

# Counter-terrorism and humanitarian action: UK INGO responses since 2015

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*There has been growing awareness in recent years of the wide-ranging negative impacts that counter-terrorism measures and sanctions impose on humanitarian action. Drawing on semi-structured interviews with the staff of international non-governmental organisations (INGOs), this paper examines these impacts on INGOs based in the United Kingdom. This is a context where a particularly complex array of laws, policies, and regulatory regimes have emerged alongside an increasingly hostile political and media setting for INGOs, creating an environment characterised by uncertainty. The paper shows that counter-terrorism measures and sanctions are leading INGOs to adopt more conservative approaches to partnership in areas controlled by proscribed groups, undermining broader commitments to the localisation agenda. The analysis reveals that perceptions of risk within INGOs vary considerably, but that despite this, INGOs have developed strategies to reduce the impacts of counter-terrorism measures, which over time, have led to improved coordination, and in some instances, a willingness to push back against regulations.*

**Keywords:** counter-terrorism, humanitarianism, non-governmental organisations (NGOs), risk management, sanctions

## Introduction

A complex array of counter-terrorism measures and sanctions have proliferated following the terror attacks of 11 September 2001. These issues have periodically intensified since 2001, with tensions concentrated initially in contexts where Islamist groups have been most active, including Afghanistan, Iraq, Somalia, and Syria. This study examines the challenges generated by these measures for large international non-governmental organisations (INGOs)<sup>1</sup> that are based in the United Kingdom and involved in humanitarian response.

While an emerging body of literature has analysed the diverse impacts of these measures on the humanitarian sector, there has been little analysis of how these changes have been understood and negotiated by INGOs themselves. Our study fills this gap by exploring the varied strategies and tactics that UK-based INGOs have deployed in response to these measures, focusing particularly on head office decision-making, highlighting how internal organisational dynamics are shaping INGO responses. The study also contributes to existing literature by providing an updated view of the evolution of these effects in the UK. We consider two key questions:

- How do counter-terrorism measures and sanctions impact the operations of British INGOs?
- What strategies are INGOs employing in response to these measures, and why?

Our study finds that the environment for INGOs in the UK remains challenging. Bank ‘de-risking’ of humanitarian INGOs continues to have negative ramifications, and counter-terrorism laws and sanctions continue to generate a ‘chilling effect’, whereby INGOs avoid operating in areas deemed risky. In addition, as INGOs seek to comply with myriad laws and policies, they adopt more conservative approaches to partnership, ultimately undermining their commitments to the localisation agenda. Our findings show that uncertainty about the scope and limits of new laws and policies has negatively affected INGO responses, an issue of particular importance in the UK owing to its complex array of laws, policies, and regulatory regimes. Throughout, we stress that these impacts are due not only to counter-terrorism measures, but also are entangled with other risk factors, including concerns around security, safeguarding, aid diversion, and reputation.

INGOs have not remained passive in the face of these wide-ranging impacts. Our study reveals that while UK-based INGOs have traditionally been risk averse in response to new counter-terrorism measures, they have developed a range of strategies to reduce the impacts of these measures on their humanitarian work. There are signs that as new legislation and risk management approaches ‘bed in’, INGOs have begun (tentatively) to push back against certain regulations and have improved coordination with other stakeholders—most notably through the Tri-Sector Group (TSG)—leading to some improvements in communications and shared understandings of how to avoid causing harm when designing such measures.

Our interviews spotlighted some important divergences in how INGOs’ responses were perceived by staff. While many personnel were critical, others viewed new risk management approaches as enabling (rather than constraining) effective humanitarian action and said that improved risk awareness need not and should not lead to risk aversion. These divergences largely reflected differences within organisations (especially between those working in legal teams or compliance roles and those working in policy or programme-related roles) and highlight a major tension for INGOs regarding where to place relative weight: between, on the one hand, need and the humanitarian principle of ‘humanity’, and on the other, concerns about compliance, legal risk, and reputation.

This paper draws on publicly available reports, strategies, academic literature, and semi-structured interviews. We contacted a diverse range of leading and influential UK-based INGOs, ultimately interviewing staff from two multi-mandate, one humanitarian, and one peacebuilding organisation. We also included an industry network body to provide a wider perspective on the challenges that UK INGOs face. This variety allowed for an understanding of how different organisations respond to counter-terrorism measures and sanctions. We employed a purposeful sampling strategy for interviews, selecting participants with a good working knowledge of UK INGO practice vis-à-vis counter-terrorism measures. We conducted 12 interviews with 11 respondents (there was one repeat interview).

Ten participants were staff members, and one was a trustee. Of the staff members, one was in a senior leadership role, one was in logistics, three were in governance or risk management, three were in policy, and two held legal positions. The first round of interviews took place in May and June 2021, followed by a period of analysis. We performed a short second round of follow-up interviews in July 2022. Data analysis was carried out using thematic analysis. Despite the relatively small sample size, the extended qualitative interviews allowed us to focus on the depth and richness of the data. Interview questions evaluated the effects of counter-terrorism measures on the activities of UK-based INGOs, their responses to these measures, their risk management policies, and the experience and perceptions of staff.

While we concentrate exclusively on UK INGOs, these findings may have some broader relevance for the global humanitarian sector, since UK INGOs and the UK government are influential in shaping global humanitarian practice, and the INGOs examined here are international confederations, with sister organisations in other donor countries. Although focusing on the UK context and UK-based staff precludes a rigorous tracing of how counter-terrorism measures impact individuals and organisations in countries affected by humanitarian crises, our approach is well-suited to analysing how these changes are understood and negotiated at head office level. Our attention is primarily on participants' perceptions of counter-terrorism measures, as this and other studies illustrate that perceptions often have clear material impacts, such as through the chilling effects or general risk aversion described below.

The sensitive nature of our research topic may have made participants reluctant to share information that implied their employer was either slavishly following counter-terrorism requirements (and so undermining their commitment to the humanitarian principles) or ignoring the rules altogether (and so exposing their staff to prosecution). Concerns around legal liability may also have made participants reluctant to share too much, given that interpreting the regulations in practice is often a matter for legal counsel. We addressed this in part by informing participants that all contributions would remain anonymous and that organisations would not be named.

This paper is organised in seven sections. The next section reviews the literature on counter-terrorism, humanitarian response, and approaches to risk management. Section three reviews the relevant laws and regulations, while section four provides background on the UK context. Section five examines the impacts on humanitarian action and section six discusses INGO responses. Section seven concludes the paper.

## **Counter-terrorism, humanitarian response, and approaches to risk management**

A large body of research has examined the impacts of counter-terrorism on the development and humanitarian sectors. This work found that the 'War on Terror', launched in the wake of the terror attacks of 11 September 2001, quickly reshaped the development and humanitarian fields, leading to a reconceptualisation of populations in the Global

South as posing a risk to homeland security (Duffield and Waddell, 2006; Duffield, 2007), entrenching existing power inequalities in the INGO sector, and marginalising Muslim and human rights INGOs (Howell and Lind, 2009). Research identified important divergences in the impacts of the counter-terrorism agenda in different donor and recipient countries, while also highlighting some general trends in INGO responses. Howell and Lind (2010) found that responses had primarily been driven by Muslim and human rights groups (which were most directly affected), while ‘mainstream civil society’ (including large INGOs that were more reliant on government funding) were generally more quiescent.

Several studies have examined more specific consequences of shifting counter-terrorism legislation and sanctions on humanitarian governance. Most of this work assesses how the global humanitarian system manages risk (Stoddard, Haver, and Czwarono, 2016; Stoddard, Czwarono, and Hamsik, 2019) and how it has been impacted by counter-terrorism legislation and sanctions (Eckert, 2022), therefore lacking in-depth analysis of how these changes affected INGO practice specifically. Other studies have focused on how specific elements of counter-terrorism measures, such as financial ‘de-risking’—where banks or other financial institutions refuse to make their services available due to commercial concerns or fear of breaching counter-terrorism measures—have affected humanitarian governance (Gordon, 2020). While a considerable body of work has rigorously analysed the emerging impacts of counter-terrorism measures and sanctions on INGOs, only a small number of studies have systematically explored how they have responded to these changes (Bloodgood and Tremblay-Boire, 2010; O’Leary, 2018; El Taraboulsi-McCarthy, 2018a, 2018b, 2018c). Our study builds on these findings by identifying additional mitigation measures that INGOs are employing.

Risk management approaches have expanded greatly since the 1990s (Power, 2004) and risk has emerged as a central organising principle among stakeholders in the humanitarian sector (Gordon, 2020). In response to a perception of heightened risk, many larger INGOs have adopted sophisticated risk procedures that cover not only ‘traditional’ areas of security and safety, but also fiduciary, legal, reputational, operational, and information risks (Stoddard, Haver, and Czwarono, 2016). In a survey of humanitarian staff, 53 per cent of respondents to a questionnaire said that their organisations had ‘established written policies and procedures to ensure compliance with counterterrorism measures, including due diligence procedures, codes of conduct and human resources policies’ (O’Leary, 2018, p. 28).

Our respondents adopted two broad positions on the impacts of risk management approaches. First, many took a negative view and felt that an increased focus on risk management had led organisations to become overly cautious. Echoing this perspective, a study by Stoddard, Haver, and Czwarono (2016, p. 38) revealed that a majority of INGO participants either ‘agreed’ or ‘somewhat agreed’ with the notion that ‘INGOs have become increasingly risk averse and are curtailing humanitarian response as a result’. In addition, some expressed concerns that risk management frameworks might foster a ‘checklist mindset’, rather than investing the necessary time to cultivate an intrinsically risk-oriented culture.

Second, others had a more optimistic reading and framed risk management as an opportunity, emphasising its potential to enable strategy and organisational evolution. This is reflected in evolving definitions of risk, from earlier conceptions centred on the possibility of harm or loss, to ‘the effect of uncertainty on objectives’ (Stoddard, Haver, and Czwaro, 2016, p. 8), thus incorporating inherent opportunity. Some respondents in Stoddard, Haver, and Czwaro’s (2016, p. 4) study reported the risk management trend as positive, ‘enabling good humanitarian response, despite the inevitable increased administrative burden’.

We found that staff working on legal or compliance issues or those working in headquarters were more likely to take the ‘opportunity view’, whereas those working in policy or programme-oriented roles emphasised the negative view.<sup>2</sup>

## **Counter-terrorism measures and sanctions: laws and regulations**

One consequence of the ‘War on Terror’ was an expansion of international counter-terrorism measures. These fall into two broad categories. First, the United Nations (UN) and its member states have imposed financial sanctions on individuals or groups, including asset freezes and travel restrictions. Sanctions can be applied for a variety of reasons, such as addressing human rights abuses, tackling corruption and illicit finance, and countering terrorist activities. Sanctions regimes on occasion provide for exceptions to allow for the delivery of humanitarian assistance, for example, the UN Security Council adopted a humanitarian exception in 2021 to enable the delivery of aid to Afghanistan (Woodward, 2021). Second, the UN Security Council and its member states have proscribed (‘banned’) organisations believed to be ‘concerned in terrorism’, aiming to stem the flow of funds to such groups. Currently, only one UN Security Council counter-terrorism regime, relating to Somalia—Resolution 751 (1992)—includes an exemption for humanitarian actors to deliver aid without risk of contravening the regime, although O’Leary (2022) notes that after intense lobbying by INGOs, there is now improved language in some UN Security Council resolutions.

Alongside the range of financial sanctions and counter-terrorism measures that have been instituted at the international level, states have introduced a flurry of domestic laws: more than 140 governments have passed counter-terrorism legislation since 11 September 2001 (Human Rights Watch, 2012). The UK is a particularly complex (and restrictive) legal environment with numerous relevant statutes. Regarding proscription, the Terrorism Act (2000)<sup>3</sup> grants the Home Secretary the power to proscribe organisations ‘concerned in terrorism’. The Act has a much wider definition of terrorism than in other jurisdictions, as it includes the threat to commit an act as well as its actual commission. The Act does not have the option of allowing humanitarian exceptions. More recently, the UK government introduced the Counter-Terrorism and Border Security Act 2019,<sup>4</sup> which includes a ‘designated areas’ offence, giving the government powers to designate all or part of a country, making it illegal for UK nationals and residents to enter or remain in that area.

After concerted advocacy by INGOs, the government granted a late amendment from the House of Lords for an exemption for ‘providing aid of a humanitarian nature’ (Bond, 2019).

Regarding financial sanctions, post Brexit, the UK government has granted itself powers to sanction people and entities through the Sanctions and Anti-Money Laundering Act 2018.<sup>5</sup> This includes powers to sanction individuals and groups involved in terrorism, as well as ‘Magnitsky’ sanctions, which target human rights violators. Humanitarian licences and exceptions have been made available under the Act, although these are often slow to emerge and limited in scope.

On top of these international and domestic legal instruments, humanitarian agencies are also expected to abide by laws in host countries, the laws of other donor states, other states’ laws with extraterritorial reach, and loosely worded donor grant agreements (O’Leary, 2018). With so many complex and intersecting regulations to follow, it is perhaps unsurprising that INGOs struggle to keep up with what one interviewee in this study called an ‘oppressive regulatory environment’.<sup>6</sup>

## **Wider developments in the UK since 2015: a more constrained environment**

Alongside this legal and regulatory regime, the context in which UK-based INGOs operate has grown considerably more constrained. In this section we sketch out the shifting contours of this environment, detailing the varying role of the Charity Commission for England and Wales and changes to the wider media and political landscape in which INGOs operate. We concentrate particularly on the period after 2015, partly to update the last detailed study on the impacts of counter-terrorism legislation on UK INGOs by Metcalfe-Hough, Keatinge, and Pantuliano (2015), and because this was a particularly volatile period politically.

Since 2015, levels of attention and vigilance in the UK to the threat of Islamic extremism have fluctuated, as reflected in changing threat levels set by the government. While the focus on Islamic extremism dimmed slightly after 2020, the UK government retains a high level of attentiveness, due to continuing Jihadist attacks in the UK and Europe over this period, a media that continues to drive Islamophobia, and a rise in White supremacy and other right-wing extremist causes (Hanif, 2019).

Since 2015, the Charity Commission, the regulator for the charity sector in England and Wales, has also been granted new powers to regulate charities under the Charities (Protection and Social Investment) Act 2016. Still suffering from a reduction in resources dating back to 2010, the Charity Commission has conceded that it cannot provide as much support for charities as it has done in the past (Shawcross, 2014). It has also faced accusations that it has become politicised by a populist Conservative government keen to deploy it in its ‘culture wars’ (ACEVO Policy Team, 2021). Following the safeguarding scandal in the international development sector, some questioned ‘whether it now has the capacity and power to properly hold charities to account’ (Anders, 2018). A representative in a governance role characterised the Charity Commission as ‘muscular and active’

and ‘arguably . . . very reactive and very risk averse, particularly because it has been under resourced’.<sup>7</sup>

The volatile political landscape in the UK since the Brexit vote in 2016 has generated further challenges for INGOs. The UK government has also adopted a more hostile approach to civil liberties, with measures to limit protests in the Police, Crime, Sentencing and Courts Act 2022,<sup>8</sup> and the ‘Lobbying Act’,<sup>9</sup> which regulates charity campaigning in the lead up to elections. Charities described a ‘chilling effect’ of the Lobbying Act to the UK Parliament in July 2021, stating that the legislation ‘discouraged charities from legitimate activity because compliance is burdensome and many are worried about breaking the rules by mistake’ (Weakley, 2021).

The climate for INGOs working in the development and humanitarian sectors has grown particularly challenging. Globally, the environment for humanitarian organisations has become more restrictive over the past 10 years, with Martin Griffiths, the UN Under-Secretary-General for Humanitarian Affairs, remarking in 2021 that we are entering an ‘age of silence’ driven by the mounting assertiveness of authoritarian governments in relation to humanitarian response (ODI, 2021). In the UK, the government has placed increased emphasis on the use of aid in the pursuit of ‘national interest’<sup>10</sup> and made cuts to the aid budget after the decision to abandon temporarily the country’s commitment to allocate 0.7 per cent of gross national income to Official Development Assistance in 2021. The cuts have hit INGOs and civil society organisations particularly hard (Wait, 2022). Further operational challenges have been generated by the merger of the Foreign Office and the Department for International Development (DFID) into a new Foreign, Commonwealth and Development Office in 2020, which has weakened the voice of former DFID staff (Worley, 2021) and reduced space for INGOs to shape government decision-making (Worley, 2020). This contrasts with earlier periods when DFID would regularly use its comparatively large budget and influence to shape global humanitarian practice (ICAI, 2018), including around the localisation and ‘triple nexus’ agendas (Redvers and Parker, 2020).

Despite these growing challenges, there have nevertheless been tentative signs that the UK government is willing to mitigate the worst impacts of counter-terrorism measures and sanctions on INGOs. Eight years ago, Metcalfe-Hough, Keatinge, and Pantuliano (2015, p. 17) noted indications of ‘tentative dialogue’ between INGOs and the Home Office. Since then, the TSG has been established (in 2017). The group is a forum for government, INGOs, and the financial sector to discuss ‘issues relating to the implementation of counter-terrorism legislation, including the impact this can have on charitable work overseas in high-risk areas’ (HM Treasury and Home Office, 2020, p. 23). The UK government uses the forum ‘to help address key challenges and to support the work of aid agencies, while enabling members to play an active role in developing new policy’ (HM Treasury and Home Office, 2020, p. 23). The TSG is also intended to raise charities’ awareness of terrorist risks to support them in safeguarding their activities. As outlined in more detail below, the group has led to some changes in the approach of government by embedding consultation between stakeholders and allowing UK INGOs to resolve emerging issues quickly. The UK government also demonstrated some flexibility when granting

the late amendment exemption for humanitarian activity in the Counter-Terrorism and Border Security Act 2019, mentioned above. More recently, after the UN Security Council adopted a humanitarian exception to enable the delivery of aid to Afghanistan (Woodward, 2021), the UK adopted into law its own exception mirroring this resolution, following dialogue within the TSG among banks, the government, and INGOs. In addition, the UK issued a Humanitarian Activity General Licence under its Russia sanctions regime in July 2022<sup>11</sup> to facilitate aid operations in Ukraine, also in part owing to the work of the TSG.

Our interviews highlighted that uncertainty around counter-terrorism measures and sanctions are playing a particularly important role in driving the negative impacts on the work of UK-based INGOs. The issue of uncertainty about counter-terrorism measures is not new, nor unique to the UK. However, the operating environment for INGOs in the UK has become more complex since 2015 because of a variety of new laws and policies and a more hostile political environment, as outlined above. Counter-terrorism regulations are often extremely unclear as governments and donors frequently refuse to specify with which standards of due diligence organisations are expected to comply.

While the UK government does not require screening or vetting of beneficiaries, some donors do require that non-governmental organisations (NGOs) screen beneficiaries against lists they have provided, which can be problematic. As one staff member responsible for logistics told us: ‘That actually asks us to breach data security laws. [This sits] alongside other fundamental rights of these people that . . . cannot be overwritten in a contract’.<sup>12</sup>

## Impacts on principled humanitarian action

Before exploring INGOs’ strategies for responding to counter-terrorism measures, we first examine the impacts of these measures. We found that counter-terrorism measures and sanctions have contributed to several negative impacts on INGOs’ ability to deliver principled humanitarian aid. Many of these impacts confirm those set out in previous studies, including bank ‘de-risking’, strains on staff resources and time, and funding cuts and chilling effects. Others, such as the growing barriers to localisation and partnership, have become increasingly prominent, particularly since the release of the study by Metcalfe-Hough, Keatinge, and Pantuliano (2015).

### Barriers to localisation and partnership

Counter-terrorism measures and sanctions are leading INGOs to adopt more conservative approaches to partnership in areas controlled by proscribed groups. This ramification is not new, but it is increasingly undermining the broader localisation efforts of INGOs.<sup>13</sup>

The need to respond to counter-terrorism measures and sanctions is one of several factors that undermine the localisation agenda. The model of INGO funding continues to foster inter-INGO competition, undermine cooperation and collective action between INGOs, and encourage a focus on ‘projects’ rather than on communities in need of humanitarian assistance (Cooley and Ron, 2002; Krause, 2014). These deeply entrenched



political economy factors result in a situation where commitments to pass on funds to local or national organisations have largely remained unrealised, with the proportion of direct funding to local actors halving from four to two per cent between 2020 and 2021 (Willitts-King et al., 2018; Metcalfe-Hough et al., 2021).

Counter-terrorism measures and sanctions compound some of these long-standing issues, disincentivising more equitable partnerships by ‘intensifying financial scrutiny, legal constraints, and punitive repercussions for losses’ (Stoddard, Czwarono, and Hamsik, 2019, p. 4). A series of studies by ODI (El Taraboulsi-McCarthy, 2018a, 2018b, 2018c) show that counter-terrorism measures have had adverse implications for financial access by local NGOs, including in Somalia, the West Bank and Gaza, and Yemen. While it is unlikely that local organisations will be directly subject to UK sanctions or counter-terrorism regulations (unless they have British staff, or directly manage programmes and channel funding from an officially registered entity in the UK), they are often still affected due to various chilling effects.

Participants in our study highlighted examples where counter-terrorism measures had made partnerships more difficult. A trustee said that they lead INGOs to develop much stricter criteria for working with partners. This can often mean that INGOs prioritise working with larger local organisations that can meet due diligence standards, rather than smaller organisations that often have stronger community roots, access, and the trust needed to operate in difficult settings. This stricter selection process, they said, can also apply further down supply chains, with some INGOs also screening suppliers.<sup>14</sup>

These regulations ultimately undermine trust. A trustee stated that counter-terrorism measures and sanctions had led their organisation to ask questions of partners that may be regarded as inappropriate, and which can ‘lead to partners walking away from us or can lead to a relationship with a partner where they perceive us as being a contractor rather than a partner’.<sup>15</sup> In some cases, counter-terrorism measures are resulting in INGOs bypassing partners altogether, further undermining commitments to the localisation agenda. One interviewee in a governance and compliance role underlined: ‘In order to have the degree of control . . . we need to be doing the programming. . . . [This is] old fashioned and . . . unwelcome. So, we’ve not been able to work more with local partners [or] small organisations because [of] that downstreaming of risk’.<sup>16</sup>

One senior INGO leader argued that the main barrier erected by government came from officials dealing with risk and compliance issues, which included counter-terrorism, as well as other matters such as safeguarding and anti-corruption. While measures to address each of these individual components were ‘quite sensible’, the cumulative effect had made localisation ‘impossible’. These restrictions are then passed down to the large INGOs, which in turn find it impossible to ‘take risks on behalf of downstream organisations’. The same senior leader described this chilling effect resulting from the accumulation of risk measures as the ‘number one challenge on localisation’.<sup>17</sup>

## Funding cuts and chilling effects

Past research indicates that counter-terrorism measures and sanctions influence INGOs’ decisions about programme implementation and locations. Mackintosh and Duplat (2013)

highlight instances where agencies reduced funding and halted projects in Gaza, owing to concerns about violating counter-terrorism regulations. Similarly, El Taraboulsi-McCarthy (2018c) contends that challenges in transferring funds in and out of Gaza have led some organisations to modify their programmes. Metcalfe-Hough, Keatinge, and Pantuliano (2015) discovered that counter-terrorism legislation was having a direct impact on levels of humanitarian funding for British INGOs, especially Islamic organisations, which faced heightened scrutiny. This, in turn, had negative repercussions on their partner NGOs in regions and countries such as Palestine and Pakistan. More recently, after the Taliban regained power in Afghanistan in August 2021, agencies have struggled to transfer funds due to a combination of factors, including ‘confusion over permissible activities under sanctions’ (Moret, 2022, p. 6).

Participants in our study confirmed that these problems continued to affect their work, sharing examples of where counter-terrorism measures had led their organisation to pause or cancel programmes. One respondent said that their employer stopped cash distributions in Syria because of the risk of incurring heavy penalties.<sup>18</sup> A policy adviser said that their organisation had suspended some activities in Burkina Faso and Mali while awaiting clarification of new national counter-terrorism regulations, although operations were eventually resumed.<sup>19</sup>

Others argue that the impact of counter-terrorism measures is less about programmes being cancelled or cut and instead about the creation of a chilling effect. As one legal adviser stated: ‘regulations make people very nervous. It’s what you don’t do as well as what you start out to do.’<sup>20</sup> These findings again chime with previous studies, which have similarly highlighted growing self-regulation and self-censorship of INGOs, with staff ‘often going beyond the original donor requirements’ (Mackintosh and Duplat, 2013, p. 116).

## Strain on staff resources and time

Compliance with counter-terrorism measures requires significant resources and staff time. Most larger organisations employ several personnel dedicated to ensuring compliance with the various requirements, and commonly use fee-based databases to screen potential partner organisations and suppliers. In a global study from 2018, O’Leary (2018) reported that 40 per cent of aid workers surveyed said that their organisations use databases to vet suppliers, staff, or beneficiaries. Metcalfe-Hough, Keatinge, and Pantuliano (2015) contend that this increased administrative burden has made humanitarian aid slower and less efficient. Muslim charities, particularly smaller ones, often go to even greater lengths and expend significant resources to satisfy banks’ due diligence requirements, all of which can be made even harder by negative press coverage (Conciliation Resources, 2022).

Participants in our study similarly highlighted that compliance with counter-terrorism measures requires significant resources and staff time. A policy adviser said organisations increasingly focus resources on developing trainings in what counter-terrorism means for their daily work, and their employer has at least half a dozen staff working on the development and delivery of these trainings.<sup>21</sup> For a staff member in charge of logistics, this strain on resources is the ‘main impact’ of counter-terrorism measures. They added: ‘it’s caused a lot of worry and people running around and having to do lots of

extra work'.<sup>22</sup> UK trustees, who may be personally liable for any breaches, also dedicate a large portion of their time to the management of various risks, including counter-terrorism measures. A senior staff member in a governance role said that risk has been a central topic for their board in recent months,<sup>23</sup> while another interviewee, also in a governance role, said that their organisation's board was experiencing fatigue after spending roughly two-thirds of its time on risk management as opposed to, for example, strategy.<sup>24</sup>

### Bank 'de-risking' and access to financial services

The slowing down or blocking of INGOs' access to financial services represents one of the most tangible impacts of counter-terrorism measures on humanitarian activity. Metcalfe-Hough, Keatinge, and Pantuliano (2015) found that delayed transfers, bank closures, and other restrictions imposed by banks and other financial actors on INGOs sometimes directly affected aid operations, leading to the scaling back or shutting down of projects and postponed salary or supplier payments. Furthermore, the increasing demands for documentation issued by banks put more pressure on INGO staff's time and resources. Others (El Taraboulsi-McCarthy, 2018a, 2018b, 2018c) have found that in Somalia, the West Bank and Gaza, and Yemen, bank de-risking practices have obstructed organisations from accessing crucial humanitarian and development funds and damaged their reputations. More recently, INGOs operating in Afghanistan have faced similar challenges in financing humanitarian operations, in large part due to bank de-risking (Moret, 2022).

These issues remain a key preoccupation of UK-based INGOs. A respondent in our study stated that their bank was probably their single most important stakeholder and if an organisation could not meet every single element of their bank's due diligence—which can be up to 20 pages long—they 'simply wouldn't be able to exist'.<sup>25</sup> A trustee asserted that bank de-risking had a particularly negative impact in fragile settings, with banking regulations slowing down their response.<sup>26</sup> Issues of access to finance have seen the greatest mitigation efforts by the UK government and financial actors, and have become a central part of the agenda of the TSG, as discussed below.

These issues do not affect all UK INGOs in the same way. Several interviewees noted that there is strong evidence that Muslim organisations are worst affected. One senior leader told us that 'Muslim charities are demonstrably less able to transfer funds into Afghanistan, but we have anecdotal evidence from other places as well, where that's also the case', a trend they attributed to Islamophobia<sup>27</sup> (see also Dumasy, 2022). Smaller organisations also tend to struggle to meet the frameworks and banks' due diligence processes owing to capacity constraints.

As outlined, counter-terrorism measures and sanctions are affecting UK-based INGOs in a variety of ways. It is important, however, to acknowledge the difficulty of disentangling these impacts from other factors. Humanitarian situations are inherently complex, with numerous factors determining whether aid gets through. INGOs are often responding not just to counter-terrorism measures. As one interviewee put it: 'There are so few agencies working in Taliban-controlled areas or [Islamic State West Africa Province (ISWAP)]-controlled areas in Nigeria. This is not just because of fears over [counter-terrorism] aid

diversion but also corruption, security concerns, and other risks. But [counter-terrorism] is playing a role'.<sup>28</sup> Organisations may also be contending with other internal factors, including concerns about their own reputation and political opposition to their work from politicians and the media. Nevertheless, counter-terrorism measures are clearly playing an important part in driving the impacts listed above.

## **INGO perceptions of, and responses to, counter-terrorism measures and sanctions**

In response to these impacts, INGOs are employing a variety of tactics and mitigation measures, which we examine in greater depth in this section. O'Leary (2018) provides an overview of strategies employed by aid organisations globally, including risk management approaches, remote management, exemptions to sanctions regimes, informal transfer methods (such as *hawala*), and advocacy. In addition to many of these measures, we found that INGOs were also engaging in dialogue and advocacy with government, notably through the TSG, suggesting that they are increasingly willing to join forces and push back against stringent measures.

### *Risk avoidance or risk management?*

INGOs have long-established policies and procedures to limit exposure to counter-terrorism measures and sanctions. All of the INGOs we spoke to had written policies to ensure compliance with counter-terrorism measures, including codes of conduct, diligence procedures, and human resources policies.

We identified significant differences in how INGOs' approaches to risk management were perceived by staff. Some respondents in policy or programme-oriented roles felt that their employers had adopted an increasingly risk-averse or risk-avoidant approach. As one interviewee put it, '[t]he whole infrastructure that gets constructed around risk . . . is pretty much always negative', adding that their employer's approach amounted to identifying things that could go wrong and then '[dreaming] up what we can do to mitigate'.<sup>29</sup>

Participants also emphasised the gulf between head office, which sets policy, and local/regional offices, responsible for implementation. One interviewee said that their employer would 'sit in headquarters telling [colleagues in country] they have to do something or other for some regulatory or compliance reason. This doesn't allow them the freedom and scope to judge risk themselves'.<sup>30</sup> Another participant expressed a similar concern, questioning the assumption that someone in headquarters would have the necessary knowledge about specific situations. They suggested that, in line with the localisation agenda, it would be better to collaborate with country and local management teams in high-risk settings like Iraq or Syria to gain contextual insights from them.<sup>31</sup>

This approach to risk is not simply a result of fears about breaching counter-terrorism rules. The increasingly hostile political and media environment for charities in the UK also plays a role. A staff member in logistics told us that a senior colleague in their organisation had said to coworkers that given the level of scrutiny they faced, they would not

be ‘sticking their head above the parapet’. This senior colleague told staff that ‘we don’t really want to stand out too much. . . . We just want to . . . keep our head down. [We don’t want to be] leading the charge [as] we don’t have the resources’.<sup>32</sup>

Criticism of the approach of INGOs to managing risk was not unanimous, however. Other personnel, notably those in compliance or risk management roles, felt that good risk management policies were enabling them to improve programme quality. One interviewee in a senior governance role argued that ‘discipline makes daring possible’, underlining that ‘you can speak boldly once you have the basics right’.<sup>33</sup> Similarly, an internal strategy document from one multi-mandate organisation outlines an ambition to approach risk management as ‘an enabler of strategy’ by supporting ‘effective, safe and sustainable delivery to communities’.<sup>34</sup>

As noted, respondents who spoke to the inherent opportunity in risk management were in compliance or governance roles. It was telling that those in policy or programme roles were more sceptical of their employer’s ability to resist pressure from donors or states to comply. This divide suggests that much of the new risk agenda has been primarily developed by compliance experts who tend to be less aware of the political trade-offs and barriers involved in implementing it. Policy and programme staff, by contrast, tend to be more attuned to the dangers of transferring risks to partners, and how such approaches may undermine the wider localisation agenda.

## Improved information-sharing and dialogue

In the past, uncertainty surrounding counter-terrorism measures and sanctions has led to poor coordination and information-sharing among organisations (O’Leary, 2018). Metcalfe-Hough, Keatinge, and Pantuliano (2015) identified nascent dialogue between INGOs and the UK government on these issues, although they pointed out that the sector had insufficient coordination and lacked effective leadership to deal with various aspects of this issue. O’Leary (2022) highlights some improvements in recent years, noting that advocacy globally has resulted in improved language in UN Security Council resolutions and grant agreements, guidance and dialogue in relation to sanctions and bank de-risking, and increased use of exemptions, licenses, and derogations for humanitarian activities.

We found clear signs of improved cooperation and dialogue among stakeholders in the UK, particularly through the work of the TSG. For many years, INGOs had been attempting to raise awareness of the negative impacts of counter-terrorism measures and sanctions, without a formal mechanism for dialogue. Momentum was established when David Anderson Q.C., Independent Reviewer of Terrorism Legislation, recommended a dialogue be initiated among policymakers, in particular the Home Office, the Treasury, and INGOs, in his review of anti-terrorism legislation in 2013 (Anderson, 2014). This was followed by concerted collective efforts by INGOs to improve dialogue, resulting in the TSG being formally established in 2017. The group has embedded consultation between government, banks, and INGOs and has allowed UK-based INGOs to collectively resolve emerging issues, as occurred after the Taliban’s return to power in Afghanistan in 2021. In response to the rapidly changing situation, banks and INGOs coordinated their

message in a series of meetings with government and financial institutions (convened by the Treasury) on the need for an exemption, which was eventually agreed. One respondent felt that this was a clear marker of the success of the group: ‘if Afghanistan [the situation that emerged in 2021] had happened in 2015 . . . the response wouldn’t have been as effective’.<sup>35</sup> A similar process was observed following Russia’s invasion of Ukraine in 2022, where an exemption was agreed. As one interviewee commented, progress ‘is a cumulative effect of all this coordination, all this communication. The trust-building with government as well’.<sup>36</sup>

INGOs have used the TSG to highlight challenges and to sensitise stakeholders to current policies and good practice. The group has also been a forum for advocacy. It has worked with the Crown Prosecution Service to develop prosecutorial guidance for counter-terrorism offences.<sup>37</sup> While this guidance will not provide immunity from prosecution, INGO TSG members say it should provide stakeholders with more clarity about what does and does not constitute an offence. TSG members noted that a byproduct of this dialogue has been improved coordination and join up within and between government departments involved in counter-terrorism and sanctions issues, as well as spin off collaborations such as Fintech for International Development,<sup>38</sup> an initiative under which banks can work together to facilitate payment routes to complex contexts.

Another important achievement of the group was pushing the UK government to establish a definition of what constitutes a ‘genuinely benign meeting’ with a proscribed organisation, which has provided some reassurance to partners that have discussions with such entities, as, for example, when negotiating humanitarian access. A workstream of the TSG has also been developing and consulting on a guidance document outlining good practice in due diligence, which they intend to make public. This will include guidance on how to deal with screening, dealing with downstream suppliers, and debunking myths concerning practices about which some organisations may be reticent, but that are often acceptable in law. The aim is for this guidance to be endorsed not just by INGOs, but also by the government and the banking sector. As one interviewee said, the goal is to reach ‘a collective understanding of the normative framework about how we should operate so it contributes to that . . . establishment of norms around counter-terrorism legislation and also sanctions’.<sup>39</sup>

Participants emphasised that recent progress cannot be attributed solely to the work of the TSG. Policymakers are also reacting to political realities as they unfold. For instance, in Afghanistan, even before the withdrawal of American and British forces, it could be argued there was a growing inclination within the UK government to replace the narrative of a failed military intervention with a humanitarian one. This change in perspective may have been a key reason for the easing of restrictions on the flow of humanitarian aid. Nevertheless, the TSG and other advocacy groups did play an important role. The TSG’s well-established relationships and working principles were clearly key in getting relevant parties together to discuss and implement sanctions. As one TSG member pointed out: ‘of course, we were always going to find it easier to push on contexts where the political direction of travel is in our favour . . . [but] it is precisely because the political climate allowed for a wider set of allies that we were able to get things moving’.<sup>40</sup> That respondent

further noted that despite the favourable climate, the results achieved in Afghanistan were not 'a given', and the TSG also drove important achievements such as avoiding proscription in Yemen, a context less conducive to success.<sup>41</sup>

Frustrations with the TSG were expressed, including that attendees from government are overwhelmingly in technical, compliance-based roles, and that meaningful progress cannot be made until those responsible for setting policy (that is, senior officials and ministers) are also present or take an interest. In addition, TSG meetings are behind closed doors and relatively exclusive and technical. There is no webpage and public facing communications about the group to aid communication and accountability. While the INGOs in the TSG report back to and take issues from the Bond Sanctions and Counter-Terrorism Working Group, which is open to a wider section of interested INGOs, the majority of UK-based INGOs and partners from the Global South are not involved in the TSG's discussions themselves, which one INGO senior leader said has led some to feel 'cut out'.<sup>42</sup> This last point highlights some of the tensions associated with the localisation agenda: small, sustained working groups in which key individuals build trust and develop expertise and networks are clearly beneficial for overcoming challenges, but at the same time, this closed approach may work against wider efforts to create a more inclusive aid system, whereby organisations from the Global South are integrated into INGO and donor decision-making processes.

On balance, the work of the TSG has been positive, reinforced by the fact that Canada and Germany are reported to be considering convening similar multi-stakeholder dialogues, France has also set up a similar initiative, and dialogues are under way in the Netherlands and the United States (Eckert, 2022; O'Leary, 2022).

## Conclusion

The research has examined the impacts of counter-terrorism measures and sanctions on UK-based INGOs and organisational responses to them. In summing up our findings, we point to some implications for policy and practice.

Our analysis revealed that counter-terrorism measures have generated several negative impacts for UK-based INGOs. These include chilling effects, a strain on staff resources, and hindering access to financial services. Furthermore, these measures conflict with the localisation agenda, causing some INGOs to withdraw from their commitments to collaborate more closely with local and national groups. It is, however, challenging to distinguish the effects of counter-terrorism measures from other risk frameworks, such as fiduciary, safeguarding, and reputational risks. Furthermore, these impacts are difficult to assess independently from broader structural factors, such as political instability and increased hostility towards the INGO sector.

One of the most promising mechanisms for overcoming the challenges posed by counter-terrorism measures, the TSG, has led some smaller, particularly Muslim, organisations to feel 'cut out'. This example highlights the limits of addressing the impacts of counter-terrorism measures without combining these efforts with more fundamental

reforms that challenge existing aid hierarchies. Wider reflection by all stakeholders is needed on how responses to counter-terrorism measures can avoid reinforcing inequalities in the aid system.

We have argued that perceptions of risk have important material effects, which mediate the practical consequences of counter-terrorism measures. We have shown that within many organisations, individuals in governance and compliance teams were the main proponents of risk management policies and their capacity to enable improved humanitarian practice. Those in policy or programmes roles felt that this perspective lacked a nuanced understanding of how such approaches might be implemented, and in particular the dangers of transferring risk to partners. Our analysis largely supports the more pessimistic reading of the impacts of risk management approaches, demonstrating that they have been mostly counterproductive, although with some opportunities arising. Continued frank discussions within organisations about these trade-offs are necessary.

We also examined INGO responses to counter-terrorism measures. In the UK, the TSG has been a key mechanism through which INGOs have addressed some of the negative ramifications of counter-terrorism measures in the context of an increasingly hostile political environment. By working closely with counterparts in the financial sector and government over a sustained period, the TSG has led to improved dialogue with government, resulted in constructive clarifications of existing regulations, and provided opportunities for INGOs to share good practice and push back against emerging regulations. All stakeholders should continue to engage in dialogue and the UK government should ensure that smaller UK-based organisations, and southern, local NGOs, can engage with and supply evidence to the TSG, where feasible. UK regulations will only be one of the regulatory frameworks within which these groups operate, so inclusion and coordination beyond the UK is also critical—as per the recent welcome UK–US collaboration (Gacki and Thomson, 2022).

In the past, risk aversion and uncertainty surrounding counter-terrorism measures have meant that organisations have been reticent to develop common advocacy positions (O’Leary, 2018). More recently, INGOs have coordinated on effective advocacy, including for improved language in UN Security Council resolutions and grant agreements, and the use of exemptions for humanitarian activities. INGOs should build on these efforts by continuing to work together to collect evidence and counter unreasonable demands by government. Larger organisations should also ensure the perspectives and positions of smaller (particularly Muslim) organisations are represented in these discussions.

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## Data availability statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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## Endnotes

- <sup>1</sup> We understand INGOs to be non-profit organisations operating in more than one country that have been established privately rather than by intergovernmental agreement (Willets, 2011). We use 'UK-based INGOs' to mean organisations with a central office in the United Kingdom.
- <sup>2</sup> Interviews with a staff member in a governance and risk management role at a secular multi-mandate charity, 3 June 2021, and with a trustee at a secular multi-mandate charity, 17 June 2021.
- <sup>3</sup> See <https://www.legislation.gov.uk/ukpga/2000/11/contents> (last accessed on 18 September 2023).
- <sup>4</sup> See <https://www.legislation.gov.uk/ukpga/2019/3/enacted> (last accessed on 18 September 2023).
- <sup>5</sup> See <https://www.legislation.gov.uk/ukpga/2018/13/contents> (last accessed on 18 September 2023).
- <sup>6</sup> Interview with a staff member in a policy role at an industry network body, 28 May 2021.
- <sup>7</sup> Interview with a staff member in a governance and compliance role at a faith-based multi-mandate charity, 21 May 2021.
- <sup>8</sup> See <https://www.legislation.gov.uk/ukpga/2022/32/contents> (last accessed on 18 September 2023).
- <sup>9</sup> Full name: 'The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014'. See <https://www.legislation.gov.uk/ukpga/2014/4/contents> (last accessed on 18 September 2023).
- <sup>10</sup> See 'UK government's strategy for international development' (2022) at <https://www.gov.uk/government/publications/uk-governments-strategy-for-international-development> (last accessed on 18 September 2023).
- <sup>11</sup> See 'OFSI issues Humanitarian Activity General Licence under Russia sanctions regime' (2022) at <https://ofsi.blog.gov.uk/2022/07/07/ofsi-issues-humanitarian-activity-general-licence-under-russia-sanctions-regime/> (last accessed on 18 September 2023).
- <sup>12</sup> Interview with a staff member in a logistics role at a secular multi-mandate charity, 17 June 2021.
- <sup>13</sup> Donors and aid agencies made a strong commitment to the localisation agenda as part of the 'Grand Bargain' agreed at the World Humanitarian Summit in 2016.
- <sup>14</sup> Interview with a trustee at a secular multi-mandate charity, 17 June 2021.
- <sup>15</sup> Interview with a trustee at a secular multi-mandate charity, 17 June 2021.
- <sup>16</sup> Interview with a staff member in a governance and compliance role at a faith-based multi-mandate charity, 21 May 2021.
- <sup>17</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.
- <sup>18</sup> Interview with a staff member in a risk management role at a secular multi-mandate charity, 21 May 2021.
- <sup>19</sup> Interview with a staff member in a policy role at a secular multi-mandate charity 11 June 2021.
- <sup>20</sup> Interview with a legal adviser at a secular multi-mandate charity, 14 June 2021.
- <sup>21</sup> Interview with a staff member in a policy role at a secular multi-mandate charity, 11 June 2021.
- <sup>22</sup> Interview with a staff member in a logistics role at a secular multi-mandate charity, 17 June 2021.

- <sup>23</sup> Interview with a staff member in a governance and risk management role at a secular multi-mandate charity, 3 June 2021.
- <sup>24</sup> Interview with a staff member in a governance and compliance role at a faith-based multi-mandate charity, 21 May 2021.
- <sup>25</sup> Interview with a staff member in a governance and compliance role at a faith-based multi-mandate charity, 21 May 2021.
- <sup>26</sup> Interview with a legal adviser at secular multi-mandate and peacebuilding charities, 3 June 2021.
- <sup>27</sup> Interview with a policy director at a peacebuilding charity, 21 July 2022.
- <sup>28</sup> Interview with a policy director at a peacebuilding charity, 21 July 2022.
- <sup>29</sup> Interview with a staff member in a policy role at a secular multi-mandate charity, 11 June 2021.
- <sup>30</sup> Interview with a staff member in a governance and risk management role at a secular multi-mandate charity, 3 June 2021.
- <sup>31</sup> Interview with a staff member in a governance and risk management role at a secular multi-mandate charity, 3 June 2021.
- <sup>32</sup> Interview with a staff member in a logistics role at a secular multi-mandate charity, 17 June 2021.
- <sup>33</sup> Interview with a staff member in a governance and risk management role at a secular multi-mandate charity, 3 June 2021.
- <sup>34</sup> Reference not provided to ensure anonymity.
- <sup>35</sup> Interview with a policy director at a peacebuilding charity, 21 July 2022.
- <sup>36</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.
- <sup>37</sup> See 'humanitarian, development and peacebuilding work overseas' (2022) at <https://www.cps.gov.uk/legal-guidance/humanitarian-development-and-peacebuilding-work-overseas> (last accessed on 18 September 2023).
- <sup>38</sup> See <https://www.f4id.org/> (last accessed on 18 September 2023).
- <sup>39</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.
- <sup>40</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.
- <sup>41</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.
- <sup>42</sup> Second interview with the director of a single-mandate humanitarian charity, 15 July 2022.

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