



UvA-DARE (Digital Academic Repository)

How the Global Counterterrorism Forum Can Become More Human Rights Compliant (Part II)

Baumann, Z.

Publication date

2022

Document Version

Final published version

[Link to publication](#)

Citation for published version (APA):

Baumann, Z. (Author). (2022). How the Global Counterterrorism Forum Can Become More Human Rights Compliant (Part II). Web publication or website, *Opinio Juris*.
<http://opiniojuris.org/2022/09/26/how-the-global-counterterrorism-forum-can-become-more-human-rights-compliant-part-ii/>

General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

How the Global Counterterrorism Forum Can Become More Human Rights Compliant (Part II)

opiniojuris.org/2022/09/26/how-the-global-counterterrorism-forum-can-become-more-human-rights-compliant-part-ii/

September 26, 2022



[Zsófia Baumann is a Junior Researcher at the T.M.C. Asser Instituut in The Hague, where she works on topics related to foreign terrorist fighters, counterterrorism and human rights and carries out research on the rehabilitation and reintegration of terrorist offenders.]

Part I of this post outlined the main criticisms directed at the Global Counterterrorism Forum (GCTF) from the human rights community. It assessed the challenges the Forum faces in terms of its procedures of document creation, the alleged lack of human rights compliant approaches and accountability in its [Framework Documents](#), and the concrete language contained within some Framework Documents. The following post will provide recommendations to address these.

Recommendations

Though there are limitations to what the GCTF can do to address these criticisms without jeopardizing its very nature, it could aim to become more transparent with regards to its working procedures and the roles and responsibilities of its different bodies. In the longer

term, the GCTF could work towards a more systematic engagement with civil society, especially the human rights community, by setting up an Independent Advisory Committee. In addition, the Forum could work on complementing its already existing Framework Documents with guidance on how to implement its good practices in a human rights compliant manner.

Short Term Recommendations to Address the Lack of Transparency Regarding the Forum's Inner Workings

a. Provide more clarity on the roles and responsibilities of the GCTF's bodies

Enhance inclusivity of the five GCTF Working Groups by inviting the “right experts” to the table. While it might seem self-explanatory that inviting human rights experts and CSOs to GCTF meetings where Framework Documents are developed will lead to more inclusion of appropriate language in their text, this is often not the case. As highlighted by the interviews for the M&E Report, often the “right experts” are not invited, which results in an overly security-focused approach to topics such as preventing radicalization to violence or the role of women in P/CVE. CSOs that specialize in advocating for human rights to be embedded in counterterrorism measures should be more present at meetings, as well as grassroots organizations who have first-hand experience with both the positive and negative impacts of such measures.

Implement clear, transparent and inclusive processes for document development and review. Inviting the “right experts” to the meetings of the GCTF is only the first step. Their participation will not result in more human rights compliant language unless they have the opportunity to actively contribute to the development of the Framework Documents. While non-member countries and organizations (who are invited to the respective meetings) are involved in the early stages of the document creation process, they do not have access to the final stages. During their drafting, Framework Documents usually go through two phases of comments: the first being open to all participants who have contributed to the draft document and the second remaining restricted to GCTF member countries. In practice, this means that GCTF Members have the prerogative to cut any language they may not wish to include in the final product without consulting those who might have added that language in the first place. This often results in a “watered down” version of the original draft with only vague references to human rights and rule of law obligations. Ensuring that not only GCTF Members, but all other participants also have a final say could contribute to stronger language. This, however, would require the revision of the GCTF's current document development process, via either opening up the second phase of the silence procedure to non-member participants, or involving an IAC and its members (see section 3b), from the beginning to the end. Following this up with practical guidance for implementation would then likely result in stronger human rights compliance (see section 3b).

Use existing capacity of human rights experts within the “GCTF community”. The “GCTF community” consists of a wide-range of experts, from non-member organizations, such as different UN agencies, other international organizations, NGOs, CSOs, academia and the private sector. Special members of the “GCTF community” are the Forum’s Inspired Institutions. The GCTF also works with a number of Implementing Partners (of which the Asser Instituut is one, where the author works), expert organizations who facilitate the activities of its Working Groups and Initiatives and contribute to the development of the Framework Documents. Many of the Inspired Institutions and Implementing Partners have in-house expertise on the international legal implications of countering terrorism, which the GCTF could easily tap into to make sure the right experts who bring human rights considerations to the fore are involved throughout the document development process.

Incorporate an internal review process. Besides making it more transparent, an additional step of an internal review from a human rights perspective could be incorporated into the document development process. The Administrative Unit is already tasked with ensuring consistency in both language and format of the Framework Documents. By adding a human rights officer/legal expert to the team, the Administrative Unit could also review draft documents from a human rights language perspective.

b. Rework the GCTF’s Terms of Reference

The Terms of Reference is the GCTF’s guiding document that “outline[s] the structure and functional aspects of how the Global Counterterrorism Forum operates.” It is a short, five-page-long document meant for “the internal use of the GCTF Members and other stakeholders.” Though it is publicly available on the GCTF’s website, it has been criticized as “generic and gives little insight to the form, procedure and working methods of the Forum.” The Special Rapporteur noted in her 2019 report that as her office found it difficult to access information on the workings of the GCTF, “other actors, including civil society actors, national parliaments or national human rights institutions would find it even more challenging.”

The Terms of Reference is the only publicly-available document that could provide non-member countries and organizations an insight into the workings of the Forum. In order to enhance its transparency, it is therefore crucial that the GCTF’s Terms of Reference document is clear, detailed and easily accessible. With this, the GCTF could enable outside actors to get involved, while addressing the criticism of opaqueness related to its internal workings and contributing to more transparency surrounding its processes. In order for the Terms of Reference to become a useful document, it arguably needs to:

Elaborate on procedures. While the Terms of Reference is quite detailed regarding the structure of the GCTF (section I), the roles and responsibilities (section III), as well as the election process of the Co-Chairs of the Forum and the different Working Groups (section I), description of the procedures of document creation remains very vague. Implementing clear, transparent and inclusive processes for document development and review would be

especially important for non-member countries and organizations who take part in the development of GCTF Framework Documents, but then might see their contributions “watered down” in the final output. Clear expectation management with regards to the role of non-member countries and organizations in the overall process would therefore be crucial. In addition, the Terms of Reference should also elaborate on a(n) (possible) internal review step where human rights perspectives are incorporated into the documents (see previous subsection).

Provide guidance on involvement. The human rights community has been consistently calling for greater involvement in the activities of the GCTF, a sentiment echoed by the Inspired Institutions, as well as multiple UN agencies, according to the findings of the M&E Report. The three Inspired Institutions work on the ground with a wide variety of actors and have an extensive network of local and regional organizations. Complementing the previous recommendation, it would be beneficial if guidance also existed for these organizations on how to be involved in the activities of the GCTF. This would allow for a broader range of actors to take part (as opposed to the “usual suspects”) and by extension contribute to more inclusive language in the Framework Documents. In addition, defining the role and mandate of the Inspired Institutions, – both in the process of document development, as well as generally within the GCTF, – in the Terms of Reference, would allow for more local and regional organizations active in the same fields or regions to get involved. This would again not only enhance inclusivity, but also allow for a greater coordinating role for the Inspired Institutions, enabling them to use their considerable networks and contribute them to the work of the Forum.

Define working methods. The Working Methods section of the Terms of Reference (section IV) could provide more information on 1) how the GCTF is funded and the different ways to contribute (financially or in-kind) to the activities of the Forum; and 2) how its activities are monitored and evaluated. Based on the conclusions of the M&E Report, the funding structure of the GCTF is not well-known, neither within nor outside of the Forum. This is not surprising given that there is no information on funding on its website and, currently, there is only one mention in the Terms of Reference (section I/D), which only concerns contributions to the Administrative Unit itself and does not provide information on how the other bodies are funded or on how financially sustainable the GCTF is. The Working Methods section could also provide information on the monitoring and evaluation (M&E) of the Forum’s activities. One of the main outcomes of the M&E Report (and in fact the reason for its commissioning in the first place) was a general consensus on the importance of M&E for the future of the GCTF. Given that the GCTF is an informal platform that produces non-binding outputs, it will be challenging to set benchmarks for its impact and then to evaluate how the Forum has fared against these. However, a reworked Terms of Reference could provide an initial outline of the roles and responsibilities of GCTF bodies in terms of M&E, based on the recommendations of the M&E Report.

Long Term Recommendations to Address the Lack of Inclusivity and Human Rights Compliance

a. Establish an Independent Advisory Committee

Other than setting out that “appropriate civil society experts” can be invited to participate in the activities of the Working Groups and setting out the procedure for the approval of such invitations, the current Terms of Reference does not contain specific guidance for how the Forum should systematically interact with CSOs. Other organizations, such as the Global Internet Forum to Counter Terrorism (GIFCT), have implemented an arguably more constructive way to engage civil society actors in their activities. Though the GIFCT is different from the GCTF in that it is a forum of private companies, as opposed to being an inter-governmental forum, its approach to engaging a wide variety of external stakeholders could be a good way forward for the GCTF as well.

The GIFCT is governed by an Operating Board made up of members from its founding companies. This Operating Board is in turn advised by the Independent Advisory Committee (IAC) consisting of a number of government representatives, the EU, the UN, as well as at least 12 civil society representatives. The IAC’s mandate is two-fold: it “identif[ies] and recommend[s] priorities and key focus areas” to the Operating Board and “assess[es] progress against these recommendations and [the] GIFCT’s mission.” One aspect of the IAC’s role is to “ensure that GIFCT’s work is aligned with international human rights laws and principles, as respecting, promoting and defending human rights.” The IAC is also responsible for, amongst others, producing an annual report to recommend strategic priorities for the GIFCT for the upcoming year, assessing the progress made in the previous year and identifying potential key areas of focus.

An IAC similar to that of the GIFCT could also advise the work of the GCTF. Comprising CSOs, academics, representatives of the private sector, as well as possibly non-member countries, it could provide the Forum with independent expertise on core issues, such as human rights and gender. An IAC would not only allow for the systematic review of the GCTF’s activities against its commitment to ensuring the consistent inclusion of the protection of human rights in its work, but it would also address concerns with regards to the transparency of how civil society, members of academia and the private sector are involved. In addition, by incorporating a constant number of changing non-member countries via an IAC, it could remedy the stalemate around the question of membership in the Forum. Following up on the previous section, the reworked Terms of Reference could also cover the structure and functioning of this newly created IAC.

b. Provide guidance on how to ensure human rights compliance in a standardized manner

Including appropriate human rights language in GCTF Framework Documents is just the first step. Although monitoring how these are then implemented on a national, regional and local level is key, it is beyond the mandate of the Forum. Instead, the GCTF could provide concrete, standardized guidance on how its good practices and recommendations could be implemented in a human rights compliant manner. This guidance could not only provide practical recommendations, but also present examples on how violations would look like in practice and how compliance can be concretely ensured. On the basis of this guidance, national, regional and local government officials, as well as representatives of NGOs and the private sector could receive training. Developing such guidance, however, would require consensus from the GCTF's Membership as it would entail a systematic overview of all GCTF Framework Documents produced by different Working Groups and Initiatives, co-chaired by different Members.

Conclusions

The recommendations outlined above can address some of the GCTF's shortcomings and answer some of the criticisms voiced by civil society and human rights experts more specifically. The challenge, however, remains that in being informal and nimble in nature, the Forum can and does easily pick up new themes and trends and is able to quickly react by producing good practices to address these, but arguably without a rigorous attention to the implications of the suggested good practices. The GCTF attracts a wide range of countries to the table with very different approaches to and perspectives on CT and P/CVE, and the importance of human rights more specifically. However, as it operates on the basis of consensus, the GCTF seeks the approval of all 30 of its Members to reach decisions and adopt documents. Because of this reality, it can be argued that the Forum often compromises on how strongly it advocates for human rights – at least in the language of its Framework Documents – in favor of reaching consensus and developing good practices and recommendations in a relatively short amount of time.

On the other hand, the GCTF cannot simply pretend that its non-legally binding documents remain exactly that: non-binding. With its close working relationship with the UN and the interlinkages between the two organizations, such as a shared membership and priorities, it is inevitable that there will be some overlap between their outputs. The GCTF therefore cannot hide behind the veil of its informal nature and cannot ignore the fact that its Framework Documents might end up becoming legally-binding norms.

With these factors in mind, it is important for the Forum to actively seek to improve itself and to make sure that while preserving its core characteristics, it remains relevant by addressing the criticisms aimed at its inner workings, the process by which its Framework Documents are created, and the language contained within. By implementing the recommendations outlined above, the GCTF could at least start by becoming more inclusive and enable a wider range of actors, such as human rights professionals, to participate in its work. This inclusion would therefore strengthen the language of its documents and by extension

contribute to their human rights compliant implementation on the ground. The GCTF celebrated its 10-year anniversary last year. This milestone not only constitutes a good moment to reflect on and assess the Forum's work, but it also creates the opportunity for the organization to evolve into one that more seriously and concretely respects and advocates for the protection of human rights and the rule of law in the fight against terrorism.