

# FROM ATLANTA TO KASHMIR, STATES WEAPONIZE COUNTERTERRORISM FRAMEWORKS TO TARGET SOCIAL JUSTICE MOVEMENTS

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## ABSTRACT

*Across the world, governments use the same tactics to repress dissent and dismantle social justice movements. Although counterterrorism frameworks have been and are misused to target and silence such movements, this Article focuses on only a few examples to highlight the impact of such measures. As evidenced by the use of material support statutes, “Stop Cop City” in Atlanta, and the repression of human rights organizations in Palestine and Kashmir, these frameworks are used by governments to inhibit movements for social change. Although the struggles in each respective region are different, there are overarching connections that draw them together, highlighting the importance of sharing tactics of resistance across movements and borders. For this reason, this Article ends with a discussion of cross-movement and cross-border strategy sharing and stresses the importance of connecting the dots to counter state repression of social justice movements.*

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## I. INTRODUCTION

Counterterrorism frameworks have long been weaponized to suppress social justice movements. Social justice movements are important and powerful drivers of positive social change. Yet, governments have often responded to movements with repression and labeled them threats to national security.<sup>1</sup> Clément Nyaletsossi Voule, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, called on governments to “adjust their mindset and view [social movements] as essential partners,” rather than threats.<sup>2</sup> Governments have yet to comply.

Many governments have intensified their purported efforts to finance and support counterterrorism, resulting in restrictions that endanger non-profit and human rights organizations’ ability to receive and donate funds across borders. The broad harms of such counterterrorism frameworks on civil society are clear, particularly for organizations that support or represent Black, migrant, or Muslim communities.<sup>3</sup> Throughout the U.S., federal “material support” statutes targeting support for terrorism have been disproportionately used against Muslim and Palestinian organizations and organizers while state domestic terrorism statutes have been used to arrest protestors. The treatment of the Holy Land Foundation, whose prosecution conflated *zakat*, or “charity,” with terrorism, is one example and well-known use of “material support” statutes, which have undoubtedly had a chilling effect on speech and hindered the work of human rights organizations. Recent calls for pro-Palestine student groups to be investigated have revived concerns that these statutes will be used to target social justice movements. Globally, similar terrorism designations and counterterrorism statutes are also used to hinder human rights work. In occupied Palestinian territories, Israel has designated human rights organizations as “terrorist organizations” based on thin allegations of ties to terrorism. These designations have serious implications for their work and ability to operate, particularly as some of these organizations have lost access to foreign funding due to their designations as supporters of “terrorism.”

In Atlanta, the “Stop Cop City” or “Defend the Atlanta Forest” movement has been accused by the government of “domestic violent extremism,” a term often interchanged with terrorism, based on protest tactics such as occupying a forest. Many protesters have been arrested and charged under Georgia’s broad domestic terrorism statute based solely on their affiliation with this movement. In May 2023, the government connected the group to a local bail fund, charging three of the bail fund’s officers with money laundering and charity fraud. These arrests marked a concerning step towards suppression of mutual aid, the sharing of resources in a

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<sup>1</sup> See, e.g., Clément Nyaletsossi Voule (Special Rapporteur on the Rts. to Freedom of Peaceful Assembly and of Ass’n), *Essential Role of Soc. Movements in Bldg. Back Better*, ¶ 50, U.N. Doc. A/77/171 (July 15, 2022), <https://docs.un.org/en/A/77/171>.

<sup>2</sup> *Id.* ¶ 36.

<sup>3</sup> See, e.g., DUKE LAW INT’L HUM. RTS. CLINIC AND WOMEN PEACEMAKERS PROGRAM, *TIGHTENING THE PURSE STRINGS: WHAT COUNTERING TERRORISM FINANCING COSTS GENDER EQUALITY AND SECURITY* (2017) [hereinafter *TIGHTENING THE PURSE STRINGS*].

common social justice struggle, and bail fund networks—long viewed as key elements of civil rights and social justice movements.

In Indian-administered Kashmir, organizers and organizations dedicated to uncovering human rights violations have faced similar reprisals, from raids to prolonged detention. Governmental actors have accused organizations engaging in human rights advocacy of raising money for terrorist activities, with weak or no evidence to support these claims, subjecting the organizations to punitive measures and often forcing them to cease or pause their activities. These government actions respond primarily to these organizations' support for Kashmiri self-determination.

The 2023 Global Study on the Impact of Counter-Terrorism on Civil Society & Civic Space confirmed that counterterrorism frameworks are misused, often in a discriminatory manner, and have resulted in a shrinking of civic space.<sup>4</sup> This shrinking of civic space is not incidental, but in many cases, an intended use of counterterrorism policy.<sup>5</sup>

## II. INTERNATIONAL STANDARDS

### A. *United Nations Resolution 1373*

International standards mandated and continue to influence the creation and implementation of national counterterrorism laws. Following the launch of the “War on Terror,” U.S. national security frameworks were exported globally with the support of the United Nations (“UN”). In September 2001, the UN Security Council adopted Resolution 1373, requiring states to suppress the financing, support, and commission of terrorism.<sup>6</sup> It also created the Counter-Terrorism Committee (CTC) to monitor implementation of the resolution. Within two years, all 191 member states submitted initial reports to the CTC outlining steps taken to implement Resolution 1373.<sup>7</sup> Many countries adopted counterterrorism measures in line with Resolution 1373.<sup>8</sup> Despite the ballooning of international counterterrorism

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<sup>4</sup> See FIONNUALA NÍ AOLÁIN ET AL., GLOBAL STUDY ON THE IMPACT OF COUNTER-TERRORISM ON CIVIL SOCIETY AND CIVIC SPACE, 33 (2023), [https://defencivicspace.com/wp-content/uploads/2023/06/SRCT\\_GlobalStudy.pdf](https://defencivicspace.com/wp-content/uploads/2023/06/SRCT_GlobalStudy.pdf) [<https://perma.cc/P5HG-AUDM>].

<sup>5</sup> Fionnuala Ní Aoláin (Special Rapporteur on the Promotion and Prot. of Hum. Rts. and Fundamental Freedoms While Countering Terrorism), *Impact of Measures to Address Terrorism and Violent Extremism on Civic Space and the Rts. of Civ. Soc’y Actors and Hum. Rts. Defs.*, ¶ 4, U.N. Doc. A/HRC/40/52 (Mar. 1, 2019) [hereinafter *Impact of Measures*] (“This robust empirical finding measured from 2005 to 2018 affirms that the targeting of civil society is not a random or incidental aspect of counterterrorism law and practice. It suggests the hard-wiring of misuse into counterterrorism measures taken by States around the globe”), <https://docs.un.org/en/A/HRC/40/52>.

<sup>6</sup> S.C. Res. 1373 (Sept. 28, 2001), [https://www.unodc.org/pdf/crime/terrorism/res\\_1373\\_english.pdf](https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf) [<https://perma.cc/RZT7-SHJG>].

<sup>7</sup> Eric Rosand, *Current Development: Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight Against Terrorism*, 97 AM. J. INT’L. L. 333, 337 (2003).

<sup>8</sup> For a full breakdown of measures enacted or introduced globally by 2009, see Counter-Terrorism Comm., SURVEY OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1373 (2001) BY MEMBER STATES, U.N. Doc. S/2009/620 (Dec. 3, 2009), [https://www.un.org/sites/www.un.org.securitycouncil.ctc/files/gis-2009-09\\_en.pdf](https://www.un.org/sites/www.un.org.securitycouncil.ctc/files/gis-2009-09_en.pdf) [<https://perma.cc/47E4-8WB4>].

frameworks, UN experts have maintained that counterterrorism efforts must be enacted and applied in accordance with international human rights obligations.

### B. Financial Action Task Force

G-7 leaders originally established the Financial Action Task Force (“FATF”) in 1989 to counter money laundering.<sup>9</sup> Within a year, it issued 40 Recommendations.<sup>10</sup> In 2001, the FATF expanded its mandate to include counterterrorism. By 2004, it issued nine Special Recommendations.<sup>11</sup> The FATF’s “40 + 9 Recommendations” set an international framework to combat terrorism and money laundering, which the FATF encourages countries to codify in domestic law. Although the FATF does not create binding regulations, many member states opt to comply to avoid economic consequences.<sup>12</sup>

The FATF’s Recommendation 8 is misused by governments to justify crackdowns on civil society. The Recommendation calls for “focused, proportionate and risk-based measures” to protect non-profit organizations from terrorist financing abuse.<sup>13</sup> Instead governments have used it to target human rights organizations critical of government actions.<sup>14</sup> Although Recommendation 8 has received significant attention, numerous other FATF Recommendations have also been weaponized by governments.<sup>15</sup> Governments silence dissent and human rights concerns by weaponizing the regulations that were initially (and purportedly)

<sup>9</sup> FINANCIAL ACTION TASK FORCE, FINANCIAL ACTION TASK FORCE - THIRTY YEARS (2019), <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Fatf-30.html> [<https://perma.cc/G7JT-SNCT>].

<sup>10</sup> *History of the FATF*, FINANCIAL ACTION TASK FORCE, <https://www.fatf-gafi.org/en/the-fatf/history-of-the-fatf.html> [<https://perma.cc/F4S9-5BR7>] (last visited Feb. 22, 2025).

<sup>11</sup> *Id.* Eight Recommendations were issued in 2001, and the Ninth Recommendation was issued in 2004.

<sup>12</sup> STEPHEN REIMER, WEAPONISATION OF THE FATF STANDARDS: A GUIDE FOR GLOBAL CIVIL SOCIETY 6, RUSI (2024), <https://www.rusi.org/explore-our-research/publications/special-resources/weaponisation-fatf-standards-guide-global-civil-society> [<https://perma.cc/H7LB-KD39>].

<sup>13</sup> FINANCIAL ACTION TASK FORCE, THE FATF RECOMMENDATIONS, INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION (last updated November 2023), [https://www.fiumauritius.org/fiu/wp-content/plugins/pdfjs-viewer-shortcode/pdfjs/web/viewer.php?file=https://www.fiumauritius.org/fiu/wp-content/uploads/2023/12/FATF-updated-Recommendations-November-2023-Protecting-NPOs-from-terrorist-financing-abuse-through-risk-based-implementation-of-Recommendation-8.pdf&attachment\\_id=4470&dButton=true&pButton=true&oButton=false&sButton=true](https://www.fiumauritius.org/fiu/wp-content/plugins/pdfjs-viewer-shortcode/pdfjs/web/viewer.php?file=https://www.fiumauritius.org/fiu/wp-content/uploads/2023/12/FATF-updated-Recommendations-November-2023-Protecting-NPOs-from-terrorist-financing-abuse-through-risk-based-implementation-of-Recommendation-8.pdf&attachment_id=4470&dButton=true&pButton=true&oButton=false&sButton=true) [<https://perma.cc/QXR7-4YY3>].

<sup>14</sup> *See, e.g.*, Fatima Alsancak and Stephen Reimer, *FATF’s Recommendation 8: A Cure Worse Than the Disease*, RUSI (Dec. 20, 2023), <https://www.rusi.org/explore-our-research/publications/commentary/fatfs-recommendation-8-cure-worse-disease> [<https://perma.cc/KB2V-7MJZ>]; AMNESTY INT’L, WEAPONIZING COUNTERTERRORISM (2023), <https://www.amnesty.org/en/wp-content/uploads/2023/09/ASA2072222023ENGLISH.pdf> [<https://perma.cc/5M93-CKEF>] [hereinafter WEAPONIZING COUNTERTERRORISM].

<sup>15</sup> Stephen Reimer, *Suppression Laundering: Using FATF as a Fig Leaf to Target Civil Society*, RUSI (June 13, 2024), <https://www.rusi.org/explore-our-research/publications/policy-briefs/suppression-laundering-using-fatf-fig-leaf-target-civil-society> [<https://perma.cc/KG44-3V7H>].

created to provide protection from terrorism.<sup>16</sup> The FATF has acknowledged that its Recommendations have been used to suppress dissent and has amended its language to address some of these concerns.<sup>17</sup> However, as the Recommendations continue to be misused, it is important to remember that implementation of FATF Recommendations are supposed to be undertaken in accordance with international human rights law.<sup>18</sup>

### C. International Covenant on Civil and Political Rights

The rights to freedom of expression and association are foundational human rights, affirmed in the International Covenant on Civil and Political Rights (“ICCPR”). The treaty is binding on the 113 state parties that have ratified it, meaning that they are obligated to comply with its requirements. Most relevant to this Paper, the U.S. and Israel have both signed and ratified the ICCPR, while India is bound by accession to the treaty. Article 19(2) of the ICCPR provides the right to freedom of expression while Article 22 guarantees the right to freedom of association.<sup>19</sup> The right to freedom of expression includes political, human rights, and religious discourse. Clément Nyaletsossi Voule, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association clarified that the right to access financial and other resources is inherent in the right to freedom of association.<sup>20</sup> Other international human rights bodies have confirmed that freedom to carry out activities, including receiving funds, is crucial to the right to freedom of association.<sup>21</sup> While restrictions are permissible for the protection of national security, international law is clear that they must be narrowly interpreted.<sup>22</sup> Unfortunately, as discussed below, counterterrorism laws often violate these foundational rights.

## III. DOMESTIC REGULATIONS

Often, domestic counterterrorism regulations contain vague, overbroad, and varying definitions, and government officials may refer to extremism and terrorism

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<sup>16</sup> *Impact of Measures*, *supra* note 5, ¶ 7 (“Loose international frameworks requiring national implementation have provided Governments with the means to secure their own power by silencing voices questioning their legitimacy or their policies on human rights grounds”).

<sup>17</sup> FINANCIAL ACTION TASK FORCE, HIGH-LEVEL SYNOPSIS OF THE STOCKTAKE OF THE UNINTENDED CONSEQUENCES OF THE FATF STANDARDS (2021), <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf> [<https://perma.cc/H48E-JV85>]; *Protecting non-profits from abuse for terrorist financing through the risk-based implementation of revised FATF Recommendation 8*, FINANCIAL ACTION TASK FORCE (Nov. 16, 2023), <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/protecting-non-profits-abuse-implementation-R8.html> [<https://perma.cc/DD4Y-P47T>].

<sup>18</sup> TIGHTENING THE PURSE STRINGS, *supra* note 3, at 31.

<sup>19</sup> Int’l Covenant on Civ. and Pol. Rights arts. 19, 22, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>20</sup> Clément Nyaletsossi Voule (Special Rapporteur on the Rts. to Freedom of Peaceful Assembly and of Ass’n), *Access to Resources*, ¶ 9, U.N. Doc. A/HRC/50/23 (May 10, 2022), <https://docs.un.org/en/A/HRC/50/23>.

<sup>21</sup> WEAPONIZING COUNTERTERRORISM, *supra* note 14, at 8.

<sup>22</sup> *Id.*

interchangeably.<sup>23</sup> This lack of clarity often results in a chilling effect on legitimate civil and human rights advocacy as organizations and individuals fear prosecution and reputational harm associated with being construed as supporting terrorism.<sup>24</sup> This is most evident when humanitarian actions, such as charitable giving, are labeled as “material support to terrorism,” or when activists are labeled or targeted as “terrorists” or “extremists” for simply expressing views critical of the government. This government repression also serves to stigmatize and financially marginalize organizations and human rights activists.<sup>25</sup> Terrorism has been broadly used to justify the suppression, surveillance, and targeting of human rights organizations, and in many cases, the precise definition is tied to the will or intent of the authority wielding it.

Two U.S. statutes, 18 U.S.C. § 2339A and § 2339B, which criminalize “material support” to terrorism, gained notoriety at the outset of the “War on Terror” due to their prevalence in targeting Muslim and Palestinian groups. Congress enacted these “material support” statutes in the 1990s and has amended them multiple times, including through the USA Patriot Act and the Intelligence Reform and Terrorism Prevention Act of 2004.<sup>26</sup> Section 2339A targets those who provide material support or resources for any offense identified as a federal crime of terrorism and carries a sentence of up to 15 years.<sup>27</sup> Section 2339B applies to those who provide “material support or resources to a foreign terrorist organization” and carries a sentence of up to 20 years.<sup>28</sup> A “foreign terrorist organization” (“FTO”) is designated by the U.S. Secretary of State, and while organizations are permitted to challenge the designation, defendants charged under § 2339B may not.<sup>29</sup> Courts have understood material support statutes to cover support beyond simply providing supplies or money. The U.S. Supreme Court upheld the constitutionality of these

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<sup>23</sup> See OHCHR and terrorism and violent extremism, U.N. Hum. Rts., <https://www.ohchr.org/en/terrorism> (last visited Mar. 1, 2025) (explaining that there is no clear, universally agreed-upon definition of terrorism and violent extremism because these definitions are largely left to the discretion of States in drafting domestic counter-terrorism legislation); see also Fionnuala Ní Aoláin (Special Rapporteur on the Promotion and Prot. of Hum. Rts and Fun<sup>l</sup> Freedoms), Report of the Special Rapporteur on the Promotion and Prot. of Hum. Rts. and Fun<sup>l</sup> Freedoms While Countering Terrorism, ¶ 34, U.N. Doc. A/73/361 (Sept. 3, 2018), <https://docs.un.org/en/A/73/361>.

<sup>24</sup> One working definition of “chilling effect” is provided by Laurent Pech: (i) The adoption of deliberately ambiguous legal provisions; (ii) The arbitrary enforcement of these provisions against vocal critics of the authorities; (iii) The adoption of disproportionate sanctions to further discourage people from exercising their rights. See LAURENT PECH, OPEN SOC<sup>Y</sup> FOUNDATIONS, THE CONCEPT OF CHILLING EFFECT: ITS UNTAPPED POTENTIAL TO BETTER PROTECT DEMOCRACY, THE RULE OF LAW, AND FUNDAMENTAL RIGHTS IN THE EU 4 (2021), <https://www.opensocietyfoundations.org/uploads/c8c58ad3-fd6e-4b2d-99fa-d8864355b638/the-concept-of-chilling-effect-20210322.pdf> [<https://perma.cc/PE35-2RF6>].

<sup>25</sup> *Impact of Measures*, *supra* note 5, ¶¶ 61-62.

<sup>26</sup> CONG. RSCH. SERV., R41333, TERRORIST MATERIAL SUPPORT: AN OVERVIEW OF 18 U.S.C. § 2339A AND § 2339B 2 (2023), <https://sgp.fas.org/crs/natsec/R41333.pdf> [<https://perma.cc/3QZN-OU2W>].

<sup>27</sup> 18 U.S.C. § 2339A. The sentence increases to life in prison if the death of any person results.

<sup>28</sup> 18 U.S.C. § 2339B(a)(1) (2023). The statute provides for life imprisonment if the offense results in death.

<sup>29</sup> CONG. RSCH. SERV., *supra* note 26, at 21.



material support statutes, even if applied against those who provide human rights and conflict resolution training.<sup>30</sup>

Over 30 states in the U.S. have also passed their own domestic terrorism laws, many of which are overbroad and/or vague.<sup>31</sup> In 2017, Georgia enacted an updated domestic terrorism statute, §§ 16-11-220–224, partially in response to the 2015 white supremacist shooting that killed nine people at a historic Black church in Charleston, South Carolina.<sup>32</sup> The statute defines domestic terrorism broadly to include acts intended to disable “a public transportation system when such disability or destruction results in major economic loss,” as well as acts intended to alter government policy “by intimidation or coercion.”<sup>33</sup> At the bill’s passage, critics highlighted a provision of the bill—which targeted “critical infrastructure,” regardless of whether it is virtual or remote, publicly- or privately-owned—as having the potential to criminalize protest activity, such as shutting down a portion of a major highway.<sup>34</sup> Supporters of the bill claimed that it would not encompass peaceful protests, and two state Senators attempted to address these concerns by adding a provision clarifying that the Act “shall not be construed to infringe upon constitutionally protected speech or assembly.”<sup>35</sup> Despite this change, as discussed below, the law was later used to charge peaceful protestors in Atlanta, Georgia.

The Israeli government has passed several laws aimed at limiting or cutting off funding for Palestinian civil rights organizations.<sup>36</sup> For instance, in June 2016, Israel’s Parliament passed the Combatting Terrorism Law, 5776-2016, which authorizes the Minister of Defense to designate an organization as a “terrorist organization.” Once an organization is labeled with this title, the government may seize its organizational assets and prevent the organization from operating. Under the law, designations are initially temporary, giving organizations time to respond with written arguments for review by an advisory committee.<sup>37</sup> However, the government may withhold confidential information relevant to the designation.<sup>38</sup> As such, organizations may not have full access to the evidence against them. UN experts have expressed concern that the provisions of the law that define “terrorist

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<sup>30</sup> See *Holder v. Humanitarian L. Project*, 561 U.S. 1 (2010).

<sup>31</sup> *State Domestic Terrorism Laws in the United States*, INT’L CTR. FOR NOT-FOR-PROFIT LAW (Mar. 7, 2024), <https://www.icnl.org/resources/terrorism-laws-in-the-united-states> [<https://perma.cc/92EK-SXQL>].

<sup>32</sup> The previous domestic terrorism statute only applied if at least 10 people were killed and would not have applied to the 2015 shooting, had it occurred in Georgia. John E. Crowley & Tatiana E. Posada, *HB 452 - Domestic Terrorism*, 34 GA. ST. U. L. REV. 17, 31-32 (2017).

<sup>33</sup> GA. CODE ANN. § 16-11-220 (2022).

<sup>34</sup> Crowley & Posada, *supra* note 32, at 31-32.

<sup>35</sup> *Id.* at 32.

<sup>36</sup> U.N. Human Rights Council, 50th Sess., Israel’s Suppression of Palestinian Civil Society, Statement Submitted by BADIL Resource Center for Palestinian Residency and Refugee Rights, U.N. Doc. A/HRC/50/NGO/168 (Jun. 13, 2022), <https://www.un.org/unispal/document/israels-suppression-of-palestinian-civil-society-statement-submitted-to-the-human-rights-council-by-badil-resource-center-a-hrc-50-ngo-168/> [<https://perma.cc/9Z64-8Z3M>].

<sup>37</sup> Letter, Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism to Israel, OL ISR 6/2022 (May 5, 2022), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27237> [<https://perma.cc/HR8J-3JRX>].

<sup>38</sup> *Id.*

act” and “terrorist organization” are vague and may be overbroad, susceptible to arbitrary enforcement.<sup>39</sup>

The Indian government’s weaponization of counterterrorism frameworks, particularly in Indian-administered Kashmir (“IAK”), is also well-documented. In 2002, due in part to international obligations, the government passed the Prevention of Terrorism Act, which included concerning provisions that enhanced police powers and established special courts.<sup>40</sup> The Act was repealed in 2004, but many of its more problematic provisions were added to the Unlawful Activities (Prevention) Act of 1967 (“UAPA”) following the November 26, 2008 Mumbai attacks.<sup>41</sup> Similar to other counterterrorism statutes, like the one adopted by Georgia in 2017, the UAPA employs broad definitions. For instance, the law considers a terrorist act to be any act that “disrupt[s]” essential services in India or any foreign country.<sup>42</sup> Moreover, the UAPA criminalizes raising funds for any organization accused of supporting terrorism.<sup>43</sup> Additionally, the law applies to both individuals and organizations, allows for seizure of property, and permits individuals to be held in pre-trial detention for up to 180 days, though many are held for significantly longer periods of time.<sup>44</sup> Human rights experts have expressed concern about the broad powers granted to the executive and the vague and broad definitions of terrorism and unlawful activity.<sup>45</sup> Unsurprisingly, the UAPA has since been weaponized to target critics of the administration and those who engage in human rights advocacy.

#### IV. IMPACT ON MOVEMENTS

While domestic counterterrorism regulations are similar across countries, the exact definitions, scope, and due process rights afforded to residents vary, sometimes drastically, from one country to another. However, the overall impact of counterterrorism laws on social justice movements is similar.<sup>46</sup> There are numerous

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<sup>39</sup> *Id.*

<sup>40</sup> Surabhi Chopra, *National Security Laws in India: The Unraveling of Constitutional Constraints*, 17 OR. REV. INT’L L. 1, 8-9 (2015); The Prevention of Terrorism Act was enacted in the aftermath of the September 11, 2001, attacks in the U.S. and subsequent surge in global counterterrorism initiatives following U.N. Resolution 1373. The December 13, 2001, attack on the Indian parliament also influenced passage of the law. *See, e.g.*, C. Raj Kumar, *Human Rights Implications of National Security Laws in India: Combating Terrorism While Preserving Civil Liberties*, 33 DENV. J. INT’L L. & POL’Y 195, 195-96 (2005).

<sup>41</sup> Chopra, *supra* note 40, at 9-10.

<sup>42</sup> *Id.* at 12.

<sup>43</sup> The Unlawful Activities (Prevention) Act, 1967, §§ 15, 17; *see also* A. Francis Julian, *Combating Financing of Terrorism: Legislative Initiatives in India*, 1 JINDAL GLOB. L. REV. 79, 88-89 (2009) (discussing the addition of terrorism to the UAPA).

<sup>44</sup> *Id.* §§ 2(ec), 24A-26, 43D(2)(b).

<sup>45</sup> Letter from Office of the U.N. High Comm’r for Hum. Rts., Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, OL IND 7/2020, 3-7 (May 6, 2020), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25219> [<https://perma.cc/U6QN-3R6Q>].

<sup>46</sup> For example, Indian courts have lower evidentiary standards for certain laws compared to U.S. counter terrorism statutes. However, federal legislation introduced in the U.S. in 2024 might make it easier for organizations to lose rights, similar to India.



examples from around the globe of counterterrorism measures impacting civil society and, by extension, social justice movements.<sup>47</sup>

Even before the “War on Terror” and the subsequent globalization of counterterrorism frameworks, U.S. counterterrorism laws were created, adapted, or weaponized in response to the Palestinian liberation movement.<sup>48</sup> This targeting only increased amidst the “War on Terror,” with numerous Palestinian activists prosecuted under “material support” statutes.<sup>49</sup>

One of the most well-known of these prosecutions is that of the Holy Land Foundation and its leaders. Shortly after September 2001, U.S. prosecutors employed § 2339B to target the Foundation, a U.S. non-profit focused on providing humanitarian aid to Palestine, among other countries.<sup>50</sup> The Foundation and its leaders—Shukri Abu-Baker, Ghassan Elashi, Mufid Abdulqader, Abdulrahman Odeh, and Mohammad Elmezain—were charged with providing humanitarian aid to *zakat* (charity) councils in the Occupied Palestinian Territories; the prosecution argued that these councils were affiliated with Hamas, which is designated by the Secretary of State as a Foreign Terrorist Organization (“FTO”).<sup>51</sup> In doing so, the U.S. Government applied Section 2339B based on assertions that an intermediary organization—in this case the Holy Land Foundation—was affiliated with an FTO. The councils themselves were not designated as FTOs; the U.S. government simultaneously provided aid through the same councils and notably continued to do so even after the Holy Land Foundation prosecutions.<sup>52</sup> Despite this, the Bush administration lauded the shuttering of the Holy Land Foundation as a victory in the early stages of the “War on Terror.”<sup>53</sup> Concerningly, the Holy Land Foundation prosecution relied, in part, on questionable foreign intelligence from Israel.<sup>54</sup>

<sup>47</sup> See, e.g., *C&SN Submits Input for UN Study: Counterterrorism Impacts on Civil Society*, CHARITY & SEC. NETWORK (Mar. 2, 2023), <https://charityandsecurity.org/counter-terrorist-financing/csn-submits-input-for-un-study-counterterrorism-impacts-on-civil-society/> [<https://perma.cc/HKE3-UUCS>].

<sup>48</sup> See, e.g., DARRYL LI, *ANTI-PALESTINIAN AT THE CORE: THE ORIGINS AND GROWING DANGERS OF U.S. ANTITERRORISM LAW*, PALESTINE LEGAL & CTR. FOR CONST. RTS. (2024), <https://ccrjustice.org/sites/default/files/attach/2024/02/Anti-Palestinian%20at%20the%20Core%20White%20Paper%200.pdf> [<https://perma.cc/T9HU-NHOG>].

<sup>49</sup> *Id.* at 17-18.

<sup>50</sup> For an overview of the case, see Bridge Initiative Team, *Factsheet: Holy Land Foundation*, BRIDGE (Jan. 27, 2020) <https://bridge.georgetown.edu/research/factsheet-holy-land-foundation/> [<https://perma.cc/G2ZP-66Y2>].

<sup>51</sup> Nancy Hollander, *The Holy Land Foundation Case: The Collapse of American Justice*, 20 WASH. & LEE J. C.R. & SOC. JUST. 45, 45 (2014).

<sup>52</sup> *Id.*

<sup>53</sup> *The Global War on Terrorism: The First 100 Days*, U.S. DEP’T OF STATE ARCHIVE, <https://2001-2009.state.gov/s/ct/rls/wh/6947.htm> [<https://perma.cc/38GF-ABHX>] (last visited Feb. 28, 2025).

<sup>54</sup> *After Israel’s Designation of Human Rights Groups as “Terrorists,” Biden Should Release Palestinian-Americans Imprisoned Over Similar Claims: Joint Statement by US and International Civil and Human Rights Organizations and Individuals*, HUMAN RIGHTS WATCH (Mar. 11, 2022), <https://www.hrw.org/news/2022/03/11/after-israels-designation-human-rights-groups-terrorists-biden-should-release> [<https://perma.cc/UQR9-SBTF>].

The weaponization of “material support” statutes against Palestinian organizations has a chilling effect on political and religious activity.<sup>55</sup> Because the statute applies to a wide range of activities and to organizations that are not directly designated as FTOs, many activists have self-censored or felt compelled to seek legal advice to avoid the risk of prosecution, reputational harm, and/or civil litigation before they participate in conferences, projects, or other expressive activities. Even mere allegations of providing “material support” to an FTO—without any corresponding criminal prosecution—have been weaponized against human rights organizations.<sup>56</sup> These efforts include campaigns calling for the Department of Justice to investigate pro-Palestinian groups, with one organization even claiming that Black Lives Matter protests were linked to Palestinian “terrorist groups.”<sup>57</sup> Calls for material support investigations into pro-Palestine activists amidst Israel’s genocide of Palestinians in 2023 is just the latest example of counterterrorism statutes being used as a political tool against social justice organizers in the U.S.<sup>58</sup> Additionally, Section 2339B, which has an extraterritorial component, has presented significant barriers to international humanitarian work as smaller non-profit organizations struggle to access funding amidst burdensome requirements intended to shield funders from liability.<sup>59</sup>

The connection between U.S. “material support” statutes and Israel’s designation of Palestinian organizations as “terrorist” organizations is particularly relevant given the downstream impacts of the Israeli government’s targeting of Palestinian groups. The Israeli government has used the law to stifle Palestinian human rights advocacy by designating human rights organizations as “terrorist” organizations or, alternatively, by claiming that these organizations were somehow supporting terrorism.<sup>60</sup> The connection between the U.S. statutes and Israel’s

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<sup>55</sup> Diala Shamas, *The Downstream Effects of Israel’s “Terrorist” Designation on Human Rights Defenders in the U.S.*, JUST SECURITY (Nov. 4, 2021), <https://www.justsecurity.org/78884/the-downstream-effects-of-israels-terrorist-designation-on-human-rights-defenders-in-the-us/>. [<https://perma.cc/BFJ3-4VWZ>]

<sup>56</sup> Private actors have accused organizations of violating these “material support statutes” and have even attempted to suppress organizing by drawing on U.S. counterterrorism laws that allow for civil actions against “terrorism torts.” See, e.g., *Victory in the Courts for Palestinian Rights: USCPR Defeats JNF’s Lawfare Attack*, PALESTINE LEGAL (May 16, 2023), <https://palestinelegal.org/news/2023/5/16/victory-in-the-courts-for-palestinian-rights-uscpr-wins-their-case-against-the-jewish-national-fund> (explaining JNF filed suit against USCPR alleging the organization had provided “material support for terrorism” through their advocacy, such as by supporting the BDS campaign). [<https://perma.cc/ZB6B-ZGEZ>]

<sup>57</sup> Shamas, *supra* note 55.

<sup>58</sup> See Jordan Valinsky, *Anti-Defamation League Accuses Pro-Palestine Student Groups of Siding with Terrorism*, CNN (Oct. 27, 2023), <https://www.cnn.com/2023/10/27/business/adl-open-letter-colleges-spj/index.html>. [<https://perma.cc/TWE6-VA92>]

<sup>59</sup> KAY GUINANE ET AL., CHARITY & SEC. NETWORK, SAFEGUARDING HUMANITARIANISM IN ARMED CONFLICT, 55-58 (June 2012), <https://www.charityandsecurity.org/system/files/Safeguarding%20Humanitarianism%20Final.pdf> [<https://perma.cc/5T4W-HKPH>].

<sup>60</sup> The harms of the Israeli government’s administration of the Occupied Palestinian Territories (“Palestine”) are vast and well documented. See, e.g., HUMAN RIGHTS WATCH, A THRESHOLD CROSSED: ISRAELI AUTHORITIES AND THE CRIMES OF APARTHEID AND PERSECUTION (April 27, 2021), <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>. [<https://perma.cc/7Z58-KLHM>]

designation of “terrorist” groups also heightens concerns about the misuse of the Combatting Terrorism Law. In October 2021, the Israeli government used the law to designate six Palestinian human rights organizations as “terrorist” organizations,<sup>61</sup> without evidence, claiming they were financing the Popular Front for the Liberation of Palestine.<sup>62</sup> A year later, in November 2022, the Israeli government targeted many of the same organizations in a pre-dawn raid in which armed forces issued military orders for the organizations to close and welded their doors shut.<sup>63</sup> Affiliated staff and supporters of these organizations were also reportedly subject to reprisals, including deportation, travel bans, and digital surveillance.<sup>64</sup> Evidence suggests that the U.S. may have also added at least two individuals affiliated with these organizations to a “No Fly” list and prevented them from traveling to the U.S. for human rights work.<sup>65</sup> All these organizations have decades-long relationships with UN bodies and are widely regarded by experts and advocates as reputable human rights defenders.<sup>66</sup> These organizations also have varied missions, though they all support Palestinian human rights. For example, the Bisan Center for Research and Development focuses on economics and sociology research topics ranging from global warming to Israel’s occupation, while Addameer provides legal support to Palestinian prisoners and those subjected to “administrative detention.”<sup>67</sup>

Numerous experts denounced the decision to designate these organizations as “terrorist” organizations.<sup>68</sup> Shortly after the designations, reports emerged indicating that the decision was part of a years-long campaign by Israel to convince

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<sup>61</sup> The targeted organizations were: Addameer Prisoner Support and Human Rights Association; Al Haq; Defense for Children International – Palestine; Union of Agricultural Work Committees; Bisan Center for Research and Development; and the Union of Palestinian Women’s Committees.

<sup>62</sup> *Israel/OPT: Designation of Palestinian Civil Society Groups as Terrorists a Brazen Attack on Human Rights*, AMNESTY INT’L (Oct. 22, 2021), <https://www.amnesty.org/en/latest/news/2021/10/israel-opt-designation-of-palestinian-civil-society-groups-as-terrorists-a-brazen-attack-on-human-rights/> [https://perma.cc/A8CR-3E6E].

<sup>63</sup> *Israel/OPT: The Stifling of Palestinian Civil Society Organizations Must End*, AMNESTY INT’L (Aug. 18, 2022), <https://www.amnesty.org/en/latest/news/2022/08/israel-opt-the-stifling-of-palestinian-civil-society-organizations-must-end/> [https://perma.cc/GH4T-MFTG].

<sup>64</sup> Alyssa T. Yamamoto & Fionnuala Ní Aoláin, *State Responsibility for Human Rights Violations Perpetrated in the Name of International Counter-Terrorism Financing Obligations*, 46 *FORDHAM INT’L L.J.* 691, 709 (2023).

<sup>65</sup> Letter from the Mandates of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory occupied since 1967 to the United States of America, AL USA 8/2022 (Jun. 14, 2022).

<sup>66</sup> Press Release, Off. of the High Comm’r for Hum. Rts., Israel’s “Terrorism” Designation an Unjustified Attack on Palestinian Civil Society – Bachelet (Oct. 26, 2021), <https://www.ohchr.org/en/2021/10/israels-terrorism-designation-unjustified-attack-palestinian-civil-society-bachelet>.

<sup>67</sup> Yuval Abraham, ‘They Targeted Us for One Reason: We’re Succeeding in Changing the Paradigm’, +972 *MAG.* (Oct. 25, 2021), <https://www.972mag.com/palestinian-ngos-human-rights-attacks/> [https://perma.cc/J5AG-PA3M].

<sup>68</sup> Press Release, United Nations, UN Experts Condemn Israel’s Designation of Palestinian Human Rights Defenders as Terrorist Organisations (Oct. 25, 2021), <https://www.ohchr.org/en/press-releases/2021/10/un-experts-condemn-israels-designation-palestinian-human-rights-defenders>.

European donors to stop funding Palestinian organizations critical of Israel.<sup>69</sup> For instance, Israel has previously failed to convince European governments to restrict funding by circulating a dossier prepared by Shin Bet, Israel's internal security force.<sup>70</sup> Israel's designation of these organizations as "terrorist" organizations, much like the United States' designations of FTOs, had an undeniable impact on humanitarian efforts. Following the October 2021 designations, the Dutch government ended its financial support for the Union of Agricultural Work Committees, despite finding no evidence that the organization was involved in terrorism.<sup>71</sup> Following similar allegations that pro-Palestinian civil rights organizations were linked to terrorism in November 2023, several European countries took measures to suspend or restrict funding to these organizations.<sup>72</sup> Even though the European Commission announced that "no evidence has been found to date that money has been diverted for unintended purposes," the commission imposed additional restrictions on funding as well.<sup>73</sup>

As these examples demonstrate, unsupported allegations alone of ties to terrorism have significant consequences for organizations and have been effective mechanisms for governments to suppress dissenting voices. In the U.S. and other countries, such allegations trigger consequences as severe as restrictions on freedom of expression and diminished privacy.<sup>74</sup>

In the U.S., there is growing concern that state domestic terrorism statutes will routinely be used to criminalize protest. The "Defend the Atlanta Forest" movement is a loosely connected network of environmental and abolitionist organizers who oppose the construction of the proposed Atlanta Public Safety Foundation, colloquially referred to as "Cop City." The proposed facility would be constructed in Weelaunee Forest and is designed to be a "state of the art" police

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<sup>69</sup> Yuval Abraham et. al., *Secret Israeli Document Offers No Proof to Justify Terror Label for Palestinian Groups*, THE INTERCEPT (Nov. 4, 2021, 12:01 AM), <https://theintercept.com/2021/11/04/secret-israel-dossier-palestinian-rights-terrorist/> [<https://perma.cc/LXA3-7ZCF>].

<sup>70</sup> *Id.*

<sup>71</sup> Letter from the Mandates of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory Occupied Since 1967 to Wopke Hoekstra (Minister for Foreign Affairs of the Netherlands) and Liesje Schreinemacher (Minister for Foreign Trade and Development Cooperation of the Netherlands), Letter 01/2022 (Jan. 26, 2022), <https://www.ohchr.org/sites/default/files/2022-02/UN-experts-letter-regarding-the-decision-of-the-Government-of-the-Netherlands-to-end-funding-for-the-UAWC.pdf> [<https://perma.cc/3BHJ-H8AU>].

<sup>72</sup> *European Governments Donors' Discriminatory Funding Restrictions to Palestinian Civil Society Risk Deepening Human Rights Crisis*, AMNESTY INT'L (Nov. 28, 2023), <https://www.amnesty.org/en/latest/news/2023/11/european-governments-donors-discriminatory-funding-restrictions-to-palestinian-civil-society-risk-deepening-human-rights-crisis/> [<https://perma.cc/B325-GSNM>].

<sup>73</sup> *Id.*

<sup>74</sup> Sudha Setty, *What's in a Name? How Nations Define Terrorism Ten Years After 9/11*, 33 U. PA. J. INT'L L. 1, 3-4 (2011).

training facility that includes a mock village and helicopter pad.<sup>75</sup> Activists have been opposed to the project since its inception, due to its expansion of militarized policing and environmental impacts on the Weelaunee Forest, and began occupying the forest in late 2021. In response to this resistance, state repression began to escalate in December 2022, including through violence, with Manuel Esteban Paez Terán, an activist known as “Tortuguita,” killed by police in January 2023.<sup>76</sup> Shortly after, the Georgia Attorney General’s office began pursuing domestic terrorism<sup>77</sup> charges against arrested protestors.<sup>78</sup> These charges, which carry heightened sentences, were applied to acts such as vandalism, and individuals were arrested based on thin evidence like their muddy shoes.<sup>79</sup> Some protestors were seemingly arrested based on evidence unconnected to any wrongdoing—including merely having the number for the Atlanta Solidarity Fund, a bail fund active in the region, written on their bodies.<sup>80</sup> The Georgia state government’s decision to pursue domestic terrorism charges indicates that the prosecutions were intended to deter similar protest activity. The use of such domestic terrorism charges gives cause for concern that Georgia or other states will leverage similar laws to criminalize social justice movements in the future.

In addition to protestors being targeted with expansive domestic terrorism charges, the State of Georgia also arrested three officers of the Atlanta Solidarity Fund (“ASF”), a bail fund affiliated with the Network for Strong Communities nonprofit, which has provided support to the “Stop Cop City” movement. On May 31, 2023, an Atlanta Police Department SWAT team raided the house of these individuals and arrested them for alleged charity fraud and money laundering. These charges are particularly concerning because bail funds have historically been valuable tools for social justice movements.<sup>81</sup> Targeting bail funds has been

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<sup>75</sup> See Kendall Glynn, *Cop City Explained: A Look at the Ongoing Controversy Surrounding Police Training Center*, DECATURISH (Sept. 1, 2022), <https://decatrish.com/2022/09/cop-city-explained-a-look-at-the-ongoing-controversy-surrounding-police-training-center/>; see also ATLANTA COMMUNITY PRESS COLLECTIVE, A BRIEF HISTORY OF THE ATLANTA CITY PRISON FARM (Aug. 14, 2021), <https://atpresscollective.com/2021/08/14/history-of-the-atlanta-city-prison-farm/> [<https://perma.cc/2T6P-T7NH>].

<sup>76</sup> Alleen Brown, *Documents Show How 19 ‘Cop City’ Activists Got Charged with Terrorism*, GRIST (Jan. 27, 2023), <https://grist.org/protest/atlanta-cop-city-terrorism/> [<https://perma.cc/TJB7-FA34>].

<sup>77</sup> Under Georgia law, domestic terrorism is a broad violation, which can apply to actions intended to disable critical infrastructure, defined broadly to include public and private facilities, which result in major economic loss and are intended to change government policy. At the time of its adoption, civil rights groups and organizers expressed concern that the law would be used against protestors and communities of color. GA. CODE ANN. § 16-11-220 (2022).

<sup>78</sup> Brown, *supra* note 76.

<sup>79</sup> R.J. Rico, *Muddy Clothes? ‘Cop City’ Activists Question Police Evidence*, AP NEWS (Mar. 23, 2023, 2:03 PM), <https://apnews.com/article/cop-city-protest-domestic-terrorism-atlanta-6d114e109d489d316f588f51c7cab0cc>.

<sup>80</sup> Hannah Riley, *Atlanta Is Trying to Crush the Opposition to ‘Cop City’ by Any Means Necessary*, THE NATION (June 7, 2023), <https://www.thenation.com/article/activism/cop-city-arrests-atlanta-repression/> [<https://perma.cc/3KX3-DE9U>] (“One lawyer said ‘He was familiar with the jail support line, which in my mind shows he knew he was going to be arrested...’”).

<sup>81</sup> Robin Steinberg et al., *Freedom Should Be Free: A Brief History of Bail Funds in the United States*, 2 UCLA CRIM. JUST. L. REV. 79, 82, 84, 86 (2018).



identified as a “longstanding tactic of repression.”<sup>82</sup> These arrests were explicitly connected to the broader movement: arrest warrants alleged that ASF was channeling money to Defend the Atlanta Forest, which was defined as “a group classified by the United States Department of Homeland Security as Domestic Violent Extremists.”<sup>83</sup> A U.S. Department of Homeland Security (“DHS”) spokesperson rejected this claim, explaining that the agency does not classify any organizations as such.<sup>84</sup> However, in March 2023, a DHS bulletin referred to activists in Atlanta as “DVEs,” which stands for Domestic Violent Extremists (“DVEs”).<sup>85</sup> Local authorities then used that label to single out activists, claiming that the entire group had been designated as DVEs by DHS.

At the bail hearing, the magistrate judge expressed skepticism, noting that “there’s not a lot of meat on the bones” of the allegations.<sup>86</sup> Nonetheless, despite the thin evidence relied on by police and prosecutors, these arrests will likely have an impact on political organizing and mutual aid. It is unusual for SWAT teams to be involved in cases of charity fraud.<sup>87</sup> Additionally, the state had an alternative, since charity fraud complaints can be directed to the Secretary of State’s Charities Division, since the Secretary has statutory authority to launch a full investigation.<sup>88</sup> The arrests could have been avoided, but there likely was a political motive behind the arrests, because they occurred just days before the Atlanta City Council voted on funding for the facility’s construction.<sup>89</sup>

The three ASF officers, along with numerous protestors, were later indicted under the Georgia Racketeer Influenced and Corrupt Organizations Act (“RICO”). In part, these charges appear to target mutual aid, an essential component of many successful political and civil rights movements. Indeed, the indictment claims that mutual aid is “a term popularized by anarchists to describe individuals who exchange goods and services to assist other individuals in society without government intervention.”<sup>90</sup> The mutual aid efforts being targeted include transfers of relatively small amounts of money. The indictment also includes 15 counts of

<sup>82</sup> Jocelyn Simonson, *The Details of the Atlanta Bail Fund Arrest Are More Horrific than First Described*, SLATE (June 1, 2023, 1:33 PM), <https://slate.com/news-and-politics/2023/06/cop-city-tortuguita-atlanta-bail-fund-arrest-horror.html> [<https://perma.cc/U3HA-Y59T>].

<sup>83</sup> Odette Yousef, *Domestic Terrorism Charges in Georgia Are Prompting Concern over Political Repression*, NPR (June 29, 2023, 2:52 PM), <https://www.npr.org/2023/06/28/1184782128/cop-city-atlanta-domestic-terrorism> [<https://perma.cc/MP44-FK2B>].

<sup>84</sup> Brown, *supra* note 76.

<sup>85</sup> The U.S. Department of Homeland Security has used “domestic violent extremist” and “domestic terrorist” interchangeably.

<sup>86</sup> Emily Wu Pearson, *Bail Granted for Atlanta Solidarity Fund Members Arrested for Helping ‘Cop City’ Protesters*, WABE (June 2, 2023), <https://www.wabe.org/atlanta-solidarity-fund-members-arrested-for-helping-protesters-granted-bail/>.

<sup>87</sup> Beth Gazley, *Arrests of 3 Members of an Atlanta Charity’s Board in a SWAT-Team Raid Is Highly Unusual and Could Be Unconstitutional*, THE CONVERSATION (June 8, 2023, 8:28 AM), <https://theconversation.com/arrests-of-3-members-of-an-atlanta-charitys-board-in-a-swat-team-raid-is-highly-unusual-and-could-be-unconstitutional-206984> [<https://perma.cc/2C6N-WJHY>].

<sup>88</sup> *Id.*

<sup>89</sup> Kiara Alfonseca et al., *‘Cop City’ Vote: Atlanta City Council Approves Funding for Controversial Project*, ABC NEWS (June 6, 2023, 7:18 AM), <https://abcnews.go.com/US/atlanta-city-council-vote-budget-called-cop-city/story?id=99838332> [<https://perma.cc/9WW9-CGCM>].

<sup>90</sup> Indictment at 26, *Georgia v. Beamon*, No. 235C189192 (Fulton Cty. Super Ct. Aug. 29, 2023).



money laundering against the members of the Atlanta Solidarity Fund. The transactions include items such as “forest tools” and “forest kitchen materials.”<sup>91</sup> The indictments were expected but represent a dangerous precedent for protest movements to be prosecuted as one criminal enterprise.<sup>92</sup> The indictments have caused concern among many activists that participation in future protests could be linked to current domestic terrorism and RICO prosecutions, exposing protestors to significant criminal liability.

Similarly, Indian authorities have been increasingly hostile to critics and have utilized both counterterrorism and finance regulations to silence dissent. For example, in February 2023, India’s financial crimes agency opened an investigation into the BBC for alleged tax irregularities.<sup>93</sup> However, the investigation was widely understood as a reprisal for the BBC’s two-part documentary, *The Modi Question*, which criticized Prime Minister Narendra Modi and the ruling Bharatiya Janata Party.<sup>94</sup> More recently, in June 2024, the Indian government decided to charge Arundhati Roy, a Booker Prize winning author, and Sheikh Showkat Hussain, a Kashmiri academic, under the UAPA for a 2010 speech that drew attention to human rights violations in IAK.<sup>95</sup>

Indian authorities have also used the UAPA in IAK to target pro-self-determination organizations, such as the Jammu and Kashmir Coalition of Civil Society (“JKCCS”), and human rights defenders like Khurram Parvez. The JKCCS is a human rights organization known for its analysis of human rights violations in IAK.<sup>96</sup> Indian authorities labeled the organization as “anti-national” and accused it of publishing “incriminating material to bring hatred, contempt and disaffection

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<sup>91</sup> *Id.* at 102-109.

<sup>92</sup> *Statement On Possible Rico Charges Against Stop Cop City Activists*, ATLANTA SOLIDARITY FUND (Feb. 27, 2023), <https://atlsolidarity.org/statement-on-possible-rico-charges-against-stop-cop-city-activists/> [<https://perma.cc/3MRK-G6CN>] (“The notion that RICO would be invoked to punish protestors engaged in a widely-supported challenge to a government decision is a giant leap in the wrong direction. Threatening peaceful protestors with a seizure of their money and a twenty-year prison sentence not only mocks the purpose of the statute, it represents an assault on the most important and cherished rights of all American citizens: the right to protest, the right to seek redress of grievances, the right to enlist friends, colleagues, and the community to change government policy because the citizens want change.”).

<sup>93</sup> *India: Tax Raids on the BBC Are an ‘Affront to Free Speech’*, AMNESTY INT’L (Feb. 14, 2023), <https://www.amnesty.org/en/latest/news/2023/02/india-tax-raids-on-the-bbc-are-an-affront-to-free-speech/> [<https://perma.cc/24WN-3WNH>] (noting that the Indian tax department raided BBC offices in New Delhi and Mumbai less than a month after the BBC released a documentary exploring riots, the rise of violence, and suppression of political dissent in the country following Prime Minister Narendra Modi coming into power).

<sup>94</sup> *Id.*

<sup>95</sup> *India: Growing Concerns on the Misuse of Financial Action Task Force Standards to Target Civil Society*, FRONT LINE DEFENDERS (June 25, 2024), <https://www.frontlinedefenders.org/en/statement-report/india-growing-concerns-misuse-financial-action-task-force-standards-target-civil> [<https://perma.cc/A8KQ-2UEB>].

<sup>96</sup> Press Release, United Nations Human Rights Special Procedures, India: UN Expert Demands Immediate End to Crackdown on Kashmiri Human Rights Defenders (Mar. 24, 2023), <https://srdefenders.org/india-un-expert-demands-immediate-end-to-crackdown-on-kashmiri-human-rights-defenders-press-release/> [<https://perma.cc/2UKL-TN7Q>].

towards the Government of India.”<sup>97</sup> Authorities relied on UAPA to conduct raids and file charges against JKCCS for allegedly using foreign funding for “secessionist and terrorist activities.”<sup>98</sup> It is common practice for Indian authorities to label anyone advocating for self-determination in IAK as a promoter of terrorism. In addition, the government targeted human rights defenders affiliated with JKCCS. In November 2021, for instance, the National Investigative Agency arrested Khurram Parvez for “terrorist funding,” a politically motivated charge likely intended as a reprisal for Parvez’s work. Parvez is a 2023 Martin Ennals Award Laureate, founder of the JKCCS, and Chair of the Asian Federation Against Involuntary Disappearances.<sup>99</sup> He was recognized for his investigation and reporting of human rights violations in IAK, despite facing severe state repression.<sup>100</sup> To date, Parvez remains in detention, despite calls for his release.<sup>101</sup> The Human Rights Council Working Group on Arbitrary Detention found that Parvez’s detention is arbitrary and discriminatory, resulting from his exercise of civil and political rights.<sup>102</sup>

Notably, few cases registered under UAPA result in a conviction, indicating that the law is used to punish critics of the administration and to chill dissent through arbitrary and prolonged detention, asset seizure, and lengthy investigation.<sup>103</sup> Amnesty International documented a 12 percent increase in the statute’s use following the abrogation of Article 370,<sup>104</sup> indicating that it has likely been used to suppress pro-self-determination movements and to deter criticism of the Indian

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<sup>97</sup> Joint Statement, *India: End reprisals Against the Jammu and Kashmir Coalition of Civil Society (JKCCS) and Human Rights Defenders in Kashmir* 1-3 (May 12, 2023), <https://www.amnesty.org/en/documents/asa20/6781/2023/en/> [<https://perma.cc/JF7X-GHDE>].

<sup>98</sup> Qadri Inzamam & Haziq Qadri, “*Meant To Intimidate*”: Months After Police Raids, Kashmir Human Rights Groups Remain Dormant, *THE INTERCEPT* (June 26, 2021),

<https://theintercept.com/2021/07/26/india-kashmir-human-rights-nia/> [<https://perma.cc/FA55-2KUG>].

<sup>99</sup> Khurram Parvez, *2023 Laureate*, MARTIN ENNALS AWARD (last visited Jan. 17, 2024),

<https://www.martinennalsaward.org/hrd/khurram-parvez/> [<https://perma.cc/55UF-LGFV>].

<sup>100</sup> *Id.*

<sup>101</sup> Press Release, Special Procedures, UN Experts Urge Indian Authorities to Stop Targeting Kashmiri Human Rights Defender Khurram Parvez and Release Him Immediately, U.N. Press Release SP (Dec. 22, 2021), <https://www.ohchr.org/en/press-releases/2021/12/un-experts-urge-indian-authorities-stop-targeting-kashmiri-human-rights>; Joint Statement, International Federation For Human Rights, *India: Two Years of Arbitrary Detention of Kashmiri Human Rights Defender Khurram Parvez* (Nov. 21, 2023), <https://www.fidh.org/en/region/asia/india/india-two-years-of-arbitrary-detention-of-kashmiri-human-rights> [[perma.cc/BJE2-KBXA](https://perma.cc/BJE2-KBXA)].

<sup>102</sup> Human Rights Council Opinion No. 8/2023 concerning Khurram Parvez (India), U.N. Doc. A/HRC/WGAD/2023/8 ¶¶ 67, 71, 84-85 (June 5, 2023).

<sup>103</sup> WEAPONIZING COUNTERTERRORISM, *supra* note 14, at 23 (“Only 2.2% of cases registered under the law from 2016 to 2019 ended in a court conviction. Nearly 11% of cases were closed by the police for lack of evidence”).

<sup>104</sup> See *Article 370: What Happened with Kashmir and Why It Matters*, BBC (Aug. 5, 2019), <https://www.bbc.com/news/world-asia-india-49234708> [[perma.cc/846Q-U8EW](https://perma.cc/846Q-U8EW)]. Article 370 was an Indian constitutional provision which granted a degree of autonomy and special status to the Jammu and Kashmir region administered by India. The Indian government, led by Prime Minister Modi and the ruling Bharatiya Janata Party, unilaterally abrogated Article 370 in August 2019. The abrogation allowed the Indian government to expand its control over the disputed territory.

government's unilateral decision to abrogate Article 370.<sup>105</sup> Human rights organizations in the region have been forced to lie dormant due to fear of reprisals.<sup>106</sup>

The use of UAPA in this manner is incompatible with international human rights obligations, resulting in arbitrary and prolonged detention and violations of the right to freedom of expression, and illustrates how the Indian government has exploited the FATF Recommendations to both implement and strengthen regulations used to target human rights organizations. Amendments to the UAPA, for example, were made after the FATF warned India that it was not in full compliance with its obligations; the Indian government amended UAPA without consulting civil society or employing risk-based assessments as required.<sup>107</sup> Additionally, Indian counterterrorism legislation, including UAPA, likely exceeds the scope of FATF.<sup>108</sup> Various UN Special Rapporteurs have raised concerns about these laws and noted their potential for misuse.<sup>109</sup> India's targeting of activists through the misuse of UAPA provides a clear example of how counterterrorism laws can be used to silence, surveil, and prosecute dissent.

## V. CONCLUSION

"Material support" statutes, terrorism designations, and counterterrorism statutes have had a chilling effect on social justice movements. Many of these statutes restrict the rights to freedom of expression and association enshrined in the ICCPR and violate international law. The laws discussed above are only a few examples of instances where counterterrorism laws were used against organizations or individuals in an attempt to dismantle broader social justice movements. These instances provide examples of how government repression targeting mutual aid, humanitarian aid, and human rights organizations and organizers through counterterrorism laws can be used to silence, surveil, and prosecute dissent. However, India, Israel, and the United States are far from the only countries to weaponize such frameworks.<sup>110</sup>

There are many other examples of counterterrorism laws being used to restrict established rights, such as freedom of association or expression.<sup>111</sup> It is important to acknowledge the U.S.'s role in exporting a counterterrorism regime that

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<sup>105</sup> WEAPONIZING COUNTERTERRORISM, *supra* note 14, at 23.

<sup>106</sup> Inzamam & Qadri, *supra* note 98.

<sup>107</sup> WEAPONIZING COUNTERTERRORISM, *supra* note 14.

<sup>108</sup> Letter, Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to India, OL IND 10/2023, 9 (Oct. 31, 2023).

<sup>109</sup> *See, e.g.*, Letter, Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to India, OL IND 6/2023 (Aug. 8, 2023).

<sup>110</sup> TURKEY: WEAPONIZING COUNTERTERRORISM, AMNESTY INT'L (2020),

<https://www.amnesty.org/es/wp-content/uploads/2021/07/EUR4442692021ENGLISH.pdf>

[<https://perma.cc/M6PV-WLOJ>].

<sup>111</sup> Joint letter to United Nations Human Rights Committee, Letter from Global Civil Society Organizations Providing Information for the UN Human Rights Committee's Upcoming Review of the United States of America under the International Covenant on Civil and Political Rights (Sept. 12, 2023),

<https://ccrjustice.org/sites/default/files/attach/2023/09/Global%20Civil%20Society%20Letter%20-%20US%20ICCPR%20Review.pdf> [<https://perma.cc/LNT8-3TFT>].

has deep impacts for organizers worldwide. Advocates have documented the influence and proliferation of U.S. counterterrorism policy in conjunction with the “War on Terror,” noting that it has had significant repercussions both domestically and internationally.<sup>112</sup> One consequence of the “War of Terror” has been its impact on civic space as states use counterterrorism regulations to silence human rights defenders and organizations that challenge state oppression.

Understanding the connections and similarities between systems of repression is key to strengthening international cross-movement solidarity. The proliferation of surveillance infrastructure and the rise of cross-border training and tactic-sharing programs, such as the Georgia International Law Enforcement Exchange (“GILEE”), are of paramount concern when placed within the broader scope of international counterterrorism frameworks. There are already numerous points of connection between countries’ employment of counterterrorism laws to stifle dissent, many of which have already been recognized.<sup>113</sup> For example, activists have discovered increasing military and industrial links between India and Israel, from cross-border tactic sharing to sales of military technology.<sup>114</sup> Additionally, military technology and weapons developed and manufactured in Israel, which are used to oppress Palestinians, have been linked to repressive state policies, and to genocides in Bosnia, Rwanda, and Myanmar.<sup>115</sup> Elbit Systems, an Israeli weapons manufacturer, has supplied its products to numerous authoritarian governments and had its technology used for surveillance along the U.S.’s southern border.<sup>116</sup>

International human rights mechanisms may also provide useful tools to draw attention to systematic government abuses. Numerous treaty bodies, such as the International Covenant on Civil and Political Rights, provide civil society organizations with opportunities to submit shadow reports documenting country conditions. Other treaties include provisions that allow for the submission of complaints to international treaty bodies.<sup>117</sup> In addition to formal processes, People’s Tribunals, convened by organizers with jurors from around the world, can be a

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<sup>112</sup> *Id.*

<sup>113</sup> See, e.g., Juan Cole, *Flint and Gaza: Water Crises of Colonialism*, THE NATION (Feb. 3, 2016), <https://www.thenation.com/article/archive/flint-and-gaza-water-crises-of-colonialism/> [<https://perma.cc/LJ9J-MUEJ>] (last visited Feb. 28, 2025); Zainab Ramahi & Azadeh Shahshahani, *Destroying to Replace: Settler Colonialism from Kashmir to Palestine*, VERSO BOOKS (Aug. 10, 2020), <https://www.versobooks.com/blogs/news/4817-destroying-to-replace-settler-colonialism-from-kashmir-to-palestine> [<https://perma.cc/VAH6-DC6L>] (last visited Feb. 28, 2025).

<sup>114</sup> Azad Essa, *HOSTILE HOMELANDS: THE NEW ALLIANCE BETWEEN INDIA AND ISRAEL* 45–50 (2023).

<sup>115</sup> *Id.*

<sup>116</sup> Will Parrish, *The U.S. Border Patrol and an Israeli Military Contractor Are Putting a Native American Reservation Under “Persistent Surveillance”*, THE INTERCEPT (Aug. 25, 2019, 11:00 AM), <https://theintercept.com/2019/08/25/border-patrol-israel-elbit-surveillance/> [<https://perma.cc/FP7X-JMET>].

<sup>117</sup> For example, the Committee against Torture has authority to consider some individual complaints. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 22, *opened for signature* Dec. 10, 1984 1465 U.N.T.S. 85. For more information, see *Complaints About Human Rights Violations*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R FOR HUM. RTS., <https://www.ohchr.org/en/treaty-bodies/complaints-about-human-rights-violations> (last visited Nov. 6, 2024).

powerful force for holding governments to account.<sup>118</sup> Although these tribunals do not hold legal authority, evidence gathered during these tribunals has drawn international attention and later been used in an International Criminal Court case.<sup>119</sup> Since the Russell Tribunal in 1967, People’s Tribunals have been held to address rights violations in numerous countries, including Brazil, Mexico, and the Philippines.<sup>120</sup> Following the issuance of Executive Order 13769 on January 27, 2017, Executive Order 13780 on March 6, 2017, and Proclamation 9654 on September 24, 2017,<sup>121</sup> collectively referred to as the “Muslim Ban,” Project South, along with numerous community partners, held a People’s Tribunal, “The People vs. the Muslim Ban” on October 9, 2017.<sup>122</sup> The tribunal found that the ban violated the First, Fifth, and Fourteenth Amendment of the U.S. Constitution.<sup>123</sup> Although the Supreme Court later upheld the ban based on its third iteration as outlined in Proclamation 9654,<sup>124</sup> the tribunal highlighted the ban’s harm and provided space for individuals to share how it impacted their lives, families, and communities.<sup>125</sup>

In the face of state violence and repression, social movements must share information and learn resistance tactics from one another. Activists can look to

<sup>118</sup> Azadeh Shahshahani, *People’s Tribunals: Holding Power to Account*, NAT’L LAWS. GUILD (Mar. 8, 2021), <https://www.nlg.org/peoples-tribunals-holding-power-to-account/> [<https://perma.cc/W6G7-UPGF>].

<sup>119</sup> *Id.* For example, the recent prosecution of former Filipino President Rodrigo Duterte at the International Criminal Court is the result of relentless work by Philippines-based organizations such as the National Union of Peoples’ Lawyers. These organizations hosted a People’s Tribunal in which the jury found Duterte, U.S. President Donald Trump, and other defendants guilty of war crimes, crimes against humanity, and other grave human rights violations. The jury additionally called for accountability and reparations for the Filipino people. See Bernadette Ellorin & Azadeh Shahshahani, *Trump and Biden Financed Duterte’s Crimes. They Too Should Pay for It*, THE INTERCEPT (Mar. 19, 2025), <https://theintercept.com/2025/03/19/rodrigo-duterte-icc-arrest-accountability/> [<https://perma.cc/9YAS-J76J>]. For more information about the tribunal, see Azadeh Shahshahani, *The Philippine President Is Waging a Ruthless War on Drugs—And the U.S. Is Complicit*, IN THESE TIMES (October 8, 2018), <https://inthesetimes.com/article/peoples-tribunal-philippines-rodrigo-duterte-drug-war-executions-repression> [<https://perma.cc/PHS7-69UV>].

<sup>120</sup> Richard Falk, *People’s Tribunals, and the Roots of Civil Society Justice*, OPENDEMOCRACY (May 12, 2015), <https://www.opendemocracy.net/en/opensecurity/peoples-tribunals-and-roots-of-civil-society-justice/>.

<sup>121</sup> Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017), <https://www.federalregister.gov/documents/2017/02/01/2017-02281/protecting-the-nation-from-foreign-terrorist-entry-into-the-united-states> [<https://perma.cc/2WRL-X6X6>]; Exec. Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017), <https://www.federalregister.gov/documents/2017/03/09/2017-04837/protecting-the-nation-from-foreign-terrorist-entry-into-the-united-states> [<https://perma.cc/X2AC-RVGY>]; Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017), <https://www.federalregister.gov/documents/2017/09/27/2017-20899/enhancing-vetting-capabilities-and-processes-for-detecting-attempted-entry-into-the-united-states-by> [<https://perma.cc/CDS9-HDZ4>].

<sup>122</sup> Angela Oliver, *Power to the People: People’s Tribunal a Platform for Arguments Surrounding Muslim Ban*, PROJECT SOUTH (Oct. 10, 2017), <https://projectsouth.org/peoples-tribunal-a-platform-for-arguments-surrounding-muslim-ban/> [<https://perma.cc/7FKY-ZGCV>].

<sup>123</sup> *Id.*

<sup>124</sup> Nina Totenberg & Domenico Montanaro, *In Big Win for White House, Supreme Court Upholds President Trump’s Travel Ban*, NPR (June 26, 2018, 10:25 AM), <https://www.npr.org/2018/06/26/606481548/supreme-court-upholds-trump-travel-ban> [<https://perma.cc/RKN5-BWT7>].

<sup>125</sup> Oliver, *supra* note 122.

current and past movements as useful frameworks when anticipating threats and preparing for government repression. In combating the GILEE program in Georgia, for instance, activists have drawn on lessons learned from earlier efforts, like the Stop Urban Shield movement in California.<sup>126</sup> As more “Cop Cities” have been proposed in cities across the United States, organizers have also collaborated and shared tactics to prevent the construction of these training facilities.<sup>127</sup>

Such information-sharing is vital to continued resistance. Governments understand the power of cross-movement solidarity: as Israel’s genocide in Gaza began, the Indian government prevented Palestine solidarity protests in Indian-administered Kashmir in late 2023, where Kashmiris have often vocalized solidarity with Palestinians.<sup>128</sup> No doubt, government officials were trying to prevent Kashmiris from drawing further connections between Palestine and Kashmir. As history demonstrates, cross-movement solidarity will only strengthen collective resistance to government oppression.<sup>129</sup>

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<sup>126</sup> For more information about the Stop Urban Shield campaign, see STOP URBAN SHIELD, <http://stopurbanshield.org/> (last visited Feb. 22, 2025).

<sup>127</sup> See Victoria Valenzuela, *As “Cop Cities” Spread to Nearly Every State, Activists Are Pushing Back*, TRUTHOUT (Sept. 12, 2024), <https://truthout.org/articles/as-cop-cities-spread-to-nearly-every-state-activists-are-pushing-back/> [<https://perma.cc/PB8P-LGZX>] (describing the proliferation of “Cop Cities”); see also National Lawyers Guild, *Stop All Cop Cities: Lessons for a National Struggle*, VIMEO (Feb. 20, 2024, 12:02 PM), <https://vimeo.com/914852334> [<https://perma.cc/KT4X-JKYF>] (discussing lessons learned from past and current movements to Stop Cop City).

<sup>128</sup> Aijaz Hussain & Sheikh Saaliq, *India Bars Protests that Support the Palestinians. Analysts Say a Pro-Israel Shift Helps at Home*, AP NEWS (Nov. 8, 2023), <https://apnews.com/article/india-kashmir-protests-israel-gaza-f4b431716dec1550522db2e49630d9e>.