



BRIEFING | JULY 2021

Generation of law through silence

The Global Counterterrorism Forum and its *good practices*

This briefing maps the emergence of the Global Counterterrorism Forum (GCTF) and its contemporary influence. The GCTF is ‘an informal, apolitical, multilateral counter-terrorism (CT) platform’ that is designed to strengthen the international architecture for addressing global terror-related violence.¹

A decade after the Forum’s creation, this briefing explores its track record and most pressing shortcomings. It is intended for use by both observers and practitioners and to stimulate reflection for the upcoming ten-year review of the GCTF.

The four course corrections identified in this report if the GCTF is to advance are:

1. the creation of pathways to ensure the deliberate inclusion of non-members and civil society
2. the recentring of human rights compliance in all outputs and contextual evaluation of outcomes
3. the affirmation of a technical role in global counter-terrorism spaces
4. the pursuit of greater transparency in its *modus operandi*

INSIDE

**Introduction: ‘shifting the paradigm’ | What is the GCTF? | Genesis of the GCTF | The GCTF as a panacea
Seven critical inflection points | Conclusion – the GCTF going forward**

Introduction: ‘Shifting the paradigm’

The Global Counterterrorism Forum (GCTF), launched in 2011, is a multilateral platform with 30 members that provides non-binding recommendations primarily for action related to the countering and preventing violent extremism (C/PVE) agenda. It was created to streamline action in the counter-terrorism policy domain, without being held up by lengthy United Nations (UN) bureaucratic processes. Its outputs are so-called *good practices*, non-binding C/PVE guidelines and recommendations that are used to align C/PVE activities within counter-terrorism strategies. However, because of the informal nature of the GCTF, it has also been regarded as a platform that does not always comply with international law and propagates exclusionary practices. For many, it operates with an opaque institutional structure that does not allow observers to trace how international human rights law is interpreted and implemented.

The findings of this paper are informed by interviews with more than 20 GCTF member state representatives, scholars, legal experts, representatives of civil society and officials from international organisations.

Based on these interviews and additional desk-based research, this report looks at what led to the creation of the GCTF. It outlines why, following the initial shock of the attacks of 11 September 2001, the UN system was not deemed to offer a satisfactory multilateral response to address the threat of terror-related violence that was then emerging as an increasing global threat.

It then explores how the promise of an inclusive and flexible space for policy exchange² has failed to manifest. The analysis informs seven critical inflection points for the GCTF. These observations are used to inform concluding reflections, where the paper outlines potential course corrections or general domains in which the work of the GCTF could be improved and made more transparent.

The paper is not an analysis of every element of the GCTF, but instead attempts to provide a helpful addition to the current literature on specific elements of its role and impact. Due to the ongoing COVID-19 pandemic, initial plans to explore the downstream impact of the GCTF at the national level were postponed. However, we hope this report will serve as a conversation starter at multiple levels as the GCTF is reviewed.



Ministerial meeting of the Global Counterterrorism Forum in 2016.
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What is the GCTF?

Launched in 2011 by the United States and Turkey as co-chairs, the GCTF is an informal, apolitical, multilateral counter-terrorism platform that is designed to strengthen the international architecture for addressing global terror-related violence. Central to the Forum's overarching mission is the promotion of a long-term approach to respond to violent groups that use terror tactics.

The main outputs of the GCTF are so-called *good practices* for policymakers and practitioners. These cover issues such as strengthening civilian counter-terrorism capabilities, national strategies, action plans and training modules. The GCTF also provides a forum for national counter-terrorism officials and practitioners to meet with their counterparts from different regions to share expertise, strategies, tools, capacity needs and capacity-building programmes. Another stated goal of the Forum is to support and catalyse implementation of multilateral efforts to counter-terrorism, focused primarily on the United Nations Global Counter-Terrorism Strategy (GCTS),³ as well as the 2016 UN Secretary-General's Plan of Action to Prevent Violent Extremism.⁴

The GCTF consists of a Coordinating Committee of 30 members (29 states and the European Union) and an Administrative Unit, which is funded by the members and has been hosted by the International Centre for Counter-Terrorism (ICCT) since 2016.⁵

The small Administrative Unit provides analytical, logistical and administrative support to the GCTF co-chairs, the Coordination Committee and its working groups, while also acting as the communications hub between all GCTF members. The Forum operates five working groups – three of which are thematic and two that are focused on regional capacity building – and seven ongoing initiatives. The establishment and mandate of the working groups are agreed by the Coordination Committee, which also elects the working groups' co-chairs and extends their mandates. GCTF initiatives, on the other hand, are launched independently or jointly with another GCTF member or a non-member partner, provided the financial means to carry out such an activity have been secured. Operationally, the GCTF convenes members at least once a year to discuss new policy documents on issues deemed important or pressing by the Coordinating Committee and its co-chairs. In the first phase of a GCTF discussion, non-member states and organisations are invited to partner with member states and to provide input into GCTF framework documents and tools. The second meeting is then reserved for GCTF members only, who decide (via consensus and within a timeframe of approximately two weeks) on the final version of the documents. As established by the Joint UN-GCTF Ministerial Statement in 2018,⁶ the relationship with the UN and its specialised agencies is central to the Forum.

Box 1: The Structure of the GCTF

Coordinating Committee

- Consists of 30 members and is chaired by the GCTF co-chairs
- Oversees the mandate and activities of the Forum's five working groups
- Provides guidance to GCTF initiatives



Administrative Unit

Five working groups

Thematic working groups

- Countering Violent Extremism (CVE)
- Foreign Terrorist Fighters (FTF)
- Criminal Justice and the Rule of Law (CJ-ROL)

Regional working groups

- Capacity-Building in East Africa Region
- Capacity-Building in West Africa Region

Seven Initiatives

- Gender and Preventing and Countering Violent Extremism Policy Toolkit Initiative
- Ensuring Implementation of Countering the Financing of Terrorism Measures While Safeguarding Civic Space Initiative
- Criminal Justice Responses to the Linkages Between Terrorism, Transnational Organized Crimes and International Crimes Initiative
- Maritime Security and Terrorist Travel Initiative
- Watchlisting Guidance Manual Initiative
- Funding and Enabling Community-Level P/CVE: Challenges, Recommendations and Emerging Good Practices Initiative
- Gender and Identity Factors Platform for Countering Violent Extremism and Counterterrorism Initiative

Source: <https://www.thegctf.org/Who-we-are/Structure>



Then-Secretary of State John Kerry delivers remarks at the Global Counterterrorism Forum Ministerial in New York City in 2015.

State Department photo/Public Domain

This way of working in the GCTF emerged from a member state effort to create an ‘action-oriented, informal platform to complement and reinforce the work of the UN and regional bodies’. This was designed to contrast the general perception that traditional multilateral bodies operated with too much rigidity and opacity. An emphasis was put on ‘act[ing] flexibly and inclusively’, in a way that could ‘evolve’ based on changing contexts and ‘be driven by the members themselves’.⁷ The Forum has indeed been able to do this at times. It has convened a diversity of groups, state representatives and practitioners relevant to the particular issue being discussed, such as police officers, prosecutors, community leaders, mental health professionals or non-governmental organisations (NGOs). It has also appeared at times to move beyond a siloed approach to problem solving in a field where multi-disciplinary solutions are necessary. However, concerns remain over how gender-balanced and inclusive these silos are in terms of human rights perspectives, critical voices, and the views of the people and communities affected by security measures.

Throughout its existence, the Forum has mobilised political and financial support for three independent, international institutions: the International Institute for Justice and the Rule of Law, the Global Community Engagement and Resilience Fund and the Hedayah Center (see Box 1). These organisations are largely dedicated to building the capacities of governments and practitioners to implement GCTF good practices and memorandums and the UN GCTS framework. This sub-contracting model in the global counter-terrorism space is a move described by some as the triumph of informalism.⁸

Box 2: GCTF related non-governmental organisations

Hedayah Center

The Center defines its nature as ‘neutral, apolitical and non-ideological... which welcomes diverse perspectives in addressing violent extremism’. Hedayah provides technical assistance to governments in developing National Action Plans to counter violent extremism.⁹

International Institute for Justice and the Rule of Law (IJ)

The IJ is a platform to deliver training to implement the counter-terrorism-related, rule of law-based good practices being developed by the GCTF and other international and regional forums.

Global Community Engagement and Resilience Fund (GCERF)

GCERF, an independent multi-stakeholder global fund, acts as a resource mobilisation platform for matters of PVE and supports local initiatives.¹⁰

Genesis of the GCTF

The UN system was not enough

The negative impact of a hard-security counter-terrorism response led a small portion of officials and diplomats to question the orthodoxy of war on terror approaches towards the end of the first decade of the 21st century.¹¹ Instead of focusing solely on preventing and responding to imminent violent attacks, some sought to push an approach that understood the root causes and drivers of violent movements. But this was not mainstream: “Talking about the reasons for violence was sort of taboo after 9/11; it made it look like we wanted to justify it.”¹² However, the Obama administration did make efforts to shift the paradigm towards understanding what was driving and underlying transnational and national violent groups using terror tactics. This was seen by many present at the time as the major motivation that led to the creation of bodies such as the ICCT and later the GCTF: “Our hope and certainly our illusion was that we would get states like China and Russia to align with our positions and fight terrorism together.”¹³ The GCTF was presented as a body that would confront terror attacks through a softer approach which addressed the underlying factors that led individuals to join or support violent groups.

One interviewee suggested that “[t]he GCTF’s creation was a positivist take on counterterrorism: we believed that by investing in preventive measures, soft law approaches, collaboration and best practices and by involving states which are generally not included in the more global debate, we would get traction and prevent what then turned out to be the Islamic State. It did not work, but the intentions were good.”¹⁴

The shortcomings in preventing terror attacks prior to the set-up of the GCTF were many: various international and regional bodies had developed counter-terrorism programmes, but these were more reactive than active and had not developed coherent long-term strategies.¹⁵ All this was not taking place in a vacuum: the post-9/11 UN counter-terrorism landscape driven by the Security Council was becoming increasingly legislative in nature, enabling states to enact restrictive domestic anti-terror legislation.

In the immediate aftermath of 9/11, the UN Security Council (UNSC) adopted Resolution 1373, which led to the creation of the UN Counter-Terrorism Committee (CTC), several subsidiary bodies and other UN entities (for a more detailed geography of counter-terrorism architecture, see box 1). The CTC has been facilitating implementation of Resolution 1373, which requires countries to freeze the financial assets of people who commit terror attacks and their supporters, deny them travel or ‘safe haven’, prevent recruitment and supply of equipment, and cooperate on intelligence and prosecution. Despite such obligations, the Resolution allows individual countries to define terrorism following their own guidelines, as it does not itself contain a definition.¹⁶

On top of this, national technical experts saw the work of a growing number of committees as ‘paper-producing machines’ and lost confidence that national or UN-led counter-terrorism efforts would produce any practical results.¹⁷ All UN member states endorsed the UN’s Global Counter-Terrorism Strategy (GCTS) in 2006 but, despite biennial reviews, many felt that implementation of the strategy was stalling. Some have argued that the failure to provide a clear definition of terrorism had, despite the General Assembly’s efforts in setting up several international counter-terrorism treaties, held back implementation efforts.¹⁸ This challenge has been at the core of international action – or inaction – since the very beginning.¹⁹

Another important shortcoming of early UN counter-terrorism action was a perception of internal discord and general confusion. Some have argued that ‘the proliferation of Security Council counter-terrorism programmes and initiatives had produced overlapping mandates, duplication of work, multiple and sometimes confusing reporting requirements for states and continuing tension between the Security Council and the UN Secretariat’.²⁰ What’s more, decision-making within UN bodies has historically been complex, due to the need for consensus for many decisions relating to the UN architecture. This has led to a lack of flexibility and enforcement measures should states not comply. It has ultimately created a more diluted strategy, given the lowest common denominator element of consensus multilateral decision-making.

By 2011, with stuttering efforts to implement the UN GCTS, many states began to see their counter-terrorism future outside the confines of the UN system. Rather than engaging with the human costs of militarised counter-terrorism policies in countries such as Afghanistan and Iraq, or reckoning with the massive and scalar human rights abuses that were enabled by a myopic focus on repressive counter-terrorism measures, many states subscribed to the view that a central issue was that the coordination and ease of collaborative action simply needed to be improved. It is against this backdrop that the GCTF was born.

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The general consensus holds that the GCTF is not achieving a number of objectives it was designed to deliver and is presenting some of the shortcomings already embedded in the UN system.

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The GCTF as a panacea

As the GCTF was launched, some felt they had found a ‘silver bullet’. This body aimed to champion a more comprehensive and root cause-focused response to the continued existence of transnational violent groups using terror attacks. The GCTF would be able to carry out its mandate free from UN-induced limitations and provide counter-terrorism assistance to those states that asked for it the most. The Forum would shoulder some of the burden faced by major donors, by focusing on countries where these donors lacked access and leverage and by encouraging exchanges to develop guidelines to direct counter-terrorism strategies. It would also propose new ways for law enforcement and judicial authorities to cooperate more effectively. The GCTF represented a panacea for some officials in this sense: because of its simplified structure and ability to streamline consistent debates, it was able to address problems and move them forward more quickly.²¹

Yet, ten years on, this panacea seems to have been a mirage. The general consensus holds that the GCTF is not achieving a number of objectives it was designed to deliver and is presenting some of the shortcomings already embedded in the UN system. A few key criticisms based on conversations with GCTF insiders and outsiders that emerged during this research include:

- **Politicisation:** as mentioned by most interviewees, the Forum is becoming highly politicised and it is increasingly difficult to have a meaningful, informal conversation during meetings. One practitioner mentioned that “[t]he Forum should also do something more practical with all the expertise it has built in the past decade.”²²

- **Beholden to multilateralism:** one interviewee mentioned that “[t]he GCTF is being more subservient to the UN system than it should be – the Forum is built to present a vision of what a post-9/11 counter-terrorism agenda could look like. It is important that the GCTF does not consider itself to be a lapdog for the UN, but a catalyst.”
- **Ad-hoc collaboration:** the Forum is not perceived as being systematic enough by several member states; collaboration on counter-terrorism issues is opportunistic and extemporary.
- **Outdated membership:** member states that joined back in 2011 are not necessarily the same ones that would join today. Some less active members are present simply to observe – or to make sure nothing problematic emerges. This is a far cry from the proactive, problem-solving forum that was envisaged.

2021 Tenth Anniversary of the GCTF

After a decade of work, in September 2021 the GCTF will go through a monitoring and evaluation assessment of its work to date, both in terms of producing good practice documents and their implementation.



Global Counterterrorism Forum
Ministerial in New York City on
27 September 2013.
State Department photo/Public Domain

Seven critical inflection points

After a decade of existence, the GCTF sits at a crossroads. During our research, seven critical inflection points emerged, as described below.

1. Political or technical role?

There remains a perception of US hegemony over the GCTF in some quarters.²³ By providing technical expertise and funding, some argue that more powerful nations can set the agenda and steer decision-making within the GCTF. Decentralising diplomacy by creating forums such as the GCTF 'is often used as a tactic by powerful states to circumvent central channels, mostly foreign ministries of less powerful states'.²⁴ Many we spoke to argued that this had taken place with the US role in the GCTF: "The *raison d'être* of the GCTF is to be operational and technical – this is why it was created after all. But now, as time goes by and certain states become more entrenched into its structure, the Forum is progressively turning into a political body."²⁵

This view is not shared by all GCTF members. Some believe that the GCTF is fulfilling its central promise of allowing better burden-sharing in the counter-terrorism domain. One member state representative in particular clarified that it was more often the smaller states in the Global North that pushed for good practices to be adopted than the powerful ones. Ultimately, a lot of the 'agenda-setting' capacity is dependent on which states choose to be co-chairs and drive on a certain issue.

Although the unequal balance of power within the GCTF is still debated, the increasing politicisation of the Forum ultimately calls into question its original reason for existence. This was also acknowledged by several technical experts we interviewed: had the GCTF remained what it was initially – a technical or consulting body for the UN system which provided advice on matters where the UN was at a loss – its value would be harder to question.

2. Legal shortcuts

The role of 'soft law' in the counter-terrorism space

As outlined by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Professor Fionnuala Ní Aoláin, in her 2019 mandate report, there is an observable global shift away from treaty-making as the primary form of counter-terrorism regulation and towards informal and non-binding agreements known as 'soft law'.²⁶ Soft law, taking shape through good practices or technical rules, functions as a 'gap-filler' in the absence of treaty agreements by providing guidance and useful frameworks to state action and cooperation. This observation was supported by many we spoke with.

While soft law is not treated as legally valid, it often can 'have certain legal implications' and sometimes a far-reaching impact.²⁷ Ní Aoláin notes that there is a 'significant trend that can be observed in the implementation of soft law norms in formal and legal frameworks, which becomes evident through cross-referencing, message duplication and recurrent invocations of the same rules'.²⁸

In the case of the GCTF, this can be observed with the UNSC. Among the many examples of this occurring are the measures designed to address the 'foreign terrorist fighters' (FTF)

phenomenon. The GCTF adopted the Hague–Marrakesh Memorandum on Good Practices on 23 September 2014,²⁹ and the very next day, the UNSC adopted Resolution 2178.³⁰ This soon became known as the 'foreign fighters resolution', a far-reaching, quasi-legislative act that can be traced back to the GCTF.³¹

Perhaps the most potentially harmful element of the soft law process is the often inadvertent – but sometimes deliberate – circumvention of the human rights specificity that is required for compliance with international law. The opaque institutional structure of the GCTF poses a challenge for 'assessing how human rights law is met or integrated into all relevant institutional activities and programmes, and whether contributions from independent civil society organisations are incorporated into their work'.³² Human rights are given a subordinate role, since most initiatives focus on the operational and technical side of countering violent groups that commit terror attacks. This can have far-reaching consequences on policy-making processes, as to how a counter-terrorism policy can be human rights compliant and based on the rule of law. This poses a serious risk for the reputation and legitimacy of the GCTF and could lead to significant downstream harms and violations of human rights. On the other hand, by ensuring that respect for human rights is integrated into every step of the process and into the operational and technical dimensions of GCTF toolkits and best practices, human rights compliance can be improved downstream.

Circumventing inclusive multilateralism by making informal norms formal: mimicking the law leads to making the law

It is evident that the informal standards and practices produced by the GCTF affect international legal norms, primarily through coordinated interactions among informal and formal bodies. Communication between bodies such as the GCTF and relevant UN offices takes place in what we understand to be a 'revolving door' scenario, as the experts working on counter-terrorism within various ministries of foreign affairs are the same that take part in GCTF-led conversations. One interviewee told us, "[t]he communication channels that exist between GCTF representatives and Security Council resolutions are hard to pin down: it certainly is a matter of gentlemen's agreements; it is certainly not transparent nor easy to describe."³³

This delegalising process is of further concern because it is underway in a number of domains through what have been described as 'global government networks'.³⁴ These networks 'exchange regular information about their own activities and develop databases of best practices, or, in the judicial case, different approaches to common legal issues'.³⁵ Scholars believe that what makes bodies such as the GCTF problematic is that their thematic focus is long term in nature, which enables them to take on a *jurisgenerative* role in the global counter-terrorism space. In practice, 'non-legal norms affect how the law *should* be created and implemented'.³⁶ Still, formal means of governance are being reshaped because their inefficiencies have led to the creation of parallel, informal structures and, as those informal structures circumvent the formal ones, the formal ones adapt.

Ultimately, *coalitions of the willing*, such as the GCTF, are 'durable, effective and flexible mechanisms' that accompany standing institutions, 'where flexible and multiple interplays have become more important than clearly defined legal powers'.³⁷ Thus, bodies such as the GCTF contribute to doing the opposite as well: by

mimicking the law, they make the law; by moving in the grey zone of hybrid governance, they formalise informal norms.

One interviewee interpreted legal concerns differently, but in equally critical terms: the added value of the GCTF was that of setting the agenda and defining what should be discussed in the counter-terrorism space at the UN level. The power of agenda-setting is not to be underestimated. In the case of the Hague–Marrakesh Memorandum, the GCTF was not the only body placing the issue of foreign terrorist fighters on the agenda but it contributed to making it urgent, providing a shortcut for some states to advance a resolution on a domain that would have taken much longer at the UN level. A number of observers inferred that the embedding of soft norms into binding legal frameworks undermined not just UN processes, but also the very nature of the GCTF, which was considered a more relaxed arena for discussion precisely because of its non-binding character.³⁸

3. Ever-expanding architecture

Much like other informal and formal bodies, the GCTF has contributed to expanding and further complicating the global counter-terrorism architecture. This has had an impact on both international and national law.³⁹

One example is the GCTF's work on the Glion Recommendations – a set of best practice principles for rule of law-based administration principles in a counter-terrorism context.⁴⁰ The main criticism directed at these recommendations focuses on their predictive nature: the recommendations work on the assumption that if there are indications that someone might pose a threat in the future, then restrictions are necessary in the present and monitoring should continue into the future. This practice “casts the net very wide”.⁴¹ In addition, it may have serious consequences in setting an unlawful precedent in forcing individuals who have not committed a crime to respect curfews and limit movements. These practices have been widely criticised by civil society organisations and academia as abuses or limitations of human rights and fundamental freedoms. As an interviewee mentioned, “[t]hese recommendations provide a stamp of approval of a multilateral body for promoting internal administrative restrictions.” We were told that such examples are clear evidence that “under the guise of best practices, GCTF provides the space for abusive practices”.

The action in the pre-crime sphere is legally problematic, but the GCTF has also led to the securitisation of various other segments of society. This includes the implementation of restrictive administrative and legislative measures in many countries, including rising censorship and control of freedom of expression and increasingly repressive control of different sectors of the population.⁴² Within this context, the UN has been criticised for reproducing this ill-defined C/PVE architecture and legitimising these practices at the national and international levels.⁴³

This idea of ever-expanding counter-terrorism architecture was described by a legal expert as a ‘whack-a-mole’ *modus operandi*: by setting up yet another body that would allow for permissibility, counter-terrorism practices approved by global bodies become defused, thus allowing for the minimum common denominator to prevail.

States can then engage whichever forum fits clearest with their narrow interest to provide legitimisation for their approach.⁴⁴ As international standards are dependent on the spread of norms and informal rules, we can see how some states will use the growing architecture to find a way to validate their potentially illiberal approaches. Some have argued that this is precisely what

certain states are doing with the GCTF and other bodies such as The Shanghai Cooperation Organization (SCO).

4. Centrality of human rights

Recent in-depth reports have shown the true extent of the embrace of counter-terrorism across the UN system.⁴⁵ A 2017 report by FIDH elucidates the ‘tentacular bureaucratic structure’, in which UN entities’ mandates sometimes overlap rather than complement each other.⁴⁶ Many we spoke to mentioned this major challenge within the UN system, which prompted the creation of the GCTF in the first place. In ‘A fourth pillar for the United Nations? The rise of counter-terrorism’, the authors note that ‘UN buy-in to an agenda [counter-terrorism] that is causing so much damage to respect for human rights and civil society space all over the world – especially given the failure to prioritise human rights within the UN’s own strategy – legitimates and enables member states to proceed with abusive counter-terror measures, such as the arrest, detention, torture and extra-judicial killing of civil society activists and others.’⁴⁷ This observation is equally valid in the case of the GCTF, where the issue of human rights tends to be overlooked by some members, especially in cases where counter-terrorism measures are perceived to be more urgent.

In addition, interviewees suggested that the presence of technical experts on counter-terrorism and the inclusion of representatives from interior or justice ministries meant that there was a lack of expertise on human rights issues, which were generally covered more by foreign ministry officials. One lawyer we spoke to mentioned that it was not just expertise that was lacking, but also contacts: “an official from the British ministry of interior will not have the same network of experts that a Foreign Office official would have at their disposal. They will not think, for example, of inviting Amnesty International to [sic] a meeting.”⁴⁸

A state representative mentioned that human rights frameworks were implemented in bilateral cooperation by GCTF-inspired institutions, which made sure that training and support was efficient and focused on the right outcome. The GCTF Administrative Unit also pushes for internal gender and human rights training for the GCTF. Ultimately, however, “if chairs do not intend to fund working groups working on human rights, then they will not” – as one interviewee clarified.⁴⁹ While the UN counter-terrorism architecture ultimately is supposed to uphold the commitments of the UN charter to protect and promote human rights, the GCTF has no such lodestar.

5. Implementation challenges

A 2014 stocktake of national efforts to implement good criminal justice counter-terrorism practices from a sampling of countries in Africa, the Middle East and Southeast Asia, highlights the implementation challenges within the GCTF.⁵⁰ The underlying framework was the adoption of the Rabat Memorandum in 2012, a series of 15 good practices for implementing rule of law-based criminal justice counter-terrorism measures. The report notes, ‘enhancing technical skills, laws, and operational tools is important’, but that ‘their consistent and effective use can be achieved only through effective management, accountability, and professionalism and a human rights – and public service – oriented organisational culture among core criminal justice actors’.⁵¹ Ultimately, the report suggests that successful implementation ‘requires efforts to address underlying challenges in national criminal justice systems and their governance’ and that ‘politics is the lynchpin of all functions of governance and

a crucial factor in all capacity-building efforts'. It is clear from these conclusions that, despite the efforts of member states in designing the Rabat Memorandum and trying to implement its good practices, the lack of political will on the part of implementing authorities and fundamental governance problems undermine the GCTF model.

Implementation problems were identified by member states' representatives and technical experts alike as the most significant drawback of the GCTF. The wealth of good practices that were produced without appropriate follow-up were viewed by those familiar with the work of the GCTF as significantly problematic. The GCTF was designed to be a quicker, more flexible and ultimately more effective body that could influence and implement counter-terrorism initiatives. For some, seeing a plethora of good practices being developed without any practical consequences has contributed to the idea that the GCTF has become yet another politicised, paralysed body.⁵² "My fear is that the GCTF will not be true to its initial mandate," one technical expert told us. Using other inter-governmental bodies outside the counter-terrorism field to illustrate their point, they noted, "[t]he IAEA [International Atomic Energy Agency] and the OPCW [Organisation for the Prohibition of Chemical Weapons] were able to stay highly technical; this is what the GCTF should be in the counter-terrorism domain."⁵³

6. Exclusionary practices and internal dysfunction

The membership issue

The GCTF 'group of 30' has not changed since it was launched in September 2011. These 30 founding members dominate decisions on the counter-terrorism tools and practices that are eventually used by the UN and other multilateral bodies.⁵⁴ Some have noted that within the 'group of 30' there is an over-representation of western states, which, according to two interviewees, created an accumulation of power within the Forum.⁵⁵ Most interviewees mentioned that in 2011, the situation was very different and, "now the African continent is severely under-represented, despite certain regions being targeted by terror attacks on a daily basis". The Sahel and the Horn of Africa are two such examples. "The very definition of a *coalition of the willing* means that if a state is willing to be included, they can be," one interviewee told us, but this did not seem to extend to formal membership.

Some GCTF member states are being 'dragged along' – either because of a lack of interest or capacity to participate more actively. Members such as Russia and China are not significantly present, often sending junior diplomats to meetings. This generates an imbalance in participation, but, as several member state officials mentioned, having such diverse perspectives sitting at the same table and discussing a sensitive topic such as counter-terrorism was invaluable.

In addition, one respondent explained to us: "[a]s no agreed-upon definition of terrorism exists, having a group of only 30 representatives define international counter-terrorism practices is extremely problematic."⁵⁶ Technical experts and several member state officials agreed that, although the issue of membership had been contentious from the beginning, the Forum was an informal and inclusive body, which tended to collaborate with non-member states and selected civil society organisations (CSOs). However, including any other interested state in the group of 30 would evidently lead to a revision of the entire structure and, as one respondent said, could "open a Pandora's box of participation".⁵⁷

The prevailing view from those within is one of maintaining exclusion. Those we spoke to noted the limited number of members allowed the GCTF to be more efficient and address pressing issues faster. "The cooperation in co-chairmanship between a member and a non-member was precisely designed to facilitate an organic process," one interviewee told us. While contributions can be provided by non-members, ultimately only members have decision-making power. A compromise, which was mentioned by one member state official, would be to "include regional entities, such as the African Union or ECOWAS as members". However, this move does not seem to be forthcoming.

Inclusion and exclusionary practices

Even though the GCTF allows for networking, its consensus-based operational procedures have proved restrictive for the inclusion of civil society organisations. Prior to all GCTF convenings, a list of all proposed CSOs to invite is distributed among the members and must be approved by the co-chairs of the respective working groups. Throughout a two-week silence period, a member can express their discomfort with the inclusion of certain civil society organisations or individuals. A revision of this invitation list has to undergo the same procedure. This procedure results in the exclusion of organisations not considered 'suitable'.

There is not much willingness to cast the inclusion net further at present. "If you are a new organisation to the GCTF space or an organisation which has been excluded in the past, like Amnesty International, it will be hard for you to get an invite," one technical expert told us. "In the case of Amnesty, it was one state that did not want them there."⁵⁸ Some argue there is no proactive inclusion effort because many state representatives see the GCTF as a state-process only – "We are not the target, the GCTF is not there for us."⁵⁹ The present nature of GCTF meetings is very static, as the main goal is to articulate guidelines to strengthen the operational and technical aspects of counter-terrorism practices. This in turn creates a solemnity in most initiatives that does not give room for more spontaneous and dynamic interactions between scholars, experts and policymakers. While academics and CSOs may be present at the table, priority is given to states to share their operational and technical challenges. As a result, scholars and CSOs struggle to be heard.

Aside from the deliberate exclusion of Amnesty International, the prevailing sense is one of involuntary exclusion. A few experts and practitioners mentioned that this involuntary exclusion should turn instead into voluntary inclusion and that, especially regarding virtual meetings (which present fewer practical challenges),⁶⁰ more civil society representatives should be invited. A vibrant and active civil society plays a critical role in empowering communities, enhancing resilience, supporting accountability and transparency, advancing the rule of law, and preventing violence. Civil society should be a critical partner for the GCTF in global efforts to counter violent groups that use terror tactics. The UN Secretary-General, the High Commissioner for Human Rights and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism have all recognised civil society's valuable contribution to this collective effort.⁶¹ Unfortunately, like the UN counter-terrorism architecture,⁶² the GCTF is not readily accessible to civil society and is exclusionary of critical civil society voices. Too often, CSOs are unable to participate meaningfully in counter-terrorism policy-making and implementation. Furthermore, counter-terrorism measures themselves are frequently used to target civil society organisations, thereby contributing to the closing of civic space. Members of the GCTF that are vocal in other forums about the need to protect civic space should ensure the inclusion of a wide range of civil society voices in GCTF activities and meetings so that they are not contributing to this worrying trend.

7. A good practices production line?

The GCTF Administrative Unit is understaffed, which some claim leads to an over-emphasis on mandated outputs, such as member meetings and discussions. A series of conversations with both GCTF internal and external analysts appeared to report a general dissatisfaction with the lack of internal reflection on GCTF's endeavours so far. The Forum appears to be “churning out work

without much reflection on why it does so”.⁶³ As the ten-year anniversary of the GCTF approaches, it would be particularly useful for the Forum to set up an internal self-reflection process: this could use the existing approach to developing ‘good practices’ to draft internal analysis of what works and what doesn’t within the GCTF. “We keep providing recommendations on what the global counter-terrorism strategy should be, we keep indicating what the global counter-terrorism tactics should be, but operationally ... we are at a loss”, one practitioner told us.⁶⁴



Second UN High-Level Conference of Heads of Counter-Terrorism Agencies of Member States.

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Notes

- 1 Website of the Global Counterterrorism Forum: <https://www.thegctf.org/>
- 2 Rosand E (2006), ‘The UN-led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?’, *Journal of Conflict & Security Law* 11 (3), pp 339–427.
- 3 The UN GCTS was created in 2006 and is updated every two years. The most recent update to the strategy was finalised in June 2021. Website of the UN Global Counter-Terrorism Strategy: <https://www.un.org/counterterrorism/un-global-counter-terrorism-strategy>
- 4 Website of the UN Plan of Action to Prevent Violent Extremism: <https://www.un.org/counterterrorism/plan-of-action-to-prevent-violent-extremism>
- 5 ICCT announcement: <https://icct.nl/update/icct-hosts-administrative-unit-of-global-counterterrorism-forum/>
- 6 Ninth GCTF Ministerial Plenary Meeting (2018), Joint UN-GCTF Ministerial Statement, 26 September.
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- 8 Saferworld interview, member state representative, 2021.
- 9 Website of the Hedayah Center: <https://www.hedayahcenter.org/expertise/>
- 10 Website of the GCTF: <https://www.gcerf.org/about-us/>
- 11 Saferworld interview, think-tank representative, 2021.
- 12 Saferworld interview, think-tank representative, 2021.
- 13 Saferworld interview, member state representative, 2021.
- 14 Saferworld interview, think-tank representative, 2021.
- 15 Saferworld interview, think-tank representative, 2021.
- 16 Saul B (2005), ‘Definition of “Terrorism” in the UN Security Council: 1985–2004’, *Chinese Journal of International Law* 4 (1), pp 141–66.
- 17 Rosand E (2007), ‘The UN-led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?’, *Journal of Conflict & Security Law* 11 (3), p 406 (Oxford: Oxford University Press); Hegemann H (2014), *International Counterterrorism Bureaucracies in the United Nations and the European Union* (Baden: Nomos).
- 18 At the 63rd Session of Sixth Committee, ‘it was noted that the absence of a definition of terrorism was undermining the legitimacy of the United Nations to deal with this scourge’ (<https://www.un.org/en/ga/sixth/63/Terrorism.shtml>)
- 19 Saul B (2014), *Research Handbook on International Law and Terrorism* (Cheltenham: Edward Elgar Pub); Saul B (2006), *Defining Terrorism in International Law*, Oxford Monographs in International Law (Oxford: Oxford University Press).
- 20 Comras VD (2010), *Flawed Diplomacy. The United Nations and the War on Terrorism* (Dulles: Potomac Books) p 23.
- 21 Saferworld interview, academic representative, 2021.
- 22 Saferworld interview, think-tank representative, 2021.
- 23 Saferworld interviews, NGO representative, think tank representative, 2021.
- 24 Rodiles A (2018), *Coalitions of the Willing and International Law: The Interplay between Formality and Informality* (Cambridge: Cambridge University Press), pp 139–140.
- 25 Saferworld interview, member state representative, 2021.
- 26 Ní Aoláin F (2019), ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’, A/74/335, 29 August (<https://digitallibrary.un.org/record/3828852?ln=en>)
- 27 Ibid.
- 28 Ibid.
- 29 Global Counterterrorism Forum (2019, “Foreign Terrorist Fighters” (FTF) Initiative: The Hague–Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon’, September (https://www.thegctf.org/documents/10162/140201/14Sept19_The+Hague-Marrakech+FTF+Memorandum.pdf)
- 30 United Nations Security Council Resolution 2178 (2014) ([https://www.undocs.org/S/RES/2178%20\(2014\)](https://www.undocs.org/S/RES/2178%20(2014)))
- 31 de Guttry A (2016), ‘The Role Played by the UN in Countering the Phenomenon of Foreign Terrorist Fighters’, in A de Guttry, F Capone, C Paulussen (eds.), *Foreign Fighters under International Law and Beyond* (The Hague: Asser Press), pp 259–82.
- 32 Ní Aoláin F, op. cit.
- 33 Saferworld interview, member state representative, 2021.
- 34 Slaughter, A (2004). ‘Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks’, *Government and Opposition* 39 (2), pp 159–190 (DOI:10.1111/j.1477-7053.2004.00119.x)
- 35 Ibid.
- 36 Rodiles, op. cit.
- 37 Ibid., p 209.
- 38 Many of these concerns were voiced by civil society organisations (CSOs) and frontline practitioners, as well as academic and legal experts, rather than member states. One member state interviewee mentioned that “[c]oncerns are definitely overblown – all member states and also those who watch the work of the GCTF from UNOCT have lawyers at their disposal, so everything is checked time and time again ... there are many checks and balances that constrain the Forum, it cannot possibly be delegitimizing the UN.”

Conclusion – the GCTF going forward

The GCTF was created to streamline global counter-terrorism policy without being held up by lengthy United Nations bureaucratic processes. It was not intended to be an opaque body that circumvents and deformalises legal standards, excludes certain states and civil society, or a ‘production line’ churning out policy documents.

Some believe the GCTF “could be an ideal connecting tissue to the UN ... help the UN counter-terrorism bodies reach constituencies they would not be able to reach otherwise or discuss in detail topics which are too technical for the UN, or too emerging”.⁶⁵ Another noted: “[a]s long as the GCTF remains a safe space for discussion and engagement with countries with whom we would not necessarily speak, then it is fulfilling its role.”

“
It is vital that the upcoming strategic review provides a course correction for the GCTF, if it is to play a valuable future role.

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Ten years after the birth of the GCTF, it is important for the Forum to remember its roots and adapt to make its contribution to UN bodies more transparent and inclusive. It is vital that the upcoming strategic review provides a course correction for the GCTF, if it is to play a valuable future role in preventing violent terror attacks. Should this not take place, member states might

want to reconsider the effectiveness and utility of this body and constructively engage in a discussion over whether the GCTF still serves its purpose or has become obsolete.

This policy briefing recommends a number of course corrections for the GCTF in the upcoming ten-year strategic review:

- 1. Deliberate inclusion:** if exclusion is often not intentional, then inclusion *should* be. This should include other non-member states, NGOs and academics.
- 2. Recentre human rights:** the GCTF was not set up to be a body that would circumvent and deformalise legal standards or lead to practices that would have harmful downstream effects on human rights around the world. Members should undertake a human rights audit of all practices and documents and ensure that respect for human rights is central to its work.
- 3. Reaffirm technical role:** the GCTF should not be used as a proxy agent for the Security Council, but rather, due to its informal and more flexible nature, go beyond the UN and act as a more technical discussion space. Part of this process should be an assessment of GCTF internal good practices that should be replicated in wider work.
- 4. Strive for transparency:** the GCTF will be on the receiving end of criticism as long as it remains an opaque institution. The relationship between the GCTF and the UN counter-terrorism architecture should be clearly and publicly articulated, with civil society part of these conversations.

39 A 2018 Amnesty report clarifies, “[a]s part of their counterterrorism efforts, French authorities have imposed orders on individuals that restrict them to living in a specific location, require them to report to the police daily, and refrain from contacting certain people. These administrative control measures are applied based on broad and vague criteria, typically rely on secret information and are imposed without the person being charged or tried for committing a crime.” For more, see: Amnesty International (2019), ‘Punished Without Trial’ (<https://www.amnesty.org/download/Documents/EUR2193492018ENGLISH.PDF>)

40 Glion Recommendations: https://toolkit.thegctf.org/Portals/1/Documents/En/GlionRecommendations_on_the_Use_of_Rule_of_Law-Based_Administrative_Measures_in_a_Counterterrorism_Context_25_September_2019.pdf

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44 Wittendorp S (2016), ‘Conducting Government: Governmentality, Monitoring and EU Counter-Terrorism’, *Global Society* 30 (3), pp 465–83 (<https://doi.org/10.1080/13600826.2016.1173653>); Hegemann, op. cit.

45 International Federation for Human Rights (2017), ‘The United Nations Counter-Terrorism Complex: Bureaucracy, Political Influence, Civil Liberties’ (<https://www.fidh.org/en/international-advocacy/united-nations/united-nations-the-global-fight-against-terrorism-hampered-by>); Street J, Altiok A (2020), op. cit.

46 Hegemann, op. cit. further specifies on this.

47 Street J, Altiok A (2020), op. cit. builds on precisely these phenomena and highlights potential harm and effects that result from them.

48 Saferworld interview, academic representative, 2021.

49 Saferworld interview, member state representative, 2021.

50 Global Center (2015), ‘Strengthening the Case’ (<https://www.globalcenter.org/wp-content/uploads/2015/09/Strengthening-the-case-high-res.pdf>)

51 Ibid.

52 Saferworld interview, think-tank representative, 2021.

53 Saferworld interview, think-tank representative, 2021.

54 The name itself was reported to be problematic by several civil society representatives and member states alike, as a ‘global forum’ should potentially wish to include other members.

55 Saferworld interviews, NGO and multilateral representative, 2021.

56 Saferworld interview, member state representative, 2021.

57 Saferworld interview, member state representative, 2021.

58 Saferworld interview, member state representative, January 2021.

59 Saferworld interview, academic representative, January 2021.

60 While it is true that the virtual form increases external participation, “the second round of conversations only includes member states,” so what comes out of that, as one interviewee put it, “is beyond our control”.

61 Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2019), UN Report A/HRC/40/52 (<https://undocs.org/en/A/HRC/40/52>); Report of the Secretary-General (2020), ‘Activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy’ (<https://undocs.org/en/A/74/677>); Report of the United Nations High Commissioner for Human Rights (2016), ‘Report on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism’ (<https://undocs.org/A/HRC/33/29>).

62 Street J, Altiok A (2020), op cit.

63 Saferworld interview, think tank representative, 2021.

64 Saferworld interview, member state representative, January 2021.

65 Saferworld interview, multilateral representative, 2021.



About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe in a world where everyone can lead peaceful, fulfilling lives, free from fear and insecurity. We are a not-for-profit organisation working in 12 countries and territories across Africa, Asia and the Middle East.

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