



CFT and Civil Society

Assessing Risk, Recognizing Impact,
Building Capacity and Partnering for Solutions

Cairo, 17 April 2018



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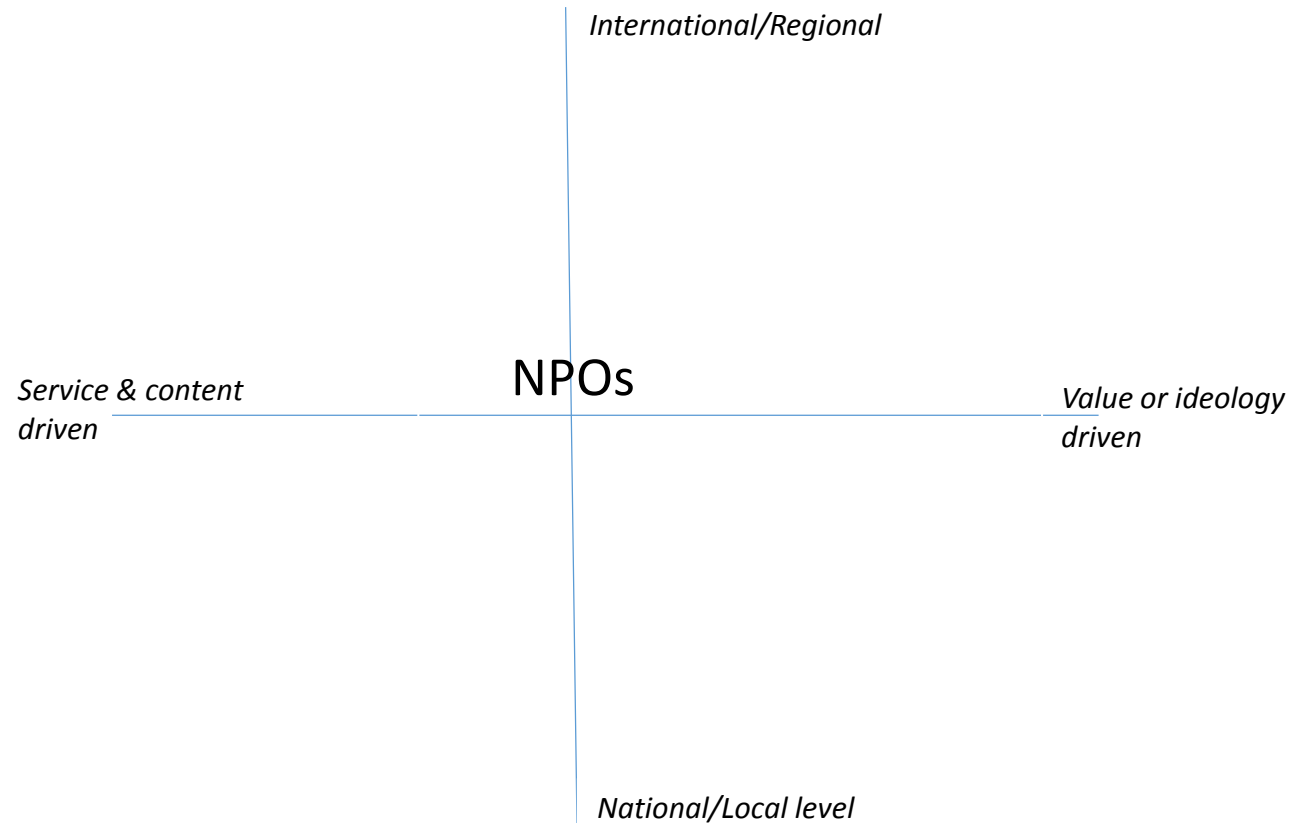
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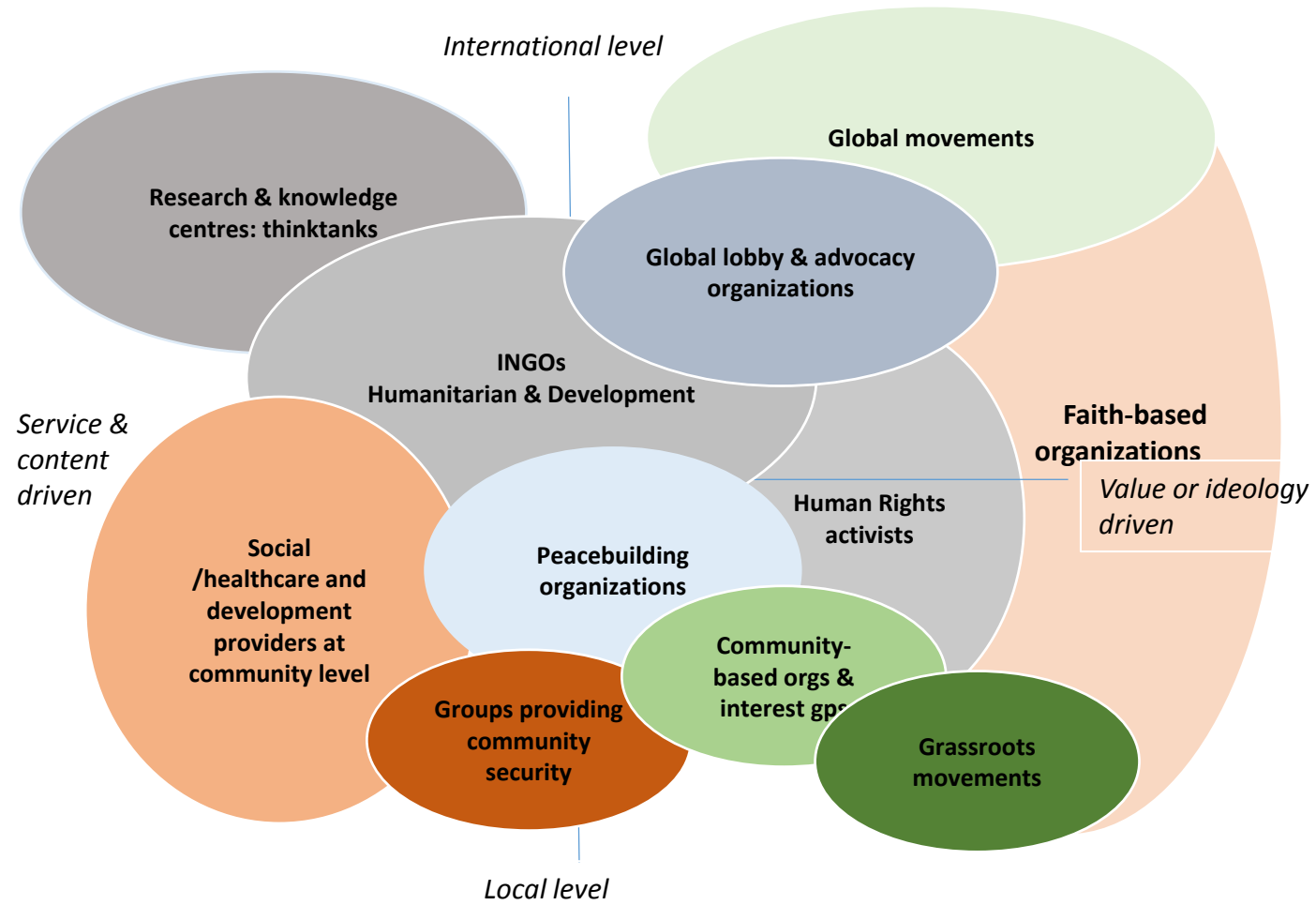
Context



This presentation is framed largely from the perspective of the Financial Action Task Force (FATF) and the authority it has on anti-money laundering and countering the financing of terrorism (AML/CFT) laws and measure in national contexts, including those related to non-profit organizations (NPOs).

Definitions: Diversity of the sector





Definitions

For the purposes of TF, using the Financial Action Task Force (FATF) definition and classification of non-profit organizations is useful:

'The term non-profit organisation or NPO refers to a legal entity or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works".'



Vulnerability

- Like their for-profit counterparts, NPOs may be abused for terrorism financing purposes, just as they face numerous other risks relating to money laundering, fraud, corruption or tax evasion.
- Of the FATF's 40 Recommendations, Recommendation 8 is solely devoted to NPOs and intended to address the particular vulnerability of NPOs to terrorism financing abuse.
- *"Not all NPOs are high risk, and some may represent little or no risk at all."* (FATF Best Practices Paper)



FATF's Recommendation 8



Countries should **review the adequacy of laws and regulations** that relate to non-profit organisations **which the country has identified as being vulnerable** to terrorist financing abuse. Countries should **apply focused and proportionate measures**, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse, including:

- (a) by terrorist organisations posing as legitimate entities;
- (b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
- (c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.



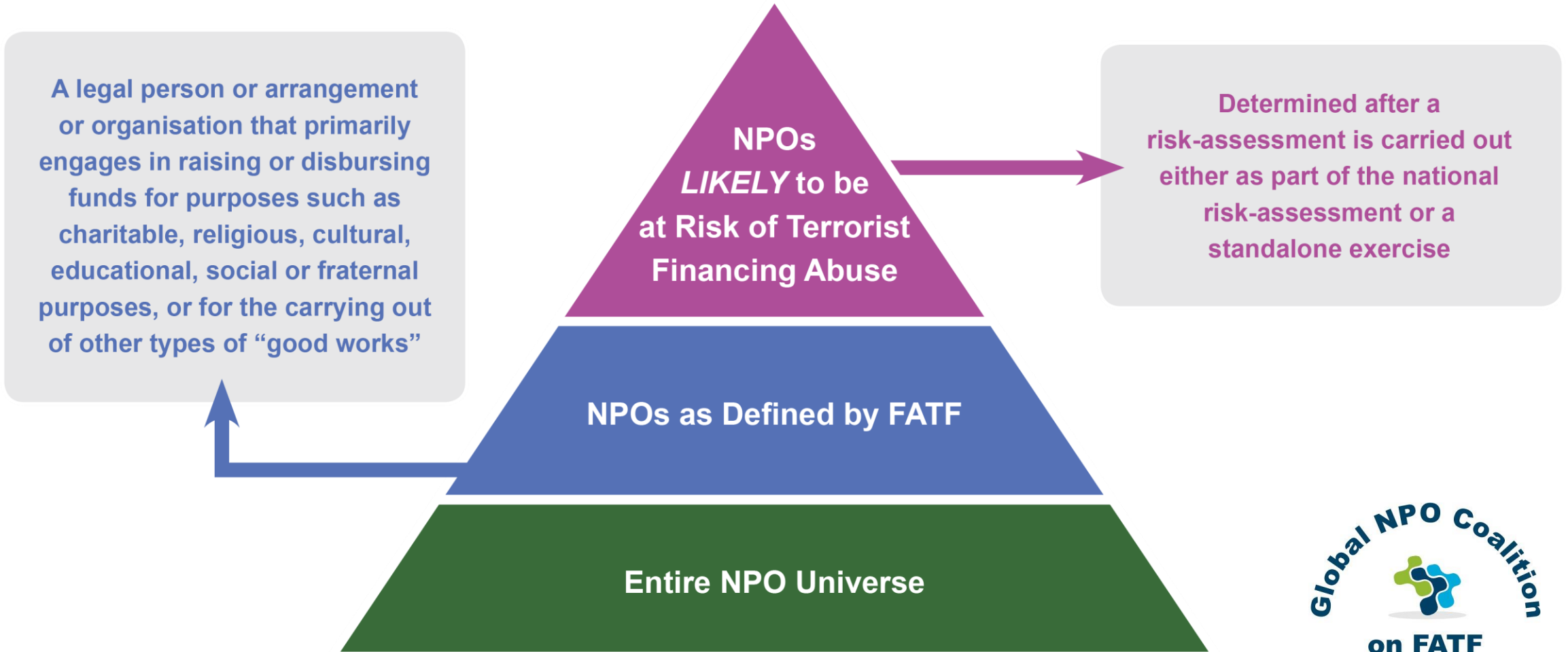
FATF Immediate Outcome 10



Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

10.2. To what extent, **without disrupting legitimate NPO activities**, has the country implemented a **targeted approach, conducted outreach**, and **exercised oversight** in dealing with NPOs that are at risk from the threat of terrorist abuse?

THE RISK-BASED APPROACH & NON-PROFIT ORGANISATIONS (NPOS)



STEPS

1

Conduct a risk assessment of the NPO sector that identifies risk of terrorist abuse

2

Review existing laws, regulations and self-regulatory programmes to see if they address identified risks

3

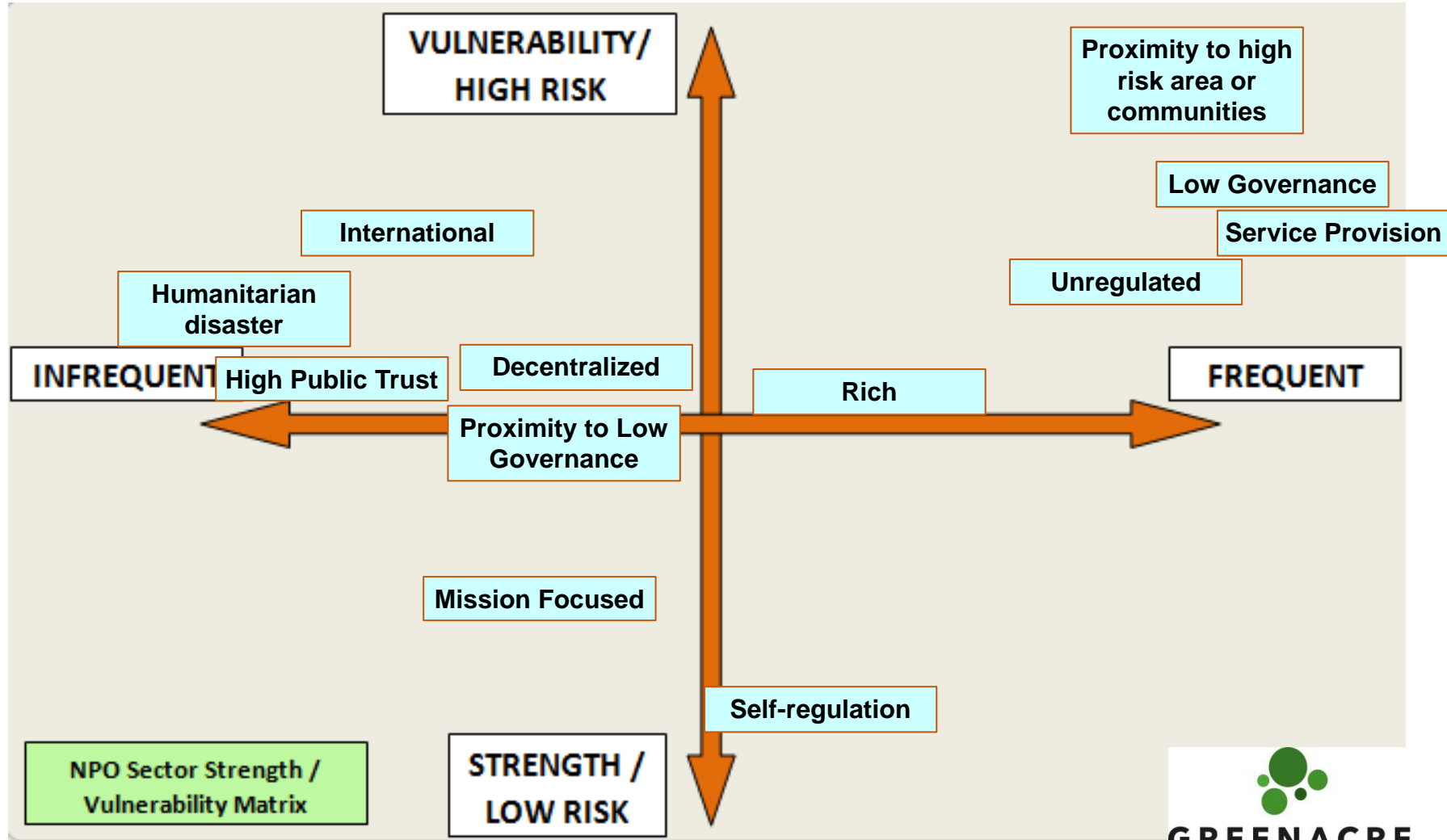
Where gaps are found, develop risk mitigation measures that are proportionate to risk and do not restrict the operation of legitimate NPOs

4

Create a result that is consistent with obligations under international human rights and humanitarian law

Conduct outreach to NPOs throughout the process

Risk Factors in the NGO Sector



NPO Sector Strength / Vulnerability Matrix

7 Key Takeaways on Risk Assessments (RA)

- Different forms of RA are possible, and there is no preferred methodology. The key point is that the country can show that it understands the risks
- Countries should update the RA periodically as the risk changes
- Risks differ from countries but also within countries, depending on areas/regions
- Consultation and inclusiveness enriches all RA, evaluations and follow ups.
- Many misconceptions still exist: that NPOs are particularly vulnerable; that more regulation is the key to a good assessment; that Mutual Evaluations will focus on laws and regulations as opposed to 'other measures' (policy, outreach and self-regulation)
- Governments need to do lot more in terms of engagement with smaller NPOs and not just engage with their usual counterparts
- Governments should conduct coordinated outreach to NPOs at the national level, so as not to overburden NPOs

Comparative Analysis of Mutual Evaluations

Country	R8 Rating	Notes
Hungary	PC	<i>should conduct a formal review of the <u>entire NPO sector</u> in order to identify those NPOs falling within the relevant FATF definition, and identify NPOs that could potentially pose a higher TF risk</i>
Austria	PC	<i>does not have a targeted, interagency coordinated approach to TF risks.... has not reviewed the adequacy of laws and regulations that relate to entities that could be abused for TF... No domestic sector review of its NPO sector, or periodic reassessments.</i>
Tunisia	LC	<i>Did the RA after the MER. The RA was not specific and indicated high risk for NPOs writ large. Tunisia has to follow up with a more targeted RA</i>

Comparative analysis of Mutual Evaluations

Country	R8 Rating	Notes
Serbia	PC	<i>Adequate awareness-raising programmes should be carried out.</i>
Switzerland	PC	<i>Authorities have not conducted any outreach or training activities in the sector on TF risks. Some self-regulatory organisations are working hard at supervision, outreach and training in the NPO sector, particularly through certification and the spread of best practices. However, these are optional initiatives.</i>
Ethiopia	PC	<i>Authorities have not conducted RA, outreach or training activities in the sector on TF risks. There is no coordinating mechanism towards the sector</i>

Comparative analysis of Mutual Evaluations

Country	R8 Rating	Notes
Uganda	NC	<i>Sanctions prescribed in legal framework (fine and imprisonment) are <u>not dissuasive, effective or proportionate enough</u> and are not related in any way to TF.</i>
Costa Rica	NC	<i>Limitations in understanding possible danger posed by the financing of terrorism offense in these organizations. This is aggravated by the fact that the country has decentralized public records of NPOs, which added to the complete lack of coordination....</i>
Norway	LC	<i>Authorities have conducted a RA and sufficient outreach and coordination towards the sector. Promotions of transparency and monitoring is insufficient</i>
Australia	PC	<i>lack of follow-up to NPO sector reviews, and the lack of effective implementation of a system to address TF-related NPO risks</i>

Impact



- **Financial access** issues: cash transfer delays, onerous due-diligence requirements, inability to open bank accounts and arbitrary closure of bank accounts (often classed as ‘bank de-risking’)
- Onerous **registration, licensing and reporting** requirements
- Restrictions on **receiving foreign funding**
- Restrictions on **freedom of expression and association** (right to protest curtailed, e.g.)

Meaning of Impact



The purpose of implementing AML/CFT measures is to protect the financial system from abuse. However, the interpretation and implementation of these measures has produced various ‘unintended consequences’ and policy incoherencies, impacting:

- The rollout of the UN **Sustainable Development Goals**
- The **financial inclusion** agenda
- **Civic space** in general, which is shrinking worldwide
- The Countering/Preventing Violent Extremism (**C/PVE**) agenda

Best practice: Practical



1. **Raising awareness** among NPOs on the drivers behind AML/CFT regulations, on compliance requirements and on advocacy strategies

Global NPO Coalition on FATF (www.fatfplatform.org)



Offers guidance, best practice examples, engagement strategies

Best practice: Practical



2. Engagement and multi-stakeholder dialogue

At national and multilateral levels: with government (various ministries), the FIU, the regulators, the banks, the FATF, the FATF-Style Regional Bodies (FSRBs)

Examples: UK, the Netherlands, Uganda, Ethiopia, GIABA
World Bank–ACAMS workstreams
Seats on the FATF Private Sector Consultative Forum

Best practice: Practical



3. **Capacity building** on CFT for both NPOs and government

- **NPO Expert Hub on AML/CFT** (set up in 2017): technical resource group
- **Governments lagging behind** in terms of an understanding of the risk-based approach to effective CFT regulation. Governmental and intergovernmental donors need to step in to address this capacity gap.

Best practice: Practical



4. Conducting a **sectoral risk assessment** with sustained outreach to and involvement and input of the non-profit sector, taking into account already-existing self-regulation measures within the sector.



Best practice: policy

- Addressing, at national, regional and multilateral levels, the **policy incoherencies** outlined and the **ownership gap** (G-20/G-7)

Given the adverse impact of the ‘unintended consequences’ of AML/CFT regulation on the financial inclusion, humanitarian and development agendas, the **legitimacy and effectiveness of the entire AML/CFT system** as a whole needs to be looked at. If there is no recognition of the problems, there can be no ownership, and without ownership, solutions will be piecemeal and not systemic.

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