

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

By Jorge Jraissati,

President of the Economic Inclusion Group

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.

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.

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.

\*The Open Dialogue Foundation, Inc. is registered as an agent of the Open Dialogue Foundation located in Brussels, Belgium under 22 U.S.C. § 611 et seq.

These materials are distributed by the Open Dialogue Foundation, Inc. on behalf of the Open Dialogue Foundation.

Further information is on file with the Department of Justice, Washington, DC.