

COUNTERTERRORISM:

How will the changing international architecture affect humanitarian action in the next 5 years?

OVERVIEW

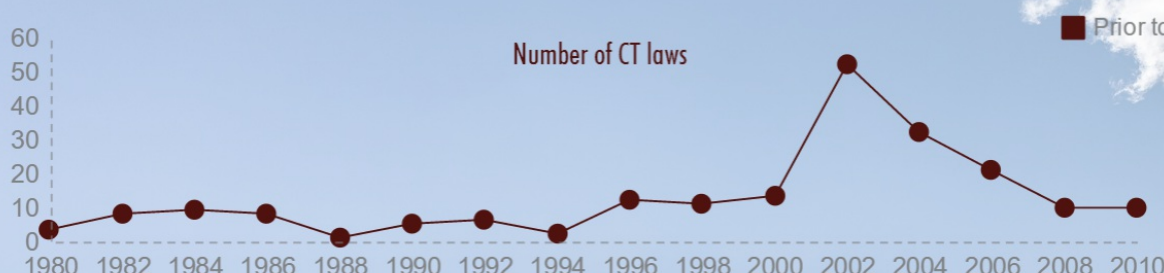
The counterterrorism system is complex because:

- There is no agreed definition of terrorism
- The expanded web of conventions, laws and institutions at global and national levels have created a complex and multi-layered system
- There are many approaches used to mitigate the threat of terrorism, all of which can be used in different manners -- military operations, covert actions and rule of law
- The lack of transparency on the part of governments establishing and using these laws obscure international and human rights law

Number of countries with counterterror legislation



■ Prior to 9/11 ■ Post 9/11



COUNTERTERRORISM AND HUMANITARIAN ACTION

Counterterrorism laws make it harder for NGOs to deliver principled humanitarian aid.

Challenges faced in:

- Funding
- Partnership
- Access
- Compliance
- Relationships with local communities
- Freedom of speech for civil society organisations

Who does this affect?

Islamic NGOs



Greater scrutiny from Western stakeholders.

Local organisations



Higher risk of being politically targeted if acting against government agendas.

International NGOs



Requirements to screen staff, partners, beneficiaries.
Restrictions on transfer of funds to conflict zones.
Additional reporting burden from donors
Risks of aid diversion.

4 KEY ACTORS

1

Western Governments

- Have the greatest number of counterterror laws
- Have a big influence on international conventions and committees, especially the US
- Influence a behavioural convergence among states

Their dominance and the continued elaborateness of the legal system is unlikely to be challenged.

2

Terrorist organisations

Though their direct influence is rarely realized, terrorist groups can play a major role in determining the direction of legislation.

The 'whac a mole approach' to counterterrorism responses are largely driven by a desire to continually adapt the counterterror structure to respond to the evolving threat

Adaptations in tactics of terrorist groups

Change in legislation

3

States sponsoring terrorism

Although this is a rare case, it continues to be a logical option. Operations of this sort are generally covert and could change quickly and dramatically, therefore affecting legislation

4

Governments of countries bordering conflicts / terror hotspots

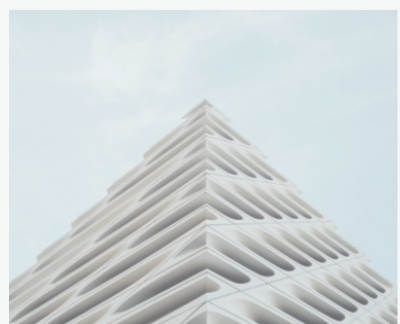
Highly changeable and influential in the international counterterrorism architecture. Can be the most influential in expanding the subject of counterterrorism legislation. Could set the trend for other nations

Average number of counterterrorist laws per country 1850-2009



■ Africa ■ Oceania ■ US & Canada ■ Asia
■ Europe ■ Latin America & the Caribbean

OUTLOOK - 5 KEY DRIVERS OF CHANGE



Structure & tactics of terrorist groups

Predominance of low tech, less ambitious attacks

Continuation in existing zones of terror, with a further concentration in Syria and Iraq

Radicalization through high technology transfers

Increasing lone-wolf attacks in line with organizational decentralization

Increased pressure on surveillance, network monitoring and information sharing

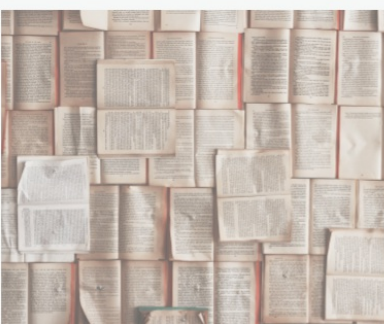


Regional Cooperation

Alliances made through a comprehensive regional approach could have a greater chance of efficacy

Regional arrangements focusing on cooperation rather than harmonization could add a layer of bureaucracy

Progress towards regional harmonization will likely be slow and European states are likely to continue to be the most integrated



Historical precedent of Western counterterror legislation

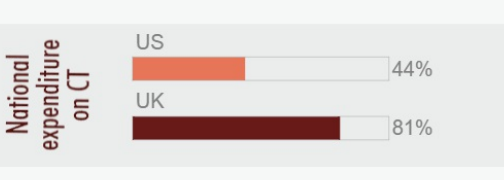
Countries with CT laws to see continual iterative change intensifying their regulatory structures

Limited transparency

Dominance of the terrorism in domestic security narrative will result in public pressure for increased vulnerability opposed to threat based legislation

The focus of moves in counterterror legislation will focus on private companies (likely telecommunications and financial)

Cyber security will play an ever greater role in the system and legislation is could be used to increase government powers to this end



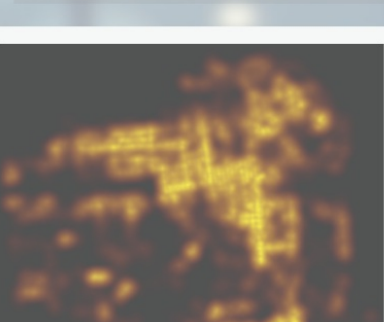
Human mobility

Human mobility will continue and will drive CT legislation, particularly for countries with a large displaced population and the European Union

Travel restrictions for visitors as well as nationals to/from states in terror hotspots will increase

Rates of migration and displacement in the global south could accelerate the path of counterterror legislation in developing countries bordering conflict

The connection of counterterrorism with migration will likely underpin the trend to securitize the migration issue



The approach of governments in terror hotspots

New CT laws will focus on zones of terror

Iterative change will alter and strengthen CT legislation

Political opposition, civil society or the judiciary in states in terror zones will continue to provide a challenge to greater state power

As more states create expansive definitions of terrorism behavioural convergence could result in politicisation of the international system

IMPACT ON HUMANITARIAN ACTION



There is a lack of transparency and understanding in the regulations applied to humanitarian action. The variability in legislation results in inconsistent standards applied to different programs even within the same country office.

Risks of non-compliance

The most concerning legislation relates to provisions surrounding deliberately or inadvertently providing material support to designated terrorist groups. NGOs operating in areas with active terrorist groups are now at continual risk of violating counterterror legislation through programming in almost every sector.

This has resulted in:

- A behavioural convergence among donors
- Contracts containing vague language
- High levels of confusion amongst NGO actors
- Lack of transparency between NGOs and donors
- A reluctance on the part of organisations to share experiences
- A 'chilling effect' on NGOs



Only Australia and New Zealand provide an exemption from culpability for humanitarian action.

Costs of compliance

The War on Terror has meant that NGOs working with Western donors now have to prioritise foreign and security concerns over humanitarian principles.

NGOs are put in a position where they are monitoring on behalf of governments in operational areas.

This lack of independence undermines acceptance and staff security.

“ In areas where designated terrorist groups operate it is, for all intents and purposes, illegal to provide aid based on need alone. ”

LOOKING AHEAD

The link between terrorism and humanitarian action is clear.

There is no longer an opportunity to influence the fundamental architecture of counterterror legislation which was created around 9/11.

There will be a tendency to reduce the space for allowances and negotiation by governments.

Organisations dependent on donor funding will have little choice but to improve compliance going forward.

“ The dramatic increase in counterterror legislation since 2001 and its continuing role in foreign affairs and security policy will provide a continued challenge to principled humanitarian action in high-risk areas which could result in diminished access to aid for some of the most vulnerable. ”