservice, waarbij persoonlijk contact voor alle klanten mogelijk is. Ook voor organisaties met een omzet minder dan een miljoen euro. Daarnaast is essentieel dat ook banken participeren in *multi-stakeholder* gesprekken.

Donoren en overheden

De ministeries van Justitie en Veiligheid en van Financiën zijn als coördinerende ministeries verantwoordelijk voor de implementatie van CFT-maatregelen in Nederland. Het is cruciaal dat zij bij financiële instanties en de Nederlandse Staat aansturen op het volgen van het internationaal recht, waaronder het internationaal humanitair recht. Daarvoor kunnen zij richtlijnen, en waar nodig ondersteuning, bieden om onnodige verantwoordingsdruk bij maatschappelijke organisaties weg te nemen en maatwerk te leveren. Bovendien hebben deze ministeries een rol in het betrekken van maatschappelijke organisaties bij de ontwikkeling, implementatie en beoordeling van maatregelen. Dat houdt ook in dat vrouwenorganisaties worden uitgenodigd bij FATF-evaluatie processen en CTED-beoordelingen.

Het ministerie van Buitenlandse Zaken heeft een belangrijke rol in het bewaken van consistentie tussen CFT-maatregelen en hun steun aan vrouwenrechten en gendergelijkheid en de organisaties die zich daarvoor sterk maken. Door er bijvoorbeeld voor te zorgen dat maatschappelijke organisaties bij de uitvoer van door het ministerie gefinancierde projecten, niet alleen de kosten en risico's van CFT-maatregelen dragen. Daarnaast is het ministerie verantwoordelijk voor de documentatie en monitoring van effecten van CFT-maatregelen op vrouwenrechten en gendergelijkheid en op de organisaties die daarop werken. Daartoe hoort ook het aanspreken van en nemen van maatregelen tegen financiële instanties die wel mensenrechten schenden. Evenals het wegnemen van drempels voor maatschappelijke partners, ook in consortia, om problemen te melden.

Maatschappelijke organisaties

Ook donororganisaties moeten CFT-clausules en andere administratieve verplichtingen tot het nodige limiteren. Maatwerk is cruciaal. Daarnaast hebben donororganisaties en penvoerders van consortia een belangrijke taak in het initiëren van *peer-to-peer* dialoog en transparantie tussen consortia partners. Ook is cruciaal dat CFT risico's worden gedeeld en niet volledig op de schouders van de kleinste uitvoerders (de laatste in de uitvoeringsketen) komt te liggen. Oftewel, dat organisaties een *risk-sharing* benadering hanteren, in plaats van *de-risking*.

Over het algemeen is het belangrijk dat maatschappelijke organisaties financiële problemen naar buiten durven brengen, samen documenteren en kennis delen over CFT-maatregelen en de werkwijze van banken. Zo is het handig te weten dat het gebruik van alternatieve systemen als *hawala* en MoneyGram organisaties juist extra verdacht maken, omdat de geldstroom dan niet langer transparant is. De effecten van CFT moeten als zodanig worden (h)erkend. Ook binnen organisaties moeten medewerkers bewust worden van de problemen die hun collega's op andere afdelingen ervaren. Het is essentieel dat maatschappelijke organisaties de effecten van CFT niet normaliseren, maar de krachten bundelen en met elkaar, overheid en financiële instellingen komen tot oplossingen.



1 – INTRODUCTION

The past years an increasing number of members and partners of WO=MEN Dutch Gender Platform have faced issues related to international and Dutch countering financing of terrorism (CFT) measures. To gain a better understanding of the impact of CFT measures on Dutch-based women's organizations and organizations that work on women's human rights and gender equality, the Gender, Peace and Security Working Group of WO=MEN initiated this shadow report. The report was written in close collaboration with Human Security Collective.

Over the years the focus on CFT as part of the global counter terrorism agenda has increased. However, the various interpretations of CFT rules by States' and financial institutions in their policies have impacted the operating space of civil society, sometimes inadvertently and indirectly, sometimes intentionally and directly. Studies conducted by among others Duke International Human Rights Clinic & Women Peacemakers Program and Human Security Collective¹ specify how civil society organizations are experiencing limitations to transfer money to partners, increased administrative burdens and reporting requirements, freezing of assets, closure of bank accounts, and exclusion of financial and legal services. In practice, many of these trends overlap and are experienced simultaneously, which compound the potency of their effects.²

CFT measures have specific impacts on groups and organizations that work on gender equality and women's rights in fragile and conflict affected contexts. In many contexts CFT adds to the social and political opposition these organizations often already face. As a consequence, these measures jeopardize the operating space of women's rights activists, peace builders, humanitarian and development organizations to implement their mandates. In the long run it undermines the capacity of civil society to hold governments to account, provide much-needed aid and relief, and to advocate for political and social change.

In 2015 the United Nations Security Council adopted Resolution 2242 (UNSCR2242). With this resolution the Security Council both acknowledges the importance to integrate a gender lens in countering terrorism strategies and the importance to cooperate with civil society to realize better approaches against terrorism and violent extremism. To ensure counterterrorism strategies do respect women human rights and women's organizations the Security Council urges to develop targeted and evidence-based counterterrorism strategies. In addition, UNSCR 2242 urges Member States to 'conduct and gather gender-sensitive research and data collection on [...] the impacts of counter-terrorism strategies on women's human rights and women's organizations.'

The Netherlands has a long-standing tradition of promoting (women) human rights and gender equality worldwide as a foreign policy priority. This desire was reaffirmed by the Dutch Ministry of Foreign Affairs within its Foreign Trade and Development policy framework³ and in its normative framework for its Foreign and Security Strategy.⁴ This includes the Dutch government's efforts to engage women and civil society at large to prevent violent extremism and counter terrorism⁵. Via funds as FLOW⁶, the Addressing Root Causes Fund⁷, Dialogue and Dissent⁸, Leading from the South⁹ and the National Action Plan on Women, Peace and Security¹⁰ civil society organizations in the Netherlands and in Southern

and Eastern countries are supported to promote, defend and implement (women) human rights, democracy, inclusive peace and security, rule of law and development.

However, to date, the Dutch government has not published any gender-sensitive research or data collection on the impacts of C(F)T or CVE on women's rights organizations. It is unclear whether the Dutch Ministries of Finance, Foreign Affairs, the National Coordinator for Security and Counterterrorism (NCTV), financial institutions as the Dutch Central Bank, or any other relevant entity has assessed or monitors whether existing Dutch C(F)T or CVE measures respect women's human rights and women's organizations. Questions raised by the Dutch Parliament on this topic end of 2015 and in 2017 did result in the acknowledgment of the problem by former minister of Trade and Development, Ms. Ploumen. But it did never result in (public) information on the perceived impact of Dutch C(F)T and CVE measures on Dutch based organizations.¹¹

It is crucial to gain insight on how CFT effects are felt by Dutch organizations, including those that work on women's human rights and gender equality. Not in the least to understand the coherence of Dutch international policies on countering violent extremism and terrorism and its commitments to supporting human rights, women's rights and robust democracies. We have therefore developed this CSO shadow report. In chapter 2 we will further sketch the context of this shadow report. Chapter 3 covers information on the scope of the report and the methodology of the research. Chapters 4, 5 and 6 will provide an overview of the research's findings. Finally, in chapter 7 we will focus on recommendations to banks, donors and civil society.

2 – CONTEXT OF THE SHADOW REPORT

In this chapter, we will provide background information on United Security Council Resolution 2242 and its urges towards Member States to consider 1) a gender lens in counterterrorism strategies, 2) the need to cooperate with civil society in counterterrorism responses and 3) the impact of counterterrorism measures on civil society and women's rights organizations in general. Next, we will dive deeper into CFT measures, the origin of these measures and the impact it has had on civil society. Finally, we will provide background information on the Dutch actors in CFT.

UNSCR 2242

Civil society role in sustaining resilient and open societies

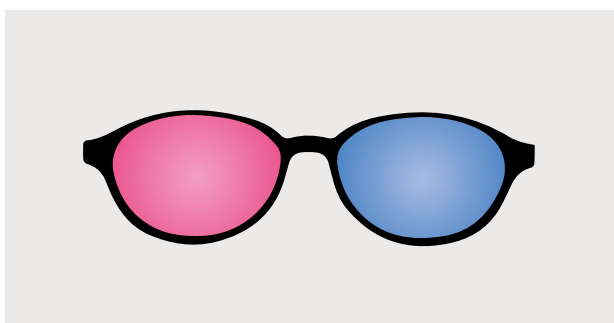
Civil society organizations working on (women) human rights and social justice fulfill a crucial role in our societies worldwide. (Women) human rights defenders, youth and peace activists, journalists, humanitarian and development organizations defend human rights, address social, economic and political inequalities and unjust laws or government practice, and are crucial to create open space for debate. In sum, civil society's efforts contribute to maintaining robust democracies, fostering community cohesion and addressing and preventing violent conflict.

United Nation Security Council Resolutions on Women, Peace and Security

Women's groups, as part of civil society, have always been at the forefronts of fighting social injustice. It has been *'women the world over (that) have played a crucial role in advancing human rights'*, as stated by the UN Special Rapporteur on Human Rights end of February 2019: *'women have been at the forefront of social change throughout history'*. For decades, feminist pacifists have been vocal in opposition to militarism and advocating for nonviolent means of conflict resolution and prevention rooted in gender and social justice. Women's groups have addressed the use of sexual violence as weapon of war and the need to develop better protection mechanisms for women and children in armed conflict. With support of other civil society networks women still address the need of inclusive peace and security processes at local, national, regional and international level.

The adoption of resolution 1325 by the United Nations Security Council¹² was one of the crowning achievements of the global women's movement. The recognition that sustainable peace and security are inextricably linked with gender equality and women's leadership was a radical step for the highest body tasked with the maintenance of international peace and security. However, in 2015, fifteen years and six related resolutions¹³ later, the UNSC had to acknowledge their general failure to sufficiently develop and implement inclusive peace and security processes. As Phumizile Mlambo, head of UN Women, stated in the Global Study on 15 years implementation of resolution 1325: *'We struggle to bridge the declared intent of international policymaking and the reality of domestic action in the many corners of the world where resolution 1325 is most needed.'*¹⁴

In an attempt to reaffirm the obligation of Member States to fully implement the Security Council's resolutions on Women, Peace and Security (WPS), the UNSC anonymously adopted Resolution 2242. New to this resolution was the acknowledgment to formulate a gendered answer to rising threats of terrorism and violent extremism. Also new was the specific emphasis on the need to collaborate with civil society, including women's organizations, to implement the WPS agenda. A third new element was the need to analyze the effects of measures to counterterrorism and violent extremism on women's rights and women's organizations.



Gender lens in counterterrorism strategies

UNSCR 2242 calls on Member States to implement a gender lens in their own counterterrorism and countering violent extremism policies. In addition, it requests the Counter-Terrorism Committee to integrate gender as a cross-cutting issue throughout the activities within their mandate.¹⁵

Terrorism and violent extremism have become a key challenge in WPS work. Gradually the international community has begun to understand the impact of terrorism and violent extremism on women's and girls' lives. The rise of groups like IS, Boko Haram, Al Qaida and other violent extremist and terrorist groups deliberately targeting women and girls' human rights, has contributed to that understanding.¹⁶ As is referred in UNSCR 2242: *'acts of sexual and gender-based violence are known to be part of the strategic objectives and ideology of certain terrorist groups, used as a tactic of terrorism, and an instrument to increase power through financing, recruitment, and the destruction of communities.'*

Meanwhile practice and research has also shown that women are not just victims or naïve followers of extremist groups.¹⁷ Women are also enablers and active supporters and members of violent extremist and terrorist groups.¹⁸ This means women should be taken seriously as stakeholders within this field, in accordance with human rights and other international law obligations.¹⁹ It also means that, in order to ensure counterterrorism measures are sustainable and effective, a gender lens needs to be integrated in counterterrorism policies²⁰, including in the national security system.²¹

Women groups' participation in UN's counterterrorism strategy and responses

UNSCR 2242 also urges Member States to cooperate with civil society, including women's organizations, to prevent and counter terrorism and violent extremism. Member States need to '*...ensure the participation and leadership of women and women's organizations in developing strategies to counter terrorism and violent extremism (...) including through countering incitements to commit terrorist acts, creating counter narratives and other appropriate interventions, and building their capacity to do so effectively.* UNSCR 2242 '*welcomes the increasing focus on inclusive upstream prevention efforts*' and '*calls for adequate financing in this regard.*'²²

The Security Council herewith seems to acknowledge the expertise of women's rights activists, peace builders, development and humanitarian organizations on how gender inequality and other gender roles can contribute to extremism and conflict.²³ It also recognizes the extensive networks of contacts civil society has with women and youth grassroots' and community leaders.²⁴

As pressing as these issues are, there exists no consensus within the women's movement, and social justice movements more broadly, on engaging on issues of counter terrorism. As explained by the Women's International League for Peace and Freedom (WILPF), the tension that exists for many activists shows that on one hand, there is a clear need to include women and a gender perspective in addressing (frequently gender-blind²⁵) counterterrorism action. However, on the other, there is a clear risk of being co-opted into the increasingly militarized response to terrorism and insecurity – responses of which many women's groups are highly critical.²⁶

On issues of counterterrorism, women's organizations that have engaged on this topic have demanded for a greater shift to prevention, including by creating enabling environments for women's rights and gender justice. Many of these concerns have been taken up by the international community, especially around action to prevent violent extremism (rather than only 'countering'), and also an emphasis on creating conditions conducive to peace and security. Rather than only focusing on 'hard security' militarized responses.

Impact of measures to counterterrorism on women's rights and women's organizations

The final, and for this report most crucial element of UNSCR 2242, is the Security Council's urge on '*...Member States (...) to conduct and gather gender-sensitive research and data collection on (...) the impacts of counter-terrorism strategies on women's human rights and women's organizations, in order to develop targeted and evidence-based policy and programming responses, and to ensure United Nations monitoring and assessment mechanisms and processes mandated to prevent and respond to violent extremism, which can be conducive to terrorism, have the necessary gender expertise to fulfil their mandates, including relevant sanctions experts groups and bodies established to conduct fact finding and criminal investigations*'.

When adopting Resolution 2242, in 2015 the Security Council understood the importance of developing targeted and evidence-based counterterrorism strategies that respect (women) human rights and women's organizations. This is crucial as the operating space for civil society, and for women's organizations in particular, to fulfil their watchdog role, has been increasingly under threat. In the words of the UN Secretary General, 'around the world, there is a pushback on women's rights. That pushback is deep, pervasive and relentless'.²⁷

Some challenges shrinking the operating space of civil society are overt. The rise of conservative political ideologies and religious fundamentalisms, extremist groups and governments targeting women activists, as well as deeply entrenched patriarchal power structures and cultural norms all converge in putting pressure on women human rights defenders' ability to do their work. Some challenges manifest in subtler, but equally as devastating, ways. An important one that will be covered in this report is the effects of countering terrorism financing measures, and the accompanying zero-risk thinking, on civil society working on women's rights.

While the preventing and countering violent extremism and counterterrorism sphere have been pushed to reckon with their obligations under international human rights law, the issue of countering financing of terrorism has often escaped such scrutiny, as it is often seen as a more 'soft' approach for countering terrorism and violent extremism. Its effects however, are felt across civil society, and warrant a closer look.

Countering financing of terrorism and shrinking space for civil society

Increased focus on countering financing of terrorism

As explained earlier there has been an increased focus on the urgency of CFT as part of the global counter terrorism agenda. Global rules and agreements on CFT²⁸ must be translated into national laws, regulations and policies, and also then have compliance consequences for all parts of society: businesses, banks, and NGOs alike. Banks, which provide a critical service for NGOs working nationally, and especially also internationally, have been under increased pressure to conduct extensive 'due diligence' on their customers and transactions to ensure that they do not facilitate terrorist activity.

Banks must also ensure that they do not inadvertently breach any of the national and international sanctions regimes or financial 'blacklists' that now span the globe in their hundreds.²⁹ CFT compliance is subject to intense scrutiny by regulators and bank examiners, and is underscored by substantial criminal or civil penalties for failures or lapses, and the reputational damage this brings. This has led to a phenomenon referred to as 'de-risking', where financial institutions are behaving in increasingly risk-averse ways.

As mentioned in the former chapter, the various interpretations of CFT rules by States' in their national policy have impacted the operating space of civil society. Reports of Charity & Security Network, Duke International Human Rights Clinic & Women Peacemakers Program and Human Security Collective, and others specify how civil society organizations experience limitations to transfer money to partners, increased administrative burdens and reporting requirements, freezing of assets, closure of bank accounts, and exclusion of financial and legal services.

Different impacts

Because civil society is not a homogenous sector, but consists of a large variety of groups and organizations, the effects play out differently for each of them. Some variables that dictate in what way and to which extent CFT measures impact a particular civil society organization often has to do with an organizations' name recognition and influence, the flexibility of their budgets for administrative costs or overhead, the level of their financial resilience to deal with transfer delays, the number of dedicated staff working on compliance and control. Research has shown that international NGOs working in or around conflict zones and the more 'political' (or politicized) causes within the non-profit sector have been hardest hit by de-risking.³⁰

Research conducted by Duke International Human Rights Clinic and Women Peacemakers Program in 2017 uncovered the impact that these rules have had on women's rights organizations worldwide and found that the profile of women's rights organizations had a lot to do with the way that they experienced these rules: *'highly reliant on foreign funding and often in receipt of short-term or project-based funding, women's rights organizations have little financial resilience, are nascent or newly-established, are relatively small and often operate at the grassroots level, and already often face some degree of financial exclusion'*.³¹ By no means does this mean that women's organizations are the only ones bearing the brunt of these rules. What it does show is the importance to understand the differences and commonalities in the process of diagnosing how de-risking affects civil society. Because it also informs the types of solutions that can be proposed.

Brief history of Countering Financing of Terrorism

During recent years, more attention is being paid to the impact of counter terrorism financing measures on the legitimate activities of civil society organizations.³² Various international institutions have also begun to look into how these measures interact and impact civil society space and financial access.³³ To better understand the impact of counter terrorism financing measures, it is important to first understand the legal, regulatory and institutional frameworks used to enforce them.

9/11

In response to the attacks of September 11, 2001, a broad spectrum of counterterrorism measures was, and continues to be, implemented on a global scale. These measures have permeated every aspect of policy. An important component of these measures concern countering terrorism financing policies, aimed at addressing criminal or terrorist organizations through the targeting of their financial activities, and using financial trails to identify possible terrorists and their supporters. Before 9/11 there were not many³⁴ international standards that criminalized or aimed to prevent the financing of terrorism. Instead the focus of transnational financial crime was mostly focused on the crime of money laundering.³⁵

The criminalization of terrorism financing encompasses different components, and varies across jurisdictions. To date, almost all countries in the world criminalize financing of terrorist groups and individuals. Several countries also criminalize the intent to finance terrorist groups or actions. Some countries, such as the United States, go further and also criminalize unintentional financing. Key components of countering terrorism financing regulations include: criminalization of terrorist financing, the use of sanctions, asset freezing, and the inclusion of counterterrorism clauses in donor contracts.

FATF

The Financial Action Task Force plays an important role in the architecture of countering financing of terrorism (CFT). Established in 1989 by the G7³⁶, the FATF's original mandate was to combat money laundering through the international banking system. After the September 11 attacks, the FATF's mandate grew to include a global framework for the detection, prevention and suppression of the financing of terrorism and acts of terror. The FATF has evolved into an extremely influential institution, though its inner workings remain unknown to most. It is not underpinned by any international treaty or convention, and operates as a task force with an indefinite lifespan.

To date, the 40 recommendations adopted by the FATF have become the international standards for combatting terrorist financing and money laundering (AML) with the endorsement of 205 jurisdictions. The assumption underpinning the FATF is that *'effective standard implementation protects the financial systems and broader economy from the threats of money laundering and terrorism financing'*.³⁷

Countries feel under immense pressure to comply, as a result of evaluations that measure how countries implement CFT regulations. Countries are rated on technical compliance and effectiveness as measured against the FATF recommendations. They are regularly evaluated through a peer-to-peer evaluation mechanism. While, under international law, being on the FATF Blacklist carries with it no formal sanctions, a jurisdiction placed on the FATF Blacklist often found itself under intense financial pressure and, in practice, not meeting the FATF standards can have negative consequences for a country's economy, influencing its financial standing and foreign investments. This has driven many countries to translate the FATF standards into national laws, rules and regulations.

Recommendation 8

In 2001, after the inclusion of CFT in its mandate, the FATF published its Special Recommendations report. This included Special Recommendation VIII, since 2012 known as Recommendation 8 (R8), which was dedicated to the NPO [Non-Profit Organization] sector's supposed vulnerability to be misused for terrorist financing. According to the FATF's Special Recommendation VIII at the time, *'[NPOs] possess characteristics that make them particularly attractive to terrorists or vulnerable to misuse for terrorist financing'*. As such, R8 makes governments responsible for protecting their NPO sector from abuse, through the passing of laws and regulations. Financial institutions are required to act as watchdogs as well.

In response to these developments, civil society organizations under the umbrella of the Global NPO Coalition on the FATF³⁸ began to push back at the assumptions underpinning R8³⁹, citing a lack of evidence to back up the claims about the sector's supposed vulnerability to terrorist financing abuse. They also called on the FATF to demand each country to be required to conduct a thorough Risk Assessment of its NPO sector before considering any (additional) measures to combat NPO terrorist financing risk. This included input and meaningful consultation with a wide representation of its NPO sector. Civil society warned that R8 would, and has, worked to stifle civil society's activism and on-the-ground interventions. Including those focused on providing humanitarian aid, building peace and defending human rights.

Growing research on the topic including by institutions such as the US Department of the Treasury, European Commission, World Bank, and even the FATF's own mutual evaluations,

has demonstrated that CSOs actually *'pose little to no risk for terrorist financing'*⁴⁰. Nonetheless, in practice, the measures advocated by the FATF's R8 constrained the operating space for civil society worldwide. It led to increased financial surveillance and profiling of civil society, increasingly complicated financial processes, and even loss of financial access for some civil society organizations. Several countries saw a rise in restrictive CSO policies and legislation leading up to, or right after, an FATF evaluation.⁴¹

Some countries' seeking to limit the activism of critical civil society organizations have regularly done so under the guise of combatting terrorist financing and complying with the recommendations of the FATF. In 2014, the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association at the time, Maina Kiai, expressed concern that R8 and the FATF's assertion of NPO vulnerability posed *'a serious, disproportionate and unfair threat to those, who have no connection with terrorism, including civil society organizations.'*⁴²

Not 'particularly vulnerable'

With the mounting evidence of the negative impacts of R8 and through the establishment of regular engagements between the FATF Secretariat and the NPO sector through the Global Platform on the FATF, the FATF eventually agreed to set into motion a process to review and update R8, based on civil society's input. In June 2016, the new R8 and its Interpretive Note were presented. Changes included the removal of the characterization of non-profits as *'particularly vulnerable to terrorist abuse'*, and some changes to the Interpretive Note that accompanies the Recommendation. In a nutshell, the new R8 moved from a blanket categorization of all CSOs as vulnerable to terrorist abuse, to the categorization of 'at-risk NPOs' being vulnerable.

The removal of the original designation and the inclusion of civil society voices in the FATF process have been an important step forward. Nevertheless, it is important to note that the FATF leaves it up to the discretion of the countries on how to determine which NPO is at risk for terrorism financing. Neither are countries required to provide an explanation in writing on how 'risk' is defined. Still, the FATF evaluators will look into the way the government conducted a national risk assessment and will determine whether satisfactory outreach to all relevant sectors, including NPOs, has taken place in relation to the determination of the risk assessment.

Continuous de-risking

Although R8 has been adjusted, its legacy has proven more difficult to undo. Around the world, banks are increasingly engaging in de-risking practices⁴³. This includes limiting financial services to NPOs in order to avoid the risk of being penalized under countering terrorism financing legislation. As a result, CSOs have faced the denial of financial transfers and sometimes even the closing of their accounts, mostly without any warning or proof of wrongdoing.

A 2017 report by Charity & Security Network⁴⁴ found that two-thirds of all U.S. nonprofits that work abroad have faced financial access difficulties including delays in wire transfers (37%), fee increases (33%), and additional (unusual) documentation requests (26%). The report found, perhaps surprisingly, that transfers to all parts of the globe were impacted. The problem was not limited to conflict zones or 'fragile' and 'failing' states. It found that NPO's are *'categorically treated as high-risk, are sometimes forced to move money through less*



transparent, traceable, and safe channels as a result of delays in wire transfers and requests for additional documentation. When money cannot be transmitted in a timely manner, 42% of nonprofits report that they carry cash'.⁴⁵

The same year, Duke International Human Rights Clinic together with Women Peacemakers Program released a study on the gender and human rights implications of countering terrorism policy. They found that, *'as a direct and indirect result of these rules, women's rights organizations are losing critical access to resources, as well as the ability to fully use banking facilities, all of which circumscribe how, where, and in some cases, even if, women's rights organizations can undertake their core work on mobilizing human rights, gender equality, and advancing the women, peace, and security agenda'.⁴⁶*

The research included survey conducted with 60 civil society organizations all over the world working on women's rights. Survey respondents indicated having experienced delays or not receiving funds from donors, onerous requests for project information from banks before fund release, government limits on transfer of funds, refusal of banks to transfer cash to other countries, request for information from security/intelligence agencies, refusal of banks to release funds altogether, among others.

In addition to facing issues related to their bank, the report uncovered how CFT measures was a contributing force in reducing the space for women's rights organizing and organizations through donor practices of de-risking. Women's organizations reported that CFT demands impacted their access to funds. Aside from significantly increased compliance demands, these CFT demands by donors include requiring (sub)grantees to sign counter-terrorism clauses⁴⁷, requiring specific and sometimes extensive partner vetting methods. In addition, it found that some recent trends in the way funds are disbursed, is further exacerbating effects of counter terrorism financing measures on civil society, and impacting their resilience in dealing with these measures.

In March 2016, a Thomson Reuters investigation revealed that 21 international and local CSOs (including a consortium of 90 Syrian CSOs) reported that countering terrorism finance policies were forcing aid agencies in Syria to avoid communities controlled by extremist groups, making it even more challenging to deliver life-saving supplies and leaving locals dependent on warring factions for vital help. It noted that *‘government donors and banks were also demanding more in-depth audits in the two years since jihadi group Islamic State (ISIS) took root, sending costs spiraling’*.⁴⁸ In the UK, for example, over 300 charities had their bank accounts closed between 2015 and 2017.⁴⁹ The scope of de-banking or the wider practice of de-risking as experienced in The Netherlands is still largely unknown. This report hopes to contribute to a better understanding of how CFT impacts Dutch charities.

Zero-tolerance for risk

A reoccurring theme in the way that much of the CFT framework is currently put into practice is a zero tolerance for risk. The FATF has revised R8 and emphasized the importance of the application of a risk-based approach. Countries have to use evidence and engage with civil society to show where there are risks for terrorism financing and proportionally act accordingly, rather than issuing sweeping restrictive legislation that puts the entire NGO sector under suspicion. Still, this is not always applied in practice.

While individual governments may have different requirements in terms of vetting and use different lists of sanctioned entities, the current international legal and financial landscape means that legal obligations cross borders and are interlocked. For banks this means that in addition to be fearful of violating any national AML or CFT regulation, they also have to comply with being in violation of other countries’ policies, for example the US Treasury policy. Their international nature of their work and transfers that they make also impact the way they determine risks. This complexity and desire for clarity and process, together with an absence of concrete guidelines by regulators and broad sector risk assessments, have led many banks to adopt of a *‘rule-based approach’* rather than a *‘risk-based approach’*.

For donors this zero-risk mentality means that some donors pass on requirements in contracts to their grantees. Grantees are then required to sign counter-terrorism financing clauses and are pressed to vet their own (senior) staff and board members of sub-grantees and partner organizations⁵⁰. Some CSO’s, who receive funding from many donors at a time, indicate they sometimes over-compensate and *‘do the maximum in terms of compliance rather than parsing out which donor government requires what’*.⁵¹

Civil society organizations working in fragile or conflict affected areas, often do not have the luxury to de-risk. They must find ways around the growing restrictions or risk not being able to deliver the necessary assistance. The UN Office for the Coordination of Humanitarian Affairs estimates that, as the average length of humanitarian crises rise, close to 132 million people in 42 countries will require humanitarian assistance in 2019.⁵² With more and more people being displaced by conflict, and with these crises exacerbating societal issues such as gender inequalities, civil society organizations working on the ground addressing root causes of conflict and providing much needed relief and assistance are as needed as ever.

The Dutch context

Diversity of Dutch civil society

In the Netherlands a wide and diverse range of CSO's are active on women's rights and gender equality worldwide. They encompass humanitarian, development, human rights, peace building and faith-based organizations. Many have an office in the Netherlands. Some also have other country offices or work in close partnerships with local civil society. Some women's rights and social justice networks have their staff divided between countries. Some are volunteer driven diaspora women's organizations from conflict affected countries in the Netherlands, with strong political, family or social ties to other diaspora or local women's groups. There are also Dutch women, men and youth volunteer activists organized through networks or platforms.

Some organizations have a single focus (e.g. sexual and reproductive rights, LGBT rights), others cover a broad range of topics. The range of mandates of these organizations vary from humanitarian, to development, peace building work, among which is work on Disarmament, Democratization and Reintegration and on Security Sector reform, (women) human rights and gender equality and social justice in general, to supporting free press. Activities vary from research, to implementing programs in fragile and conflict affected contexts and in more stable countries where longer term development initiatives take place. To partnering with local civil society, supporting local (women's) groups via training and capacity building of civil society and local government, to national, regional and international lobby and advocacy work.

The size of budgets ranges from a few hundred million euros a year to a few hundreds of euros a year. Many Dutch based organizations that work on and in fragile and conflict affected countries, are financed via Dutch local or national government, the European Commission, or other international governmental funding. Some organizations are financed via donations, membership fees or private foundations, such as De Postcode Loterij. Some organizations also work with the private sector (companies, entrepreneurs).

Relevant Dutch actors in CFT

The Dutch public and private counterterrorism community is embedded in the international context of CFT. While States are responsible for regulation, money flows and therefore also CFT policies, is first and foremost a transnational topic. Important international regulations on CFT are captured in recommendations of the FATF, European jurisdiction and resolutions of the United Nations Security Council. Important Dutch public stakeholder in CFT, for the FATF mutual evaluations is the Ministry of Finance. In addition, for the UN Counter Terrorism Executive Directorate (CTED), they include the Dutch Ministry of Finance as well as the Ministry of Foreign Affairs and of Justice and Security, including the National Coordinator for Security and Counterterrorism (NCTV). Together they coordinate the Dutch CFT measures. The Ministry of Foreign Affairs (MoFA) is also involved in the implementation of European and UNSC policies, including freezing of foreign assets. Of course, the Dutch MoFA also is a major donor of civil society efforts in conflict affected countries.

Other public stakeholders are six independent regulators: the Dutch Central Bank (DNB), regulator of Financial Markets (AFM), the Financial Supervision Office (BFT), the Financial Supervision Act (BTWwft), the Netherlands Gambling Authority (NGA) and the bar association. All regulating entities have to coordinate, but the DNB has the most direct influence

on the risk assessments of Dutch banks. The Dutch Financial Intelligence Unit (FIU) is the agency to whom banks must report suspicious transactions and coordinates with law enforcement. The banks themselves also play a hugely important role in monitoring financial transactions and clients.

3 – METHODOLOGY AND PROFILE RESPONDENTS

Respondents

The focus of this report is to map the impact of international and Dutch counter terrorism financing measures of Dutch donors and banks on Dutch civil society organizations working on women's rights and gender equality. The aim of this research is to map and better understand what the major issues are that are faced by these organizations. Therefore, we interviewed civil society organizations based in the Netherlands that work on the topic of women's rights, women's rights organizing and/or gender equality. As a cross-reference we also conducted a focus group interview and an email survey with representatives of several departments of the Ministry of Foreign Affairs.

In terms of the sample size, the sample includes 20 larger and smaller CSOs that were contacted through the network of members and partners WO=MEN Dutch Gender Platform. The organizations surveyed represent a broad range of Dutch civil society working on women's rights and gender equality, in The Netherlands and mainly abroad. 95% of the organizations surveyed work in a conflict or post-conflict area. 50% of the organizations interviewed are also donors themselves, meaning they either re-grant or disburse their own funds in some manner. Their work spans the globe, working mostly in Africa, Asia, Latin-America and the Middle East. All of the interviewed organizations are (partly) funded by the Dutch Government.

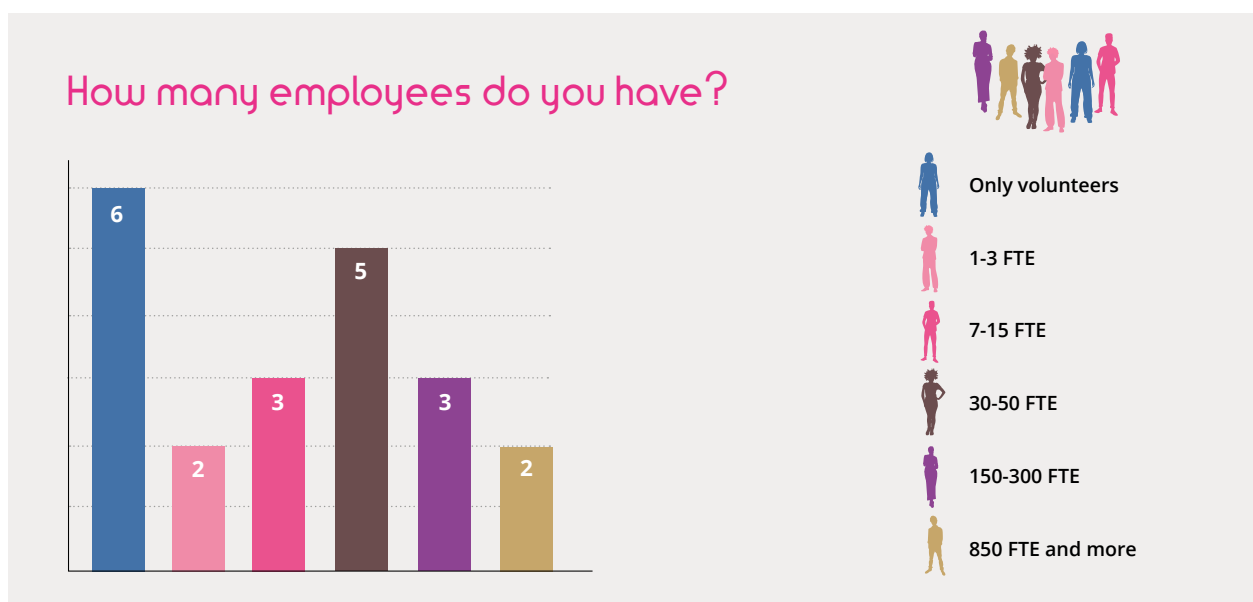
The organizations interviewed were diverse in terms of size, ranging between volunteer-only, to 1400 staff. 7 of the 20 interviewed organizations were completely run on a voluntary basis. There was one organization who had a staff of 2-3 paid staff. The next organization size was at 12 staff. The same division of organizational capacity was reflected on the organizational financial reporting capacity. Of the organizations interviewed, 65% had an internal financial compliance department or officer. The other 35% either paid an external person to assist in the financial compliance or had someone do it on a voluntary basis.

Survey and procedure

A survey was composed, which drew on experiences and previous surveys by Charity & Security Network, Duke IHRC and WPP, and was adapted to fit the Dutch context. A reference group of civil society organizations, that are part of the Gender, Peace and Security Working Group of WO=MEN reviewed the survey and provided input. The first part of the survey focused on the profile of the organization in terms of their thematic and geographical work

area, their number of staff and due diligence capacity and how they received funding. The second part of the survey focused on any perceived impact of CTF implemented by their Dutch banks. The third part of the survey focused on any perceived impact of CTF implemented by (Dutch) donors. The full survey can be found in Annex 1.

Staff from HSC and WO=MEN then went through the survey with the interviewees, question by question, either in person or via Skype. The interviews have been anonymized to protect the identity of the organizations and people involved but also to create a safe space for sharing their experiences⁵³. Respondents received no compensation for participating in this research.



4 – BANKING AND CFT

When respondents of our study were asked if they have experienced increased demands on their organization in terms of the conditions they need to comply with the receive or transfer funds to third parties, an overwhelming 85% answered yes. When asked where these challenges were coming from, many answered their donor, banks and other money transfer services, and lead partner organizations in consortia. This chapter will further elaborate on banks and explain the challenges faced by Dutch organizations.

Scope of bank de-risking

Increased due diligence and reporting requirements for financial institutions have led banks to develop their own increasingly risk-averse controls – generally termed ‘de-risking’. There are growing concerns about the unintended consequences of de-risking practices on financial access for civil society organizations, particularly for vulnerable consumers. De-risking practices by banks have been proven to be a difficult and interlinked issue across the globe.

In its 2018 Human Rights Report⁵⁴, ABN AMRO bank addressed de-risking of NGOs noting that, 'ABN AMRO serves many NGOs active in parts of the world where people need aid. Often, their activities take them to countries that are classified as high-risk, which means the bank has to perform enhanced due diligence to prevent money laundering or the financing of terrorist activities. Although these procedures are no different from those carried out for corporate clients active in high-risk countries, NGOs are more often victims of de-risking. This means that banks may refuse NGOs as clients, or that existing relationships are terminated. A related concern is that NGOs are accepted as clients, but that individual transactions to high-risk areas bounce. Depending on the NGOs service needs, banks can spend more or less on the service level they offer NGO clients. The specific costs of the AML/TF compliance process also need to be considered. Smaller NGOs such as diaspora groups are therefore likelier to be impacted by bank de-risking. If all they need is a basic bank account, banks may deem the cost of compliance too high. So, the dilemma is whether banks should provide smaller NGOs with the same service as they do larger ones. And if so, should they charge higher fees? Whether ABN AMRO de-risks smaller NGOs is unclear since the bank keeps no centralized records on this.'

In this study, of the 20 responding organizations, 50% reported their banking issues in the Netherlands getting worse, and 45% reported it staying the same. No organization reported their banking issues having improved over the past few years. 70% reported regular or constant banking challenges including onerous information requests, delays in transfers or denials of transfers. The ability of the various organizations to cope with these issues vary with their influence, size and organizational capacity.

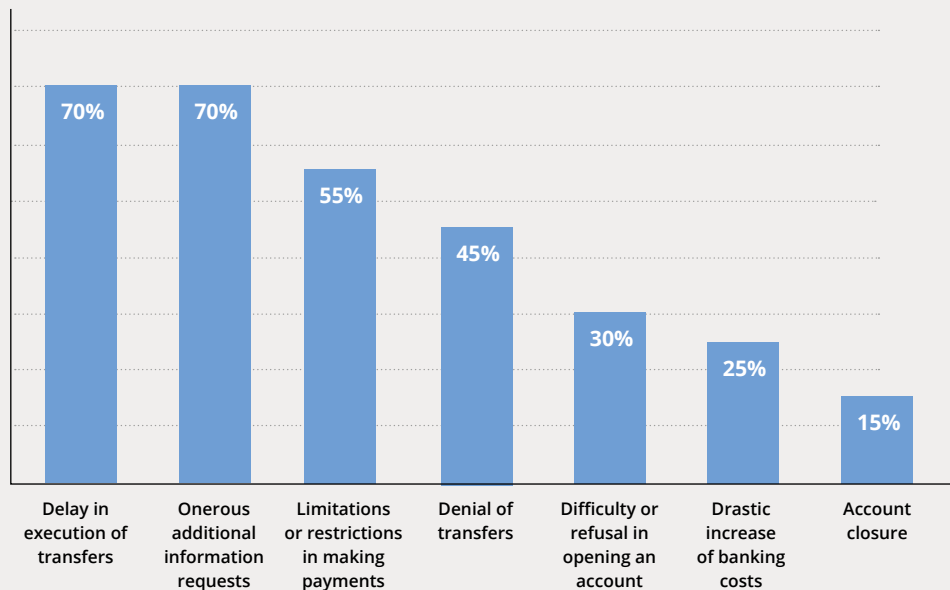
De-banking

No organization interviewed experienced de-banking (the closing of one's account) in the Netherlands, from their Dutch bank outright. However, three respondents mentioned the freezing of assets while being under investigation and two organizations explained how they experienced serious problems forcing them to 'voluntary' close or no longer use an account. Many did indicate that de-banking has been a growing issue for them with banks in other parts of the world. As some countries require special licenses, permissions from the government, etcetera, which further complicates their work.

As a respondent mentioned: *"The explanation we were given was that it was due to security issues in the partner countries and change in legislation. In one of the countries in Asia we were working in, the countries' central bank closed our account because of 'security concerns'. Some of our money was lost."* Another respondent mentioned: *"In Pakistan, Sudan, Burundi, you don't know why the governments do that, but in those countries, we were told to close our accounts. It is very difficult to operate in such situations."*

While no organization we interviewed experienced de-banking from their Dutch bank, as mentioned earlier, one respondent did indicate that the conditions to maintain the Dutch bank account became so difficult that their bank account was no longer useful, so they changed banks. Their bank was no longer willing to make payments to 'High-Risk Countries': *"We had no option but to close [our bank account] ourselves. [Our Dutch Bank] wanted us to sign a legal document saying that we would guarantee no transfer to a certain country. If we would try anyway, we would face court. We didn't sign the document and closed our account."*

Have you experienced the following issues related to banking?



Another organization voluntarily closed their organization's bank account with a smaller, more 'sustainable' Dutch bank, which they had moved to because they felt it aligned more with their values, and moved back to a bigger Dutch bank, due to facing more issues with transfers bouncing back, delays and issues with the correspondent banks.

Three organizations interviewed experienced having their accounts frozen, as the countries they work in are deemed 'high-risk', while their accounts were checked. This process has been time and resource consuming for these organizations, and has often meant a freezing of their activities and ability to pay staff. In addition, respondents mention that they have been threatened with the possibility of closing down of the bank account, including personal bank accounts of staff members. For context, each of these organizations has experienced this with a different Dutch bank.

"Earlier this year, we have sent all our credentials and they blocked our bank account because they wanted to verify our information again: what we're doing, who's in the board. It took me a while to again send all of this. We sent everything. They blocked it, and when I called they said they requested information we did not give. While much of this information was on our website). They didn't even notify us. We only noticed when a payment was blocked. We don't even make transfers abroad. The bank also demanded that we show them our Annual Report for 2018. We didn't receive any funds in 2018, which the bank can see on our account, so we didn't have any programs running or implement any major activities. For that reason, we decided not to have an Annual Report for 2018. The bank said that was a condition to open it again, so we are now putting in time and resources (from already limited funds) to have an Annual Report of 2018 made, only for the bank."

Another respondent explained: *"In October, our Dutch bank started an investigation on us and we received multiple emails with requests for information. Until then we didn't encounter*

any problems with the bank. Even while the bank could see on our website that we are active in Syria. The emails also contained threats towards personnel: threatening that they would close a personal bank account if we wouldn't respond in time."

Another respondent indicated: *"Since we are under investigation, we even received mails to threaten employees personally. Saying that we had to respond asap, or the bank would close my personal bank account. As I also have a mortgage with that same bank, that was really terrifying me. We really tried to be as transparent as possible. We even – based on advice from our former accountant – sent the bank the contracts and passports of our employees, so they would see that none of us are on whatever list."*

Difficulty or refusal in opening an account

Of those interviewed, 30% of organizations faced difficulties or refusal in opening a bank account. Most experienced difficulties or delays in getting their bank accounts up and running, and many additional information requests. Mid-sized and smaller CSOs, mentioned that they often don't meet the threshold for receiving a personal account manager. This means that with each question about their organization, they need to again prove to the attending officer who they are and what their work entails. Some organizations interviewed indicated to have been contacted by to up to six different customer service representatives on the same issue:

"It took a long-time process-wise because of security measures and mistakes made by the bank, it takes longer to get the account active. It's not that we got refused, but the process is very complicated. Especially because we have a board that has to authorize these things. Our board is not in the office, so if the bank makes a mistake we have to go through everything again. For months we have been busy opening an account with the bank. It takes very long."

Some organizations have also been asked by the bank to make changes to the way they communicate their work, as a requirement before being able to open their account with the bank: *"When we wanted to open an account, we had to remove the country's name from our organization's name. Only after we changed our organization's name, we could open an account"*

Limitations in payments

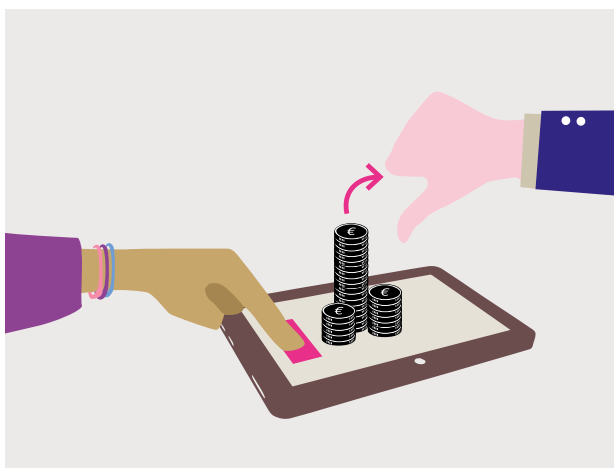
55% of organizations interviewed experience limitations or restrictions in making (over-seas) payments. These limitations and restrictions mostly include not being able to transfer to so called 'sanctioned' countries, where some of the organizations have ongoing projects. The way the bank applies the risk-profile for sanctioned countries also varies, as some countries are entirely under sanction, and some partially. Some countries, such as Sudan, are not even on a UN or EU sanction protocol (any more), but are still profiled by the bank as 'high-risk'. This distinction means that sometimes some organizations are able to get payments through to more 'high-risk' areas, while other organizations are not.

Some larger organizations, with branches internationally have found institutional ways of getting around any challenges with regards to transferring of funds to 'difficult' or 'high-risk' countries. Either through having a dedicated account manager to build a relationship with that will try on their behalf. Or by using their partner/mother/sister organizations abroad that may be able to make those payments:

"We do have occasionally problems with payments we want to make for the groups we want to support. It's not that we're not allowed to do that. What mostly happens is that payments are blocked and that you get many questions before you are able to get the funds released. That happens. I don't recall an occasion where in the end we didn't get through. We have a relation manager at the bank, but if it's about certain specific payments or questions then he refers to other people as well, but we have a nice entry."

Another organization indicated: *"All our program funds go through our 'mother organization'. We receive the funding from the donor, but based on the expenditures our implementing body makes those payments. For certain locations we are obligated to inform the bank if the funding goes there. But we haven't had those requests rejected."*

When payments have been made difficult or denied through banks, some organizations try to work with money transfer services like MoneyGram or Western Union in order to still be able to make the necessary transfers. One respondent was recently asked by their Dutch bank not to make payments via Western Union, as the bank says *"because it's not clear for us where the funds are going, we would like that these transactions do not happen anymore"*.



Denial of transfers

Denial of transferred were experienced by 45% of responding organizations. Some of these denials have been misunderstandings, or mistakes on the part of the bank. For example, one respondent faced that their bank confused South Sudan with Sudan, and denied a transfer to South Sudan, mentioning that *"Sudan is on a sanction list"*.

Most of these examples show a general lack of understanding of the work of NGOs in conflict affected countries. As one

respondent explained: *"The latest (two weeks ago) payment was refused, we were organizing a stakeholder meeting for a project on Syria. The meeting was in another country, not in Syria, and it was still refused because it was Syria related. The intermediate bank saw our organization as high-risk, and they don't want to be associated with such organizations."*

Smaller organizations have had a difficult time to get their transfers through. Several mentioned the lack of information on transfer denials: *We've experienced that our partner - in a non-conflict affected country! - did not receive a small amount of money, while the money was already taken from our bank account. The bank did not even inform us."*

Another respondent explained: *"Until around 2009 we used to transfer to Sudan through a Dutch bank, until they said it was not possible anymore. They have become very strict. One time I went to the Sudanese embassy in The Hague, and I paid with ATM card 25 euro. I got so many questions by the bank. I also transferred money to one of our partners that we work with (from a Dutch bank to a Dutch bank) to travel. They asked questions about that too."*

Delays

Delays in transfers have been experienced by 70% of responding organizations. These delays extend from a few weeks, up to two years. Most transfer delays reported by the responding organizations lasted between two to three weeks. The biggest frustration voiced by respondents is the lack of communication and clarity on the side of the bank on what the issue is that is causing the delay. For example, if it is related to the correspondent bank, or the receiving bank. As someone explained: *"We face delays many times. Once we even faced that 10.000,- euro that we transferred to Afghanistan just vanished during transfer. We thought it was transferred, but our partner never received it. Up until now, we don't know what happened or where the money went."*

The respondents reported that these delays have deep programmatic impacts, as well as impacts on staff salaries which are compromised or delayed: *"Only when we dealt with [Middle Eastern country] organizations we faced delays. It was sometimes 45 days or so. Once I was so embarrassed that I asked my family to go and pay there because the transfer was too long and wasn't going through. Always at the end the transfer was made."* Another organization illustrated: *"We have had bank transfers that took six months to return to us that they could not deliver it. Or bank transfers that took six weeks to arrive, without explanation. Majority of cases it went through an intermediate bank."* Some other respondent said: *"The average it takes about two to three weeks, four weeks sometimes to get everything sorted out. There was one that took several months. This especially happens when we pay in dollars than when we pay in euros."*

Onerous information requests

Some organizations have so much integrated their communication with their bank in the way that they work, that they now, as a precaution, email their bank any time they want to make a transfer abroad. Information requested by the bank usually includes the relationship with the beneficiary, purpose of transferring the money, request for a copy of the contract or an invoice, a signed document that confirms or clarifies the transferred amount. In addition to sending this programmatic, and organizational information, some organizations have received lists of questions from the bank, asking Beneficial Ownership information⁵⁵. Organizations have also been sent questionnaires asking how familiar the organization is with sanctions, corruption, money laundering and terrorist financing legislation, how the organization ensures compliance with the sanctions legislation and how the selection of projects goes, how it is ensured that the money for the projects arrives to the beneficiary.

As one respondent indicated: *"The banks have asked us to explain to them how we make sure that money doesn't end up in the hands of terrorists. They asked questions about the project, and questions about how we choose what projects we work on. We have multiple account managers (up to six) so we have to constantly explain ourselves again."*

Some organizations have begun proactively providing their bank with information before each transfer they make abroad in order to ensure that they are able to go through smoothly: *"Every time we make a transfer to Africa we make sure to proactively send the bank the necessary information, and give them a heads up that we are making the transfer, with all the answers to the questions they might ask."* Another organization explained: *"Before we do a payment, we ask the bank if there are any possible problems, so we pre-check. That avoids a*

lot of problems already. Several payments won't even come to the point where that's a problem, and if our bank does say it's a problem we move to another bank or currency broker."

Sometimes the problems seem to relate to having to distinguish the beneficiary of a payment from someone on a sanctions list. As a respondent illustrated: *"Recently we had a case that the organization we wanted to transfer to had a name that looked similar to the name of an organization that had been put in relation to Hamas, so indirectly, but apparently all sorts of bells started to ring. So, they asked several times for additional information. They had to prove that it wasn't them, even though I didn't understand why they thought that in the first place, it was a different country, and the issue wasn't related at all to what the organization works on, different name."*

Another respondent indicated: *"The bank has a screening list, so if a name pops up in the list, they ask us to prove who is this person to make sure there isn't a real match, that happens sometimes with employees in the field. The same with organization names. It's about making clear who we are transferring to giving birthplace and date of the person. Making sure that it's not the person that's on the list."*

Although these problems are seemingly experienced across the board, a defining characteristic of the intensity of the issues faced and how often the same issue presented itself, is if organizations had a dedicated account manager or not. As was indicated by a responding organization: *"We are working in Iraq, and sometimes, because they need to comply with regulation, we experienced that they were mixing up Iran and Iraq, and so that gave us some problems. This wasn't even related to a transfer, but our account manager was checking our website, and saw that we had a report on Iraq, and then he phoned us. I think that they do that once in a while. But it feels like it's getting worse. What was concerning was that they have a lot of questions in terms of how we prevent corruption in these things. They aren't concerned on transfers here, only when it's those countries. There's a bias towards some countries. We can always when we need to, ask for our account managers, we have two that are constantly linked to our account. They work for NPO's specifically."*

Another larger organization shared: *"Several times they asked us all kinds of details about what we will do with the money, and we have to come with evidence. Usually I try to search for another way, or try to put pressure on them to make the transfer. We do have an account manager at our bank that can help us with this."*

While a small sized organization mentioned: *"Our bank has no counter where you can withdraw a larger amount of money. So, if we want to use Western Union, we have to withdraw daily a max of 1000, - euro from the ATM. Every time we withdraw money I get a call from the bank asking whether I'm on holidays. The bank is monitoring us regularly, for example, when we received project funding from our partner, the bank asked us all kind of questions about our partner: who are they, what are they doing, why did you receive that amount of money, for what? We explained it is project money. The bank knows that we occasionally work in Sudan because they have our statutes, but we explained that we haven't been implementing the project abroad yet and that we'll inform them if we are planning to do so. At our previous bank we had an account manager, but our current bank really doesn't have even a counter where you can meet someone in person. But even if they would have, it wouldn't matter. You can have a friendly and understanding conversation with your account manager, but get a very tough letter the next day from the compliance department."*

A middle-sized organization indicated: *"We would like to engage with a case manager, but there is no person to make an appointment with. And we do want to hire a professional and allocate capacity and money for this, but we just cannot afford a Price Waterhouse Coopers."*

For organizations that do not have in-house financial administrators, each request for more information means more costs for them: *"Every time we get financial questions, we have to pay our financial expert to come up with an answer. Every additional question costs additional money."*

The reoccurrence and repetitive nature of the questions asked, frustrate many organizations, as some have faced yearly questions from the bank about their organization, asking for founding documents, etc. questions that are unrelated to any specific transfer, but that seem to be general periodic reviews. Organizations have mentioned that they are required to provide all of the same information over and over again.

There also seems to be a lack of effective communication between the bank and the civil society organization. When they have faced issues with the bank, 40% of responding organizations indicated not to have really received any information from the bank on why there was a problem. Whether there was a delay, request for more information, denial, etcetera. This makes it more difficult for them to anticipate any issues with regards to their transfers: As a respondent shared: *"The first time you don't get a reason, you just get the question why you make this payment and what the organization is. They didn't mention terrorism at all in the above organization, they just asked "what is your relationship with this organization?". When I started looking, I understood why they were asking that question. Sometimes that's enough. Sometimes they keep on asking. In general, my experience is they are not very helpful in providing information on why it's so difficult to get that payment done. They'll only mention "our compliance department wants to know more about it". That is all you'll get for an answer.*

Another respondent mentioned: *"We had questions from the bank on cash deposits and transfers from and to Turkey. We often receive funding from donors on our Turkish account. We cannot transfer from Turkey to the Netherlands, to pay costs from international activities. So, once we had to use an hawala system to 'transfer' a large amount of money from Turkey to the Netherlands. The cash I received I had to deposit on our bank account. We then received questions from the bank. That of course was naïve of us. And we were really transparent and honest about it. Promising the bank that we would not ever do that again. It is really frustrating that no one ever thanked us for all the information we gave, or just confirmed that they received it. They even didn't confirm that the investigation is closed now. We just didn't receive any follow up emails anymore, so we assume the investigation is over."*

When answers are given on why there was an issue with a transfer or account, the answers are often vague. For example, stating *"making sure that the money doesn't go to terrorist"*, a *"lack of paperwork"* on the side of the civil society organization, or *"due diligence and compliance issues"*. A respondent mentioned: *"They generally mention that they do not want to have any cooperation correlation with those countries. But we've also heard mentioning that people have strange names. For example, two surnames and two last names."*

Increase in banking costs

Significant increase in banking costs have been experienced by 25% of responding organizations. A common thread in those that have experienced this is being unsure about what the cause of the increased cost is. As a respondent illustrated: *"I'm working here 10 years*

now, so sometimes I'm still surprised that it costs so much to transfer to some countries. Sometimes it's based on the amount or on the country. Also, less sometimes. And the bank tells us it depends on the banks you use. It seems like they don't have control over who the correspondent bank is, so the fee is not always predictable. We cannot tell them which correspondent bank they should use. They tell us they don't know either. It looks like on the route the other banks decide how they further transfer the money."

Organizations with dedicated financial departments can often find ways around the surprise increased in costs: *"In general, we don't experience this, but that's because we follow each transaction very closely. We use more than one bank, and we use currency brokers, with big amounts we ask for proposals for exchange rates and costs. That's part of the increased administrative burden."*

5 – DONOR REQUIREMENTS

Changes to funding landscape

The donor landscape for organizations working on women's rights and gender equality has undergone many changes over the years. In general donors take an emphasize to prioritize women's rights and gender equality. Or at least mention 'women and girls' within their priorities. However, women's rights and gender equality remain underfunded⁵⁶.

In the past decennium (Dutch) donors have shifted from core and direct funding of organizations that work on women's rights and women's led organizations, to project funding in consortia⁵⁷. Donors have shown a preference for funding established international mainstream civil society organizations with the capacity to manage large amounts of money at once⁵⁸. This tendency results from a phenomenon, named *managerialism*: the believe that public problems can be solved by the right (market) solutions. As Jelmer Kamstra, analyst at the Ministry of Foreign Affairs explains:

*"Within the managerial paradigm, donors favor relations with professional NGOs as they are perceived to produce the best results. (...) In these tenders, donors mainly look for legally registered, large and professionalized NGOs because they can apply the managerial planning tools for achieving measurable development results. Also, professional NGOs can comply with the monitoring and accountability frameworks that accompany funding, including undergoing financial audits and delivering accountant reports. Because tenders are based on such managerial performance criteria, smaller community-based organizations are often excluded from funding while larger professional organizations have privileged access."*⁵⁹

According to a report released by UN Office for the Coordination of Humanitarian Aid & Norwegian Refugee Council, this is a global phenomenon: *'several large donors limit their partnerships to a few larger organizations who can absorb large donations and are seen as having the capacity to mitigate the risk, excluding other smaller partners and programs which they might otherwise have funded'*⁶⁰. This shift has sometimes led to the detriment of grassroots women's rights organizations⁶¹.

In the Netherlands, in previous years several organizations would function as donors

themselves, disbursing the bulk funds for gender equality and women's rights they received from the Ministry of Foreign Affairs, for example, through strategic partnerships to grass roots feminist and women's led organizations⁶². In 2015 after MFS-II, these funds were drastically cut. Many of these funding or re-granting agencies were forced to restructure into solely program implementing agencies and sometimes even had to compete with women's rights organizations in tender procedures.

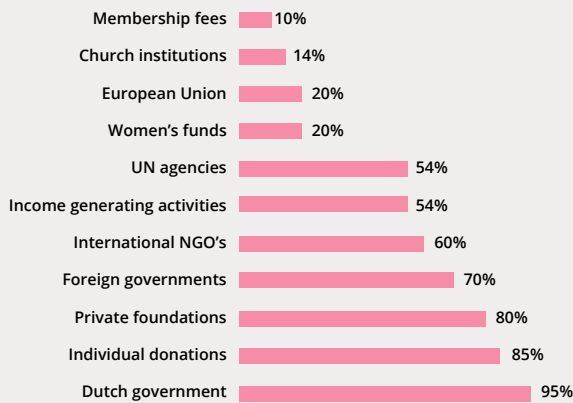
In practice the funding criteria put in place, with emphasis on long and verifiable track records, often make it difficult for grassroots organizations and (new) women's networks to directly access funds. As a result, these organizations have become dependent of partnership with other civil society organizations⁶³.

Where is the funding coming from?

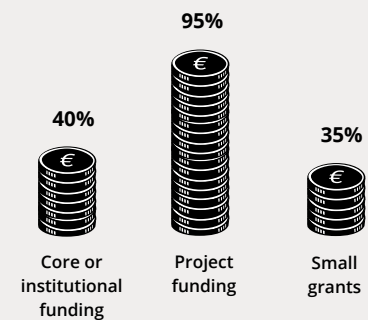
The largest sources of funding for the organizations we spoke to are the Dutch Government (MoFA), individual donations, other foreign governments, private foundations, and international NGOs.

The funding landscape for the organizations we interviewed for this report consists mostly out of project funding. 95% of the respondents receives project funding. 45% rely *solely* on project funding to run their organization. For 70% of the respondents the average duration of project funding is between 1 year and 3 years. Though many - especially the smaller organizations - also receive funding between 6 months and 1 year.

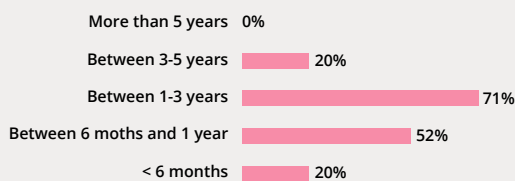
Where does your organization get its funding?



What kind of funding does your organisation receive?



What is the average duration of your project funding?



Respondents report that this type of funding, with restricted percentages to cover costs for staff and overhead costs, means that organizations are less flexible in responding to rising due diligence issues. It impacts their resilience when facing de-risking practices by banks and others: As a respondent phrased: *"Most [donors] want to pay for the activities, but not for the running of the organization. Usually it's a big discussion."* Another respondent indicated: *"We need to report every quarter of a year nowadays. That definitely was less a few years ago."*

75% of all interviewed organizations indicated that their workload has increased over the past five years in terms of the conditions they need to comply with to apply for or receive funds. The same number of organizations (75%), indicated not to receive adequate organizational support, including capacity and overhead costs, from their donor to comply with their increased demands: *"The reporting has increased because most donors like to receive quarterly reporting, which really adds to the burden, all these have the same deadline. I find it very difficult. It fluctuates through the year. I'm constantly busy with this."* Another respondent mentioned: *"It has become better with the [Dutch] Ministry of Foreign Affairs smaller fund, but some are very bad. We cannot apply for funds from big organizations anymore."*

Checking the box

Reliance on multiple project funding, each with increased reporting requirements, means that organizations are spending a lot more of their resources and time fulfilling the requirements of the donor. 65% of responding organizations expressed having encountered additional due diligence measures with regards to their donor. Such as requests for detailed project information, beneficial ownership, partner vetting and additional administrative burden. For eight of the 20 organizations, these additional measures have impacted their access to funds: *"There is so much paperwork that if we were not in a consortium we would not be able to apply, as it requires so much administration to get and maintain these grants. Everything has to be good on paper, compared to the realities on the ground."* Another respondent said: *"It's always bigger than we want, depends by the donor, some expect us to report every three months. Sometimes we have multiple donors, and we have to report every three months, six months, yearly, sometimes those overlap."*

Two of the twenty organizations even indicated that they denied offered grants because of these demands: *"We wouldn't take money from USAID for certain countries because of the information requested by that donor, and the type of intervention they may expect from us. It would be a reputational risk."* Some other organization mentioned: *"We did stop an application procedure because we had to work in a consortium where the lead's demands were higher than the donor's. Donors should regulate lead applicants better and make sure they don't become too dominant."*

These changes in donor requirements have many causes, of which countering financing of terrorism is sometimes a consideration, but not always. Other considerations appear to be budget cuts and staff capacity cuts of the donor organization, as well as an overall increased emphasis on transparency and accountability. Regardless of the driving forces behind the changes, the funding framework that many Dutch NGOs need to contend with contributes to exacerbation of de-risking effects on their work. As several respondents stated: *"The audit costs increased. Donor institutions and also the accountants are under scrutiny. They become stricter [and] the level of accountability and reporting, also gets more and more strict."*

Others mention: *"It's the vetting of partners and suppliers. Partly we have to vet them with the donor themselves (US donor), and others describe the process you have to follow. You have to do background identity checks with several databases."* And: *"Donor checks and restrictions with regards to asking for quotations, for example, are a form of them "checking the box". But we [as NGOs] also restrict ourselves. We have to be realistic, there are issues with misuse with some organizations, but there has to be a balance. Right now, the bureaucracy is too much."*

Legal considerations and CFT clauses

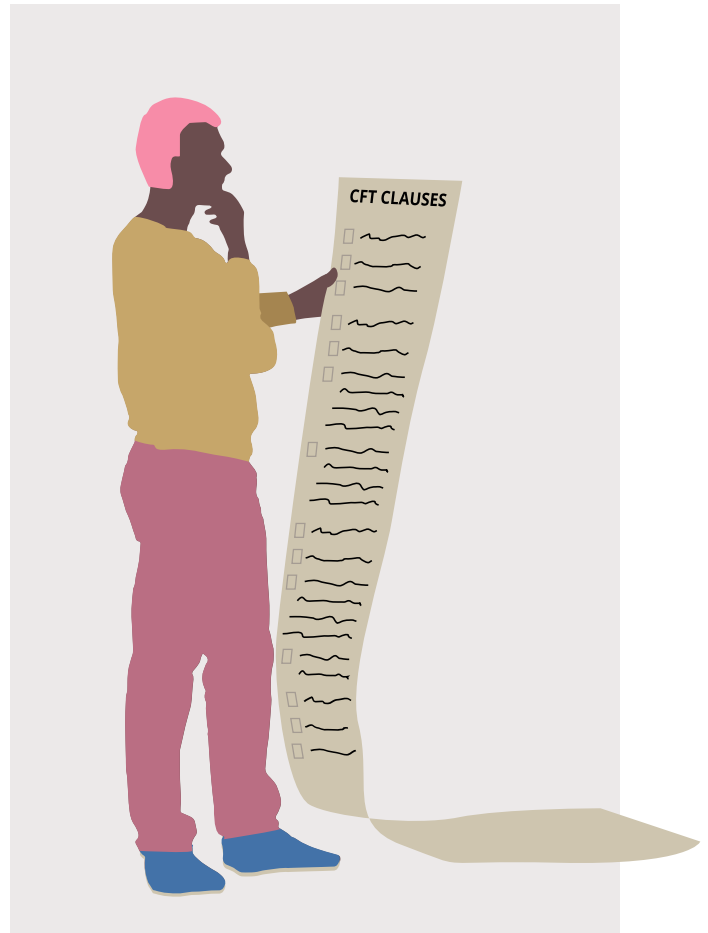
Some of the organizations interviewed stated that the legal and procedural pressures that they are under have also increased: *"Before we only had to show how we spend the money. But now we also have to prove that the organization is compliant with codes of conduct. There you see an increase in the administrative burden. You do something and you think it's a good way to prove, but you're not sure because there are no standards on how to do this."*

Another organization indicated: *"No, we actually have very high administrative standards ourselves. We even got a remark from an EU officer that our standards were higher than their criteria. We just want to be sure that we'll not be rejected by any fund because our administrative standards are not meeting the fund's criteria."*

With regards to contracts, 40% of the interviewed organizations said they have signed contracts for grants that included CFT clauses in their funding or partnership agreements. Some mention that donors provide lists of partners they cannot work with. Others mention that they have to *"show in their partnership agreements that they have policies in place for making sure money doesn't go to terrorists."*

A CSO that also is a consortium's lead applicant, shared: *"We have anti-terrorism policies, and we ask partners that we work with to adhere to those. That's in our terms and conditions. So, we have a framework for this. If we deviate in the way we do screening we have to come up with extra clauses to cover ourselves, if not our international office has a liability issue."*

Of the 10 organizations who identified their work as including grantmaking and re-granting, three of them require their sub-grantees to sign counter terrorism financing clauses. These types of contracts usually do not define terrorism. Though one such contract that we looked at, under their CFT clause required signatories to affirm that they were not presently debarred, ineligible, voluntary excluded, suspended or disqualified by any government department or agency. This is quite a broad definition, and it is to the NGO how they interpret that.



To deal with the risks involved in different countries' interpretation of who is a terrorist, many organizations refer to Dutch law as the basis for their contracts. A danger there is that Dutch law may change, with recent proposals made to criminalize traveling to terrorist-controlled areas unless permission is granted by the Dutch Ministry of Justice⁶⁴. This could make it even more difficult for women's organizations and other civil society working in geographic areas in conflict or where terrorists are present. The organizations explained on the measures they already impose: *"The contracts say money can't go to terrorists. We also have liability waivers for local partners we work with. We also have some projects that require background checks for new partners via certain websites. We do this to cover ourselves."*

A donor mentioned: *"Some donors are very strict in terms of what they expect in information and some less so. Some organizations try to develop an organizational policy that can cover all of this. Which means in practice sometimes the organization imposes extra strictness on itself, overcompensates. We also struggle with those who we fund, who are way too small to adhere to the strict due diligence and financial reporting requirements. We try to find a balance in how much we ask from them while still adhering to the obligations of the donor."*

For this report we also interviewed financial administrators and representatives from the legal departments of grantmaking NGOs. One respondent said that they did a review of their top five to ten donors and tried to take 80-90% of their requirements on in their standard contracts. So that they can cut the workload and not constantly have to update the conditions. They have also decided internally to use the database Factiva to do background checks on their partners and suppliers. According to their policy, if there is a hit on the person or organization's name, they have to do more research and stop working together.

Interestingly, the organization uses contracts with CFT clauses not only if a donor requires that, but also when funding grantees through their own funds gathered from individual donations. This particular organization now considers if they should have a more extensive CFT policy and require their subcontractors to also check suppliers and partners. Even though it would increase the workload. Up until now, they leave it up to their sub-grantee to have their own ways of confirming their partners. The organization does, however, require that sub-grantees include all of the CFT provisions, eight points in total, in any contracts they have with their sub-sub grantees, and so forth.

The challenges with these forms of de-risking by NPO's was captured in the Duke/ WPP research, saying: *'as project implementation is pushed further down the line, so too are the potential risks, including of violating, or being perceived to violate, 'material support' parameters. Costs related to sub-contracting (e.g., overhead and administrative costs) are already often significant and reduce the amount of funds available for actual programming. Where women's rights groups assume countering terrorism financing obligations as sub-grantees, they can incur further resource burdens because they take on a host of due diligence and other compliance responsibilities that are often not covered by grant funding.'*⁶⁵

When asked about this discrepancy, representatives from the Dutch Ministry of Foreign Affairs (NL MoFA) answered: *"grantees are not required to sign a C(F)T clause. The NL MoFA does require all partners to have sufficient systems in place to prevent fraud and other misappropriation of funds, including C(F)T. The types of extra measures to be taken depend largely on the assessment of the grantee. The NL MoFA may require additional measures in cases with high-risks."*

Partnerships

During the interviews we encountered that there is still a stigma which hinders organizations from talking about their financial access difficulties or extremely burdensome due diligence requirements. Organizations might not want to come across as unreliable partners. Some might be afraid that other banks might cut them off, or that donations could dry up if their banking problems were publicized.

It therefore becomes even more imperative to gain insight on how different organizations are hit differently by de-risking practices, and how to ensure civil society solidarity. Current power dynamics make it difficult for partners to engage with each other on their own terms. When interviewees were asked where most of their additional administrative burden comes from, some organizations mentioned their partner organizations or lead organizations in a consortium:

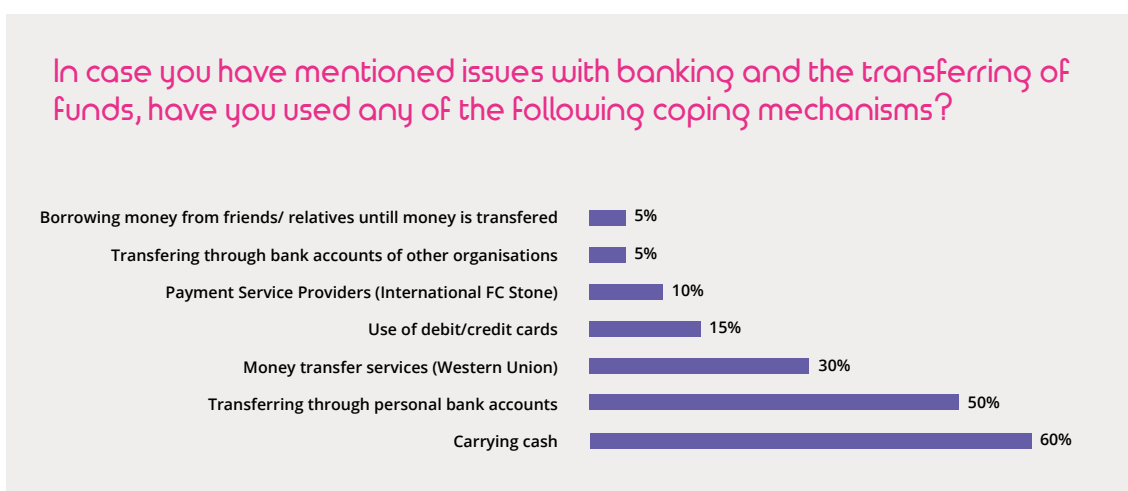
“The lead organization in our consortia is very demanding. We have implemented more activities than the lead partner, and we have had to deal with more unforeseen costs. This creates frustrations. For example, all of the transfer, exchange and admin costs for transferring the money, and for our partners to withdraw it, we have to shoulder. We used to use Excel for our financial reporting, then our lead partner said that we need a professional accountant and suggested software we need to use, so we hired one and are paying for the software. The software is completely in Dutch, which makes it difficult for us to use. (...) We are already working as volunteers, except for a few hours a month where we pay people to help us with the financial management. They always work way more than that. (...) There is an underrating of our capacity in what we do. I don't mind to be asked to provide information, but we are required to provide more information than others are.”

6 – IMPACT AND COPING MECHANISMS

The impacts of de-risking are felt differently by different organizations. Remarkably, even though many organizations are struggling with financial access issues, only 30% limited their programs and 20% stopped their programs as a result of financial access difficulties. Such as not being able to get the money to a certain country. As a respondent emphasized: *“We do not stop programs, but we continue on will power. It not only takes time, but also energy and personal motivation.”*

Many organizations find coping mechanisms which often are unsustainable and can put them at risk. 60% of the organizations interviewed used cash carrying as a coping mechanism when transferring funds to a certain country became difficult. A respondent explained: *“We can't transfer funds, so we carry cash. When traveling we can carry max 10.000,- euro, which is at great personal risk. We divide it if we are traveling with more people. For this project, I carried money, left it at home, because the banking system in the country is horrible. Now I'm traveling and the project has to run. So now I have someone handing it over there. We are transferring the money to the parallel market, so that we can get more done. For instance, it costs 25 euro for hiring venue, but if you give it in local money it costs more. We want to have the biggest impact possible.”*

50% of the interviewed organizations used transferring funds through personal bank accounts, 30% used services like MoneyGram and Western Union. As a respondent illustrated: *"We used to use Western Union and World Remit because it's faster, cheaper, and more reliable, but the bank told us we need to stop."* Some of the other modes of coping include Payment Service Providers (such as International FC Stone), use of debit and credit cards to withdraw cash in-country, transferring through bank accounts of other organizations, and using different bank accounts. A respondent shared: *"Sometimes we travel to a certain country ourselves and get the max. amount from the ATM every day. And then we transfer the money via a 'chain' of people, from individual to individual to individual. And again: it costs an enormous load of time, it puts activists on needless risks as many people are informed about your whereabouts. We also loose time in situations that are really time pressing."*



7 – CONCLUSION AND RECOMMENDATIONS

How to ensure that CFT measures developed and/or implemented by Dutch stakeholders comply with UNSCR 2242, and thus are consistent with international human rights law, evidence based and targeted? This chapter first summarizes some general conclusions and then provides some recommendations, per relevant stakeholder, based on the findings of this study. We will focus on the banking sector, donors and governmental institutions and, finally, on civil society organizations themselves.

Banking sector

An important finding of this study is that although the FATF acknowledges that NPOs in general are not particularly vulnerable to be used for terrorism financing⁶⁶, the demands of Dutch banks on civil society organizations working on women's rights and gender equality remain high and even are reported to increase. Out of the 20 responding Dutch organizations, 85% experienced increased demands on their organization in terms of conditions they had to comply with to receive or transfer money to third parties. Most of these de-

mands came from their own Dutch bank and corresponding banks. In addition, a majority of the responding organizations (70%) reported regular or constant banking challenges including onerous information requests, delays in transfers or denials of transfers by their Dutch and corresponding banks.

Most Dutch organizations working on women's rights and gender equality worldwide seem to accept this as a status quo and try to find a way around it. But the negative impact on the organization, its employees and its partners in conflict affected settings, varies with the organizational capacity and size. Organizations with more organizational (and financial) capacity and expertise on due diligence and banking processes seem to have less problems meeting the demands or more often can find alternative ways to transfer money, such as via other country offices. Size and capacity thereby also reflect an organization's - and related to that, their partner's - resilience when a transfer is delayed or denied.

The size and influence of an organization also defines the level of service an organization can expect from their bank. Larger CSOs that are beneficial to a bank often are appointed a customer service or account manager. Smaller CSOs - among which many diaspora organizations and women's organizations - that bring in less money cannot expect the same service. The importance of having an account manager was reflected by many of the problems reported by the responding Dutch organizations. Most of them were related to either lack of information, lack of communication or lack of (mutual) understanding. The absence of an account manager also made it more difficult to build trust. CSOs expressed their frustration, having no one on the bank's side that could provide answers to their questions.

The above reflects the 'catch 22' Dutch civil society organizations are in: in order to fulfill their public task, civil society organizations depend on private entities. CSOs need a bank account to receive funding on, to develop financial reports, and to comply with donors' and with the internal revenue service's request to be transparent on income and activities. Meanwhile banks as private entities have the liberty to decide whether or not they want to provide services, varying from providing a bank account to conducting a transfer. Whether a bank will decide that the benefit of supporting small-sized CSOs is outstanding the costs, is fully theirs to make.

De Nederlandsche Bank (DNB)

Based on the above findings, this section provides several recommendations to the involved actors, starting with the DNB.

As mentioned earlier, the DNB is an important regulator of CFT measures and has the most direct influence on CFT assessments of Dutch banks. The DNB therefore has an important role to ensure banks follow FATF's recommendations on assessing potential risks based on empirical evidence of risks. The DNB also should monitor that banks consequently act proportionality to that risk. This should be reflected in the way that DNB provides guidance to the banks. We therefore recommend updating the regulators manual to reflect the changes in R8. In addition, we recommend DNB to provide guidance on how to deal with the proven risk of NGO de-risking in a constructive way. This should be developed in consultation with civil society, as R8 requires.

DNB and the Dutch coordinating Ministries should ensure that financial institutions do not adopt approaches that place undue limitations on civil society's ability to access financial

services. Financial inclusion should be available for all legal entities. We therefore also recommend that DNB and banks create solutions for inclusive financing and promote effective regulation and legislation regarding emerging technologies as a means of promoting financial inclusion, while balancing CFT vulnerabilities. This should be done in consultation and dialogue with a diverse array of civil society representatives, as de-risking is experienced differently by different CSOs.

Banks

Banks need to demonstrate to the regulating authorities that they follow international, regional and national CFT measures. In this process, banks develop their own due diligence measures and may de-risk clients. Similar to DNB, banks must ensure that FATF's recommendations on assessing potential risks are based on empirical evidence of risks. Banks must set up proportional and appropriate risk mitigation processes that leave room for the understanding that there is no such thing as zero-risk.

In order to understand what measures are proportional, banks must invest in understanding civil society. This includes investing in customer service for CSOs, for example by (re)establishing customer service or account managers. Another important element of enhancing the mutual understanding between civil society and banks is identifying how CSOs differ in terms of organizational capacity, mission mandate, operating environment and partnerships. This includes enhancing the understanding on how seemingly harmless aspects of CFT (such as emphasizing the importance of registration of associations) can have adverse human rights impacts, because of the operating environment in which they are implemented. Therefore, we recommend banks to participate in or convene an ongoing multi-stakeholder dialogue. Such as between regulatory authorities, financial institutions, multilateral organizations and civil society, including women's rights organizations. In addition, banks should review and fine-tune client onboarding practices to collect necessary information, while explaining to the client how that information is used and what purpose it serves.

In addition, banks should assess 'simple' or 'limited' bank accounts that have caps on overall value, frequency of use, and size of transactions, as a means of extending financial inclusion, lowering the cost of banking small value accounts, and balancing terrorism financing risks. Banks should inform their customers on the transfer processes and use of international banking networks.

Donors and governmental institutions

Another actor mentioned many times by the responding organizations in this study is the Dutch government. As described earlier the Ministry of Justice and Security (MinJ&S) with the Ministry of Finance has a coordination role in CFT and Dutch policies on CFT and CT in general. The Ministry of Foreign Affairs (MoFA) has a role to play on making sure human rights and international humanitarian law are committed to and implemented by other stakeholders.

In addition, the MoFA is a major donor of the work of most responding CSOs working on women's rights and gender equality in conflict affected countries. As mentioned earlier, the MoFA is not directly using CFT clauses in their donor-grantee contracts. However, a majority of respondent organizations mention that the mechanism to only fund relative short term (1-3 years) projects, with restricted percentages to cover costs for staff and overhead

costs, means that organizations are less flexible in responding to rising compliance issues. This type of funding therefore does impact their resilience when facing de-risking practices by banks and other entities. In the sections below, we will identify targeted recommendations for these stakeholders.

Ministry of Justice & Security and Ministry of Finance

As regulators and coordinators of the implementation of CFT in the Netherlands, the Ministry of J&S and the Ministry of Finance should ensure that financial institutions and the State comply with international law, including humanitarian law. We therefore recommend that these Ministries provide guidance, and if needed adequate resources, to banks and other relevant stakeholders to explore innovative approaches to reducing compliance burdens and improving transactions monitoring.

This includes that both Ministries liaison between civil society and the commercial banking sector, making sure civil society organizations, including grassroots women's groups, are consulted before new measures are adopted. CSOs should be engaged in the design, implementation, and assessment of CFT measures. This includes, ensuring the participation of women's rights organizations in processes at FATF Secretariat and regional bodies and in peer-to-peer FATF evaluation processes and in CTED assessments of national-level measures designed to address terrorism financing.

In addition, the Ministry of J&S and the Ministry of Finance should clarify, simplify, and standardize approaches to CFT within the Dutch governments' own agencies, moving away from a one-size-fits-all approach to compliance processes. Such as better tailoring compliance requirements based on the size and organizational capacity of the organization.

Finally, assessment of risks associated with informal transfer mechanisms, including *hawala*, should be conducted in close collaboration with providers and users of these services, including organizations that work on women's rights and gender equality in conflict affected countries. Any measures taken should be in proportion to risks identified empirically and should ensure that access to financial services, and ability to provide support to grassroots women's networks, are not unduly limited as a result.

Ministry of Foreign Affairs

The MoFA has an important role to ensure that counter-terrorism measures, including CFT, are consistent with creating an enabling environment essential to organizations supporting women's rights and gender equality. Such as by guaranteeing the freedom of association and assembly, including by ensuring that associations can seek, receive and use funding. The MoFA should thereby ensure the diversity of the civil society sector and enable conditions for women's rights organizing and women's rights organizations. This includes adopting a risk-sharing approach, rather than a zero-tolerance for risk, and also stimulating this behavior further down the funding stream.

The MoFA should control that any measures taken are in proportion to risks identified empirically. The MoFA should ensure that access to financial services, and the organization's ability to provide their fundamental work, are not unduly limited as a result. Therefore, the MoFA should document and monitor all gendered impacts of existing CFT measures and when future CFT measures are considered, assess their potential impact on women's rights organizing, women's rights organizations, and gender equality. This includes addressing the

gender and human rights impacts of government CFT measures, as well as exercising due diligence to prevent, investigate, and punish acts of financial institutions that interfere with the human rights framework relevant to women's rights organizing, women's rights organizations, and the achievement of gender equality. For example, where women's rights organizations experience financial exclusion, including which arises from the denial in access to financial services due to CFT rules, redress must be ensured.

As indicated earlier, the MoFA is an important donor of Dutch based CSOs that, with their local partners, work on women's rights and gender equality in conflict affected countries. To build the resilience of Dutch CSOs and their partners and support an enabling operating environment, the MoFA should allow for core and flexible funding. This includes funding of overhead, of financial and legal staff and costs for organizational capacity building.

In addition, when financing consortia, the MoFA needs to ensure lead applicants do not impose unnecessary CFT measures on CSO partners that outstand MoFA's reporting criteria. The MoFA can support and monitor equal decision making between consortia partners, for example via supporting power analyses in consortia and Memoranda of Understanding between partners. In addition, the MoFA should be aware of the informal 'gatekeeper mechanism' within consortia. This mechanism limits partners to communicate directly with a donor, as a lead applicant is appointed contact person. It might prevent CSOs for informing the donor on compliance difficulties.

Finally, governmental donors need to recognize that increased negative impacts experienced through draconian counter-terrorism measures undermines their commitments to women's human rights. It undermines governments' ability to address root causes to reduce terrorism. Governments therefore need a comprehensive approach and focus at the coherence of related government policies, programs and funds.

Civil society organizations

As already mentioned, the civil society community that works on gender equality and women's rights is diverse: it exists of large development and peace building organizations with multiple country offices and with legal and due diligence departments. But it also exists of women's networks that have their offices and staff divided between countries and of volunteer driven women's organizations without any dedicated financial officer. All of these organizations and networks are highly dedicated to their work, often in conflict affected, instable countries. Working with and supporting women, youth and men that are often under severe pressure of conservative, often autocratic regimes.

In the sections below, we'll focus on recommendations for both so called 'donor' or regranting NGOs and for grassroots and smaller organizations. For all CSOs documentation and dialogue on the negative impact of CFT is key. Even within one organization colleagues often do not know the CFT burdens their colleagues face in their work. Negative consequences of CFT should not be normalized, nor reduced to one employee's or CSOs problem. It is a system failure, which needs to be addressed when it occurs.

Donor, regranting & grantmaking NGOs

Civil society organizations that themselves are donor or do regranting or grantmaking, also need to clarify and simplify their protocols to CFT. In order to prevent unduly burden

on their partners and recipients, donor, regranting and grantmaking NGOs need to tailor compliance and reporting requirements to the nature of women's rights organizations and organizing and the conditions under which women's rights organization operate. This includes limiting CFT clauses in donor contracts to the minimum. Often knowledge on the nature, organizational capacities and area of work is already available in-house: policy officers and program coordinators usually have long-term direct contact with partner and recipient organizations. During the interviews we faced multiple times that within one (I)NGO, the legal and financial department developed requirements which the program manager was opposed to as she or he knew the limitations of the partner or recipient.

Another recommendation for donor, regranting and grantmaking NGOs is that they need to understand the power position they are in. Especially if they provide a substantial percentage of the yearly budget of a women's right organization, this organization might fear that the CFT problems they face might be perceived as an indicator of an unreliable partner or grantee. Donor, regranting and grantmaking NGOs have an important task in encouraging dialogue and transparency. To share good practices and lessons identified, we recommend donor NGOs to facilitate peer to peer dialogues.

Grassroots, smaller women's organizations and women's networks

For grassroots and smaller women's organizations and women's networks we recommend to: 1) document what is happening, 2) gain knowledge on what is and what is not illegal and why banks find certain activities such as *hawala* and cash transfers suspicious.

Documenting is key in order to map the impact of CFT. Dutch counterterrorism entities and donors need to understand the negative consequences of non-evidence based, general regulations. Only if the negative consequences of certain measures are documented and communicated, these measures can be changed. At the same time, it makes sense to understand what your customer or legal rights are as an CSO wanting to transfer money from one country to another. It might ease your communication with the customer department, or with financial and legal officials, and it helps in making a case. Therefore, it is important that CSOs consciously develop awareness and capacity around AML/CFT issues. Civil society, in its diversity, should join forces and make use of each other's strengths and capacities to address these issues on a more structural basis.

ANNEX 1

QUESTIONNAIRE SHADOW REPORT

UNSCR 2242

Introduction

The purpose of this interview is to gather concrete examples and case studies from the field, which will be used by WO=MEN and Human Security Collective to analyze the effects of counter terrorism financing measures on Dutch civil society organizations working on women's rights and gender equality. It will contribute to a Shadow Report on UNSCR 2242, as it *"urges Member States and requests relevant United Nations entities [...] to conduct and gather gender-sensitive research and data collection on [...] the impacts of counter-terrorism strategies on women's human rights and women's organizations"*.

Please note that all of the information provided by you will be handled with **strict confidentiality**: your name and the name of your organization will not be made public, and we will only provide a general description of your case.

Organizational profile

Does your organization work on the topic of women's rights, women's rights organizing and/or gender equality?

- Yes
- No
- Other ...

What type of work does your organization engage in? (You can tick more than one)

- Service delivery
- Psycho-social support
- Capacity building
- Research
- Lobby and advocacy
- Empowerment
- Other ...

In what countries is your organization active?...

Do you work in a conflict or post-conflict area?

- Yes
- No
- Other ...

Do you work in sanctioned countries?

- Yes
- No
- Other ...

Do you believe your work contributes to countering /preventing terrorism and/or violent extremism? If so, please elaborate.

- Yes
- No
- Other ...

Can you estimate for us the number of people that are served by your programs annually?...

Is your organization a donor organization?

- Yes
- No
- Other ...

Where does your organization get its funding?

- Membership fees
- Donations
- International NGO's
- Individual donations
- Income generating activities (e.g. fundraisers)
- UN Agencies
- Dutch government
- Foreign governments
- Women's funds
- Private foundations
- Other ...

What kind of funding do you receive?

- Core or institutional funding
- Project funding
- Small grants
- Other ...

What is the average duration of your project funding?

- < 6 months
- Between 6 months and 1 year
- Between 1 year and 3 years
- Between 3 year and 5 years

How many employees do you have? (in FTE if possible) ...

Does your organization have a compliance department/ officer?...

Does your organization have support from the Dutch government, such as grants or contracts with the Ministry of Foreign Affairs?

- Yes
- No
- Other ...

Have you experienced increased demands on your organization (e.g. growing administrative burden due to transparency and due diligence requirements) in terms of the conditions you need to comply with to receive/ transfer funds from/ to third parties? In case this applies, where are these demands coming from (banks/ government/ donors?). Please elaborate.

- Yes
- No
- Other ...

How would you rate your awareness of the counter terrorism financing agenda and framework and the global and national level?

- No knowledge
- Little knowledge
- Basic knowledge
- Very knowledgeable

Banking

Have you ever experienced any of the following issues related to banking? If yes, please elaborate and specify.

- Account closure
- Difficulty or refusal in opening an account
- Limitations or restrictions on making (overseas) payments
- Denial of transfers
- Delay in execution of transfers
- Additional information requests

If you have experienced any of the above issues, did the financial institution mention any particular reason? ...

How frequently have you experienced the problems of the type(s) mentioned above?

- Rare
- Occasional (once a year)
- Regular (every few months)
- Constant (few breaks between incidents)

Generally speaking, have your organization's banking problems gotten better, worse, or about stayed the same over the last few years?

- Better
- Worse
- Stayed the same

Donor

Have you encountered additional due diligence measures with regards to your donor (e.g. requests for detailed project information, beneficial ownership, partner vetting, additional administrative burden)? ...

Have these measures affected your access to funds? ...

Have you ever not applied for certain grants due to these demands? ...

Have you ever refused offered grants due to these additional burdens? ...

Have you received grants that have required you to sign counter-terrorism clauses in funding and/or partnership agreements? If yes, do these include any specific partner vetting requirements? ...

If answered yes to your organization being a donor organization, do you include any counter-terrorism financing clauses in your contracts? If yes, please elaborate.

In terms of the conditions you need to fulfill with to apply for or receive funds from your donor (transparency and reporting requirements), has the bureaucratic workload stayed the same, become less, or increased over the past 5 years?

Do you receive adequate organizational support to meet these conditions? (Capacity and/or overhead) ...

How much percentage of your work goes into managing the donor's requirements with regards to reporting? ...

Impact on the NGO

In case you have mentioned issues with banking and the transferring of funds, have you used any of the following coping mechanisms?

- Carrying cash
- Transferring through personal bank accounts
- Money transfer services

If you have answered “yes” to any of the above questions, please indicate if you have experienced any of the following as a result of your financial access difficulties. If the answer is yes, please elaborate:

- Donors have stopped donations
- Donors have expressed concern over their own access to financial services as a result of contributions to your organization
- Your organization has limited programs
- Your organization has stopped programs
- Your organization has stopped working with partner organizations
- Your organization has changed or restricted funding to geographic areas, beneficiaries or partners
- Your organization has been asked to change or restrict programs by donors or financial institutions
- Your organization has imposed restrictions because of perceived legal or reputational risk
- Your organization has faced higher costs
 - Higher fees for financial transactions or compliance with financial institutions
 - Compliance costs to meet demands of donor institutions

In case one of the above situations applies to your organization, what has been the impact on your organization and the work you are doing? Please elaborate.

How are you dealing with the negative consequences? Please elaborate.

Have you found work-arounds to this situation? If so, please elaborate.

What do you feel is needed to address this and reverse any negative impacts?...

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ADDITIONAL INFORMATION?

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