Combating Transnational Financial Repression: Evidence for Reforming AML/CFT Laws

By Jorge Jraissati
President, Economic Inclusion Group

In partnership between:

ECONOMIC INCLUSION GROUP

IRI INTERNATIONAL REPUBLICAN INSTITUTE
Advancing Democracy Worldwide

January 2025

The current report is a working draft. The final version of this research will be published by the International republican Institute.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

Acknowledgments: The Economic Inclusion Group and International Republican Institute (IRI) are grateful to the research partners and interview respondents who contributed to this policy report. This research was prepared by Jorge Jraissati, President of the Economic Inclusion Group, with input and guidance from Utpal Misra, Senior Governance Manager of the International Republican Institute.

The Economic Inclusion Group deals with complex policy issues related to financial exclusion, regulatory barriers, and geoeconomic risks. EIG's main area of expertise lies in the importance of improving some regulations related to anti-money laundering (AML) and countering the financing of terrorism (CFT). Besides blocking people's access to banking, these regulations are stifling innovation and undermining international business. Perhaps more concerning, some AML/CFT rules are becoming tools for censorship and surveillance. They are even enabling foreign regimes to undermine the rule of law of democracies like the United States and the European Union.

The International Republican Institute's mission is to advance freedom and democracy worldwide and stand up against an axis of autocracies – including China, Cuba, North Korea, Iran, Russia – who are working together against American interests. IRI's work is fundamental to the national security of the United States as an important part of America's soft-power arsenal.

About the Author

Jorge Jraissati is the President of the Economic Inclusion Group (EIG), a nonprofit organization dealing with complex policy issues related to financial exclusion, regulatory barriers, and geoeconomic risks. EIG is becoming the world's expert on "de-banking" issues, including the weaponization of the U.S. financial sector by foreign regimes. Jorge is also a researcher at Florida Atlantic University College of Business and IESE Business School.

More Information

For more information, you can visit econinclusion.com or email Jorge Jraissati at jorge@econinclusion.org

Disclaimer:

The information herein reflects the author's expertise and the most reliable data available at the time of writing. However, this report does not constitute legal advice, and neither the author nor the Economic Inclusion Group or the International Republican institute shall be liable for any actions taken based on its content.

The Economic Inclusion Group and the International Republican Institute are not responsible for the content of this publication, or for any use that may of it. The views expressed herein are those of the author alone.

This report is supported by the International Republican Institute (IRI).

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

TABLE OF CONTENTS

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

EXECUTIVE SUMMARY

While there have been some efforts in recent years to prevent forms of transnational repression by foreign regimes in the United States, there remains a significant gap in understanding how the U.S. financial system is being abused as a tool for censorship and surveillance. Kleptocrats from different parts of the world are exploiting a series of global financial rules to repress their opponents not only within their borders but also inside the territory of the United States. This situation is putting at risk the safety of all people and organizations in the U.S. This is particularly true for policymakers dealing with foreign affairs, political refugees from autocratic countries, and entrepreneurs doing business abroad.

This form of transnational repression is done by the abuse of a series of global financial guidelines related to anti-money laundering (AML) and counter-terrorism financing (CFT). By bending these regulations to their will, foreign actors target their opponents across borders by (1) blocking their bank accounts, (2) freezing their assets, (3) penetrating their financial data, and (4) launching lawfare campaigns.

These forms of transnational repression are executed by foreign regimes by abusing the principle of trust that the U.S. extends to other states in legal areas related to international security, including counter-terrorism financing (CFT) laws and anti-money laundering (AML) regulations. Given the seriousness of these crimes, democracies place *trust in promise* in the intelligence and legal requests from autocratic states, operating under the assumption that these are submitted in good faith. Unfortunately, there is increasing evidence that numerous states are using this degree of cooperation to repress people and organizations transnationally.

Another issue is that both AML and CFT regulations are intended to address highly complex transnational crimes that are difficult to track and require immediate response. Due to the urgency of these offenses, the laws typically incorporate provisions allowing states - whether democratic or autocratic - to bypass requirements for formal judicial approval or substantial evidence to initiate enforcement. The transnational and administrative nature of these laws makes them particularly vulnerable to exploitation for transnational repression, allowing autocratic regimes to misuse them under the guise of legitimate security cooperation.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

In addition, non-state actors now have the tools to financially repress their business or political opponents. In essence, individuals and organizations become susceptible to "de-banking" and other forms of financial repression when they are targeted by misinformation campaigns designed to tarnish their reputations. These campaigns disseminate false allegations linking the victims to money laundering and terrorism financing, thereby exploiting the customer due diligence protocols of the private sector. Such unsubstantiated accusations elevate the perceived risk profiles of the targets, prompting financial institutions to issue compliance warnings during routine transactions. As a result, affected parties frequently face significant hurdles in accessing employment, grants, business partnerships, and even basic banking services. This phenomenon not only leads to financial exclusion but also undermines the broader capacity of legitimate businesses and individuals to participate fully in economic life.

To prevent the weaponization of AML/CFT laws, this policy brief proposes lawmakers in the U.S. Congress, policymakers in the U.S. Government, members of the G7 Rapid Response Mechanism (RRM) Transnational Repression Working Group, regulators in the Financial Action Task Force (FATF), and other relevant institutions to initiative reforms that:

1) Establish a "Red List" of Jurisdictions Under the Monitoring of AML/CFT abuses: This list will include all countries where AML/CFT laws are used for domestic and transnational repression. This list will naturally include autocratic regimes. It will also include weak democracies that cooperate with autocratic regimes on these tactics. This is important to develop regulatory mechanisms to prevent cases of transnational repression "by proxy."

2) Stop All AML/CFT Cooperation with "Red-Listed" Countries: All countries in the "Red List" should be revoked the privilege of cooperating with democracies on matters related to AML/CFT. Democracies must not trust the intelligence provided by "red-listed" countries about individuals and organizations accused of money laundering, terrorist financing, or other crimes. Democracies must also not fulfill the legal requests made by these countries. By trusting autocrats, their FIUs, and the "private" banks owned by individuals connected with these regimes, democracies allow dictators to inject into Western judicial systems politically motivated allegations. This form of "injustice laundering" can take the form of politically motivated Mutual Legal Assistance (MLA) requests or abusive civil and criminal complaints based on proceedings initiated in autocratic judicial systems.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

3) Establish a Special License for High-Risk Individuals: This license will protect individuals and organizations from the weaponization of their finances. This is especially important for policymakers, human rights activists, etc. The proposed mechanism would address this issue by conducting a special assessment of the individual in question. If a person passes this assessment, they will receive a special license to ensure his or her financial inclusion. Additionally, this license should prevent banks from sharing the person's private data, given their special protections.

4) Hold Crime Facilitators Accountable: Democracies have to hold accountable people and organizations within their jurisdictions who facilitate forms of transnational repression, whether through legal, financial, or other means. Addressing this issue is key, as regimes often use Western intelligence to commit these crimes. They use Western companies, for example, to circumvent sanctions, fabricate lawfare cases, and spread misinformation. Respond to transnational repression in a principled manner and do not take a political or selective approach

5) Create Remedies for Broadcast Reprisals: publicizing the abuse of AML/CFT laws by the victims often causes even more financial exclusion in Western countries. This makes lawyers usually advise people not to raise awareness of these injustices. Addressing this problem requires policymakers to protect those willing to speak out and research this subject. It is necessary to find regulatory means to protect victims who give such testimonies from financial exclusion after disclosure of information on the victim of AML/CFT abuse.

6) Incorporate the Views of Civil Society: All relevant regulatory bodies responsible for developing and assessing the implementation of AML/CFT laws should include in this process a transparent way for civil society to participate. These bodies are currently outside the scope of human rights due to the mandate of the FATF and the UN Counter-Terrorism Committee Executive Directorate (CTED). We need a clear provision for assessing the protection of human rights. The OSCE HDIM, OSCE PA, and the US Congress should be platforms for AML/CFT reform and broad consultation with victims and civil society to prevent these abuses and establish compensation mechanisms.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

INTRODUCTION

The world is currently experiencing the consolidation of an increasingly unstable and authoritarian global order. This is reflected not just in the number of autocratic states, as 72 percent of the global population now lives under authoritarian rule, compared to 46 percent in 2012. It is also evident in the expansion of their geopolitical capabilities, including their power to repress citizens and organizations transnationally.

Kleptocratic regimes increasingly violate the rights of individuals abroad, including in liberal democracies such as the United States. Victims of transnational repression often include political dissidents and refugees, undermining U.S. protections for those fleeing political persecution. Additionally, policymakers working on sensible subjects like sanctions policy and conflict negotiations are often targets of transnational repression. Candidates and public officials in democracies are also targeted, as autocrats want to manipulate electoral outcomes and disrupt the functioning of democratic institutions. Businesspeople are also at risk, as their economic interests may conflict with those of foreign oligarchs, making them targets of transnational repression. This situation also extends to journalists, donors, and the family members of all the aforementioned groups.

Although some forms of transnational repression are well-documented, there remains a significant gap in understanding regarding an increasingly prevalent method of such repression: the weaponization of global anti-money laundering and countering the financing of terrorism (AML/CFT) laws. Given that the existing mechanisms are based on "trust" among the nation states, and do not require formal court decisions to respond to official requests made by countries related to money laundering and terrorist financing, kleptocratic regimes are abusing the global AML/CFT framework to repress people and organizations not only domestically but also transnationally. They are doing so by directly accusing their opponents of money laundering and terrorist financing without evidence, or by sponsoring disinformation campaigns with similar claims. This process laws allows kleptocrats and malicious actors to transnationally (1) block bank accounts, (2) freeze assets, (3) penetrate their financial data, and (4) launch lawfare campaigns. All these capabilities compromise the security of people and entities in the United States, as the legal system does not offer remedies for people being targeted in these ways.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

To help prevent these abuses, this policy brief explains the key AML/CFT vulnerabilities that autocratic regimes systematically exploit to engage in transnational repression. It does so by examining the "40 Recommendations" of the Financial Action Task Force (FATF), which is the G7 body responsible for establishing the global standards to combat money laundering and the financing of terrorism.[1] Analyzing the FATF Recommendations is key, as these guidelines determine the AML/CFT laws of virtually all countries (over 200 jurisdictions). The policy brief then provides concrete policy solutions to protect the U.S. rule of law and market economy from the weaponization of its financial system by foreign kleptocrats.

METHODOLOGY

This policy brief is an attempt to provide the first comprehensive report on the weaponization of AML/CFT for transnational repression purposes. Its analysis and findings are based on several cases of this form of abuse, ranging from autocracies like Nicaragua to weak democracies like Turkey.[2] Details of these cases were provided by the victims of abuse themselves, as the Economic Inclusion Group has interviewed over 80 people (1:1 male to female ratio) on this subject in 2024. The interviewees span over 30 countries and include former presidential candidates, decorated human rights lawyers, reputable academics, and well-known nonprofit organizations. To explain each form of transnational financial repression, this policy brief details the original intent of the AML/CFT guideline, its weaponization, and testimonies that show its real-life consequences.

Since early 2023, the author of this policy brief (Jorge Jraissati) has been cooperating on this subject with key policymakers in the Parliamentary Assembly of the Council of Europe (PACE) and the Organization for Security and Co-operation in Europe Parliamentary Assembly (OSCE PA). Given their human rights and security expertise, these policymakers have been a source of advise, expertise, and recommendations. Their insights have been essential for the writing of this policy brief.

For example, Jraissati's input was critical for the OSCE PA to issue a special article (art. 161) in its Vancouver Declaration of July 2023 that urged "OSCE

1 https://www.fatf-gafi.org/en/home.html

2 https://link.springer.com/article/10.1007/s12286-022-00536-6

participating States to ensure that Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) mechanisms are not used as tools of transnational repression to stifle dissent or target human rights defenders, anti-corruption campaigners, exiled dissidents and diaspora communities, taking into account the potential unintended consequences of prevention-focused AML/CFT regulations and their side effects, including the potential for increased financial exclusion and further malicious exploitation of strict AML/CFT and related provisions."[3] Similarly, in October 2023 and April 2024, PACE initiated two Motion for Resolutions after meeting with Jorge and his colleagues. These resolutions are titled "Tools to prevent and address transnational repression" and "fighting back against transnational repression." Both state the weaponization of AML/CFT laws for transnational repression.[4,5]

While our testimonies and policy insights shed light on the diverse manifestations of financial transnational repression, this field remains significantly underexplored. A considerable stigma still surrounds the discussion of this form of repression, often deterring victims from speaking out due to fear of retaliation or societal judgment. To advance both awareness and policy, it is essential to create safe and inclusive platforms for open dialogue, where victims can freely share their experiences without fear of reprisal.

WHY SHOULD POLICYMAKERS FOCUS ON AML/CFT REFORM?

In recent years, there have been some efforts to prevent forms of transnational repression. The 118th United States Congress, for example, introduced several bills that recognize the abuse of INTERPOL as a form of transnational repression.[6,7,8] Congress correctly identified that by using INTERPOL's interstate legal cooperation mechanisms, authoritarian regimes have been engaging in

3 https://www.oscepa.org/en/documents/annual-sessions/2023-vancouver/declaration-29/4744-vancouver-declaration-eng/file

4 https://pace.coe.int/en/files/33081/html

5 https://pace.coe.int/en/files/33626/html

6 https://www.congress.gov/bill/118th-congress/house-bill/3654

7 https://www.congress.gov/bill/118th-congress/senate-bill/831

8 https://uscode.house.gov/view.xhtml?req=(title:22%20section:263b%20edition:prelim)%20OR%20(granule-id:USC-prelim-title22-section263b)&f=treesort&edition=prelim&num=0&jumpTo=true

transnational lawfare, extraterritorial detentions, and other forms of cross-border operations.[9] For this reason, Section 6503 of the National Defense Authorization Act (2022) prohibits "any U.S. government department or agency from extraditing an individual on the sole basis of an INTERPOL Red Notice or wanted persons diffusion."[10]

However, the reality is that these efforts are insufficient. In attempting to reform INTERPOL, policymakers are merely addressing the symptoms rather than tackling the root cause of the issue. The systemic problem is that autocratic states exploit the principle of trust that democracies extend to them in legal areas related to international security, including counter-terrorism financing (CFT) laws, anti-money laundering (AML) regulations, cybersecurity laws, and regulations to prevent online child sexual abuse.[11,12,13,14,15] Given the seriousness of these transnational crimes, democracies place *trust in promise* in the intelligence and legal requests from autocratic states, operating under the assumption that these are submitted in good faith.[16]

Additionally, these legal areas are intended to address highly complex transnational crimes that are difficult to track and require immediate response. Due to the urgency of these offenses, the laws typically incorporate provisions allowing states - whether democratic or autocratic - to act swiftly, bypassing requirements for formal judicial approval or substantial evidence to initiate enforcement. The transnational and administrative nature of these laws makes them particularly vulnerable to exploitation for transnational repression, allowing autocratic regimes to misuse them under the guise of legitimate security cooperation.

9 In 2021, the Helsinki Commission of the United States Congress proposed a bi-partisan piece of legislation to "fortify U.S. systems against INTERPOL abuse and would require that we use our influence to push for due process and transparency reforms at INTERPOL."

10 https://uscode.house.gov/view.xhtml?req=(title:22%20section:263b%20edition:prelim)%20OR%20(granule-id:USC-prelim-title22-section263b)&f=treesort&edition=prelim&num=0&jumpTo=true

11 https://aliyildizlegal.com/wp-content/uploads/2022/09/barcode_ija-report-weaponization-of-anti-terror-financing--measures.pdf

12 https://defendcivicspace.com/wp-content/uploads/2023/06/SRCT_GlobalStudy.pdf

13 https://en.odfoundation.eu/a/37290,moldovas-theft-of-the-century-ostensible-investigations-or-sincere-lust-for-justice/

14 https://en.odfoundation.eu/a/8188,the-captured-state-politically-motivated-prosecution-in-moldova-and-usurpation-of-power-by-vladimir-plahotniuc/#7-the-case-of-alexandru-machedon

15 https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad

16 https://www.unodc.org/documents/organized-crime/Publications/Mutual_Legal_Assistance_Ebook_E.pdf

This means that even if policymakers address the abuse of INTERPOL, autocratic and kleptocratic regimes will merely shift their focus to other legal frameworks that can be similarly exploited for transnational repression under the pretext of countering terrorism financing, money laundering, cybersecurity, and other transnational threats. The Parliamentary Assembly of the Council of Europe (PACE), for example, has noted the weaponization of the European Union's Schengen Information System (SIS).[17] The European Parliament in its 2024 annual report on Human Rights and Democracy in the World emphasized the tendency of the misuse of counter-terrorism or anti-corruption laws to suppress journalists and civil society groups worldwide.[18] This shows that addressing the issue of transnational repression requires policymakers to reform the underlying laws that enable regimes to abuse the goodwill and trust of democracies.[19] In other words, they have to reform these sensitive laws, including AML, CFT, and cybersecurity.

Due to the novel and emerging nature of this phenomenon, the majority of U.S. policymakers are unaware of this critical information, which significantly impairs their capacity to effectively promote democracy on a global scale, safeguard the rule of law at home, and ensure the safety of their citizens. This policy brief aims to rectify this situation by explaining the abuse of AML/CFT recommendations, which should also be discussed at the G7 Rapid Response Mechanism (RRM) Transnational Repression Working Group.

WHAT ARE AML/CFT LAWS?

In almost all jurisdictions, countries design their AML/CFT regulations based on the 40 Recommendations of the Financial Action Task Force (FATF). The FATF Recommendations "ensure a coordinated global response to prevent organized crime, corruption, and terrorism." The FATF monitors countries to ensure they not only have the right legal and institutional frameworks in place but also that the standards are implemented "fully and effectively."[20]

17 https://pace.coe.int/en/files/30221/html

18 https://www.europarl.europa.eu/doceo/document/AFET-PR-763138_EN.pdf

19 https://www.statewatch.org/media/2928/interpol-ga-civil-society-resolution-16-11-21.pdf

20 https://www.fatf-gafi.org/en/the-fatf/what-we-do.html

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

Over 200 countries and jurisdictions have committed to implement the FATF's Recommendations.[21] Although the FATF guidelines are not legally binding under international law, countries that fail to comply with AML/CFT standards may experience diminished levels of foreign direct investment, capital inflows, development aid, borrowing capacity, and other key drivers for economic growth and fiscal stability.[22] According to de Koker et al. (2022), when the FATF places a jurisdiction under increased monitoring (the so-called "greylisting" label), it may cause "economic and social harms that may not be fully appreciated by the FATF and its development stakeholders." In other words, their research suggests that the negative consequences for a country not being compliant with FATF may be even harsher than anticipated by the FATF regulators.[23]

For this reason, the FATF Recommendations have been adopted in virtually all jurisdictions. As of September 2024, only three countries are on the FATF "black list" of "countries or jurisdictions with serious strategic deficiencies to counter money laundering, terrorist financing, and financing of proliferation." These three countries are Iran, Myanmar, and North Korea. Additionally, there are only 21 countries in the FATF "grey list" of "jurisdiction under increased monitoring," including autocracies like Burkina Faso and Venezuela, corrupt democracies like Nigeria and South Africa, and even European Union members like Croatia and Bulgaria. This underscores the critical importance of compliance with FATF Recommendations, as no state seeks association with regimes such as Venezuela, which has been formally accused by the U.S. Department of Justice (DOJ) of "narco-terrorism, corruption, drug trafficking, and other criminal charges."[24]

In addition to their global scope, the FATF Recommendations are defined by their cross-border dimension, as they are intended to enable governments to identify and disrupt criminal organizations operating across multiple continents. The guidelines are also deliberatively broad, providing flexibility to account for cultural and contextual variations between countries. Additionally, AML// CFT standards also grant governments the administrative discretion to enforce these rules without requiring court approval, as they are designed to allow rapid responses to urgent terrorist threats, where immediate intervention is critical.[25]

21 https://www.fatf-gafi.org/en/the-fatf/what-we-do.html

22 https://www.mdpi.com/2227-9091/11/5/81

23 https://www.mdpi.com/2227-9091/11/5/81

24 https://www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged--narco-terrorism

25 For example, according to the FATF Recommendation 4, "countries should enable competent authorities to freeze and seize criminal property and property of corresponding value without a court order, with such action reviewable through judicial proceedings within a period of time."

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

FORMS OF TRANSNATIONAL FINANCIAL REPRESSION

HOW ARE AML/CFT LAWS ABUSED?

There are four key ways in which autocratic regimes exploit FATF Recommendations to extend their transnational repression of individuals and organizations: Arbitrary Asset Freezing; Economic and Financial Exclusion; Exploitation of Financial and Personal Privacy; and Transnational Lawfare.

1. ARBITRARY ASSET FREEZING

Autocratic regimes use AML/CFT laws to freeze the assets of individuals, their associates, and organizations, not just within their own borders, but also on a global scale, including bank accounts. The most commonly abused instrument is the FATF Recommendation 4 "Confiscation and provisional measures", which allows states to freeze or confiscate assets without the need for a judicial decision on money laundering claims. Recommendation 38 "Mutual legal assistance: freezing and confiscation" expands the scope of this power, as it mandates states to support each other in these efforts, enabling states to freeze assets transnationally.[26] Through manipulating these global standards, autocrats can completely paralyze individuals and organizations - now unable to meet their financial and tax obligations in their new countries.

Intent of the Recommendation:

According to FATF Recommendation 4, states are required to implement measures for the freezing, seizure, and confiscation of criminal proceeds, including provisional measures, to target and disrupt the flow of illicit funds.[27] Compliance with this recommendation compels jurisdictions to establish legal

26 https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Best%20Practices%20on%20%20Confiscation%20and%20a%20Framework%20for%20Ongoing%20Work%20on%20Asset%20Recovery.pdf.coredownload.pdf

27 "Countries should adopt measures similar to those set forth in the Vienna Convention, the Palermo Convention, and the Terrorist Financing Convention, including legislative measures, to enable their competent authorities to freeze or seize and confiscate the following, without prejudicing the rights of bona fide third parties: (a) property laundered, (b) proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences, (c) property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations, or (d) property of corresponding value." https://www.cfatf-gafic.org/documents/fatf-40r/370-fatf--recommendation-4-confiscation-and-provisional-measures

mechanisms that enable law enforcement authorities to "provisionally" freeze the assets of individuals and organizations suspected of money laundering or terrorist financing without the need for a criminal conviction.[28] The purpose of this discretionary power is to prevent criminals from dissipating or concealing their assets during the investigation process.

Similarly, the FATF Recommendation 38 mandates states to cooperate on identifying, freezing, seizing, managing, and confiscating assets based on money laundering and terrorist claims.[29] This means states can confiscate assets internationally through their mutual legal assistance frameworks.[30] The logic behind this guideline is the transnational nature of money laundering and terrorist financing. Additionally, the FATF allows states to not only confiscate the direct proceeds of crime but also seize assets of equivalent value when the original proceeds cannot be located. This includes assets that have been transferred to third parties, as the goal is to close commonly used loopholes to conceal their assets.

Abuse of Recommendation:

By using AML and CFT accusations, autocratic regimes are therefore able to abuse these recommendations to freeze and confiscate the assets of opposition members, independent media, and nongovernmental organizations, among others. Researchers at the Economic Inclusion Group have collected cases of this form of abuse in several countries, including Nicaragua, Myanmar, and China.

In Nicaragua, Félix Maradiaga provided testimony about the authoritarian abuses of the Ortega Regime. Maradiaga is a Trustee of Freedom House, a former political prisoner and presidential candidate in Nicaragua. According to his testimony, the Ortega regime has closed and expropriated 5,000 nonprofit organizations on money laundering grounds since 2018, confiscating assets worth $250 million. This practice also reached religious institutions, given

28 Countries should consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction (non-conviction based confiscation), or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law.

29 https://www.cfatf-gafic.org/index.php/documents/fatf-40r/404-fatf-recommendation-38-mutual-legal-assistance--freezing-and-confiscation

30 According to the FATF Recommendation 38, "countries should ensure that they have the authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered; proceeds from money laundering, predicate offences and terrorist financing; instrumentalities used in, or intended for use in, the commission of these offences; or property of corresponding value. This authority should include being able to respond to requests made on the basis of non-conviction-based confiscation proceedings and related provisional measures, unless this is inconsistent with fundamental principles of their domestic law.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

their opposition to the regime. The Catholic Church, for example, had its bank accounts frozen in Nicaragua. Eleven pastors were also convicted this year on money laundering claims, facing over a decade in prison and a fine worth $80 million.[31]

According to his testimony, Félix was first a victim of financial repression in Nicaragua. AML/CFT accusations led to his incarceration on 8 June 2021. Thanks to the pressure of the Nicaraguan people and the international community, Felix was released from prison on 9 February 2023 and sent to the United States, where he was able to reunite with his family. On the day of his release, Nicaragua's legislature, controlled by Daniel Ortega's dictatorship, amended the Constitution to strip Félix Maradiaga and 221 other political prisoners of their nationality. This measure was later extended to 96 additional individuals, including Félix Maradiaga's wife, Berta Valle. That same day, the Nicaraguan Supreme Court, an institution completely devoid of independence, with justices who are members and officials of the ruling Sandinista Party, issued a judicial order confiscating all properties belonging to those targeted by this arbitrary revocation of their Nicaraguan citizenship.

Felix also noted that he had already been a victim of asset confiscation during a prior unjust trial between June and December 2018. During that time, he was stripped of all his bank accounts, savings instruments, shares, and stakes in Nicaraguan companies. Additionally, the Nicaraguan government seized the assets of the "Institute for Strategic Studies and Public Policies (IEEPP)," which Maradiaga had directed, including vehicles, high-value IT equipment such as servers, and bank accounts. Similarly, bank accounts of companies in which Maradiaga held minority shares were also confiscated.

Similarly, according to the Canadian researcher, Roger Huang, this form of authoritarian abuse is used frequently in China. In his testimony, he explained that in China, people have been suspended from the digital wallet WeChat for discussing politically sensitive topics. The same happened transnationally with the Hong Kong protestors.[32] Several of them (including lawmakers) had their bank accounts frozen by China's request following their participation in demonstrations or in the broader democracy movement. The CEO of HSBC, Noel Quinn, personally wrote a letter to a former Hong Kong legislator whose bank account was frozen apologizing for their actions.[33]

31 https://adfinternational.org/news/mountain-gateway-nicaragua

32 https://hongkongfp.com/2024/06/10/exclusive-hsbc-closed-accounts-of-jailed-2019-democracy-protesters-without--providing-a-reason/

33 https://www.ft.com/content/38e3bf36-94f6-4f6f-a5a9-eadac529738c

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

Huang explains:

> "The Chinese Communist Party (CCP) uses financial control as a tool for political repression. The introduction of the digital yuan/e-CNY, a central bank digital currency (CBDC), is designed to further integrate financial data with state surveillance mechanisms. This allows the government to exert even greater control over financial activities. The digital yuan is an attempt to extend this control into everyday financial transactions, making it even harder for individuals to evade surveillance - and given Hong Kong's recent integration into the e-CNY/digital Yuan, a stark warning sign."

> According to the entrepreneur and Financial Freedom Fellow of the Human Rights Foundation, Win Ko Ko Aung, the Burmese military regime in Myanmar "has also been using extensively the financial system for repressive purposes, intimidating activists and journalists alike." Unlike autocratic states like Russia or Nicaragua, Myanmar was actually added by the FATF to its "black list" of "countries or jurisdictions with serious strategic deficiencies to counter money laundering, terrorist financing, and financing of proliferation."

Win explains that the Myanmar regime began using this form of repression in 2021. Since then, "the personal information and locations of activists, journalists, and educators were traced, and their bank accounts were frozen to cut off support for democratic forces." Among those targeted was Win himself because he actively participated in the decentralized movement against the military coup. "Due to my substantial social media influence, I faced severe political persecution. All my personal details, including his name, photo, national ID, and address, were broadcast on state-controlled TV and newspapers, and my bank accounts were frozen."

Ismail Mesut Sezgin, a Turkish opposition member and researcher, explains how the Turkish government of Erdogan represses people transnationally using CFT laws:

> "On 21 December 2021, Turkey's President Recep Tayyip Erdogan issued a presidential decree in which I was enlisted as a member of what the Turkish government defines as "Fethullahist Terrorist Organisation" (FETO). To fight any dissent, the regime in Turkey routinely labels innocent people as terrorists. As a result, my assets in Turkey were frozen and seized and my name was put on a financial blacklist internationally without any due process. Every financial institution, even in the West, in the UK, started

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

> treating me as if I were a terrorist. The fact that my name has been added to a Turkish terror list destroyed my financial situation, and subsequently, my business and my well-being.
>
> "To fight any dissent, the regime in Turkey routinely labels innocent people as terrorists. This has had a detrimental effect on my business and has caused immense stress. Every financial institution, even in the West, like Wise and Western Union, blocked my business accounts and started treating me as if I were a terrorist. The same situation occurred with TSB Bank when I inquired about a possible mortgage. The mortgage expert said she would look into my case in light of the notes in my report but admitted that it would be very difficult to process a successful application in my case. So, right now, I cannot continue with my studies, work as a self-employed entrepreneur, or have access to regular financial products such as a loan or a mortgage."[34]

Overall, the authoritarian abuse of this measure can paralyze human rights defenders, non-profit directors, and other individuals involved in democracy promotion. By restricting or freezing their access, regimes make it nearly impossible for freedom advocates to continue their crucial work. Whether they are paying legal fees to fight politically motivated lawsuits (such as SLAPP cases) or simply covering operational costs for their organizations, the inability to access funds puts freedom advocates at grave risk.

2. ECONOMIC AND FINANCIAL EXCLUSION

Autocrats use AML/CFT laws to indirectly exclude individuals and organizations from the economy and financial system, on an international scale. By spreading targeted misinformation accusing people of crimes related to money laundering and terrorism financing, autocrats manipulate the FATF Recommendation 10 "Customer due diligence," which requires financial institutions to conduct background checks on their clients. These accusations trigger compliance warnings whenever the targeted individuals try to engage in economic activities, blocking them from obtaining employment, grants, business partnerships, and even a bank account.[35] This process is often exacerbated by FATF Recommendation 21 "Tipping-off and confidentiality," which prohibits financial institutions and their associates from disclosing the reasons behind a person's

34 https://en.odfoundation.eu/combating-financial-exclusion-and-work-of-btc-coalition/ismail-mesut-sezgin/

35 https://www.fatf-gafi.org/content/dam/fatf-gafi/images/guidance/Updated-2017-FATF-2013-Guidance.pdf

financial exclusion, as they fear that such information could unintentionally "compromise future efforts to investigate the suspected money laundering or terrorist financing operation."[36]

Intent of the Recommendation:

Under the FATF Recommendation 10, financial institutions are mandated to perform customer due diligence (CDD) measures to prevent the misuse of the financial system for money laundering and terrorist purposes. Compliance with this recommendation requires institutions to identify and verify their customers' identities through "reliable and independent" data sources, a process commonly referred to as "Know Your Customer" (KYC).

Additionally, Recommendation 10 requires enhanced measures for customers categorized as "high-risk" following their initial risk assessment. This heightened scrutiny, known as "Enhanced Customer Due Diligence," is a process that involves more frequent and thorough reviews of these clients, gathering more information through "public databases and the internet," as well as obtaining approval from senior management for onboarding or continuing the relationship with these clients, among other compliance actions.

Abuse of Recommendation:

Although well-intentioned, these additional requirements inadvertently turn these clients into disproportionate risks for financial institutions and their executives, not to mention the associated costs. If a bank is found to be used for money laundering or terrorist financing, the entity and its executives will face severe consequences. This includes hefty monetary fines that can lead to bankruptcy and regulatory sanctions that can severely restrict business operations. Senior executives can even face criminal charges, or a lifetime ban from the financial sector. This is because, by law, they must adhere to strict standards of ethical conduct, competence, and integrity under the "fitness and propriety" requirements of banking. These standards ensure that executives are capable of managing banks responsibly and ethically. However, the subjective nature of these evaluations increases the risk of executives being accused of failing them, especially in the ethical criteria.

For this reason, virtually all financial institutions have a "zero-risk" approach to clients that could breach AML/CFT regulations. This means that clients requiring Enhanced Customer Due Diligence tend to be rejected by financial institutions,

36 https://www.cfatf-gafic.org/index.php/documents/fatf-40r/376-fatf-recommendation-10-customer-due-diligence

especially if they are middle-income earners like most public officials, human rights lawyers, and activists. By doing so, these individuals and their organizations effectively lose their access to even a basic payment account. Autocrats are aware of and take advantage of this vulnerability. They exclude freedom advocates from the financial system, globally, by spreading targeted misinformation - accusing freedom advocates of crimes related to money laundering and terrorism financing.

When autocrats spread this misinformation, financial institutions collect their content through their automated systems like the Refinitiv World-Check Risk Intelligence database and LexisNexis Risk Solutions. This dramatically increases the risk assessment of these freedom advocates, leaving banks with a choice to make. On the one hand, they can manually review countless pieces of propaganda (often generated with artificial intelligence daily in multiple languages), which could even lead to the criminal prosecution of their executives. On the other hand, they can simply deny their services to these activists and their organizations. In almost all cases, financial service providers will choose to terminate the relationship, in a process known in the financial sector as "de-risking."

Felix Maradiaga is also an example of transnational "de-risking" during his current exile in the United States. Policymakers would think that Felix would be free from repression as a political refugee. However, despite numerous attempts from Felix, he continued facing severe financial challenges. Given the AML/CFT accusations of the Ortega Regime, plus the fact that his nationality was taken away from him, Maradiaga found himself unable to even open a bank account in the United States. For over three years, Felix resided there without access to a bank account. It was only through the intervention of the U.S. Congress and the National Endowment for Democracy (NED), which issued a formal letter on his behalf, that he was eventually able to access the financial system.

Similarly, the case of the Open Dialogue Foundation (ODF), a human rights NGO registered in Belgium, provides a vivid example of transnational "de-risking." ODF defends political activists and victims of torture and political persecution and exposes severe human rights violations and the misuse of international cooperation mechanisms by three states: Kazakhstani, Moldovan during the rule of oligarch Plahotniuc and Poland under the party of Jaroslaw Kaczynski. For this reason, ODF became a target of politically motivated persecution, legal harassment, and disinformation and smear campaigns, which falsely alleged that ODF was engaged in money laundering. These persecution, harassment, and smear campaigns were organized as retaliation by these three illiberal

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

regimes. Consequently, all of ODF's bank accounts in Belgium, as well as those of its employees, volunteers, accountants, and lawyers were closed due to these public smear campaigns.

Despite these challenges, which have been taking place for the past seven years, ODF has won all its court disputes, including multiple libel cases, and has successfully disproven all allegations against it. Moreover, the Chamber of Basic Banking Services in Belgium intervened, mandating a major Belgian bank to provide a basic bank account to ODF. However, without providing a written refusal or justification, the bank orally refused to open such an account for ODF. Unfortunately, the existing EU legal framework does not promote financial inclusion, nor does it offer effective and efficient solutions for preventing unwarranted de-risking or restoring bank accounts.[37]

In all these cases, the impact of these misinformation campaigns extends far beyond their financial exclusion, infiltrating multiple economic dimensions. Targeted individuals face significant barriers when attempting to engage in even basic economic activities. Since no economic actor wants to risk breaching AML/CFT laws, persecuted citizens are often unable to obtain employment, grants, business partnerships, and even rent an apartment. This method of financial exclusion is particularly insidious because it operates within the framework of legal compliance yet effectively paralyzes dissidents in exile. By cutting off all avenues of economic participation, this action is the most effective and invisible form of transnational repression.

3. EXPLOITATION OF FINANCIAL DATA AND PERSONAL PRIVACY

Autocrats use AML/CFT laws to access the personal data of citizens and entities globally, including sensitive banking information and transaction histories. They exploit the FATF Recommendation 29 "Financial Intelligence Units." This guideline not only allows Financial Intelligence Units (FIUs) to gather information on individuals they label as suspicious; it also encourages FIUs to request and share this information with foreign authorities. By abusing sensitive details like locations and financial connections, autocrats can inflict economic harm and

37 https://en.odfoundation.eu/a/725781,building-true-change-btc-coalition-submission-on-the-eu-proposal-for-a-regulation-on-the-prevention-of-money-laundering-or-terrorist-financing/

physical harassment on freedom advocates, posing a serious threat to their security and undermining their protections as political refugees.[38]

Intent of the Recommendation:

The FATF Recommendation 29 urges states to have a centralized system for gathering and processing financial intelligence under the pretext of combating AML/CFT crimes. It proposes the establishment of Financial Intelligence Units (FIUs), which is the national body of each state responsible for analyzing all financial data related to suspected financial crimes. FIUs have the authority to request financial institutions for information about citizens and organizations.

Recommendation 29 also emphasizes the importance of effective information exchange between Financial Intelligence Units (FIUs) across different jurisdictions to detect and combat cross-border financial crimes. This allows authorities in one country to request and share both financial and non-financial information related to individuals, organizations, and entities operating in or connected to other countries. The types of data typically exchanged include details about a person's assets (such as securities, real estate, and other holdings), transaction histories (including amounts, recipients, and dates), and personal information (such as passports, addresses, and identification documents).[39]

Abuse of Recommendation:

In principle, the recommendation expects Financial Intelligence Units (FIUs) to be "free from any undue political, government or industry influence or interference, which might compromise [their] operational independence."[40] However, most countries in the world are authoritarian. This means that, in practice, most Financial Intelligence Units (FIUs) operate as extensions of the political agenda of the ruling party. They empower autocrats by allowing them to access the personal data of citizens, including their opponents.

By exploiting sensitive information such as locations and financial connections, autocrats are able to repress citizens even beyond their borders. Dictators can economically sabotage exiled activists by targeting their financial networks. Autocrats can gather intelligence on their opponents' businesses or non-profit

38 https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf

39 According to the FATF 40 Recommendations, FIUs use "Strategic analysis uses available and obtainable information, including data that may be provided by other competent authorities, to identify money laundering and terrorist financing related trends and patterns."

40 https://www.cfatf-gafic.org/index.php/documents/fatf-40r/395-fatf-recommendation-29-financial-intelligence-units

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

organizations, so they can harm associates, donors, lawyers, and clients. Additionally, they can manipulate or fabricate evidence to support false criminal charges. Even more troubling, autocrats can use this data to physically harass and intimidate freedom advocates across borders, leveraging knowledge of home addresses and purchasing patterns to carry out transnational repression.

According to Jaroslav Likhachevsky, co-founder of the New Belarus platform and Bysol Foundation:

> "The Belarusian regime has abused FATF recommendations on AML/CFT preventive measures to gain access to financial records from Lithuania and Poland as evidence. Belarus abuses FATF recommendations on AML allegations as a pretext to collect financial information from Western democracies. On 29 August 2023, Alexander Lukashenko signed a decree on measures to counteract unauthorized payment transactions that should give law enforcement agencies of Belarus unorganised access to the financial information of Belarusian residents. This law will become another tool for political repression in Belarus."[41]

The New York Times similarly reported that "back in 2021, the Polish prosecutor's office sent to Belarus the details from the Polish bank account of the prominent activist, Ales Belyatsky, as part of a routine information request, despite warnings from the foreign ministry to treat such requests with caution. The government of Lithuania also passed on similar information to Belarus and has also apologized. The revelations were an embarrassment for the two European Union members. Poland's prime minister was forced to hastily apologize after it emerged that his government had apparently unwittingly aided in the arrest of a prominent human rights activist in Belarus by supplying banking information to officials in the authoritarian former-Soviet republic."[42]

These attacks represent a serious threat to the security of human rights activists in exile, undermining the protections afforded by their asylum status, which should guarantee safety from political persecution and state-sponsored harassment. By leveraging FIUs, autocratic regimes effectively violate the sovereignty and rule of law in democratic countries, circumventing the safeguards intended to protect political refugees. Moreover, this form of transnational repression extends beyond activists. All citizens are vulnerable, particularly those involved in democracy promotion, public policy, and humanitarian work. American businesspeople,

41 https://en.odfoundation.eu/a/724918,submission-to-fincen-us-digital-asset-aml-act/

42 https://www.nytimes.com/2011/08/13/world/europe/13poland.html

for example, are also at risk - as foreign competitors could collude with their regimes to initiate financial attacks of this kind.

4. TRANSNATIONAL LAWFARE

Autocrats use AML/CFT laws to perpetrate transnational lawfare under the pretense of AML/CFT violations to undermine the political refugee protection institute and overall judicial system of Western countries. The FATF Recommendation 3 "Money laundering offense" and Recommendation 5 "Terrorist financing offense" allow for pre-trial detentions on a global scale. Recommendation 37 "Mutual legal assistance" facilitates broad inter-state legal cooperation, and Recommendation 39 paves the way for extradition requests.[43] All these mechanisms compromise the physical security of political refugees and their entourages, whose extradition would guarantee their torture and even killing. It also poses a risk to their financial well-being, as autocrats can drain their resources with numerous legal actions against every critic, including citizens of Western democracies.

Intend of the Recommendation:

Under the FATF Recommendation 3, states are required to implement measures to prosecute money laundering, ensuring that all activities that generate illicit proceeds are included as predicate offenses. The purpose of these laws is to ensure that both the act of money laundering and its facilitation are criminalized. Similarly, Recommendation 5 compels countries to criminalize the financing of terrorism. It asks jurisdictions to empower law enforcement authorities to pursue individuals and organizations engaged in financing terrorism, even if the funds have not been directly linked to a specific terrorist attack. It aims to block financial support for terrorist activities at all stages, thereby hindering terrorist networks and their operations from accessing necessary resources.

The scope of these Recommendations is expanded with the FATF Recommendation 37, which fosters mutual legal assistance (MLA) frameworks between states. These allow states to collaborate in legal proceedings related

43 According to the FATF, "countries should rapidly, constructively and effectively provide international cooperation in relation to information, including beneficial ownership information, on trusts and other legal arrangements on the basis set out in Recommendations 37 and 40. This should include (a) facilitating access by foreign competent authorities to any information held by registries or other domestic authorities; (b) exchanging domestically available information on the trusts or other legal arrangement; and (c) using their competent authorities' powers, in accordance with domestic law, in order to obtain beneficial ownership information on behalf of foreign counterparts."

to AML/CFT. Similarly, the FATF Recommendation 39 enables the extradition of individuals suspected of money laundering or terrorist activities. Extradition requests based on AML/CFT grounds usually proceed only if both countries criminalize the underlying conduct, even if the offense is categorized differently or described by different terminology in the requesting and requested states.[44]

Abuse of Recommendation:

Autocratic regimes exploit these recommendations to engage in transnational lawfare, using legal systems to target and suppress political refugees and dissidents across borders. By combining these recommendations with modes of interstate legal cooperation, such as INTERPOL and the Schengen Information System (SIS), regimes can execute pre-trial detentions across borders.[45,46,47] They are also able to initiate legal proceedings in numerous jurisdictions, financially draining their opponents. Additionally, the abuse of Recommendation 39 paves the way for extradition requests by autocratic states, resulting in the risk of torture and even death for those targeted.

In 2022, the European Parliament stressed the need to have a solution for the issue of autocrats abusing inter-state mechanisms such as INTERPOL. The majority of the requests to INTERPOL were falsely justified with the need to combat money laundering or terrorist, extremist financing in order to paralyze critics abroad: freezing their assets, properties, and bank accounts, initiating pre-trial arrests for many years.[48],[49] In response to these violations, the European Parliament proposed "to revoke the access rights of the Russian Federation and Belarus to Interpol's systems, as their actions are a direct threat to international law enforcement cooperation and constitute a serious breach of fundamental rights."[50] According to Kyle Parker, policy director of the U.S. Helsinki Commission, a human rights body of the U.S. Congress, for countries

44 The FATF Recommendation 39 states that "where dual criminality is required for extradition, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence."

45 https://en.odfoundation.eu/content/uploads/i/fmfiles/raporty/25-02-2019-odf-report-unlawful-extraditions-eng-1.pdf

46 https://pace.coe.int/en/files/30221/html

47 https://verfassungsblog.de/schengen-entry-bans-for-political-reasons-the-case-of-lyudmyla-kozlovska/

48 https://www.icij.org/investigations/interpols-red-flag/interpols-red-notices-used-some-pursue-political-dissenters--opponents/

49 https://www.voanews.com/a/as-interpol-turns-100-criticism-persists-over-abuse-of-its-red-notice-system/7105037.html

50 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022IP0275

that want to abuse INTERPOL, "it's a way to extend their arm to harass opponents – political or economic."[51]

According to the Open Dialogue Foundation, the administrative authorities of Poland (during the Law and Justice Party's rule) arbitrarily classified foreigners who criticized the government as a "threat to national security." As a consequence, these foreigners lost their right to stay in Poland and the European Union. They were also denied international protection or deprived of their freedom.[52] This is what happened in the case of Lyudmyla Kozlovska, which resulted in her deportation to Ukraine.[53] For many years, the human rights activist from Ukraine was banned from entering Poland for security reasons and restricted in her ability to run her foundation. As it turned out, the Head of the Office for Foreigners, who included her on the list, did not verify the information sent by the National Security Agency and neglected to independently assess whether the entry on the list was justified. As a consequence of the Polish listing and SIS II, there were also problems for Lyudmyla Kozlovska in other Schengen countries.

Over the years, the case has gone to court three times. In 2019, the Voivodship Administrative Court in Warsaw (WSA) ruled for the first time that the classified information underlying the listing was insufficient and too vague. Again, in 2021, the WSA in Warsaw overruled the decisions of the Head of the Office for Foreigners and ordered the authority to assess the entire circumstances of the case. The judgment was subsequently upheld by the Supreme Administrative Court. In the latest judgment, issued on 28 November 2023 (ref. no. IV SA/Wa 2067/23), the WSA in Warsaw not only overruled the appealed decision of the Head of the Office for Foreigners, but also obliged him to issue a certificate that the foreigner's data are not on the list of foreigners whose residence on the territory of the Republic of Poland is undesirable. The WSA noted that "the authority limited itself only to asking the Head of the ABW to send new evidence and it was the Head of the ABW who was ordered to refer to the Court's guidelines, forgetting that it is the authority itself that is obliged to comprehensively consider the evidence in the case."[54]

In all these cases, the risk of extradition or even kidnapping as presented above

51 https://www.icij.org/investigations/interpols-red-flag/interpols-red-notices-used-some-pursue-political-dissenters--opponents/

52 https://hfhr.pl/aktualnosci/naduzywanie-przeslanki-zagrozenia-dla-bezpieczenstwa-panstwa-ws-cudzoziemcow

53 https://wyborcza.pl/7,162657,31211364,bilans-walki-aktywistow-z-panstwem-pis-bartosz-kramek-o.html

54 https://en.odfoundation.eu/a/574365,the-supreme-administrative-court-the-ban-on-lyudmyla-kozlovskas-entry-into--poland-is-unjustified/

is enabled by the flexibility each state is given to define and interpret offenses under its own legal framework. For instance, while Recommendation 3 requires states to criminalize the laundering of the proceeds of predicate crimes, the issue arises in how "predicate crimes" are defined. There is nothing preventing states from labeling as a predicate offense activities such as fundraising online, holding a public event without state approval, or receiving donations from abroad.

The flexible interpretation of the Dual Criminality Principle in Recommendation 39 exacerbates this deficiency. By allowing extradition to proceed as long as both countries criminalize the underlying conduct, even if the offenses are categorized or labeled differently, regimes can manipulate this principle to target political dissidents or activists. Vague or overly broad laws in some countries, such as those criminalizing dissent under terms like "terrorism" or "public disorder," can be used to justify extradition requests that are politically motivated.

Since FATF Recommendation 3 mandates countries to apply money laundering charges to the "widest range of predicate offenses," autocratic regimes can exploit this broad scope to criminalize a variety of activities that may not traditionally be considered criminal. Similarly, the recommendation urges authorities to include ancillary offenses, including "participation in, association with or conspiracy to commit, attempt, aiding and abetting, facilitating, and counselling" AML/CFT violations.[55]

This broad interpretation allows regimes to prosecute individuals or organizations merely for their connection to someone accused of money laundering, even if they were not directly involved in the alleged criminal activity, further extending the reach of political repression under the guise of financial crime enforcement. Regimes manipulate the law to go after friends, family members, or even organizations that support political dissidents. This form of abuse particularly endangers international foundations and charity organizations, as their operations will be compromised as this practice becomes more common.

PACE in its special report and resolution "Interpol reform and extradition proceedings: building trust by fighting abuse" presented a number of cases of abuse on the grounds of security threats or money laundering. It stressed that "apart from extradition requests, interstate mutual legal co-operation mechanisms – such as the Schengen information system – are also subject to misuse and

55 The FATF Recommendation 3 states that "there should be appropriate ancillary offences to the offence of money laundering, including participation in, association with or conspiracy to commit, attempt, aiding and abetting, facilitating, and counselling the commission, unless this is not permitted by fundamental principles of domestic law."

may result in violations of privacy, property, professional rights and deprivation of liberty, particularly under the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) as well as the 2000 United Nations Convention against Transnational Organized Crime".[56,57]

POLICY RECOMMENDATIONS

To prevent the weaponization of AML/CFT laws, this policy brief proposes lawmakers in the U.S. Congress, policymakers in the U.S. Government, members of the G7 Rapid Response Mechanism (RRM) Transnational Repression Working Group, regulators in the Financial Action Task Force (FATF), and other relevant institutions to initiative reforms that:

1) Establish a "Red List" of jurisdictions under the monitoring of AML/CFT abuses: This list will include all countries where AML/CFT laws are used for domestic and transnational repression. This list will naturally include autocratic regimes. It will also include weak democracies that cooperate with autocratic regimes on these tactics. This is important to develop regulatory mechanisms to prevent cases of transnational repression "by proxy."

2) Stop All AML/CFT Cooperation with "Red-Listed" Countries: All countries in the "Red List" should be revoked the privilege of cooperating with democracies on matters related to AML/CFT. Democracies must not trust the intelligence provided by "red-listed" countries about individuals and organizations accused of money laundering, terrorist financing, or other crimes. Democracies must also not fulfill the legal requests made by these countries. By trusting autocrats, their FIUs, and the "private" banks owned by individuals connected with these regimes, democracies allow dictators to inject into Western judicial systems politically motivated allegations. This form of "injustice laundering" can take the form of politically motivated Mutual Legal Assistance (MLA) requests or abusive civil and criminal complaints based on proceedings initiated in autocratic judicial systems.

3) Establish a Special License for High-Risk Individuals: This license will protect individuals and organizations from de-risking and the weaponization of their personal data. The proposed mechanism would address this issue by

56 https://pace.coe.int/en/files/28303/html

57 https://pace.coe.int/en/files/28090/html

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

conducting a special assessment of the individual in question. If a person passes this assessment, they will receive a special license that exempts them from further bank reviews for a specified period of time. This approach would lower compliance costs and perceived risks for banks, making it easier for them to onboard these individuals. Additionally, this license should prevent banks from sharing the person's private data, given their special protections.

4) Hold Crime Facilitators Accountable: Democracies have to hold accountable people and organizations within their jurisdictions who facilitate forms of transnational repression, whether through legal, financial, or other means. Addressing this issue is key, as regimes often use Western intelligence to commit these crimes. They use Western companies, for example, to circumvent sanctions, fabricate lawfare cases, and spread misinformation. Respond to transnational repression in a principled manner and do not take a political or selective approach

5) Create Remedies for Broadcast Reprisals: publicizing the abuse of AML/CFT laws by the victims often causes even more financial exclusion in Western countries. This makes lawyers usually advise people not to raise awareness of these injustices. In fact, a similar advise was given to me about this policy brief. Addressing this problem requires policymakers to protect those willing to speak out and research this subject. It is necessary to find regulatory means to protect victims who give such testimonies from financial exclusion after disclosure of information on the victim of AML/CFT abuse.

6) Incorporate the Views of Civil Society: The FATF and all relevant regulatory bodies responsible for developing and assessing the implementation of AML/CFT laws should include in this process a transparent way for civil society to participate. These bodies are currently outside the scope of human rights due to the mandate of the FATF and the UN Counter-Terrorism Committee Executive Directorate (CTED). We need a clear provision for assessing the protection of human rights. The OSCE HDIM, OSCE PA, PACE and EP, the US Congress, and Senate should be platforms for AML/CFT reform and broad consultation with victims and civil society to prevent these abuses and establish compensation mechanisms.

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM

ECONOMIC
INCLUSION
GROUP

Received by NSD/FARA Registration Unit 05/01/2025 12:42:34 PM