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

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Abstract

There has been growing awareness of the wide-ranging negative impacts that counter-terrorism measures and sanctions impose on humanitarian action. Drawing on semi-structured interviews with INGO staff, this article examines these impacts for INGOs based in the UK, a context where a particularly complex array of laws, policies and regulatory regimes have emerged alongside an increasingly hostile political and media environment for INGOs, creating an environment characterised by uncertainty. We show 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. Our analysis shows that perceptions of risk within INGOs vary considerably but that despite this, INGOs have developed strategies to reduce the impact of counter-terrorism measures, which over time, have led to improved coordination, and in some instances, willingness to push back against regulations.

Keywords: NGOs, humanitarianism, risk management, counter-terrorism, sanctions.

Introduction

A complex array of counter-terrorism measures and sanctions have proliferated since the terror attacks of September 11th, 2001. These issues have periodically intensified since 2001, with tensions concentrated initially in contexts where Islamist groups have been most active including Syria, Somalia, Afghanistan, and Iraq. This study examines the challenges generated by these measures for large INGOs[1] based in the UK involved in humanitarian response.

While an emerging body of literature has examined 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 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 context. We examine two key questions: (1) How do counterterrorism measures and sanctions impact the operations of British INGOs? (2) What strategies are INGOs employing in response to these measures, and why?

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Our study finds that the environment for INGOs in the UK remains challenging. We find continuing negative impacts of bank de-risking for humanitarian NGOs, and counter-terrorism laws and sanctions continue to generate a 'chilling effect', whereby NGOs avoid operating in areas deemed risky. We also find that 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 impacted INGO responses, an issue of particular importance in the UK due 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 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 finds 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 impact of these measures on their humanitarian work. There are signs that as new legislation and risk management approaches 'bed in', INGOs have begun to (tentatively) 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 highlighted some important divergences in how INGOs' responses were perceived by staff. While many staff 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 NGOs regarding where to place relative weight between, on the one hand, need and the humanitarian principle of 'humanity', and on the other, concerns around compliance, legal risk and reputation.

This article draws on publicly available reports, strategies, academic literature, and semi-structured interviews. We contacted a diverse range of leading and influential UK INGOs, ultimately interviewing staff from two multi-mandate, one humanitarian and one peacebuilding organisation. Additionally, we included an industry network body to provide a wider perspective on the challenges 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). 10 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 conducted 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

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on the activities of UK-based INGOs', their responses to these measures, their risk management policies, and staff's experience and perceptions.

While we focus 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. While 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 focus is primarily on participants' perceptions of counter-terrorism measures, as this and other studies illustrate, perceptions often have clear material impacts, for example 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 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 organisations would not be named.

This paper is organised into 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; 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.

Counter-terrorism, humanitarian response and approaches to risk management
A large body of research has examined the impact of counter-terrorism on the development and humanitarian sectors. This research found that the so-called 'War on Terror' 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, 2006; Duffield and Waddell, 2006), entrenching existing power inequalities in the NGO sector, and marginalising Muslim and human rights NGOs (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 NGO responses. Howell and Lind (2010) found that responses had primarily been driven by Muslim and human rights groups (who were most directly affected), while 'mainstream civil society' (including large INGOs who were more reliant on government funding) were generally more quiescent.

Several studies have examined more specific impacts of shifting counter-terrorism legislation and sanctions on humanitarian governance. Most of this work examines how the global humanitarian system manages risk (Stoddard et al., 2016; 2019) and how it has been impacted by counter-terrorism legislation and sanctions (Eckert, 2022), therefore lacking in-depth analysis of how these

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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 impacted 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 INGOs 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 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 et al., 2016). In a survey of humanitarian staff, fifty-three per cent of respondents to a questionnaire said their organisations had "established written policies and procedures to ensure compliance with counter-terrorism 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 impact of risk management approaches. First, many took a negative view and felt an increased focus on risk management had led organisations to become overly cautious. Echoing this perspective, a study by Stoddard et al. (2016) revealed a majority of NGO participants either "agreed" or "somewhat agreed" with the notion that "INGOs have become increasingly risk averse and are curtailing humanitarian response as a result" (p. 38). Additionally, 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 adopted 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 focussed on the possibility of harm or loss, to "the effect of uncertainty on objectives" (Stoddard et al., 2016, p.2), thus incorporating inherent opportunity. Some respondents in Stoddard et al.'s (2016) study reported the risk-management trend as positive, "enabling good humanitarian response, despite the inevitable increased administrative burden" (p. 4).

We found that staff working on legal or compliance issues or those working in headquarters were more likely to take the 'opportunity view', while those working in policy or programme-oriented roles, emphasised the negative view.[23]

Counterterrorism measures and sanctions: laws and regulations
One consequence of the so-called 'War on Terror' was an expansion of international counter-terrorism measures. Measures fall into two broad categories. First, the UN and member states have imposed financial sanctions on individuals or groups which include, but are not limited to, asset

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freezes and travel restrictions. Sanctions can be applied for a variety of reasons including addressing human rights abuses, tackling corruption and illicit finance, and countering terrorist activities. Sanctions regimes on occasion provide for exceptions allowing for the delivery of humanitarian assistance, for example, in 2021 the UN Security Council adopted a humanitarian exception to enable the delivery of aid to Afghanistan (Woodward, 2021). Second, the UN Security Council and 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 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, though O'Leary (2022) notes that after intense lobbying from NGOs, there is now improved language in some UN Security Council resolutions.

Alongside the range of financial sanctions and counterterrorism measures that have been introduced at the international level, states have introduced a flurry of domestic laws, with more than 140 governments passing counter-terrorism legislation since September 11th, 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) 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 (Terrorism Act, 2000). More recently, the government has introduced the Counter-Terrorism and Border Security Act 2019, 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 from NGOs, 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 government has granted itself powers to sanction people and entities through the Sanctions and Anti-Money Laundering Act 2018. This includes powers to sanction individuals and groups involved in terrorism, as well as so-called 'Magnitsky' sanctions, which target human rights violators. Humanitarian licences and exceptions have been made available under the Act, though 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, laws of other donor states, other states whose laws have 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 in what one interviewee for this study called an "oppressive regulatory environment"[4].

Wider developments in the UK since 2015: a more constrained environment
Alongside this legal and regulatory regime, the context in which UK INGOs operate has grown considerably more constrained. In this section we sketch out the changing contours of this environment, detailing the changing role of the Charity Commission and changes in the wider media and political landscape in which INGOs operate. We focus particularly on the period after 2015, partly to update the last detailed study on the impact of counter-terrorism legislation on UK NGOs

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by Metcalfe-Hough et al. (2015), and because this was a particularly volatile period politically.

Since 2015, levels of attention and vigilance in the UK on the threat of Islamic extremism have fluctuated, as reflected in changing threat levels set by the government. While focus on Islamic extremism dimmed slightly after 2020, the UK government retains a high level of vigilance, due to continuing Jihadist attacks in 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 (CC), 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 CC has conceded 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 so-called 'culture-wars' (ACEVO, 2021). Following the safeguarding scandal in the international development sector, some questioned "whether it now has the capacity to 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"[5].

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, and the 'Lobbying Act'[6] which regulates charity campaigning in the lead up to elections. Charities described a 'chilling effect' from the Lobbying Act to 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 NGOs working in the development and humanitarian sectors has grown particularly challenging. Globally, the environment for humanitarian organisations has become more restrictive over the last 10 years, with Martin Griffiths, UN Undersecretary General for Humanitarian Affairs, remarking in 2021 that we are entering an "age of silence" driven by the growing assertiveness of authoritarian governments in relation to humanitarian response (ODI, 2021). In the UK, the government has placed growing emphasis on the use of aid in pursuit of the UK's 'national interest'[7] and made cuts to the aid budget after the decision to temporarily abandon the UK's commitment to allocate 0.7% of GNI to Official Development Assistance (ODA) in 2021. The cuts have fallen particularly hard on NGOs and civil society organisations (Wait, 2022). Further operational challenges have been generated by the merger of the Foreign Office and Department for International Development (DFID) into a new Foreign, Commonwealth and Development Office in 2020, which has weakened the voice of former DFID staffers (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 the government is

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willing to mitigate the worst impacts of counter-terrorism measures and sanctions on NGOs. In 2015, Metcalfe-Hough et al. noted indications of "tentative dialogue" (p. 17) between INGOs and the Home Office. Since then, the Tri-Sector Group (TSG) has been established (in 2017). The TSG 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 & 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" (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 TSG has led to some changes in government approach 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 in the TSG between banks, government, and NGOs. In addition, the UK issued a Humanitarian Activity General Licence under its Russia sanctions regime in July 2022[8] to facilitate aid operations in Ukraine, also in part due 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 negative impacts on UK-based INGOs' work. 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 due to 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 which standards of due diligence organisations are expected to comply with.

While the UK government does not require screening or vetting of beneficiaries, some donors do require 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"[9].

Impacts on principled humanitarian action
Before exploring INGOs' strategies for responding to counter-terrorism measures, we will first examine the impacts of these measures. We found 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', strain on staff resources and time, and funding cuts and chilling effects. Other impacts, such as the growing barriers to localisation and partnership, have become increasingly prominent, particularly since Metcalfe-Hough et al.'s 2015 study.

Barriers to localisation and partnership

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Counter-terrorism measures and sanctions are leading INGOs to adopt more conservative approaches to partnership in areas controlled by proscribed groups. This impact is not new, but it is increasingly undermining NGOs' broader localisation efforts.[10]

The need to respond to counter-terrorism measures and sanctions are one of several factors that undermine the localisation agenda. The model of INGO funding continues to foster inter-NGO competition, undermine co-operation and collective action between NGOs, and encourage a focus on 'projects' rather than 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 4% to 2% 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 et al., 2019, p.4). A series of studies by ODI (El Taraboulsi-McCarthy, 2018a; 2018b; 2018c) show counter-terrorism measures have had adverse implications on financial access for local NGOs, including in the West Bank and Gaza, Somalia, and Yemen. While it is unlikely local organisations will be directly subject to UK sanctions or counterterrorism 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 impacted due to various chilling effects.

Participants in our study highlighted examples where counter-terrorism measures had made partnerships more difficult. A trustee said these measures lead INGOs to develop much stricter criteria for working with partners. This can often mean INGOs prioritise working with larger local NGOs who can meet due diligence standards, rather than smaller organisations who often have stronger community roots, access and 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[11].

These regulations ultimately undermine trust. One trustee stated 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"[12]. In some cases, counter-terrorism measures are leading INGOs to bypass partners altogether, further undermining commitments to the localisation agenda. One interviewee in a governance and compliance role said: "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 down-streaming of risk".[13]

One senior NGO leader argued the main barrier from government came from officials dealing with risk and compliance issues, which included counter-terrorism, but also other issues 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

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are then passed down to the large INGOs, who 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"[14].

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, due to concerns about violating counter-terrorism regulations. Similarly, El Taraboulsi-McCarthy (2018a) argues challenges in transferring funds in and out of Gaza have led some organisations to modify their programmes. Metcalfe-Hough et al. (2015) found counter-terrorism legislation was having a direct impact on levels of humanitarian funding for British NGOs, especially Islamic organisations, which faced heightened scrutiny. This, in turn, had negative repercussions on their partner NGOs in regions like 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 these problems continued to affect their work, sharing examples where counter-terrorism measures had led their organisation to pause or cancel programmes. One respondent said their employer stopped cash distributions in Syria because of the risk of incurring heavy penalties[15]. A policy adviser said their organisation had suspended some activities in Mali and Burkina Faso while awaiting clarification around new national counter-terrorism regulations, although operations were eventually resumed[16].

Others argue the impact of counter-terrorism measures is less about programmes being cancelled or cut and is instead 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"[17]. These findings again chime with previous studies, which have similarly highlighted growing self-regulation and self-censorship from 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 staff 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 found 40 per cent of aid workers surveyed said their organisation use databases to vet suppliers, staff, or beneficiaries (O'Leary, 2018). Metcalfe-Hough et al. (2015) argue 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 (Dumasy, 2022).

Participants in our study similarly highlighted compliance with counter-terrorism measures requires significant resources and staff time. A policy adviser said organisations increasingly focus resources developing trainings on what counter-terrorism means for their daily work, and their employer has

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at least half a dozen staff working on the development and delivery of these trainings[18]. 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"[19]. 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[20], while another interviewee, also in a governance role, said their organisation's board was experiencing fatigue after spending roughly two thirds of their time on risk management as opposed to, for example, strategy[21].

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 et al. (2015) found delayed transfers, bank closures and other restrictions imposed by banks and other financial actors on NGOs sometimes directly affected aid operations, leading to the scaling back or shutdown of projects and postponed salary of supplier payments. Additionally, the increasing demands for documentation from banks added more pressure on NGO staff's time and resources. Others (El Taraboulsi-McCarthy, 2018a; 2018b; 2018c) have found that in the West Bank and Gaza, Somalia, and Yemen, bank de-risking practices have obstructed organisations from accessing crucial humanitarian and development funds and damaged their reputations. More recently, NGOs 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 pre-occupation for British INGOs. A respondent in our study stated 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"[22]. A trustee argued bank de-risking had a particularly negative impact in fragile settings, with banking regulations slowing down their response[23]. Issues of access to finance, have seen the greatest mitigation efforts from the UK government and financial actors, and have become a central part of the agenda for the TSG, as will be discussed below.

These issues do not affect all UK NGOs in the same way. Several interviewees noted that there is strong evidence that Muslim organisations are worst affected. One senior leader told us: "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[24] (see also Dumasy, 2022). Smaller organisations also tend to struggle to meet the frameworks and banks' due diligence processes due to capacity constraints.

As outlined, counter-terrorism measures and sanctions are impacting 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 told us: "There are so few agencies working in Taliban-controlled areas or [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."[25]

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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 will 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 (e.g. 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 Tri-Sector Group (TSG), suggesting 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 the INGOs we spoke to had written policies to ensure compliance with counter-terrorism measures, including codes of conduct, diligence procedures, and HR 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 their employers had adopted an increasingly risk-averse or risk-avoidant approach. As one interviewee put it: "The whole infrastructure that gets constructed around risk…is pretty much always negative", adding their employer's approach amounted to identifying things that could go wrong and then "[dreaming] up what we can do to mitigate"[26].

Participants also emphasised the gulf between head office, which sets policy, and local/regional offices, responsible for implementation. One interviewee said 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"[27]. 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 areas like Syria or Iraq to gain contextual insights from them[28].

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 a senior colleague in their organisation had said to colleagues that given the level of scrutiny they faced, they would not be "sticking their head above the parapet". This senior colleague told staff "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"[29].

Criticism of INGOs' approach to managing risk was not unanimous, however. Other staff, notably those in compliance or risk management roles, felt good risk management policies were enabling them to improve programme quality. One interviewee in a senior governance role argued that "discipline makes daring possible", adding "you can speak boldly once you have the basics right" [30].

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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" (reference removed).

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 pressures from donors or states to comply. This divide suggests 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, tended 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 amongst organisations (O'Leary, 2018). Metcalfe-Hough et al. (2015) identified nascent dialogue between INGOs and government on these issues, though pointed out that the sector had insufficient coordination and lacked effective leadership in dealing 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; improved language in grant agreements; guidance and dialogue in relations to sanctions and bank de-risking; and increased use of exemptions, licenses and derogations for humanitarian activities.

We found clear signs of improved co-operation and dialogue amongst stakeholders in the UK, particularly through the work of the Tri-Sector Group (TSG). For many years, NGOs had been attempting to raise awareness about the negative impacts of counter-terrorism measures and sanctions, without a formal mechanism for dialogue. Momentum was established when David Anderson QC, Independent Reviewer of Terrorism Legislation, recommended a dialogue be initiated between 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 NGOs for improved dialogue resulting in the TSG being formally established in 2017. The TSG has embedded consultation between government, banks and INGOs and has allowed UK 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) about the need for an exemption, which was eventually agreed. One respondent felt 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"[31]. A similar process was observed following Russia's invasion of Ukraine, where an exemption was agreed. As one interviewee put it, progress "is a cumulative effect of all this coordination, all this communication. The trust building with government as well"[32].

INGOs have used the group to highlight challenges and sensitise stakeholders to current policies and good practice. The TSG has also been a forum for advocacy. It has worked with the Crown Prosecution Service to develop prosecutorial guidance for counter-terrorism offences[33]. While this guidance won't provide immunity from prosecution, INGO TSG members say it should provide more

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clarity for stakeholders about what does and does not constitute an offence. TSG members noted a by-product 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 (F4ID)[34], an initiative for banks to work together on facilitating payment routes to complex contexts.

Another important achievement of the group was pushing the government to establish a definition of what constitutes a 'genuinely benign meeting' with a proscribed organisation, which has provided some reassurance for partners who have discussions with proscribed organisations, 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 busting myths about practices that some organisations may be reticent about, but that are often acceptable in law. The aim is for this guidance to be endorsed not just by INGOs but also 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"[35].

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 US 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"[36]. 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[37].

Frustrations with the TSG were expressed, including that attendees from government are overwhelmingly in technical, compliance-based roles, and that meaningful progress can't be made until those responsible for setting policy (i.e., senior officials and ministers) also attend or take an interest. Additionally, TSG meetings are behind closed doors and relatively exclusive and technical. There is no webpage and public facing communications about the group to help with communication and accountability. While the NGOs in the TSG report back to and take issues from the Bond Counter-Terrorism and Sanctions Working Group, which is open to a wider section of interested NGOs, the majority of UK NGOs and partners from the Global South are not involved in the TSG discussions themselves, which one INGO senior leader said has led some to feel "cut out"[38]. This last point highlights some of the tensions associated with the localisation agenda: small, sustained working groups where 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

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wider efforts to create a more inclusive aid system, where 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 underway in the Netherlands and the United States (see Eckert, 2022; O'Leary, 2022).

Conclusions

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

Our analysis found that counter-terrorism measures have generated several negative impacts for UK-based INGOs. These include chilling effects, 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 impacts of counter-terrorism measures from other risk frameworks, such as fiduciary, safeguarding, and reputational risks. Additionally, 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 Tri-Sector Group (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 from 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 impacts 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 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 impact of risk management approaches, demonstrating that the impacts have been mostly counterproductive, though 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 emergence of the TSG has been a key mechanism through which INGOs have addressed some of the negative impacts 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, constructive clarifications about exiting

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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 smaller UK-based organisations, and southern, local NGOs can engage with and provide 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 recent welcome US-UK collaboration[39].

In the past, risk aversion and uncertainty surrounding counter-terrorism measures have meant organisations have been reticent to develop common advocacy positions (O'Leary, 2018). Since then, 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. NGOs should build on these efforts by continuing to work together to collect evidence and push back on unreasonable demands from government. Larger organisations should also ensure the perspectives and positions of smaller (particularly Muslim) organisations are represented in these discussions.

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This paper reports analysis of primary data. The ethics of data collection and analysis were approved by the University of Bath Social Science Research Ethics Committee.

Data Availability Statement
The data that support the findings of this study are available from the authors upon reasonable request.

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[1] We understand INGOs to be non-profit organisations operating in more than one country that have been established privately rather than by intergovernmental agreement (Willetts, 2011). We use 'UK-based INGOs' to mean organisations with a central office in the UK.

[2] Interview with staff member in governance and risk management role at secular multi-mandate charity, 3 June 2021

[3] Interview with trustee at secular multi-mandate charity, 17 June 2021

[4] Interview with staff member in policy role at industry network body, 28 May 2021

[5] Interview with staff member in governance and compliance at faith-based multi-mandate charity, 21 May 2021

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[7] See the UK's aid strategy 2022: https://www.gov.uk/government/publications/uk-governments-strategy-for-international-development

[8] OFSI issues Humanitarian Activity General Licence under Russia sanctions regime: https://ofsi.blog.gov.uk/2022/07/07/ofsi-issues-humanitarian-activity-general-licence-under-russia-sanctions-regime/

[9] Interview with staff member in logistics at secular multi-mandate charity, 17 June 2021

[10] Donors and aid agencies made a strong commitment to the localisation agenda in 2016 as part of the 'Grand Bargain' agreed at the 2016 World Humanitarian Summit.

[11] Interview with trustee at secular multi-mandate charity, 17 June 2021

[12] Interview with trustee at secular multi-mandate charity, 17 June 2021

[13] Interview with staff member in governance and compliance role at faith-based multi-mandate charity, 21 May 2021

[14] Second interview with director of single-mandate humanitarian charity, 15 July 2022

[15] Interview with staff member in risk management role at secular multi-mandate charity, 21 May 2021

[16] Interview with staff member in policy role at secular multi-mandate charity 11 June 2021

[17] Interview legal adviser at secular multi-mandate charity, 14 June 2021

[18] Interview with staff member in policy role at secular multi-mandate charity, 11 June 2021

[19] Interview with staff member in logistics at secular multi-mandate charity, 17 June 2021

[20] Interview with staff member in governance and risk management role at secular multi-mandate charity, 3 June 2021

[21] Interview with staff member in governance and compliance at faith-based multi-mandate charity, 21 May 2021

[22] Interview with staff member in governance and compliance at faith-based multi-mandate charity, 21 May 2021

[23] Interview with legal adviser at secular multi-mandate and peacebuilding charities, 3 June 2021

[24] Interview with policy director at peacebuilding charity, 21 July 2022

[25] Interview with policy director at peacebuilding charity, 21 July 2022

[26] Interview with staff member in policy role at secular multi-mandate charity, 11 June 2021

[27] Interview with staff member in governance and risk management role at secular multi-mandate charity, 3 June

[28] Interview with staff member in governance and risk management role at secular multi-mandate charity, 3 June 2021

[29] Interview with staff member in logistics at secular multi-mandate charity, 17 June 2021

[30] Interview with staff member in governance and risk management role at secular multi-mandate charity, 3 June

[31] Interview with policy director at peacebuilding charity, 21 July 2022

[32] Second interview with director of single-mandate humanitarian charity, 15 July 2022

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[34] Fintech for International Development: https://www.f4id.org/

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[36] Second interview with director of single-mandate humanitarian charity, 15 July 2022

[37] Second interview with director of single-mandate humanitarian charity, 15 July 2022

[38] Second interview with director of single-mandate humanitarian charity, 15 July 2022

[39] US Department of the Treasury 'US-UK Sanctions Partnership':

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