

**Regional working group meeting on preventing abuse of the
non-profit sector for the purposes of terrorist financing**

Nairobi, Kenya

28 February – 1 March 2012

DISCUSSION PAPER

*Prepared by the Center on Global Counterterrorism Cooperation**

In the decade since the terrorist attacks of 11 September 2001, there has been a sea-change in international cooperation against terrorism. At the global level, key strategic and operational statements on counterterrorism have emerged out of both the United Nations' Security Council (most notably, in resolution 1373 (2001)) and General Assembly (in the form of the *Global Counter-Terrorism Strategy*).¹ Similarly, regional and subregional organizations have been active in advancing multilateral counterterrorism. For example, in 2004 the African Union concluded a Protocol to its Convention on the Prevention and Combating of Terrorism (1999) and within the East African subregion, bodies such as Inter-governmental Authority on Development (IGAD) (through its IGAD Security Sector Program (ISSP))² and the East African Community have advanced counterterrorism measures. Between the elaboration of global measures to suppress terrorism and their implementation at the national level, regional and subregional bodies function as intermediaries or transmission belts as they "often have unique knowledge and expertise, can help build local ownership, and can serve as interlocutors with the UN system and bilateral donors."³

This discussion paper is part of a process that builds upon these initiatives towards the goal of protecting the non-profit sector from abuse by terrorists while preserving the provision of public goods by the sector. Against the background of increasing levels of multilateral counterterrorism, the problem of terrorist financing through the non-profit sector has attracted a significant amount of international concern, including the elaboration of a global standard by the Financial Action Taskforce (FATF). Within East Africa, four key factors have shaped the discussion about the regulation of non-profit organizations (NPOs) in light of the vulnerability of the sector to terrorist abuse. First, the threat of terrorism in the subregion is significant. This threat emanates principally from Somali-based militia al Shabaab, against whom neighbouring states are engaged through the African Union's Mission in Somalia (AMISOM) or bilaterally, in support of the Transitional Federal Government (TFG). As witnessed by the July 2010 bombings in Kampala – as well as in other incidents of violence outside of Somalia – al Shabaab has shown signs of regionalizing its use of violence. The presence of al Shabaab in Somalia attracts foreign fighters, al Qaeda operatives and other violent extremists to the subregion.

* This discussion paper was prepared by the Center on Global Counterterrorism Cooperation in consultation with our organizing partners. Any errors or omissions are solely the responsibility of the Center. The information in this paper should not be regarded as endorsed by, or reflecting the official position of the United Nations, the Counter-Terrorism Committee Executive Directorate (CTED), its bilateral partners nor participating NGOs. The designations employed and the presentation of information in this discussion paper does not imply the expression of any opinion whatsoever on the part of the United Nations or CTED concerning the legal status of any country, territory, city or area or of its authorities or concerning the delimitation of its frontiers or boundaries.

Second, al Shabaab's financial activities are a serious cause for concern. According to experts, it uses Somalia as a "base for a small financial empire based on extortion and environmentally rapacious charcoal exports."⁴ As this suggests, al Shabaab resources its activities in diverse ways, perhaps most prominently through the taxation of commerce through the port of Kismaayo. But there is also some evidence of NPO abuse.⁵ The group has attempted to exploit NPOs for the purpose of fundraising, recruitment and training. It has sought to "tax," divert and obstruct humanitarian aid and development assistance in Somalia, and it intimidates and targets humanitarian workers. Moreover, it has shown the willingness to manipulate aid flows – for example, by permitting fellow extremists to distribute aid to famine victims – as part of its broader political strategy.⁶ For these reasons, and in light of the international response to al Shabaab's actions towards aid providers, the problem of NPO abuse in the subregion is among the most complex in the world today.

Third, many states in the region face significant constraints in terms of their capacity to implement measures to regulate NPOs in a manner that is compliant with the FATF standard. Indeed, compliance with that standard remains low among East African countries. While it is also the case there are low levels of compliance at the global level, states across the subregion, have encountered barriers to compliance at each stage in the implementation process, from enacting adequate legislation, to outreach to the non-profit sector and appropriate use of law enforcement and financial intelligence tools to protect the sector.

Finally, within the subregion the issue of countering terrorist financing through the non-profit sector arises in the context of the broader relationship between the state and civil society actors. That relationship is complicated by the fact that in recent decades the number and scope of civil society actors has increased. Against this background, state-civil society relations in some countries have sometimes been contentious. Counterterrorism measures that have been undertaken in violation of human rights have created added pressure.

The remainder of this discussion paper elaborates upon these challenges. We begin by reviewing the process of which this paper and regional working group meeting form a part. The paper then provides an overview of the non-profit sector in the participating states – Burundi, Djibouti, Ethiopia, Kenya, Rwanda, Somalia, Tanzania and Uganda – before surveying the risk of terrorist financing and state responses in the subregion. Before concluding, the paper addresses two further challenges in implementing global standards to protect the non-profit sector from terrorist abuse in East Africa: concern about human rights in the context of state-civil society relations and; challenges to international humanitarian action in Somalia that arise as a result of policies of states outside of the subregion. Throughout, our objective is to foster a dialogue among stakeholders that can advance several goals at once – namely, the suppression of terrorist financing and the protection of the non-profit sector.

Preventing terrorist abuse of the non-profit sector: A global – and regional – process

As multilateral measures to suppress terrorism have been advanced more robustly in recent years, the effort to counter terrorist financing has often been singled out as an example of particularly effective cooperation. For example, at a special meeting to commemorate the tenth anniversary of the adoption of resolution 1373 (2001), Chair of the CTC, Ambassador Hardeep

Singh Puri, drew particular attention to the advances that have been made in suppressing terrorist financing. He described how, “In compliance of their obligations under resolution 1373, States have ... established Financial Intelligence Units and other mechanisms to monitor and guard more effectively against terrorist financing and money laundering and for effective cooperation and coordination of their efforts at the national and international levels.”⁷

Concerning the abuse of the non-profit sector by terrorists, the relevant global standard was elaborated as “Special Recommendation VIII” by the Financial Action Taskforce (FATF) (hereafter, “the FATF standard”), which has been affirmed by both the Security Council (in resolution 1617 (2005)) and General Assembly (in the *Strategy*). It states that:

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organisations posing as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.

However, more than a decade after the adoption of the FATF’s 9 Special Recommendations against terrorist financing, we know that some standards attract higher levels of compliance than others and that, as noted above, compliance with the special recommendation on NPOs, is relatively weak at the global level. Over this period, the FATF has attempted to aid compliance by issuing an overview of best practices in 2002 and an interpretive note in 2006.⁸ Nonetheless, over time there has been an ongoing demand for guidance regarding SRVIII. Some states have issued their own advice⁹ and, recently, they have been joined by other authoritative sources. Regarding the latter, the FATF-style regional body for the Asia-Pacific region, the APG, has now published a typologies report on *NPO Sector Vulnerabilities*(2011), which:¹⁰

- Summarizes the diverse ways in which NPOs may be abused by terrorists, advancing a definition of “terrorist resourcing” (i.e. “the use of funds, materials, personnel and other associated individuals, beneficiaries, as well as property to further a terrorist cause”) that is broader than “terrorist financing” alone (ch.2);
- Distinguishes between forms of NPO abuse, i.e. “complicit” NPOs are those established by terrorists as a front for the purpose of terrorist financing, whereas “exploited” NPOs are legitimate charities that have been infiltrated by terrorists who are engaging in abuse (ch.2);
- Identifies the factors that regulators, financial intelligence and law enforcement officials should consider in assessing the level of risk among NPOs in their jurisdiction, including sources of revenue, geographical areas of operation, types of activities, personnel and beneficiaries (ch.4);

- Elaborates a nine-part framework (see Annex A) for diagnosing, and acting to address, gaps in NPO regulation at the national level, giving emphasis to internal cooperation (i.e. among regulators, financial intelligence, law enforcement and foreign affairs officials), as well as cooperation with other states and international organizations (ch.5).

In addition, the APG report makes the important point that effective government regulation of the sector – and effective governance within the sector – can enhance the robustness of the sector beyond the threat of terrorist financing. Relatedly, a recent World Bank paper on the topic gives particular emphasis to the principle of proportionality in approaching non-profit regulation in light of the threat of terrorist financing. There, the author argues that, “In many important ways, the work of NPOs deal[s] with the conditions conducive to the spread of terrorism; therefore, it is essential that in trying to address one aspect of the terrorist threat – terrorist financing – we do not inadvertently diminish the impact of other ways of tackling the issue.”¹¹

While the FATF standard has attracted much debate, the challenge of implementation remains. Towards that end, and as these examples imply, there is a general consensus that, despite the elaboration of a global standard, there can be no “one-size-fits-all” approach to regulating NPOs. That view has certainly been confirmed throughout the current process, which has been conceived as a dialogue among key international, regional, and national actors, including representatives from the non-profit sector, to share perspectives and gather tools and good practices on preventing abuse of the sector. This initiative was launched in London in January 2011, continued in Bangkok in March, and in Auckland in November. The key findings from the London meeting are provided in Box 1, below.¹² While participants in the regional-level meetings affirmed these findings, their ability to identify good practices relevant to the regional context has proven particularly insightful. For example, past participants have described practices of outreach to the non-profit sector that build upon relationships already in place among relevant stakeholders. Similarly, different states have different mechanisms for implementing the principle of proportionality, describing a graduated series of risk assessment tools tailored to local conditions. Further, practices of interagency and international cooperation vary from state to state depending on legal, constitutional and administrative arrangements. To date, this process has demonstrated that, in each region, states are implementing good practices towards the broader goals of protecting the non-profit sector from terrorist abuse while preserving its ability to provide public goods.

Box 1: Expert working group meeting on preventing abuse of the non-profit sector for the purposes of terrorist financing, Lancaster House, London, 18-20 January 2011

Key observations of the Organizers: Summary

- Terrorists raise and move funds in diverse ways. Across different sectors of the economy, terrorists seek to abuse legitimate organizations for operations and support. Non-profit organizations (NPOs) are vulnerable to such abuse by terrorists. The primary **policy objective** in this area should be to strengthen and secure the sector, to build its capacity, and protect it from abuse, with minimum disruption to its many positive contributions.
- In many cases NPOs already take strenuous efforts to ensure that they are not open to abuse through their own systems and procedures. Governments can learn from this experience when developing new frameworks for regulating the sector and should involve NPOs in developing new laws and regulations that affect the sector.
- Best practice approaches to NPO regulation emphasize **proportionality**. That is, they seek to preserve and encourage the dynamism of the sector while mitigating the vulnerability of the sector to terrorist abuse. This may entail the utilization of **risk assessment** tools, which also enable regulators to deploy limited resources most effectively.
- **Knowledge of the sector** is critical in regulating NPOs. The sector is remarkably diverse. NPOs have strong incentives to abide by norms of good governance. Within the sector, several initiatives have emerged to improve transparency and accountability, and to reduce fraud and corruption. These are often compatible with the recent emphasis on counter-terrorist financing.
- Different frameworks for regulating the NPO sector can be found in different regions and difference jurisdictions. There can be no one-size-fits-all approach in preventing the abuse of NPOs. Some governments utilize multiple **regulatory tools** including registration and reporting requirements which provide opportunities to gather information and perform risk assessments. **Outreach** to the sector is critical to both raise awareness and underscore that NPOs are partners in this process.
- Within governments, several bodies are involved in preventing the abuse of NPOs. **Law enforcement** agencies have an important role in detecting, investigating, and disrupting abuse. Information sharing among regulators, financial intelligence units (FIUs), law enforcement, and prosecutors is vital as cases move from detection to investigation and prosecution. Different governments have evolved different mechanisms for **interagency cooperation**.
- At present, levels of compliance with **international standards** (especially the Financial Action Task Force's (FATF) Special Recommendation VIII) are low. Many states have yet to review their non-profit sector. Relatedly, while there are impediments to **international cooperation** at present, there may be opportunities to consider new mechanisms in the future.

The non-profit sector in East Africa

International concern for the vulnerability of NPOs to abuse by terrorists comes at a time of remarkable dynamism and diversity in the non-profit sector worldwide. Scholars cite a “global associational revolution” in recent decades, noting the “massive upsurge in private, voluntary activity in virtually every corner of the globe.”¹³ NPOs are active in every sphere of civic life, including in the fields of culture, the arts and recreation, education and research, health care and social service provision, development assistance and disaster relief, religion, the environment, law, advocacy and politics, and business and professional associations.¹⁴ Under conditions of globalization, and with the benefit of contemporary communications technologies, these activities are more transnational and international than ever before. As a result, NPOs are now vital actors in the global economy. Their operations represent *at least* \$2.2 trillion (USD) in expenditures annually.¹⁵ In other words, if the non-profit sector were a country, it would be the seventh largest national economy in the world. In turn, NPOs employ some 56 million full-time equivalent workers – an average of 5.6 percent of the economically active populations in the countries for which data is available. In this way, NPO employment “exceeds the workforce of many sizable industries in these countries, including utilities, construction, transport and communications, and most individual branches of manufacturing.”¹⁶

Reflecting this global trend, some observers have noted a recent “explosion of associational life in Africa.”¹⁷ This development builds upon a proud history of civil society engagement in Africa. According to Bhekinkosi Moyo¹⁸

In the majority of African countries, political liberation was supported extensively by spontaneous people’s movements, faith-based formations and various constellations of civil society. A close link existed between civil society – understood in that era as people whose civil rights were denied, self-organising for political ends – and what was to emerge as indigenous political society. From North to South, West to East, civil societies – be they legally recognised or informal – played critical roles in the dismantling of colonialism, apartheid and other forms of domination.

At the same time, most commentators on the role of NPOs in Africa note that the concept of “civil society” itself – with its origins in Western, liberal political thought – needs to be defined more broadly if it is to reflect the range of non-state actors and authorities present across the continent. These include patron-client networks, ethnic associations, self-help and cooperative groups, and traditional authorities, alongside more conventional NPOs and non-government organizations (NGOs).¹⁹ In the African context, an important distinction is often drawn between domestic and international NPOs (or NGOs), given the specific impacts of the latter in the provision of emergency relief and development aid, and in other fields, too.

Across this diverse range of actors, relations between the state and civil society organizations have not always been harmonious (see below). Still, there is some evidence that regional and subregional bodies have taken measures to engage and enhance civil society so defined. Regarding the former, the African Union has initiated an Economic, Social and Cultural Council (ECOSOCC), which has the status of an advisory body and aspires to be a “vehicle for building strong partnerships between governments and all segments of African civil society.”²⁰ Since its

launch in 2008, ECOSOCC has worked to become operational. At the subregional level, in the Khartoum Declaration, emanating out of its Eighth Summit of Heads of State and Government (2000), IGAD states encouraged the “establishment of regional associations of professional unions, Chambers of Industries and Commerce, parliamentarian unions and nongovernmental organisations (NGO’s) and Civil Societies of Member States with the aim of promoting popular participation of the civil society as important players in issues related to fundamental freedoms and the well being of our peoples.”²¹ The IGAD Civil Society Forum was subsequently launched in 2003 and some training activities, in cooperation with the UN Economic Commission for Africa, have occurred.²² The EAC Secretariat circulated a *Draft EAC Civil Society Mobilization Strategy* in March 2010, with the aim of enhancing the role of civil society in EAC integration.²³ In mid-2011 it was considered by ministers responsible for social development.²⁴ It has emerged parallel with a “Dialogue Framework,” which will entail an annual forum among private sector and civil society actors, along with EAC members and its Secretariat.²⁵ The mandates for these initiatives derive from the EAC Treaty itself which positions non-state actors as key players in regional integration generally.

While progress on some of these initiatives has been modest, they nonetheless set an important precedent for productive and consensual relations between states and NPOs in the subregion. Against this background, Table 1 provides an overview of the non-profit sector in participating countries. As the table demonstrates, the sector is now large (reflecting the “associational revolution”) with several thousand NPOs having been formed in many states. It follows from this that the sector is remarkably diverse, with organizations pursuing mandates that cover every aspect of civic life. There is also diversity in terms of state approaches to regulating the sector. Different states utilize different categorizations for civil society organizations and some states distinguish between domestic and international NGOs for regulatory purposes. While some states have legislated in this area relatively recently, others have in force laws and regulations that predate the growth of the non-government sector and the rise in international concern for terrorist financing. The agencies responsible for administering those laws also vary across states: sometimes these are specialized agencies (formed for the purpose of NPO regulation), sometimes they are existing agencies with a general scope, while in other cases they are “line” agencies (in the field of activity of specific NPOs). All of these points again underscore the dynamism and increasing prominence of the non-profit sector in the subregion.

Non-profit self-regulation in East Africa

Before moving on, it is apt to note a further development in the subregion that is reflective of global trends regarding NPO regulation: that is, increasing interest in self-regulatory measures initiated by actors within the sector itself. Mary Kay Gugerty identifies three forms of self-regulation that are particularly relevant in the African context.²⁶ First, “national systems” comprise “arrangements between governments and national NGO associations in which governments often mandate NGO participation and delegate some powers of regulatory oversight to the association.”²⁷ By advancing a mandatory framework for all NPOs within a jurisdiction, this hybrid form of self-regulation may be integrated with government regulation. Second, self-regulation may take the form of a voluntary “club,” wherein members agree to observe certain standards or participate in an accreditation or certification scheme. This form of self-regulation is more costly for participants, who nonetheless hope to realize reputational

benefits as a result of their adherence to voluntary standards. Third, voluntary codes of conduct are perhaps the most common form of self regulation. They comprise the elaboration of voluntary standards or practices to which members agree to adhere. They differ from national systems in that they are voluntary but they are also less rigorous than “clubs,” which generally require more from participants than an undertaking to comply with identified standards.

Gugerty finds several initiatives along these lines in the subregion.²⁸ For example, Kenya has a “national system” approach, wherein an umbrella body of NPOs – the NGO Council, as established by the NGO Coordination Act 1990 – has elaborated a code of conduct and has some power to enforce it and receive complaints. A second iteration of this initiative has emerged in Kenya, in the form of the Kenyan CSO Standards, which seek to provide more fine-grained advice on governance, management and financial issues. A similar approach was initially attempted in Tanzania. However, disagreement among existing NGO associations has meant that the result – “a national system with incomplete institutionalization and lacking buy-in from many NGOs in the sector” – is rather more fragmented.²⁹ In Ethiopia, attempts to establish a “national system” also remained unfulfilled, but a “voluntary club” approach, based around a code of conduct evolved. That code, which is sponsored by the largest and oldest NPO in the country, the Christian Relief and Development Agency (CRDA), is relatively rigorous compared to those in other jurisdictions and entails screening of new entrants alongside other measures to enforce its provisions. In Uganda, codes of conduct were advanced by different groups within the sector before a certification scheme was eventually promulgated in 2006.

In Africa as elsewhere, NPO self-regulation remains “an evolving and often iterative process.”³⁰ Still, for present purposes, it suffices to note that the development of these initiatives, and their diffusion over time, suggests that the non-profit sector in the subregion is both familiar with, and interested in, improving standards for governance. The prevalence of umbrella groups that are mobilized on governance-related issues, and the networks among them, support this observation, too. Improving governance within the NPO sector logically results in a positive spill-over effect for the effort to suppress terrorist financing. In this sense, states are the beneficiaries of self-regulatory initiatives. We now turn to discuss the threat of terrorism and terrorist financing that those states face.

Table 1: Overview of the non-profit sector in participating states^a

	Key legislation	Organizational forms	Regulatory agencies	No. of NPOs
Burundi ^{b, c}	Decree no.1/11 (11 April 1992)	<ul style="list-style-type: none"> Associations (excluding political and mutual benefit associations, public interest bodies or foundations) 	Interior Ministry	4000 (approx.)
Djibouti ^d	<p>Loi du 1 er juillet 1901 relatif au contrat d'association;</p> <p>Décret du 12 avril 1939 relatif à la constitution des associations étrangères;</p> <p>Loi no.48-1001 du 25 juin 1948</p> <p>Décret no.99-0285/PRE fixant les modalités d'intervention des ONG</p> <p>Loi no. 110/AN/11/6eme L relative à la lutte contre le financement du terrorisme</p>		Interior Ministry	750+

Ethiopia ^a	Proclamation to Provide for the Registration and Regulation of Charities and Societies 2009 (CSP)	<ul style="list-style-type: none"> • “Charities”, i.e. institutions established exclusively for charitable purposes and providing public benefit. (CSP, art. 14) Ethiopian law recognizes four types of charitable organizations: charitable endowments, charitable institutions, charitable trusts and charitable societies. • “Societies,” i.e. associations or persons organized on non profit making and voluntary basis formation of the rights and interests of their members and to undertake other similar lawful purposes as well as to coordinate with institutions of similar objectives (CSP, art. 55). 	Ethiopian Charities and Societies Agency	4000+
Kenya ^{a, b, e}	<ul style="list-style-type: none"> • NGO Coordination Act 1990 and its Regulations 1992 • Societies Act 1968 • Companies Act 1959 • Trustees (Perpetual Succession) Act 1982 	<ul style="list-style-type: none"> • NGOs • Societies • Company limited by guarantee (non-profit company) • Self-help (“Harambee”) groups • Trusts 	<ul style="list-style-type: none"> • NGO Coordination Board • Registrar of Societies • Department of Social Services, Ministry of Gender and Youth (for self-help groups) • Registrar of Companies • Ministry of Lands (for trusts) 	<ul style="list-style-type: none"> • 6,000+ NGOs • 70,000+ societies • The estimated size of the entire non-profit sector is 350,000 groups
Rwanda ^{a, f}	<ul style="list-style-type: none"> • Law N° 20/2000 of 26/07/2000 Relating to Non-profit Making Organizations in conjunction with Organic Law no. 55/2008 of 10/09/2008 Governing Non-Governmental Organizations 	<ul style="list-style-type: none"> • NGOs are defined broadly under current legislation, which emphasizes their non-profit states; otherwise, different types of organizations are not distinguished 	<ul style="list-style-type: none"> • Ministry of Local Government (local NGOs) • Ministry of Internal Affairs (international NGOs). • International NGOs must be recommended by line Ministries in charge of activities in their domain. 	37,000 (est.) informal groups with about 319 NPOs

Tanzania ^{b, g}	<ul style="list-style-type: none"> • NGO Act of 2002 • Societies Act, Cap. 337, R.E. 2002 • Trustees' Incorporation Act, Cap. 318, R.E. 2002 • The Companies Act No.12 of 2002 • Law of Contract Act, Cap.345, R.E.2002 • The National Sports Council of Tanzania Act of 1976 • Building Societies Act, Cap.87, R.E. 2002 • Tanganyika Law Society Act, Cap.307, R.E. 2002 • The Wakf Commissioners Ordinance, Cap.326 • The Copyright and Neighbouring Rights Act of 1999, Cap.218, R.E. 2002 (Ndumbaro 2007). 	<p>NGOs form the largest share of the civil society sector (80%) in mainland Tanzania (Zanzibar is regulated under different provisions). NPOs may take other forms including:</p> <ul style="list-style-type: none"> • societies • incorporated companies limited by guarantee (incl. without share capital) • partnerships • co-operative associations • clubs, trusts and foundations • charities and faith-based organisations. 	<ul style="list-style-type: none"> • Ministry of Community development, Gender and children (registrar of NGOs) • Ministry of Home Affairs (societies) • Ministry of Constitutional Affairs and Justice (Trusts) • Ministry of Information and Culture (sport associations and clubs) • Ministry of Agriculture and Livestock Development (agricultural associations) • Ministry of Commerce, Trade and Industries (companies limited by guarantee) 	3,755 registered NGOs
Uganda ^{a, b}	Non Governmental Organizations (Amendment) Act 2006 and the NGO Registration Regulations, SI 113-1, 1990.	<ul style="list-style-type: none"> • NGOs • Trusts • Community-based Organizations (CBOs) 	<ul style="list-style-type: none"> • Ministry of Internal Affairs (NGO Board) (NGOs) • Local government (CBOs) 	8,385 registered NGOs

Notes

- a. This table is based on the country profiles in the *NGO Law Monitor* developed by the International Center for Non-for-Profit Law (<http://www.icnl.org/research/monitor/>). In addition to the other sources cited, data on Ethiopia, Kenya, Rwanda and Uganda is drawn from country profiles in the *Monitor*. Background materials were also provided by UN Counter-Terrorism Executive Directorate.
- b. In addition to the other sources cited, data on Burundi, Kenya, Tanzania and Uganda is drawn from the country profiles provided in USAID, *2009 NGO Sustainability Index*, available at:http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/civil_society/angosi/african_ngo_sustainability_index_content_2009.html.
- c. Rene Claude Niyonkuru (2011), *Report on Laws and Regulations Governing Civil Society Organizations in Burundi*, World Movement for Democracy, available at: <http://www.wmd.org/projects/defending-civil-society/country-reports/burundi-2011-en>.
- d. Background materials provided by UN Counter-Terrorism Executive Directorate.
- e. Faith KisingaGitonga (2010) “Kenya,” *International Journal of Not-for-Profit Law*, Vol. 12 Issue 2, available at: http://www.icnl.org/research/journal/vol12iss2/special_3.htm.; USAID, *2009 NGO Sustainability Index*, Kenya country profile, available at: http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/civil_society/angosi/african_ngo_sustainability_index_content_2009.html; Charity Commission of England and Wales, Kenya country profile, available at: http://www.ngoregnet.org/country_information_by_region/Sub_Saharan_Africa/Kenya_country_page.asp.
- f. Gloria Tengeru (2010) “Rwanda,” *International Journal of Not-for-Profit Law*, Vol. 12 Issue 2, available at:http://www.icnl.org/research/journal/vol12iss2/special_5.htm.
- g. ZaaTwalangeti (2010) “The Policy and Legislative Regime for Civil Society in Tanzania,” in *(Dis)Enabling the Public Sphere: Civil Society Regulation in Africa*, edited by BhekinkosiMoyo (Southern Africa Trust/TrustAfrica: Midrand, South Africa), pp.271-83; USAID, *2009 NGO Sustainability Index*, Tanzania country profile, available at:http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/civil_society/angosi/ANGOSI_Reports/2009/2009_African_NGO_Sustainability_Index_TZ.pdf.

Terrorist financing – and state responses – in East Africa

The states of East Africa have been repeated targets of terrorism and political violence in the modern era. In the two decades between 1990 and 2010, the Global Terrorism Database records nearly 2000 violent incidents in the subregion, resulting in more than 12,000 fatalities and nearly as many injuries.³¹ Al Qaeda's deadliest attacks in the pre-9/11 era were perpetrated in the region – the 1998 bombings of the US embassies in Dar es Salaam and Nairobi, which killed 235 people and injured more than 4000. In July 2010, twin bombings in Kampala, Uganda, targeted fans watching the football World Cup, killing 60 people and injuring 35 others, and shocking the world. These attacks were claimed by al Shabaab, the Somali-based insurgent movement, and were seen as a worrying sign of its intention and ability to regionalize its use of violence beyond Somalia. Between 2007-2010 alone, al Shabaab was responsible for more than 150 incidents of violence across Somalia, as well as in Kenya, Uganda and Ethiopia, yielding hundreds of fatalities and casualties. The movement is currently subject to UN sanctions and is opposed by neighbouring states, who have intervened militarily (including through AMISOM) in support of the UN- and AU-backed Transitional Federal Government. At the time of writing, the terrorist threat in the subregion is again receiving global attention as al Shabaab continues to threaten neighbouring states and to launch attacks against their soldiers deployed in Somalia.³²

While terrorist financing in the subregion has occurred through a diverse range of sources, there is some evidence of terrorist abuse of NPOs. For example, Wadih el Hage, who was convicted in the US District Court in New York in 2001 for his role in the 1998 embassy bombings, reportedly used a relief agency – as well as front companies – as a cover while in Nairobi between 1994-97.³³ More recently, the UN Security Council's Monitoring Group on Somalia and Eritrea has described al Shabaab's main revenue streams as: taxation and extortion; commerce, trade and contraband; diaspora support and; external assistance.³⁴ But the group has also engaged in aggressive fund-raising efforts, including enforced *zakaat* contributions, which it has sought to justify as "charity." Perhaps most notably, the Monitoring Group detailed the role of a few community-based organizations active in supporting al Shabaab through fundraising and training in neighboring countries, especially Kenya.³⁵ At the same time, al Shabaab has a record of obstructing, diverting, extorting and hijacking humanitarian assistance, as well as kidnapping and expelling humanitarian workers in Somalia.³⁶

As these developments make clear, there is a demonstrated and compelling need for NPO protection in the subregion. But while the risks in the region are relatively high, compliance with the FATF standard is extremely low. On each of the aspects of good practice identified in this area as part of this process to date – outreach, risk assessment, proportionality, enforcement, interagency cooperation, etc. (recall Box 1) – current practices in the region are significantly out of step with global standards or non-existent. Here, data from the mutual evaluation reports undertaken by the regional FATF-style regional body – the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) – from 2007 to the present provides a useful overview of regional trends.³⁷ Fifteen mutual evaluations have been conducted on ESAAMLG states over this period (i.e. the entire membership of ESAAMLG has been reviewed once). Of the fifteen, only three jurisdictions were rated partially compliant; the remaining twelve were assessed as noncompliant. As this suggests, most states have not taken the first step towards compliance by undertaking a review of the non-profit sector in their jurisdiction. In the cases where there are

existing regulatory and law enforcement practices regarding NPOs, they diverge considerably from the FATF standard. Even in light of the low levels of compliance with SRVIII globally, this is a relatively weak level of compliance and, for example, compares poorly with states other regions.

Challenges in implementing global standards in East Africa

It follows that improving compliance with the FATF standard is a major challenge for many states in the subregion, some of whom face constraints in terms of their capacity to implement such measures. In this section, we survey two further challenges that characterize non-profit regulation in East Africa: contentious relations between states and civil society and; the influence on extra-regional actors on NGO activity in the region, especially in Somalia.

State-civil society relations in East Africa

Discussions at the London, Bangkok and Auckland workshops suggested that NPO regulation is most likely to yield positive results when states and civil society actors are able to identify points of consensus regarding the problem of terrorist financing and how to address it. In many settings, however, consensus between states and civil society organizations can prove elusive. Rather, as scholars of government-NPO relations have argued, those relations tend to be variable and may be complementary (i.e. the two sectors work in partnership), supplementary (the two sectors work separately) or adversarial at different points in time.³⁸ It is of course unrealistic to expect that state-civil society relations can be consistently harmonious across the breadth of NPO activity, but it is imperative to consider ways through which confidence and trust can be built among stakeholders in this field. These dilemmas are felt particularly sharply in the Global South, where lower levels of economic development and partial or incomplete transitions from authoritarianism to democratic rule are more likely to prevail.³⁹

Against this background, a comprehensive search of the literature, commentary and current debates on civil society in East Africa reveals a persistent concern: that in the last decade or so, some states have introduced laws or other measures to constrain the scope and operation of civil society and that this has negatively impacted rights to freedom of speech and association. Many analysts observe the influence of politics here, arguing that⁴⁰

state-civil society relations are fluid and have been changing historically between pivotal moments in history and between various encounters. In some instances, the relations have moved from co-operation to adversity and back to co-operation. In others, the relations have moved from supporting each other during the liberation environment to that of suspicion, both under one-party states and in today's multi-party systems. The new trend, however, is for states to revisit old laws – most enacted by colonial regimes – with the view to tightening them so that it is easier to control associational life.

Indeed, the rise in interest among NPOs in self-regulatory measures is sometimes interpreted as a hedge against the vicissitudes of government regulation.⁴¹ While there is much variation among states in the subregion, and while there are efforts underway in some states to review and reform laws on NPOs, observers generally criticize existing regulatory approaches under three headings.⁴² First, registration practices in some states are onerous, requiring that all groups must

register (even those conducting informal activities only). This can undermine the right to freedom of association and provides the opportunity for governments to intervene to change the mandate of newly forming groups. In some countries, registration requirements are burdensome or unclear, entailing the provision of large amounts of documentation, the imposition of high fees and, often, long delays. As a further disincentive, some countries require that NPOs re-register at given intervals, again increasing the costs of engaging in civil society activities. Some states require a large number of founders while others give the government a broad discretion that can be exercised in considering requests for registration. Still other states require that would-be NPOs provide letters of recommendation from government officials, guarantors or promoters. NPO laws in some states do not specify the precise criteria for permitting or denying registration, thereby increasing the discretion of government officials.

Second, regarding monitoring and oversight, practices in some states are unduly invasive. For example, NPO laws in some states allow broad investigatory powers, to be deployed at the discretion of officials. Similarly, in some states, governments may intervene in governance and internal process within NPOs, for example, as concerns their hiring decisions. Some state's laws go so far as to impose the requirement that NPOs seek approval before undertaking programmatic activities, or they ban certain activities altogether.

Third, regarding foreign-based NGOs, some states limit their activities while others impose additional registration requirements. Relatedly, some states impose limits on the amount of foreign funds that can be received by domestic NGOs. In some states, international NGOs have been expelled or denied access as a response to political events.

These are serious concerns. Overcoming these dilemmas, and building state-civil society relations in the direction of greater comity, will require time and effort. Promising steps are being taken in this direction in several states. Our point in raising these matters here is to facilitate the process of identifying consensus among key stakeholders, knowing that NPO regulation that is not risk-based and in accordance with the principle of proportionality is also unlikely to achieve the objective of securing the non-profit sector against terrorist abuse.

Challenges to humanitarian action from outside the region

A second challenge in approaching the topic of NPO regulation in East Africa derives from the policies of actors *outside* of the subregion, especially those in the North that are donors of development and humanitarian assistance, and in whose jurisdictions many international NGOs are registered or headquartered. To date in this paper, we have described the situation in Somalia in terms of instability, conflict and the risk of terrorism and extremism. But it should not be forgotten of course that the situation in Somalia remains among the gravest humanitarian crises in the world today, as a result of famine, drought, poverty, disease, food and water shortages, displacement and human rights violations.⁴³ The co-occurrence of violent extremism and humanitarian crisis in Somalia creates a dilemma for states that seek to facilitate (directly or indirectly) the provision of humanitarian relief while at the same time pursuing policies to deny resources to terrorists and extremists. To date, however, the responses of some states have had the effect of contributing more confusion and uncertainty in an already difficult and complex environment.

Perhaps the highest-profile example of this trend concerns the United States, whose laws and policies necessarily impact other states and actors engaged in the subregion.⁴⁴ US criminal law, broadened by the PATRIOT Act after 9/11, prohibits the provision of assistance – or “material support” – to terrorist groups generally and to designated “Foreign Terrorist Organizations” (FTOs) in particular. These measures came into the spotlight in 2010 when the US Supreme Court, in the case of *Holder vs. Humanitarian Law Project*, affirmed the constitutionality of the “material support” law as regards FTOs, taking a broad interpretation of the forms that “support” might take and clarifying that the intention of the donor is irrelevant to the application of the law, i.e. it is enough for the provider of assistance to know that the organization in question is an FTO. But beyond elaborating these points, the *Holder* decision did little to clarify the precise scope of humanitarian activities that might be covered by the “material support” law, including where terrorist groups are not designated as FTOs (i.e. some groups may be designated under other legal mandates or not designated at all). These concerns are especially pressing for INGOs active in Somalia. After all, al Shabaab is listed as an FTO and, as outlined above, part of its modus operandi is to misappropriate aid. Therefore, there is a sense in the humanitarian community that, if NGOs are unable to make assurances that the assistance they provide will not find its way to al Shabaab, they may be liable for prosecution. The US’ assertion of extra-territorial jurisdiction in these matters underscores these concerns. Further, the reach of the “material support” provisions is potentially vast and covers conspiracy to provide material support, and aiding and abetting the provision of material support. As a consequence, the uncertainty surrounding the “material support” provisions has had a negative impact upon funding levels, while also increasing compliance costs, undermining relations between INGOs and local communities, and imposing barriers upon the coordination of humanitarian assistance. Some observers estimate that funding to humanitarian operations in Somalia has decreased by half between 2008 and 2011. The overall effect is to impede humanitarian operations: “Combined with al Shabaab’s hostility towards aid agencies and the uncertain security environment, these external measures have led to a progressive deterioration in humanitarian access since 2008, with humanitarian organizations becoming increasingly unable to operate in al Shabaab-controlled areas.”⁴⁵

The US and other states have taken some measures to ensure that exemptions to such provisions can be granted. Under US law, such exemptions may be sought for medicine and religious materials, and humanitarian organizations may request exemption from the Secretary of State in concurrence with the Attorney General in some circumstances. But these provisions are cast narrowly and analysts foresee barriers in implementing them.⁴⁶ More promising, perhaps, is the emerging range of due diligence practices that are now being required by donor states. For example, USAID has proposed a “Partner Vetting System” that would require grant applicants to provide information on its local partners, although this has attracted some resistance from NPO advocates regarding how that information would be used and with whom it might be shared.⁴⁷ Other states have taken slightly different approaches, for example, by writing language into grant contracts to require additional due diligence procedures regarding operational partners and to report any suspicion of association with terrorist or extremist groups.

For its part, the UN Security Council has endeavoured to act in such a way as to facilitate the provision of emergency relief by NGOs in Somalia by creating an exemption for humanitarian

actors to the financial sanctions imposed by resolution 1844 (2008), para. 3. The Council explicitly condemns the “politicization, misuse and misappropriation of humanitarian assistance by armed groups” (resolution 1916 (2010), para. 4). The exemption is limited to certain organizations and covers the “United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the UN General Assembly that provide humanitarian assistance or their implementing partners” (resolution 1916 (2010), para. 5). In this way it was anticipated that humanitarian agencies would be able to operate in the region without the fear of being found to be in breach of the sanctions. The Council also requested that the UN Humanitarian Aid Coordinator for Somalia report every 120 days on the implementation of the exemption and on any impediments to the delivery of humanitarian assistance in Somalia. These reports reveal that the UN and humanitarian agencies operating in Somalia have made an investment in risk mitigation and compliance procedures and staff, to ensure that assistance is not misused or misappropriated.⁴⁸ Indeed, in attempting to gauge the impact the Council’s actions on the ability of humanitarian agencies to deliver relief, the Coordinator recently surveyed them, finding that:

The general consensus seems to be that though funding delays occurred initially, the resolutions have had a limited impact on stopping funding overall. The perception of some organizations is that the humanitarian exemption clause in the resolutions has enabled them to continue to operate, particularly in central and southern Somalia. There is general agreement that Member States’ national counter-terrorism legislation has had greater impact on the ability to access funds.

In sum, the policies adopted by some donor states to resolve the tension between humanitarian assistance and denial of terrorist financing has had the effect of adding uncertainty, especially concerning humanitarian action in Somalia. Still, attempts by the Security Council to ensure humanitarian access in spite of sanctions against al Shabaab appear to be yielding results. In light of these developments, an important part of any dialogue about non-profit regulation in East Africa is to engage donors and INGOs, alongside other stakeholders within the subregion. One proposal here is to clarify donors’ existing legal provisions and work towards the elaboration of a framework of principles to guide the actions of states and INGOs on this difficult issue.

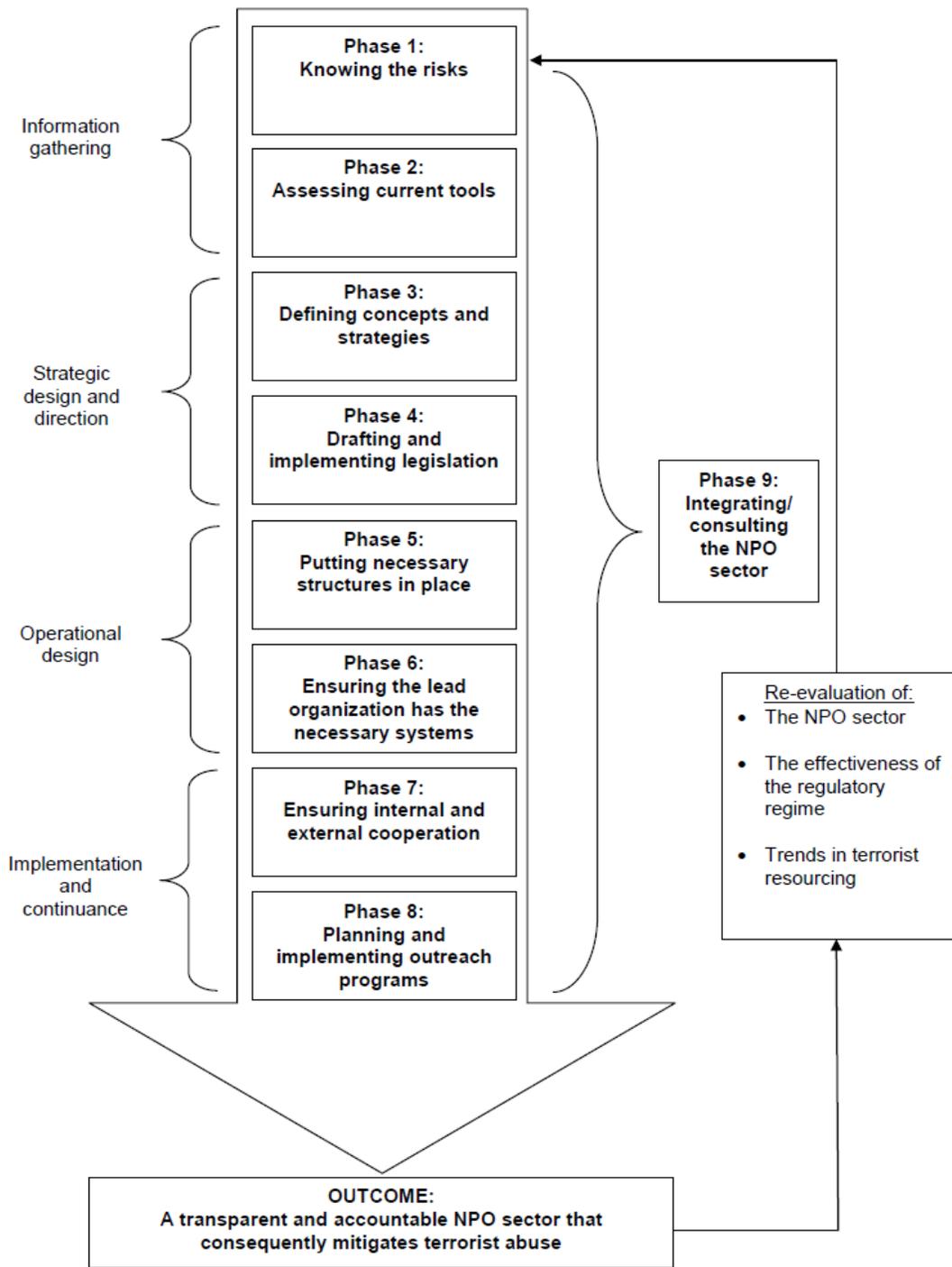
Conclusion: Identifying opportunities to build consensus and capacity

Over the last decade or so, counterterrorism has been accorded high priority on the agendas of international, regional, and functional organizations. A prominent part of this trend has been the effort to counter the financing of terrorism and, within that, measures to reduce the risk of terrorist abuse of the non-profit sector. At the global and regional levels, the NPO sector remains vulnerable to terrorist financing. To protect it, various measures both of a preventive and reactive nature are being taken. States in East Africa face several challenges in developing and implementing policies towards civil society organizations. But there is no “one size fits all” approach to regulating NPOs against the risk of terrorist abuse, and global measures must often be rendered to local conditions. In this regard, it should be emphasized that promoting opportunities for charitable giving and reducing the risk that the sector is abused for illicit purposes are in no way mutually exclusive goals. Quite the contrary, raising awareness of the risk of terrorism financing, building strong regulatory tools and enforcement practices to prevent abuse, and prosecuting those who are complicit or using NPOs for an illegal purpose are part of

the same process and contribute to encouraging charitable giving by reassuring donors that their money will not be misused.

A key objective of this process is to build consensus and capacity. For this reason, dialogue is vital at many levels: between regulators and NPOs but also between regulators, law enforcement, and intelligence agencies. When states come to regulate NPOs, public security, market integrity, and revenue maximization are frequently among their concerns. There is also a need for advisory and support services to assist NPOs to carry out their activities lawfully, in accordance with their stated purpose, and in a manner which reduces overall systemic risk.

**FIGURE 1
A STRATEGIC FRAMEWORK FOR NPO REGULATION**



NOTES

¹ A/RES/60/288 (8 September 2006).

² Formerly the IGAD Capacity Building Program Against Terrorism (ICPAT).

³ See Eric Rosand, Alistair Millar and Jason Ipe, *Implementing the UN Global Counter-Terrorism Strategy in East Africa* (Center on Global Counterterrorism Cooperation, 2008), p.4.

⁴ Ken Menkhaus, "A thousand fatwas for Somalia's al-Shabaab," *The Global and Mail*, 5 November 2011.

⁵ Report of the Monitoring Group on Somalia and Eritreapursuant to Security Council resolution 1916 (2010), S/2011/43, see annexes 2 and 7.

⁶ Jamal Osman, "Al-Qaida's public show of aid to Somali drought refugees," *The Guardian*, 1 November 2011.

⁷ Statement by CTC Chairman, Ambassador Hardeep Singh Puri, Remarks at the Special Meeting of the Counter-Terrorism Committee commemorating the adoption of Security Council resolution 1373 (2001) and the establishment of the Committee, New York, 28 September 2011.

⁸ See FATF, *Combating the Abuse of Non-Profit Organizations: International Best Practices*, October 2002 and; FATF, *Interpretative Note to Special Recommendation VIII: Non-Profit Organizations*, February 2006. Note also the FATF's *Methodology for Assessing Compliance with the FATF 40 Recommendations and FATF 9 Special Recommendations*, updated February 2009.

⁹ For example, the Charity Commission of England and Wales developed a "compliance toolkit" (http://www.charitycommission.gov.uk/Our_regulatory_activity/Counter_terrorism_work/protecting_charities_landing.aspx), and the US Treasury (<http://www.treasury.gov/resource-center/terrorist-illicit-finance/Pages/protecting-index.aspx>) and the Australian Government (*Safeguarding your organisation against terrorism financing: A guidance for non-profit organisations*, Canberra, 2009) have also issued guidance.

¹⁰ Available at <http://www.apgml.org/documents/docs/6/NPO%20Sector%20Vulnerabilities.pdf>.

¹¹ Emile van der Does de Willebois (2010) *Nonprofit Organizations and the Combatting of Terrorism Financing: A Proportional Response*, World Bank Working Paper No. 208 (Washington, DC: World Bank), p.vii.

¹² All other documents from this process are available on the website of the Center on Global Counterterrorism Cooperation at http://www.globalct.org/ourWork_projects_preventing_abuse.php.

¹³ Lester M Salamon, S. Wojciech Sokolowski and Regina List (2004) "Global Civil Society: An Overview," in Salamon, Sokolowski and Associates, *Global Civil Society: Dimensions of the Nonprofit Sector* (Bloomfield, CT, USA: Kumarian Press), p.3; Lester M. Salamon (1994) "The Rise of the Nonprofit Sector," *Foreign Affairs*, Vol. 74, no. 3, pp.109-122.

¹⁴ See the Johns Hopkins Comparative Nonprofit Sector Project's "International Classification of Non-profit Organizations": Salamon, Sokolowski and Associates, *Global Civil Society*, Appendix C.

¹⁵ This figure, from the Johns Hopkins Comparative Nonprofit Sector Project, reflects data gathered in 40 countries only. See Lester M. Salamon (2010) "Putting the Civil Society Sector on the Economic Map of the World," *Annals of Public and Cooperative Economics*, Vol. 81 No. 2, p. 187.

¹⁶ Salamon, "Putting the Civil Society Sector on the Economic Map of the World," p.187. Employment numbers reflect data gathered in 42 countries.

¹⁷ Michael Bratton, *Civil Society and Political Transition in Africa*, Institute for Development Research (IDR) Reports Vol. 11, No. 6 (1994), p.6 (<http://www.worlded.org/docs/Publications/idr/pdf/11-6.pdf>), as cited in International Center for Non-Profit Law, "NGO Laws in Sub-Saharan Africa," *Global Trends in NGO Law*, Vol. 3 Issue 3 (2011), p.1 (<http://www.icnl.org/research/trends/trends3-3.pdf>).

¹⁸ Bhekinkosi Moyo (2010) "Governing the Public Sphere: Civil Society Regulation in Africa," in *(Dis)Enabling the Public Sphere: Civil Society Regulation in Africa*, edited by Bhekinkosi Moyo (Southern Africa Trust/TrustAfrica: Midrand, South Africa), p.5.

¹⁹ Stephen Orvis (2001) "Civil Society in Africa or African Civil Society?" *Journal of African and Asian Studies*, Vol. 36 Issue 1, pp.17-38; Howard J. Wiarda (2003) *Civil Society: The American Model and Third World Development* (Westview Press: Boulder, CO), esp. ch.4.

²⁰ African Union, "About ECOSOCC," available at <http://au.int/en/organs/ecosocc>.

²¹ The declaration is available at <http://reliefweb.int/node/74608>. Some

²² Abdalla Hamdok, "Training on Capacity Building of CSOs in the IGAD Region," United Nations Conference Centre, Addis Ababa, 3 October 2011. Available at http://www.uneca.org/eca_resources/Speeches/2011_speeches/111003_speech_Hamdok.html.

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- ²³The *Draft Strategy* is available at http://www.eac.int/gender/index.php?option=com_content&view=article&id=52:mobilization-strategy&catid=37:helpinfo&Itemid=72.
- ²⁴Eric Kabeera, "EAC Ministers to discuss regional framework," AllAfrica.com, 3 July 2011, available at: <http://allafrica.com/stories/201107040808.html>.
- ²⁵EAC Secretariat, "Private Sector, Civil Society Develop Framework to Engage EAC," 9 November 2011, available at: <http://www.eac.int/about-eac/eacnews/849-cs-develop-framework-to-engage-eac.html>.
- ²⁶Mary Kay Gugerty (2010) "The emergence of non-profit self-regulation in Africa," *Nonprofit and Voluntary Sector Quarterly*, Vol. 39 No. 6, pp. 1087-1112.
- ²⁷Gugerty, "The emergence of non-profit self-regulation in Africa," p.1089.
- ²⁸Gugerty, "The emergence of non-profit self-regulation in Africa," pp.1097-1106.
- ²⁹Gugerty, "The emergence of non-profit self-regulation in Africa," p.1102.
- ³⁰Gugerty, "The emergence of non-profit self-regulation in Africa," p.1109.
- ³¹These data were drawn from the Global Terrorism Database (GTD) (<http://www.start.umd.edu/gtd/>).
- ³²Among the many recent headlines, see "Kenya on edge as terror attack threat looms," *USA Today*, 10 January 2012; "Truck bomb explodes at Ethiopian military base in Somalia, al-Shabab claims attack," *The Washington Post*, 24 January 2012.
- ³³"Embassy bombings trial revealed bin Laden link," CNN.com, 16 October 2001.
- ³⁴Report of the Monitoring Group on Somalia and Eritrea, pp.27-31.
- ³⁵Report of the Monitoring Group on Somalia and Eritrea, Annex 2 (pp.140-79).
- ³⁶Report of the Monitoring Group on Somalia and Eritrea, Annex 7 (pp.315-52).
- ³⁷Three participating states – Kenya, Tanzania and Uganda – are members of ESAAMLG, whereas others are not members of any FATF-style regional body.
- ³⁸Dennis R. Young (2006) "Complementary, Supplementary or Adversarial? Nonprofit-Government Relations," in Elizabeth T. Boris and C. Eugene Steurle (eds.) *Nonprofits and Government: Collaboration and Conflict* (Washington DC: Urban Institute Press), pp.37-79. See also: AdilNajam (2000) "The Four Cs of Third Sector-Government Relations: Cooperation, Confrontation, Complementarity and Co-optation," *Non-profit Management and Leadership*, Vol. 10 No. 4, pp. 375-96 and; Moyo, "Governing the Public Sphere," pp. 10-11.
- ³⁹Wiarda, *Civil Society*, ch.4.
- ⁴⁰Moyo, "Governing the Public Sphere," pp.14-15.
- ⁴¹Gugerty, "The emergence of non-profit self-regulation in Africa."
- ⁴²This passage draws upon International Center for Not-for-Profit Law, "NGO Laws in Sub-Saharan Africa," *Global Trends in NGO Law*, Vol. 3 Issue 3 (2011), p.1 (<http://www.icnl.org/research/trends/trends3-3.pdf>). Similar arguments are advanced elsewhere, including David Cortright et al. (2011) *Friend not Foe: Opening Spaces for Civil Society Engagement to Prevent Violent Extremism*, 2nd ed (Cordaid/Fourth Freedom Forum).
- ⁴³Updates on the humanitarian crisis in Somalia are available from ReliefWeb: <http://reliefweb.int/taxonomy/term/216>.
- ⁴⁴This discussion draws upon Sara Pantuliano et al. "Counter-terrorism and humanitarian action: Tensions, impact and ways forward," Humanitarian Policy Group Brief No.43 (Overseas Development Institute), October 2011. See also: Claude Brauderlein et al., "Humanitarian Action under Scrutiny: Criminalizing Humanitarian Engagement," Working Paper, Program on Humanitarian Policy and Conflict Research, Harvard University, February 2011; David Cortright et al. (2011) *Friend not Foe*; Sarah Margon, "Unintended Roadblocks: How US Terrorism Restrictions Make it Harder to Save Lives," Center for American Progress, November 2011 and; Elizabeth A. Bloodgood and Joannie Tremblay-Boire (2010) "NGO Responses to Counter-Terrorism Regulations after September 11th," *International Journal of Not-For-Profit Law*, Vol.12 No.4, pp.5-19. For further resources on this topic, see the Charity and Security Network website: <http://www.charityandsecurity.org/issue/material%20support>.
- ⁴⁵Sara Pantuliano et al. "Counter-terrorism and humanitarian action," p.9.
- ⁴⁶Claude Brauderlein et al., "Humanitarian Action under Scrutiny," pp.21-22.
- ⁴⁷For an update on these issues, see the Charity and Security Network website: <http://www.charityandsecurity.org/PVS>.
- ⁴⁸See UN docs. S/2011/694 (10 Nov. 2011), S/2011/125 (14 March 2011), S/2010/580 (23 Nov. 2010) and S/2010/372 (12 July 2010) containing reports of the UN Resident and Humanitarian Coordinator.