THE IMPLICATIONS OF THE FINANCIAL ACTION TASK FORCE FINDINGS ON SOUTH AFRICA'S NATIONAL SECURITY

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ABSTRACT:

In February 2023, the Financial Action Task Force (FATF) added South Africa to the list of jurisdictions under increased supervision (greylist) due to substantial deficiencies in its monitoring and combating money laundering and the financing of organisations that may pose a threat to national and global security. The FATF is an inter-governmental body responsible for coordinating global efforts to combat money laundering, financing of terrorism, and proliferation financing (AML/CFT). It establishes global standards to mitigate against risks, and conducts assessments on countries to check effectiveness of their regimes.

This research sought to analyse the implications of the FATF findings on South Africa's national security. The research analysed the implications against political and economic security of South Africa, key tenets of national security. Through document analysis and semi-structured interviews, the research found that the Mutual Evaluation conducted by FATF was a fair reflection of South Africa's AML/CFT regime. It identified structural weaknesses in South Africa's law enforcement agencies and legislative framework. Recommendations by FATF have far reaching economic and political implications which has consequences for the country's national security. The response by government to address FATF findings has been impressive, leading to better coordination and increased political will in strengthening South Africa's AML/CFT regime, and getting off the greylist.

DECLARATION:

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements of the degree of Master of Management (in the field of Governance) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

L Mdawo

February 2024

DEDICATION:

This research is dedicated to my family; my parents, wife and our sons. I thank you for your unwavering support, and motivation. I love you.

I appreciate the faith shown in me by my extended family, it continues to inspire me.

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CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

Financing of terrorism and money laundering crimes pose one of the biggest threats to global peace and security. The transnational nature of these crimes requires a global concerted effort to curb these global phenomena. It is upon realising the existential threat posed by these crimes, that the United Nations established Resolutions and Treaties to address these crimes.

The Security Council calls upon Members States to combat money laundering and criminalise financing of terror-related activities through Resolution 2462 (United Nations, 2023). Resolutions established by the Security Council are binding to all United Nation's Member States. South Africa as a Member State of the United Nations, is therefore enjoined by Security Council Resolutions.

South Africa's international obligations often have implications on its national security. An example of this is South Africa's legal obligations to the International Criminal Court (ICC).On 04 March 2009, the International Criminal Court issued an arrest warrant against then president of Sudan Mr Omar Hassan Ahmad Al Bashir (ICC-CPT.INT, 2009).

This compelled South Africa to effect an arrest when President Al Bashir visited the country in 2015. South Africa's legal obligation to arrest Mr Al Bashir is owing to international law under the Rome Statute, enacted through the Rome Statute Act No.27 of 2002 (Institute for Security Studies, 2017).

In anticipation of Mr Al Bashir's arrest, Sudanese troops surrounded military bases in Darfur where South African troops were located. The Sudanese troops only withdrew from the bases once President Al Bashir landed in Sudan (News24, 2015). The international obligations of South Africa to the ICC, had implications for South Africa's national security and interests in this incident.

To explore implications of international obligations on national security, this research explored South Africa's membership to the Financial Action Task Force (FATF), an intergovernmental body responsible for developing policies to combat money laundering and terrorist financing (FATF, 2023).

In February 2023, FATF placed South Africa on the list of countries under increased monitoring, also known as the greylist. This research is important as the findings of FATF are often explained as having implications on South Africa's reputation to combat money laundering and terrorism, and increase in due diligence required on cross border transactions only (National Treasury, 2023).

Existing literature does not go further and explore the implications that these international obligations have on national security. Most literature identifies reputational damage, and enhanced due diligence by foreign banks that conduct correspondent banking service as consequences of greylisting (National Treasury, 2023).

Studies often look at the role that banks play in international money laundering, owing to their convenience, accessibility and security (Lim, 2021). Previous studies focused on the consequences of greylisting from the perspective of markets and how they can lead to development of public policy and provide unobservable information on the markets (Louis de Koker, 2023). Such focus has led to increased attention on the role of banks in response to a country that is greylisted.

This research looked at how international norms such as FATF Recommendations affect national jurisdiction along several lines, these include aligning national institutions to international standards (including laws) and political ideology at national level (Andrew P. Cortell and James W. Davis, 2000). In studying the implications of the FATF findings on national security, this research defined national security along non-military definitions of political and economic security (Holmes, 2015).

Political security refers to preserving a country's sovereignty, free from external influence and pressure (Holmes, 2015). Economic security refers to the freedom of governments to take economic decisions for their people, without external pressure (Holmes, 2015).

This research analysed how recommendations by FATF has implications for the countries' policies, and in particular South Africa's economic policy. FATF findings led to South Africa amending two laws, namely the General Laws Amendment Act (The Presidency, 2022), and the Protection of Constitutional Democracy against Terrorist and Related Activities Act (The Presidency, 2022).

The research used an analytical lens of Institutionalism. Institutionalism is broadly understood as a system of rules that govern social interaction and can take many forms including organisations, laws and language (Hodgson, 2006).

1.2 BACKGROUND

Criminals often rely on organised crime syndicates and networks to make proceeds of criminal activities appear legitimate. An increase in money laundering is further compounded by the increase in use of virtual assets (amongst several typologies), an economy that remains largely unregulated.

There are mainly three phases of money laundering namely: placement (illegal proceeds introduced into financial system), layering (illegal proceeds mixed with legitimate funds) and integration (laundered proceeds brought back into legitimate economy) phases (Choo, 2012).

South Africa is no exception to this phenomenon, with the most prominent money laundering cases involving the Gupta brothers and the money launders and gold smugglers reportedly uncovered by investigative journalists (Aljazeera, 2023).

Financing of terror related activities is largely motivated by intention to encourage, plan or assist in acts of terrorism (Choo, 2012). Chapter 2 of South Africa's counter terrorism legislation (Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004) provides a more detailed definition of offences associated with terrorism (The Presidency, 2005).

In November 2022, the United States Treasury sanctioned four individuals based in South Africa, for allegedly providing financial, material, and technical support to the United Nations listed terror group, Islamic State (Daily Maverick, 2022). The four Durban-based businessmen are named as Nufael Akbar, Yunus Mohamad Akbar, Mohamad Akbar and Umar Akbar (Daily Maverick, 2022).

While some of the money laundering and terrorism financing cases mentioned above are still ongoing, they highlight the need for South Africa to strengthen its anti-money laundering and counter terror financing regime to avoid exploitation of its banking system, infrastructure and well-developed economy. In an effort to align to international standards to combat money laundering and terrorism financing, South Africa is a member of the FATF and is required to implement standards set by the organisation.

The FATF is an intergovernmental body that sets standards on global efforts to combat money laundering, terrorist financing and proliferation of weapons of mass destruction. South Africa is the only African member of the FATF, out of a total of 39 (FATF, 2023). Established in 1989, the Paris-based body ensures national legislative reform in countering crimes of terrorism financing, money-laundering and proliferation financing (Pavlidis, 2021).

Legislative reform is achieved through research, standard setting and peer-review assessments for compliance. The peer review is conducted against 40 Recommendations set by FATF, and countries' effectiveness in addressing terrorist financing, money laundering and proliferation financing along 11 outcomes (National Treasury, 2023). The peer review is known as a Mutual Evaluation (FATF, 2023). If a country fails to meet the FATF Recommendations then it could be declared a Jurisdiction under Increased Monitoring (greylist) or High Risk Jurisdiction (black list) (FATF, 2023).

Jurisdictions under Increased Monitoring work with the FATF to address identified shortcomings in countries' anti-money laundering and counter financing of terrorism regimes (National Treasury, 2023). Countries' placed on the greylist generally experience increased due diligence in transactions and businesses linked to listed countries (Louis de Kocker, 2023).

High Risk Jurisdictions are countries that are not working with the FATF to address identified shortcomings (National Treasury, 2023). FATF calls on all countries to put "counter-measures" in place to mitigate against money laundering and terrorist financing by listed countries (Louis de Kocker, 2023). This has a detrimental effect on economic activity of listed countries, hindered by the call for action (Louis de Kocker, 2023).

In a Mutual Evaluation conducted in 2019, South Africa was found to have weak policies in place to combat terrorism financing and money laundering, and non-compliant with 20 of 40 FATF Recommendations (FATF, 2021). Following a one-year observation period, South Africa was placed on the greylist despite substantial efforts to address the 67

Recommended Actions (National Treasury, 2023). Some of the key findings that led to the greylist include:

- Limited understanding of money laundering vulnerabilities by South African authorities.
- Insufficient understanding of terrorist financing risks by South African authorities.
- Money laundering and terror financing risks are not adequately addressed by authorities.
- ‘State capture’ undermined the state’s capacity to deal with corruption.
- Insufficient skills to investigate money laundering and terrorist financing by law enforcement agencies.
- Money laundering prosecutions are mainly for fraud cases and do not include large networks and high-risk cases.
- Insufficient proof of state’s ability to recover assets from proceeds of crimes such as ‘state capture’.
- South Africa not confiscating cross-border cash movement commensurate to the identified risk.
- South Africa not prosecuting enough suspects linked to terror financing in line with its risk profile.
- South Africa not making use of Targeted Financial Sanctions to counter terrorist financing.
- Insufficient information on Beneficial Ownership (BO) to enable investigations where warranted.
- Smaller financial institutions largely focused on compliance and less on identifying money-laundering risks.
- South Africa not adequately pursuing Mutual Legal Assistance for domestic cases.
- The private sector’s understanding of risks associated with proliferation is underdeveloped and new (FATF, 2021).

FATF identified 8 critical deficiencies that need to be addressed by South Africa, these are:

1. Demonstrate the use of Mutual Legal Assistance to investigate and prosecute money laundering/ financing of terrorism cases.
2. Improve supervision of designated non-financial businesses and professions (DNFBPs).
3. Enable access to Beneficial Ownership (BO) on legal persons and sanction non-compliance.
4. Provide evidence of financial investigations for terrorism financing and money laundering cases investigated by law enforcement agencies.
5. Secure more convictions for financing of terrorism and money laundering cases.
6. Increase seizure of proceeds of predicate crimes.
7. Update its terrorism financing risk assessment.
8. Showcase implementation of targeted financial sanctions (National Treasury, 2023).

Of the initial 20 deficiencies identified, South Africa will have to address the above deficiencies before the next review which is scheduled to take place in 2025.

This research looked at the implications of these FATF findings on national security. This included the greylist that South Africa finds itself on, and the implications should South Africa fail to implement the Recommended Actions and potentially find itself in the blacklist.

The FATF findings is on the back of economic shocks owing to COVID-19 pandemic. In 2022, an estimated 30% of people in South Africa were living in absolute poverty, unemployment at an estimated 32.7% and increasing inequality (0.63 Gini coefficient) in 2021 (African Development Bank Group, 2023). The research explored whether the greylisting exacerbated the undesirable economic conditions that characterise South Africa.

Politically, the FATF findings come against a backdrop of previously weakened institutions of the state, responsible for countering financing of terrorism, anti- money-laundering and counter proliferation financing. The Commission of Inquiry into State Capture, found that key law enforcement and intelligence agencies, such as the State Security Agency and Crime Intelligence, were deliberately weakened to enable illegal activity (Chief Justice of the Republic of South Africa, 2022).

Law enforcement and intelligence agencies play a central role in countering financing of terrorism, money laundering and proliferation financing. A weakening of these institutions impedes their ability to fulfill their mandates optimally.

While countries invoke and protect their sovereignty, international organisations can affect a country's sovereignty and national interests. Modern definitions of national security consider non-military pillars. It is important to understand the international environment that affect countries' national sovereignty and security. Several concepts of international security come to mind, namely: collective defence, collective security, global security and international law (Holmes, 2015).

Collective defence refers to the agreement between nation states to defend each other militarily (Holmes, 2015). Collective security places emphasis on regional and international security of nation states, guided by international law, international governance, and acknowledgement of states responsibility for its own security (Holmes, 2015).

Global security aims to achieve global peace through international law, governance and aid. Assistance is often provided through peacekeeping missions (led by the United Nations) in this concept (Holmes, 2015). International law refers to rules that enjoin nation states and are enforceable by international and national bodies. This also refers to rules and norms collectively adhered to by nation states (Holmes, 2015).

Considering the above definitions, this research focused on how concepts such as global security, collective security and international law have implications on the governance and policy making of nation states. Money laundering, proliferation financing and terrorist financing are considered transnational crimes that can affect the security of more than one nation state. This research explored how based on this understanding of the geographic reach and impact of the mentioned crimes, the FATF can establish international norms and practice, that are enforceable through various mechanisms. These international norms, obligations, governance structures can enforce rules that may have implications for on a country's policies and ultimately national security.

FATF Mutual Evaluation findings will have implications on two pillars that underpin national security, namely political and economic security. FATF findings led to legislative review by South Africa, which have implications on the sovereignty and free-will to implement economic policies by South Africa. The study explored the implications of FATF findings on the political and economic security of the country. These include intended and unintended consequences of the findings.

1.3 PROBLEM STATEMENT

South Africa is a signatory to many international resolutions and a member of several international organisations. Resolutions and membership to these bodies place certain obligations on the country. While these obligations relate to the country's foreign policy, they also have a bearing on South Africa's national security.

In an attempt to assess the implications of international obligations on South Africa's national security, this research looked at the recent greylisting by the Financial Acton Task Force (FATF), and its possible implications for South Africa's national security. Greylisting has economic and political implications for affected countries. This research explored how these political and economic ramifications affect the country's national security.

In 2021, FATF conducted an oversight visit to assess the level of South Africa's effectiveness on its anti-money laundering (AML)/ counter terrorism (CT) regime (FATF, 2021).

FATF highlighted areas of concern in the AML/CT regime, and despite efforts to correct the shortcomings identified by FATF, it placed South Africa on the list of jurisdictions under increased monitoring in February 2023 (FATF, 2023).

These findings identified shortcomings in South Africa's policies, and the role played by public and private sector stakeholders (FATF, 2021). This research considered the role of law enforcement departments and intelligence agencies in fulfilling international obligations that have implications on national security.

There is plenty of information available regarding what it means for countries placed under increased monitoring by FATF; however, there is little information on how this affects a country's national security. The research used the concept of national security as defined along its key non-military tenets, which are political, economic, energy and natural resources, cyber, human and environmental security (Holmes, 2015).

The research focused on the implications of FATF findings according to the relevant tenets of national security as defined above (political and economic security). The knowledge gap lies in the consequences of increased monitoring on the key tenets of national security identified.

1.4 RESEARCH QUESTION

The main question of the research study is 'What are the implications of FATF findings on South Africa's national security?'

The following sub-questions assisted in addressing the main research question:

- What are the contributing factors that resulted in South Africa being greylisted?
- What are the overall economic and political implications of South Africa's greylisting?
- How effective are the mechanisms the government has implemented?
- What mechanisms has the government put in place to get off the greylisting?
- How do the FATF recommendations affect South Africa's sovereignty?
- Can FATF processes be considered free from subjective and geo-political influence?

1.4 RESEARCH PURPOSE

The purpose of the research was to study South Africa's membership to international organisations, such as the Financial Action Task Force (FATF), and implications of membership and/or resolutions of these bodies on South Africa's national security. Particularly, the research focused on the membership to FATF and its recent assessment on South Africa's anti-money laundering and counter-terrorism regimes.

1.5 RESEARCH AIM

The aim of the research was to explain what the FATF findings mean for South Africa (FATF, 2023). The research went further to analyse what the implications of these findings have on key tenets of national security (Holmes, 2015). The research further explored the value of such membership against South Africa's national security. The research analysed the role of law enforcement and intelligence agencies (as custodians of national security) in adhering to these international obligations.

1.6 METHODOLOGY

The research made use of two methodologies, namely document analysis and semi-structured interviews. As part of the document analysis, the research drew from scholarly articles on institutionalism, international law and national security. The research reviewed secondary data from FATF, public and private sector policies, and various think tanks.

Additionally, the research made use of semi-structured interviews from private and public sector officials, including members of law enforcement and intelligence agencies, to gain insight on the consequences of FATF findings on national security.

CHAPTER 2: LITERATURE REVIEW

2.1 INTRODUCTION

The literature review in this study focuses on three themes that are interrelated. The three themes are institutionalism, international law and national security. The main analytical lens of this research is institutionalism, and this literature review focuses on the concept of neo-institutionalism as it relates to international and local organisations, including actors within these institutions. The literature review highlights how institutions, such as the FATF, arrive at certain outcomes.

The concept of international law explores how international rules, standards and agreements govern institutions at international level. These rules and agreements can be binding, whether overtly or covertly. The literature review assesses how decisions at international institutions, governed by international regimes, can have implications for national governments. This can blur the territorial lines of jurisdictions, and ultimately national security.

The literature review reflects on how the definition of national security has evolved, and unpacks the more expansive definition of the concept along several tenets which include economic, political, environmental, cyber and human security. The expansive definition allows the research to explore the implications of FATF findings along political and economic tenets of national security specifically.

FATF BACKGROUND

In 1989, the FATF was established by 11 members with a one-year mandate to deal with drug-trafficking (Nance, 2017). In the decades that followed, the scope of FATF was expanded to include transnational crimes, terrorist financing, proliferation of weapons of mass destruction, and financial exclusion (Nance, 2017).

Based in Paris, the FATF describes its role as that of standard setting and ensuring effective implementation of anti-money laundering and countering of terrorism financing measures, which include legal, regulatory and operational measures (FATF, 2023). FATF currently comprises of 37 member states, nine regional bodies, and 28 observer bodies (Nance, 2017).

The FATF Recommendations are what countries are required to implement in their jurisdictions to counter terrorist financing, money laundering and proliferation financing (FATF, 2023). The FATF monitors compliance of its standards with the assistance of member states, FATF Associated Member Bodies, the International Monetary Fund (IMF) and World Bank (FATF, 2023).

2.2 UNDERSTANDING FATF, GOVERNANCE AND POLICY FORMULATION THROUGH INSTITUTIONALISM

Institutionalism is generally understood as a system of rules, interactions and structures that inform behaviour (Hodgson, 2016). In political science in particular, these interactions, and organisations influence political outcomes (Schmidt, 2014). The research considers Neo-institutionalism along four theories namely, rational choice institutionalism, discursive institutionalism, historical institutionalism, and sociological institutionalism.

While most scholars initially focused on formal institutions such as constitutions, laws and contracts, there was a subsequent increase in theories on informal institutions (Levitsky, 2004). Informal institutions can include corruption, political ideology, and culture (Wesley, Hooghiemstra, & Feeney, 2018). Formal institutions places emphasis on formal governance structures, including its rules. In contrast, informal institutions places emphasis on abstract concepts such as political ideology, tradition, and belief systems (Wesley, Hooghiemstra, & Feeney, 2018).

This research considers both formal and informal institutions. Formal institutions in the research relates to the critique of FATF, its processes and standards. Informal institutions will be covered during the study of organisational cultures of the FATF and the South African government (including its law enforcement agencies), corruption that plagues the country, and the political ideologies that inform South Africa’s policies.

Informal institutions, in the form of unwritten rules, can explain the political behaviour of actors which cannot be exclusively understood through formal written rules (Levitsky, 2004). The two institutions can be compatible, as informal institutions can influence formal institutions by either re-enforcing or inhibiting its (formal institution's) outcomes (Levitsky, 2004).

2.2.1 EXPLAINING PREDICTABILITY OF INSTITUTIONS AND ACTORS THROUGH RATIONAL CHOICE INSTITUTIONALISM

Rational choice institutionalism places emphasis on predictability of institutions, informed by established preferences of actors with established mind-sets (Schmidt, 2014). The definition of rational choice institutionalism is applicable to the FATF, as Mutual Evaluations create a level of predictability in attempting to standardise global efforts to combat terrorism financing, money laundering and proliferation financing. States are able to align their regimes to standards set at global level.

(Schmidt, 2014) argues that most scholars have realised the fallacy in rational choice institutionalism that objective ideas of actors influence institutions. It is rather subjective ideas that inform actors. Human actors will always be prone to personal biases, ultimately influencing institutions that they represent.

Rational choice institutionalism is further described as actors who make decisions based on their preferences and use institutions to achieve them and minimise uncertainty (Ostrom, 1990). At international level, the decision by national political actors to join an intergovernmental body such as FATF, could be pursuant to realising preferred political objectives internationally.

Established in 1989 by the G7, the intergovernmental political forum sought to establish ways to combat money laundering (FATF, 2023). Given the transnational nature of money laundering, the objectives of political domestic actors to combat crimes at national level, could have been the motivation for nation-states to join the FATF. The extension of the FATF's mandate to include terrorist financing in 2001 (FATF, 2023) provided an extra incentive for political actors concerned with the increase in transnational crimes threatening national peace and security.

(Blyth, 2002) argues that rationalist institutionalism fails to consider the uncertain environment institutions operate in, such as the global economy. This research argues that institutions such as FATF create a certain level of predictability as the recommendations are informed by research on developing trends in money laundering, terrorist financing and proliferation of arms.

The standards and the technical compliance criteria outlined by FATF provide predictability in as far as the required measures are concerned. What remains uncertain is the outcome of Mutual Evaluations, a point that is expanded on in chapters that follow.

2.2.2 UNDERSTANDING CHANGES IN INSTITUTIONS THROUGH DISCURSIVE INSTITUTIONALISM

A strand of new institutionalism, known as discursive institutionalism, places emphasis on the ideas and discussions that shape the behaviour and decisions of actors within institutions (Shmidt, 2010). This approach allows for an understanding of changes that happen within an institution. (Shmidt, 2010) argues that this is in contrast to rational choice, historical and sociological institutionalism, which explain consistency of institutions. Discursive institutionalism emphasises the role of political ideas and debates in persuading actors within institutions (Shmidt, 2010).

Discursive institutionalist researchers place emphasis on how ideas at a global level find expression through actors at a local level (Wahlström & Sundberg, 2018). This theory is particularly relevant to this research as it explores how global standards set by an international organisation are implemented by countries at national level. The research explores how the FATF sets its standards and how countries establish laws, policies and practices that are aligned to these standards.

The local context of these international ideas is expressed in the requirement (by FATF) to show effectiveness of the measures that are in place to counter terrorist financing and money laundering at national level. This requirement provides an opportunity for local actors to showcase their understanding of the international standards, against their national perspective.

Discursive scholars consider the interactive sphere of policy actors that discuss and develop policy, and communicate this at political spheres for consideration and to gain legitimacy (Shmidt, 2010). FATF conducts continuous research on financial systems and their vulnerabilities to money laundering and terrorist financing, by establishing standards and best practice documents (FATF, 2023). FATF's research enables the development of up-to-date Recommendations for implementation by states in line with their national conditions, thus facilitating change within the institution. Publications enable communication of research findings, and changes to set standards.

At national level, South African government (as a formal institution), develops policy at parliamentary level. Proposed bills are debated in parliament, and opened for public comments. This enables changes to proposed laws, another form of an institution. Government communicates promulgated laws through government gazettes. Discursive institutionalism in this instance, would place emphasis on engagement and debates of ideas, leading to formulation of policy, from FATF to national government level. Recommendations made by FATF can result in the amendment of laws and policies.

2.2.3 THE SHORTCOMINGS OF HISTORICAL INSTITUTIONALISM IN UNDERSTANDING ORGANISATIONS

Historical institutionalism places emphasis at the structural level, the structure itself, and places less focus on the actors within those structures (Steinmo, 1992). (Schmidt, 2014) critiques historical institutionalism as focusing on processes within structures, while downplaying the role played by individuals within those structures. An additional critique of historical institutionalism is that it describes changes within these structures, and does not explain it (Schmidt, 2014).

(Roberts & Geels, 2018) highlight the broad view on policy regimes as an advantage of historical institutionalism. (Roberts & Geels, 2018) however concede that historical institutionalism does not consider granular details on policies, including how policy is formulated, partisanship in policy development and policy narratives driven by self-interests.

(Fioretos, 2011) states that the ideological "turn" in historical institutionalism was placing sharper focus on how political outcomes are informed by history. Historical institutionalists assert that the sequence of political events inform future political outcomes, which are temporary.

In the FATF context, historical institutionalism highlights the methodology employed by FATF to review and update their Recommendations on countering money laundering, terrorist financing and proliferation financing. This is done through research on developing trends. This approach however fails to consider the geo-politics and possible personal bias of professionals (actors) at FATF.

The Mutual Evaluations do not take place in a vacuum and several dynamics influence the process. Historical institutionalism describes changes at the structures but fails to acknowledge the dynamics that could influence the Mutual Evaluations, at micro-level. By way of example, historical institutionalism would only describe the recent decision by FATF Ministers to give FATF an open-mandate to lead coordinated efforts to counter terrorist financing, money laundering and proliferation financing. The FATF further agreed to extend the term of FATF presidency and revise the funding model for the structure (FATF, 2023).

Historical institutionalism will fall short of explaining considerations that led to the above decisions. Funding of institutions and prolonged terms of presidency at FATF has both pros and cons, including advancement of self-interests and power dynamics through funding. International law and international relations may come at odds with national interests, and it is important to analyse the strategic objectives behind decisions taken by international structures such as FATF, and not just the outcomes.

At national level, historical institutionalism can only explain changes in policy at government (as a structure). It would only explain the changes informed by FATF recommended actions in Mutual Evaluations, but fail to interrogate the reasons and implications for the proposed actions.

Changes to policy brought about by FATF findings, can be described through historical institutionalism, but it would fail to consider whether the Mutual Evaluations follow an objective, non-partisan process, that takes due considerations of national interests. It is the objective of this research to analyse the implications of FATF decisions, to national security.

Owing to its characteristic of path dependence, historical institutionalism can be useful in explaining unintended consequences of political outcomes (Fioretos, 2011). While this form of institutionalism is not entirely useful to the objectives of this study, it is partly valuable in unpacking unintended economic and political consequences of greylisting by FATF.

2.2.4 UNDERSTANDING THE INFLUENCE OF ORGANISATIONAL CULTURE THROUGH SOCIOLOGICAL INSTITUTIONALISM

Sociological institutionalism puts emphasis on the role of the actors within organisations, and possible biases that these actors are prone to. Organisations have a specific culture and that influences how actors behave within the organisations (DiMaggio, 1991). Social institutionalism seeks to explain what informs decisions of individuals within an organisation, leading to outcomes that can be described through historical institutionalism (Schmidt, 2014).

In its conceptualisation of sociological institutionalism at nation-state level, the Stanford School asserts that "expanded actorhood" is the uncritical need for nations to seek legitimacy from the international community. This is pursued through membership off various international bodies such as the United Nations (UN), and in the case of this study, the FATF (Buhari-Gulmez, 2010).

On the same theory seeking international legitimacy, (Fransisco, 1987) stated that countries tend to adopt international standards they might not have the capacity to implement. This is particularly interesting given that many countries have been greylisted by FATF, highlighting their incapacity to fully implement international standards that they signed up to.

Regarding the emphasis on actors within the organisation, it is argued that sociological institutionalism can neglect to explain the rationale of individual actions, particularly those that do not subscribe to organisational norm (Schmidt, 2014).

According to the critique by (Schmidt, 2014), sociological institutionalism would only explain, in the FATF context, the decisions taken by the actors within the FATF structure. Sociological institutionalism would help explain findings in reports published on new methods and trends on raising funds for financing of terrorism, money laundering and proliferation financing.

Sociological institutionalism would help explain the updated new standards that are meant to deal with identified risks. It would further assist to explain assessment results, and identify countries considered high risk due to non-compliance of global standards.

What (Schmidt, 2014) fails to consider in his critique, is that the cultural norms instilled within structures, form part of the personal bias', and influence individuals' reasons for actions that are socially constructed. This research is thus concerned with unpacking the research methodology for identifying trends, how the new standards are constructed, how the outcomes of assessments are arrived at, and the rationale and consistency of classifying jurisdictions as high risk.

To contextualize sociological institutionalism, FATF Recommendations provide a framework for laws implemented by countries, to counter illicit financial flows (FATF, 2023). FATF recognises that countries have different legal and administrative laws in place, and thus require countries to implement these standards according to their domestic realities. It can be argued that the recommendations contained in the Mutual Evaluation could strong-arm countries to adjust laws according not commensurate with their unique circumstances.

In its Mutual Evaluation of South Africa (2021), FATF prescribed policy changes to South Africa's legislative framework. Under the prescribed priority actions, point (a) recommends the development of policies to address risks for Beneficial Ownership, use and cross-border movement of cash, and foreign predicate crimes (FATF, 2021).

The report further recommends the reconsideration of policy of not pursuing domestic designations to counter the financing of terrorist activities (g). Priority action (h) emphasises the need to revise the Targeted Financial Sanctions legal framework in order to implement UN Sanctions List (FATF, 2021).

The priority actions listed by FATF have implications on domestic policies and laws, a discretion that often lies with parliament in the South African context. Targeted Financial

Sanctions require the asset freeze, travel ban, and arms embargo for entities listed by UN Sanctions Committee (Financial Intelligence Centre, 2017).

The UN Sanctions List of individuals perceived to pose a specific threat to international peace and security can, and is often accused, of being used as a political tool by member states. Sociological institutionalism would help unpack the reasoning behind the behaviours of actors within these sanctions regimes. The United States, United Kingdom and other western powers generally have a different posture towards terrorism and its related activities.

There is no universally agreed upon definition of terrorism, it therefore follows that the understanding of what constitutes terrorism and its financing, will differ from one jurisdiction to another. Mutual Evaluations are peer review reports on countries, assessed by members form different countries (FATF, 2023). An official's understanding of terrorism and its financing could differ from one official to another.

Assessments on countries comprise of two elements; namely a country's effectiveness in addressing risks of terrorism financing, money laundering and proliferation financing, and technical compliance to assess the legislative frameworks to combat mentioned crimes in line with FATF Recommendations (FATF, 2023). Compliance with each FATF Recommendation is categorised as either compliant, largely compliant, partially compliant or non-compliant (FATF, 2023).

It is the view of this research that the ratings are largely subjective in nature. Whether a country is largely compliant or partially compliant, could differ from one assessor to another. The assessors carry their own biases, interpretations and perspectives. How an assessor rates the level of compliance is reliant on judgement of furnished evidence by the country under assessment. Sociological institutionalism is a relevant tool to use to unpack the processes' in the methodology that could affect actors' behaviour and decision making (rating).

At national (institutional) level, the rationale behind the decisions of policy makers is largely owing to political ideologies, represented along political party lines. In its struggle for liberation, the African National Congress was historically declared a terrorist organisation by the apartheid government (Wyk, 2015). It is against this background that the ANC, in its capacity as the governing party, is reluctant to uncritically classify entities as terrorist organisations. The Protection of Constitutional Democracy against Terrorist and Related Activities defines terrorism along actions undertaken by individuals (The Presidency, 2022).

Therefore, historical institutionalism will explain the laws in place to address risks associated with terrorist financing, money laundering and proliferation financing. Sociological institutionalism will explain the rationale behind formulation of policies, by analysing the actions of the actors, such as political considerations in defining and categorising acts of terrorism (and it's financing).

2.3 INTERNATIONAL LAW, INTERNATIONAL RELATIONS AND INTERNATIONAL REGIMES THAT INFORM STATE BEHAVIOUR

International law can never be separated from international relations, it provides enforceability of rules that enable a level of predictability and uniformity in how states are expected to behave. In the scholarly realm, international law is defined as principles and rules considered binding on how nation states relate to each other (Simmons, 2012).

Additionally it is defined as a global system that exercises authority on actions of nation states (Emily Crawford, 2023). In the main, definition of international law places focus on the binding nature of international rules, and how they influence states' behaviour in relation to each other.

The emphasis on the binding nature of international law, highlights the international environment which enjoins nation states to the standards and rules set by international bodies such as FATF. What is particularly binding to nation states, is the political commitment that member states made to FATF through their membership. FATF comprises of 39 members, creating an international community that shares a relationship on set rules to combat money laundering, terrorist financing and proliferation financing.

While FATF claims that its Recommendations are not legally binding, failure to implement the Recommendations could lead to a country's addition to the "grey/black list", which will adversely affect a country's ability to trade efficiently.

The adverse effects on trade as a result of FATF greylisting, were affirmed by several academic studies. This includes the study by (de Kocker, Howell, & Morris, 2023) which identified several negative economic consequences of greylisting, which is unpacked in the chapters that follow.

This research argues that the punitive nature of grey/blacklist, compels countries to comply with the recommendations by FATF. This therefore makes the Recommendations binding in nature. This notion is shared by scholars that subscribe to the 'coercion hypothesis' which states that institutions that carry a monitoring function make their rules enforceable (Fortna, 2003).

While Idealists believed that international law could be achieved through international trade and intergovernmental organisations (Simmons, 2012), Realists such as E.H Carr dismissed international law as a vehicle for self-interested nation states that lacks neither morality nor legitimacy (Carr, 1964).

This notion is given credence by the claim that the 2018 grey listing of Pakistan (by FATF) was influenced by geo-political dynamics (Shah, 2021). It was the second time in six years that Pakistan was added to list of "jurisdictions under increased monitoring". It is claimed that there were procedural irregularities as Pakistan was not afforded the one year observation period (to correct major shortcomings) and discussion surrounding Pakistan were raised twice in a single plenary, an anomaly in plenary discussions (Shah, 2021).

It is believed that the United States and India collectively exerted pressure on FATF to grey list Pakistan owing to the US' irritation with Pakistan based militant group The Haqanni Network (HQN) and India's continued antagonistic relationship with Pakistan (Shah, 2021). The two countries are believed to have used soft coercion (economic) to influence the greylisting by FATF.

This brings into question the legitimacy and processes of the FATF as its procedures and rules were discarded in the case of Pakistan's greylisting. If geo-politics can influence FATF listings, then the national security of listed countries is compromised as adversaries can use international bodies for their political objectives.

2.3.1 SOFT AND HARD COERCION IMPOSED BY INTERNATIONAL REGIMES

Contemporary theorists such as rationalists and constructivists proposed the concept of international regimes, founded on rules that create more certainty of state actors, and creates mechanisms for coordinating states' policies (Simmons, 2012). These concepts are applicable in international societies that do not have punitive measures for deviation from set norms and expected behaviour. This research argues however, that FATF exercises a degree of punitive measures that may have far reaching consequences for a country's economy and ultimately national security.

Realists posit that compliance with international rules and norms can only be achieved through material pressure (Simmons, 2012). While some rules and norms are explicitly enforced through United Nations Security Council Resolutions, FATF ensures compliance through implicit means such as the "grey/blacklist". This aligns to the point made above that scholars that subscribe to the 'coercion hypothesis' argue that international agreements that include monitoring, arbitration and dispute resolution mechanisms create a level of enforceability (Fortna, 2003).

(Whang, Mclean, & Kuberski, 2013) assert that high economic costs of non-compliance give legitimacy to threats contained in international agreements. The monitoring of compliance by FATF through Mutual Evaluations, and the detrimental effect of greylisting to the economy of a country, gives FATF enforcement powers in line with the coercion hypothesis.

In contrast, the rationalists' theory of self-enforcing agreement places emphasis on reciprocity and reputation as enforcement mechanisms (Keohane, 1984). This theory is fully applicable in bilateral agreements, and less applicable in intergovernmental organisations, where reciprocity is more complex if it exists. (Morrow, 2007) identifies areas where reciprocity at international level is important, namely: agreements on ceasefire, use of chemical weapons, territoriality of seas and prisoners of war. The self-enforcing theory is therefore partially applicable regarding FATF Recommendations as grey and blacklisting carry reputational damage, a key political consideration that this research explores.

Closely linked with reputational consideration as a mechanism to ensure compliance, is the concept of legitimacy. Legitimacy of international institutions is a key concept advocated by legal scholars (Guzman, 2002). This is linked to the concept of "expanded actorhood" mentioned under sociological institutionalism (Buhari-Gulmez, 2010).

(Hensel, 2007) argues that governments are more likely to comply with decisions from a third party authority perceived to yield some level of power. Once these norms are considered legitimate, this cascades down to national level and informs the governments' interests, values and state behaviour (Simmons, 2012). This internalisation of international norms, affecting a governments interests, may ultimately have implications on its national security, underpinned by national interests.

2.3.2 INTERNATIONAL ORGANISATIONS AND ITS IMPLEMENTATION TOOLS

International rulemaking is concerned with the process of creating and implementing rules at international level. International organisations assist countries (at regional and international level) to deal with issues that are transnational in nature (OECD, 2019). One of the key features of international organisations is its ability to enable synergy of practices by individual states.

A key feature of an international organisation is its representation of different countries, similar to FATF's representation of 39 member states. International organisations make use of different instruments to achieve its strategic objectives. FATF makes use of incentive instruments to realise its objectives. Incentive instruments, that are not legally binding, include recommendations and guidelines to encourage states to behave in a certain way, in line with their unique circumstances. (OECD, 2019). Other instruments used by international organisations include treaties, prescriptive instruments, policy instruments, technical standards and supporting documents (OECD, 2019).

There are several implementation tools that international organisations use to implement their instruments. These tools are; assistance mechanisms, compliance mechanisms, advocacy mechanisms, and monitoring mechanisms (OECD, 2019). Assistance mechanisms only provide support to states, advocacy instruments emphasise the existence and effectiveness of instruments, and monitory mechanisms oversee the use of instruments (OECD, 2019).

The use of grey and blacklist implies that the FATF makes use of compliance mechanism, which oversee implementation of instruments, and prescribe remedial action when required. This remedial action can be seen as an enforcement tool.

(Simmons, 2012) argues that the concept of international institutions is less binding. This argument fails to acknowledge the obligations that remedial action can have through compliance mechanisms. The enforcement nature of these instruments, pressure institutions at national level, such as parliament, to review policy and regulations to align to standards prescribed by international organisations.

This advances the argument that international organisations can impose their instruments on national governments, which may encroach on the sovereign political and economic choices that governments should have.

The effectiveness of international instruments is asymmetrically reliant on the national institution to implement it. Knowledge produced at national level also provides the basis of knowledge for international organisations (OECD, 2019). The findings of the research conducted by the (OECD, 2019) on international organisation, is relevant to the FATF as it uses researchers to analyse developing trends in money laundering, terrorist financing and proliferation financing. Their research is across several jurisdictions, and ultimately inform the typologies, recommendations and standards established by FATF.

This research deliberately highlighted the asymmetrical dependence for implementation of international instruments. The (OECD, 2019) places responsibility on both the international and national institutions for implementation. It however fails to highlight the disproportionate nature of this dependency as international organisations may establish rules and standards incompatible with national legislation. FATF may develop typologies from countries located in Europe, that may have different socio-economic conditions to those in Africa, yet all countries are expected to implement those international standards.

2.3.3 TERRITORIALISM - GOVERNANCE BEYOND TERRITORIAL LINES

(Tsirigotis, 2015) defined territorialism as an identification of a group of people according to their location within a geographical area. He argues that scholars of international relations place focus on norms and institutions responsible for governance within a specified territory.

Realists posit that international relations comprises of states with self-interests that create international organisations pursuant to their national interests (Tsirigotis, 2015). Rationalists on the other hand, place focus on the international society, formed by a community (states) that takes cognisance of mutually shared interests bound by rules (Bull, 1977). (Tsirigotis, 2015) argues that the increase in globalisation has reduced the importance of borders, particularly where economic, and political implications are concerned.

(Rosecrane, 1986) asserts that trade has surpassed the limitation of borders, transcending territoriality beyond border lines as we understand them. (Newman, 1998) argues that borders are established and maintained to secure power.

The main research question of this study finds itself within the rationalist framework, as the G7 countries, European Commission and eight other countries (with mutually shared political and security interests) formed the FATF in 1989.

At inception, the FATF mandate was to identify money laundering techniques, review measures in place by states, and develop preventative and counter money laundering measures to be implemented by states (FATF, 2023).

The date of establishment of FATF coincides with (Tsirigotis, 2015) assertion that the post 1970s era produced a re-configured political and economic international order that shifted the authority from national to international institutions, denigrating national power in the process.

The G7 realised the collective interest to combat money laundering, and established an international institution in the form of FATF to pursue common interests, at international level. The mandate to develop counter measures to money laundering sought to establish rules of engagement for the countries.

At face value, addition of states to the greylist necessitate that banks apply due diligence when transacting across jurisdictions (amongst other considerations). This highlights the transcending nature of trade, beyond borders, as highlighted by (Rosecrane, 1986). The notion of territoriality in (international relations) as defined along border lines becomes highly contested in this instance, as domestic governance does not solely consider factors within national borders. The legal requirements to counter terrorism financing, money laundering and proliferation financing at national level is secondary as FATF findings and its recommended actions take precedence.

Donnan and Wilson define border as diverse entities coming together with their own political and security arrangement (Tsirigotis, 2015). The emphasis on own political and security arrangements is important in the understanding of territoriality and borders, as it relates to international organisations. FATF recommended action during Mutual Evaluations will affect the political and security framework of a country. South Africa passed two security related laws, POCDATARA and General Laws Amendment Act, following recommendations by FATF.

2.4 DEFINING NATIONAL SECURITY

There are various areas considered critical for national security. Historically, definitions of national security were often defined along military terms. The notion of national security has since developed, and includes non-military areas of political, economic, environment, energy and natural resources, cyber, human and environmental security (Holmes, 2015).

(Forcese, 2006) argues that the concept of national security is often intertwined with domestic and international security. He further argues that in various attempts to define national security, some definitions are too broad. In providing an example, (Forcese, 2006) cites the Canadian definition of national security that emphasises preservation of way of life, freedom from military intervention, political, economic and social values. (Forcese, 2006) asserts that the U.S. Department of Defence definition is more focused, emphasising national defence and international relations of the country as paramount.

It is logical that the U.S. Department of Defence would define national security along military lines, and foreign relations of pursuing an advantage over adversaries. This definition however, albeit less broad, falls short of key tenets of national security. It falls short as it overlooks the implications of economic security on national security, as a result of globalisation. It is because of globalisation that international institutions can influence governance at national level.

Emphasis by the U.S. Department of Defense, to gain advantage for the U.S in foreign relations, highlights how international institutions, can be exploited for geopolitical objectives. International institutions can be used as a conduit for influencing national and foreign policies of adversaries.

The FATF membership comprises 37 countries and 2 regional bodies which are Gulf Cooperation Council and European Commission (FATF, 2023). Some of the member states include the G7 countries (Italy, Canada, United States, United Kingdom, Germany, France, and Japan), which are global powers that seek to influence power configuration at international level. The FATF can therefore not be seen as a totally objective international institution as it comprises member states that place emphasis on strategic advantage on foreign relations.

Post-cold war era forced the Copenhagen school to broaden their understanding of security to include political, economic, ecological, and societal security (Mihaila, 2015). This study makes use of the broadened definition of national security, to assess the implications of FATF findings on South Africa's national security.

Political security is concerned with protecting the sovereignty of a country, and its governance. Economic security is concerned with the ability of the economy of a country to deliver opportunities to its citizens, and the government's ability to make sovereign economic decisions for the country.

This requires a national economy free from external pressure on governance relating to their economy. Critical role players in this sphere are law enforcement agencies, policy makers, and international agreements facilitating trade and finances (Holmes, 2015).

Energy and natural resource security is concerned with uninterrupted access to natural resources such as water and oil. Cyber security is concerned with protecting critical infrastructure and the population from crimes in the cyber environment. Human security is concerned with a population that is free from starvation and fatal diseases.

Environmental security is concerned with threats to the environment that include climate change and water shortages (Holmes, 2015).

National security also emphasises the concept of power and the ability of a country to exercise power within its jurisdiction to achieve strategic objectives (Holmes, 2015). This research contends that FATF findings have implications on political and economic security of South Africa. The research thus focused on these two pillars of national security in analysing the implications of FATF findings on national security.

2.4.1 ECONOMIC SECURITY AS A KEY TENET OF NATIONAL SECURITY

Economic security is defined as a national economic system that can stimulate growth and secure welfare of a population (Pitakdumrongkit, 2022).

Scholars of political economy argue that international institutions reinforce economic security of countries by providing insurance, give legitimacy to policy and ensure countries can adapt to developing trends (Kahler, 2004). This is what the FATF would argue is their institutional objective, as their mandate entails conducting research on developing trends, and setting standards following which countries develop their policies.

Economic security is the state's ability to manage inflation, high interest rates, increase local production, and avoid a recession and the devaluation of the state's currency (Stanley, 1981). It is with this understanding of key indicators of economic security that the study looks at how FATF findings may have an impact on interest rates, drive production up or down, and affect the strength of the currency. FATF findings should not impede on the state's ability to manage the above-mentioned indicators of economic security.

2.4.2 POLITICAL SECURITY AS A KEY TENET OF NATIONAL SECURITY

(Acharya, 2001) argues that conceptualisation of political security in the 1990s has centered around establishing and maintaining a peaceful state, free of internal conflict, disease, poverty and securing human dignity. This was upon the realisation that globalisation was inadvertently causing poverty and unemployment during economic crises, and internal conflict increasingly posing a bigger threat to states (Hassan, 2015). The persistent theme from the historical definition of political security, to the current understanding of political security, is the concept of democracy and safeguarding human rights (Hassan, 2015).

What is significant to highlight in the historical concept of political security is its realisation that globalisation impacted on the quality of life of citizens in sovereign states. Sanctions imposed on a country can cause poverty, hunger, an inability to contain disease outbreaks and consequent social unrest. FATF findings may influence how economic blocs such as the European Union (EU) trade with a country, and thus cause unemployment, poverty and hunger in countries with adverse findings.

The relationship between international institutions and national security needs to strike a balance between the need for countries to boost their economies through the global economy, and the ability to make decisions on national governance, free from external influence (Vidigal, 2021).

It is argued that states cannot escape international accountability on grounds that decisions were taken pursuant to national security. This is particularly given international economy law's attempt to provide security to transnational private economic actors (Vidigal, 2021).

The above argument implies that the sovereignty of countries, to take decisions and formulate policies, cannot go against international law. Political security places emphasis on sovereignty, and the ability for governments to make decisions they believe are best for their jurisdictions. The ability of FATF to recommend policy change is indicative of the argument that international economic law transcends political powers exercised within borders.

2.5 CONCLUSION

The literature review highlighted how concepts of institutionalism, international regimes, and national security are interrelated. Neo-institutionalism comprises several strands that are applicable to the FATF and national governments as institutions. Rational choice institutionalism create a predictable environment for institutions, however it fails to consider the subjective actors that inform the outcomes of institutions. This scholarly approach can assist in understanding the shared objective by the G7 countries to establish the FATF.

Scholars of discursive institutionalism highlight how exchange of ideas and discussions at national level, can lead to changes in international institutions such as FATF. This is evidenced in scoping assignments with FATF undertakes with member states. Historical institutionalism highlights how the methodology employed by FATF, to constantly research trends and developments, results in the review of Recommendations and standards set by FATF, to counter terrorist financing, proliferation financing and money laundering. Focus is placed at institutional level in this scholarly approach.

Sociological institutionalism explains the actors' rationale in developing policies, and the logic and biases that inform Mutual Evaluation findings and proposed remedial action. While all the strands will yield different outcomes in analysing FATF as an institution, sociological institutionalism is better suited to understand the geo-political, personal biases, and institutional culture that may affect FATF processes and outcomes. The research analyses how these outcomes have implications for national security.

Institutions do not operate in isolation, there are regimes that govern institutions, whether at international or national level. At international level, FATF, as an institution makes use of binding mechanisms to ensure its effectiveness. FATF ensures conformity to its recommendations by making use of grey and blacklisting as punitive measures for non-compliance. The listing follows monitoring by FATF, resulting in what scholars call "coercion hypothesis".

The argument by (Simmons, 2012) that international institutions as a concept is not binding, fails to acknowledge the binding nature, albeit implicitly, of various tools used by institutions to achieve their objectives. FATF makes use of compliance tools to ensure its effectiveness, prescribing remedial action where required, to ensure compliance.

The political economy that characterises FATF, transcends the traditional concept of territoriality as we understand it, as the economic implications of its findings are transnational in nature.

The transcending nature of the decisions of FATF, has consequences for national security, as it affects the expanded definition of national security as a concept, which encompasses economic and political security. Politically, decisions taken by FATF may affect the ability of a country to govern without external pressure, and to maintain social stability. Economically, FATF findings may affect a country's ability to manage inflation, high interest rates and devaluation of its currency, which are economic security indicators.

The existing gap in the literature review are addressed by the main findings, which are outlined in the Summary of Chapters, in the Conclusion section.

CHAPTER 3: HOW DID THE RESEARCH EXPLORE THE IMPLICATIONS OF FATF FINDINGS ON SOUTH AFRICA'S NATIONAL SECURITY?

3.1 INTRODUCTION

This chapter provides details on the methodology used in order to answer the research question; '*The Implications of the Financial Action Task Force Findings on South Africa's National Security*.'

This chapter unpacks the research paradigm applied for this study, and its value to the research. The research design explains the importance of an explorative research approach for this study. This chapter details the collection methods used to gather and analyse data during the research. The sample size and profile is discussed in detail, including limitations encountered during the study. The chapter concludes with ethical considerations relevant to this research study.

3.2 RESEARCH PARADIGM

This study undertook a qualitative research method to explore the implications of the Financial Action Task Force on South Africa's national security. Qualitative approach enabled the researcher to gain insight into the institutions of FATF, and the government of South Africa, in line with the research's analytical lens of institutionalism.

According to (C. Auriacombe, 2007), field research is appropriate for the study of organisations and relationships. This qualitative research allowed for the study of the relationship between the FATF and the government of South Africa in as far as the Mutual Evaluation is concerned. The research assessed the FATF process in conducting its Mutual Evaluation and findings on South Africa's anti-money laundering and countering the financing of terrorism regime.

The research further considered efforts by the South African government to correct the identified deficiencies in FATF's Mutual Evaluation. The study analysed how the recommendations (by FATF) have implications for South Africa's policy, legislative framework and ultimately its anti-money laundering and countering of terrorism financing and proliferation financing regime. Such an analysis is enabled by the use of qualitative research method that describes organisations, their behaviour, policy and the consequences of FATF recommendations.

(C. Auriacombe, 2007) asserts that qualitative research is useful for studying dynamic topics. National security is a dynamic topic, and is anchored on several cross-cutting pillars. Critical analysis allowed the researcher to unpack what the economic and political consequences of FATF greylisting means for South Africa's national security. National security implications are often inferred and not explicitly stated or apparent at face value. An analysis of these consequences, through qualitative analysis, enabled the researcher to unpack the inferred consequences.

3.3 RESEARCH DESIGN

This research was explorative in nature, and sought to answer a research question that is often neglected. Explorative research is useful for discovering new issues, providing a deeper understanding of issues, and topics not thoroughly interrogated in the past (Casula, Rangarajan, & Shields, 2021).

Regarding the explorative nature of the research, previous studies examined the economic consequences of greylisting, however they did not go further to explore how these economic consequences relate to a country's national security. What makes this research stand out further, is its analysis of political implications of FATF findings, particularly as it relates to a country's political security. This consideration is often neglected in the academic sphere.

Qualitative research refers to the use of data through words as opposed to numbers, providing reasons behind observed phenomena (Loraine Busetto, 2020). According to (Maxwell, 2020), qualitative research allows for a deeper understanding of what policy means for its recommenders, implementers and those affected by the policies.

There is a heavy interpretive approach to the research, as the research did not only describe the FATF methodology to reach its findings, but provided a critique of this methodology. The research went further than describing the recommendations and identified deficiencies (by FATF), by interpreting what the recommended action to correct deficiencies means for South Africa's national security.

The Interpretivist approach to qualitative research places emphasis on gaining knowledge in human and social sciences by seeking an understanding of human interaction in as far as their emotions, values, socio-cultural factors, and the importance of contextual factors (Kivunja & Kuyini, 2017).

This Interpretivist approach is important for this study as it enabled the researcher to study FATF processes in the context of its methodologies, cultural norms (obtained through interviews) and context of the global AML/CFT regime. At national level, the research was able to gain deeper understanding of issues by analysing the political ideologies of the government through its governing party. Law enforcement and intelligence agencies were analysed against the context of state capture which limited the state's capacity to effectively counter money laundering, financing of terrorism and proliferation financing.

3.4 DATA COLLECTION AND ANALYSIS

In exploring the implications of FATF findings on South Africa's national security, the research made use of both document analysis and semi-structured interviews for data collection and analysis.

There are three types of interviews for data collection namely: structured, unstructured, and semi-structured interviews (P. Gill, 2008). Semi-structured interviews rely on several prepared guidelines to solicit specific information (P. Gill, 2008). Document analysis is the study of different kind of documents such as academic journals, books, policy positions, and newspapers to glean and interpret information (Morgan, 2022).

The use of the two data collection tools ensured that information gathered through semi-structured interviews, was triangulated through document analysis. Furthermore, the collection methods allowed several themes to emerge during the process of data collection and analysis.

3.4.1 DOCUMENT ANALYSIS

In conducting document analysis, the research studied and analysed both grey and academic literature. The grey literature studied included (but not limited to) reports published by FATF such as its mutual evaluation of South Africa, FATF methodology for assessing compliance, FATF guidelines, FATF Recommendations, and related publications. Additional grey literature reviewed and analysed included South Africa's legislative framework, which include but not limited to, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act 33 of 2004, General Laws Amendment Act 22 of 2022, Prevention of Organised Crime Act 121 of 1998, and The Financial Intelligence Centre Act 38 of 2001.

The study of the FATF grey literature allowed the research to interpret the FATF findings on South Africa's anti-money laundering and counter-terrorism financing and proliferation financing regime. The research was able to further critique the FATF methodology used (and guidance provided) to conduct assessments, and how the FATF Recommendations impact South Africa's policies and legislation.

The research conducted an in-depth study of academic literature on institutionalism, national security, international institutions (FATF), economic consequences of greylisting, and the effects of greylisting on other countries. Document analysis of academic literature allowed the research to explore and analyse how FATF methodology, and its findings (can) affect a country's economy.

Academic literature on national security provided concepts that allowed the research to interpret how the economic consequences can have implications on South Africa's national security. And finally, document analysis on international institutions and its laws (regime), allowed the research to explore how FATF as an international institution can ensure that countries conform to its Recommendations (through soft laws) that have consequences on a country's sovereignty.

Document analysis of academic literature provided access to information that would be difficult to access through observation and other collection methods. The economic consequences of FATF findings are not immediate and therefore implications on national security would not be observed within the short period allocated to conclude this research.

Access to academic literature was enabled through the electronic access to the University of Witwatersrand's (Wits) library. Document analysis from the Wits library ensured integrity of the information, as asserted by (Morgan, 2022) in his advantages of document analysis. The authenticity, credibility, representativeness and meaning (Morgan, 2022) were a major consideration in document selection during this research.

In ensuring the authenticity of the documents studied, the research relied on documents from credible and authoritative sources such as FATF websites, government gazettes and the university's library. Documents from these sources undergo a thorough quality control process and therefore documents studied contained established facts, and had no observable errors. The credibility of the documents were guaranteed through the quality control process.

The representativeness of the documents was achieved through studying documentation that were not contradictory or far removed from each other in their definitions of academic concepts such as national security, institutionalism, international relations, and international laws. The data of the document analysis was not too far removed from the data collected during semi-structured interviews.

Most of the documents were literal in their meaning, and as mentioned above, national security is often inferred. Therefore meaning in the documents was achieved through interpreting the FATF process of mutual evaluation, its recommendations for South Africa, South Africa's response, and implications for South Africa's anti-money laundering and counter terrorism financing regime.

3.4.2 SEMI-STRUCTURED INTERVIEWS

The research made use of semi-structured interviews to collect, interpret and analyse data. Semi-structured interviews allowed for participants to share their opinions without the limitations of a structured interview. Semi-structured interviews allowed the researcher to ask follow up questions on several points made by the participants.

Open-ended questions were prepared (see appendix) in advance and put to the participants. Semi-structured interviews allowed for several themes to emerge, as participants elaborated on the FATF process, its findings and response by the government of South Africa.

The semi-structured nature of the interviews allowed the participants to introduce different perspectives, knowledge previously unknown to the researcher and further points to consider for research and interpretation.

Semi-structured interviews allowed participants to express their views on the FATF findings, and whether these findings are a fair reflection of South Africa's AML/CFT regime. Semi-structured interviews allowed participants to further provide some analysis on what the FATF findings mean for South Africa.

While most of the responses of the participants were focused on economic consequences of FATF greylisting, the researcher interpreted and analysed what their responses mean for national security along political and economic security considerations. These ultimately informed the relation of the participants' responses to the question of national security.

The research framed its interview questions around the FATF methodology, FATF findings, and the government's response to the findings. This was an attempt to analyse the objectivity and factuality of the process that led to South Africa's greylisting, the meaning of their findings on South Africa's AML/CFT regime in relation to national security, and how the response by government can strengthen or compromise its national security.

3.5 SAMPLING

The research carefully considered its sampling for the document analysis and semi-structured interviews. The sampling was purposive as it required a sample with specific knowledge on the FATF and its processes, the economic consequences of greylisting, and government's response to the FATF findings.

The researcher ensured that the selection of literature for document analysis was not biased. While the document analysis made use of grey literature from the FATF and the South African government, the research sought to minimise subjectivity by simultaneously analysing academic literature that provided a critique of the FATF processes and consequences of greylisting.

In developing an understanding of the FATF processes, the document analysis studied FATF Methodology documents (FATF, 2013-2023), self-reflecting assessments on unintended consequences of FATF standards (FATF, 2021) , and academic literature that critiqued the standard setting methodology of FATF (Koker, 2022).

In developing an understanding of what led to the FATF findings, the research studied the FATF mutual evaluation report on South Africa (FATF, 2021). In analysing the implications of FATF findings on South Africa's national security, the research studied several academic literature on the consequences of greylisting on countries and South Africa's revised policies and amended legislation following the FATF findings.

In selecting candidates to participate in the research, purposive sampling was used in order to get insightful responses based on experience and research. Participants of the interview were from the academic sector, a national schedule 3A public entity, and a national department responsible for state security.

Public and private sector officials that only have a sectoral understanding of South Africa's AML/CFT regime were excluded from the sampling.

Participant A is from a national schedule 3 entity, a lead department working with FATF, and combatting terrorist financing, proliferation financing and money laundering. The participant is a senior official in the Legal and Policy division with extensive experience working within FATF and FATF's Mutual Evaluations on South Africa.

The participant from the academic sector (Participant B) is a renowned scholar specialising in law, and authored several articles on the FATF and the consequences of its greylisting. The academic is an Associate Dean based at a reputable university in Australia.

The participant from the public sector (Participant C) is a senior government official with extensive experience working with FATF, and threats to national security. Participant C has represented South Africa since it joined FATF in 2003. The senior official formed part of the team that drafted the Global Risk Assessment on Money Laundering on behalf of FATF (2006).

Participant C chaired several working groups in FATF and is co-author of South Africa's Threat and Risk Assessment for its fourth Mutual Evaluation. The senior official has expertise in matters pertaining to the economic security of South Africa. The national department that Participant C works for is an organ responsible for national security of South Africa.

The selection of experts from academia and public sector ensured that the research is insulated from the echo-chamber effect. The experts from public service shared their insider experience of the FATF processes, and the posture of the South African government's AML/CFT regime prior to, and after the Mutual Evaluation. The participants from the public sector not only explained the FATF findings, but expanded on what informed the findings.

The experts form the public sector formed part of the inter-departmental working group that prepared presentations to FATF assessors on behalf of South Africa. The working group was the nodal point during the FATF on-site assessment, and is currently responsible for the government's response to the FATF findings pursuant to its action plan.

In preparing for the Mutual Evaluation, the participants were responsible for coordinating South Africa's threat and risk assessment, and collating the private and public sector inputs in order to ascertain South Africa's AML/CFT regime. This included mitigating measures that South Africa has in place in order to counter terrorism financing, money laundering and proliferation financing.

The experts are regularly seconded to FATF and form part of its assessments and plenaries that discuss Mutual Evaluations of other countries, thus participants collectively have a wealth of knowledge on Mutual Evaluations by FATF. The participants also provided insight into unpublished discussions that took place, providing a broader perspective during the interviews.

The participant from academia is a law professor that has published several research articles on the FATF, its processes and the consequences of the greylisting on developing countries. The participant provided research based insight, often critical of the FATF. The participant has played an integral role in the formulation of several laws in South Africa, through written submissions and consultations.

The participant from academia was able to provide 'an outsider's perspective' with evidence based research that inform the participant's views. The participant has co-authored articles on Money Laundering and Terror Financing compliance in South Africa.

The participant worked with a number of international bodies, including the World Bank to Assist the Poor and the Alliance for Financial Inclusion, on money laundering and terrorist financing standards, regulations and compliance.

The participant was a member of the World Bank team that developed the national money laundering risk assessment methodology. The participant's research is cited in publications of bodies such as the Financial Action Task Force, World Bank, the Basel Committee on Banking Supervision, and the International Labour Organisation.

The researcher conducted in-person interviews with participants, while the interview with the participant based in Australia was conducted virtually. The sampling validates the research in that it considers the views of proponents of the FATF processes and its standards, and critics alike.

3.6 LIMITATIONS

(C. Auriacombe, 2007) highlighted that qualitative research could be labour intensive and time consuming. This was true in the case of the research as it utilised time consuming data collection methods in both semi-structured interviews and data analysis. The searching, sifting, collating, interpreting and analysing of data during the document analysis was a labour intensive exercise. This is owing to the fact that the documents were obtained from different sources of information. Documents under study were voluminous and required interpretation and analysis on its inferred implications for national security.

There is little, to no, research on the implications of FATF findings on national security, therefore information to conduct such as assessment is limited. Documentation of discussions between government officials and FATF (during the on-site assessment) are classified and therefore access to these documents for the public was limited. Documents that highlight national security concerns are also classified, therefore corroborating the analysis of this research (against the official position) regarding national security threats stemming from the FATF findings was limited.

Identifying participants that partook in the FATF mutual evaluation, with in-depth experience of the FATF and work of the inter-departmental working group of the South African government was limited. Most officials that partook in the FATF mutual evaluation carried knowledge limited to the department's mandate only.

There are only a few officials that have well-rounded knowledge of the FATF process and South Africa's overall AML/CFT regime. Further exacerbating the limited pool of participants to choose from, is the obligation of secrecy that law enforcement personnel operate under, therefore resulting in a low appetite (from the few experts available), to participate in the research. As a mitigating measure, the researcher obtained approval from his head of department, to ensure that officials from law enforcement can participate in the study with less reservations.

In terms of the researcher's positionality, the researcher is an official within the security cluster and law enforcement. The researcher also formed part of the inter-departmental working group that engaged with the FATF assessors during the Mutual Evaluation. The researcher used his experience with the FATF process and law enforcement in order to conduct his research. The researcher also used his knowledge of the participants to identify participants with in-depth knowledge of the FATF and South Africa's AML/CFT regime.

The researcher had to ensure that his own subjective views of the FATF process and the security architecture of the country do not impede on the objectivity required to conduct the research. The researcher had to be conscious of his own possible cognitive biases of confirmation and availability biases.

FATF evaluated South Africa's technical compliance with its 40 Recommendations, and measured its effectiveness along 11 Immediate Outcomes that reflect what an effective AML/CFT regime should achieve. The study did not consider all the ratings and findings on all 40 Recommendations and 11 Immediate Outcomes of FATF. The study considered and analysed selected Recommendations and Immediate Outcomes in order to feasibly and effectively address findings that have an effect on South Africa's national security in the time available for the research.

3.6 ETHICS

Ethical clearance from the Wits School of Governance, through its University Ethics Committee, was obtained for the research. The researcher further obtained internal approval (from his employer) to conduct the research and interview relevant participants in the same working environment (security cluster) as the researcher. This internal approval further ensured that the research is not in violation of the researcher's conditions of service.

Prior to commencing with the interviews, each participants was advised of the voluntary basis of the interview. Participants were briefed about the purpose of the research and its intended outcomes.

Each participant was provided with a participation information sheet, providing an overview of the interview process. Each participant signed a consent form confirming their knowledge of details pertaining to their participation in the research.

Interviews were recorded, and participants were advised of the recording. Participant C however requested that the interview should not be recorded. The collection and analysis of data from Participant C solely relied on notes taken during the interview.

Recordings of the interviews were stored in an encrypted drive, accessible to the researcher only. While the participants informed that they do not mind being identified in the research paper, the researcher kept their identity confidential and referred to them as Participants A, B and C. Participants will have access to the report upon completion of the research study.

3.7 CONCLUSION

The qualitative research method employed in this study, ensured that a deeper understanding of national security, influenced by FATF findings, is achieved. A combination of document analysis and semi-structured interviews enabled the triangulation of information.

The simultaneous use of document analysis and semi-structured interviews also enabled the consideration of contrasting views on the FATF processes, its findings and implications for South Africa. Semi-structured interviews provided an insider's perspective and enriched the data collection further.

The sample of participants that partook in the study possessed the required knowledge to add value to the data collection, analysis and main findings. While several limitations to fulfilling the research were encountered, the researcher did well to put mitigate measures in place to ensure maximum, in-depth and value-add participation by participants.

CHAPTER 4: THE IMPLICATIONS OF THE FINANCIAL ACTION TASK FORCE FINDINGS ON SOUTH AFRICA'S NATIONAL SECURITY.

4.1 INTRODUCTION

This chapter presents and analyses data collected using two research methods, namely document analysis and semi-structured interviews. The chapter combines data presentation with analysis, without separating the two.

In presenting and analysing the data, the terms anti-money laundering, countering of terrorism financing and countering of proliferation financing are interchangeably referred to as AML/CFT/CPF respectively.

Several themes emerged during the data collection and analysis, which are the following:

- The **economic consequences** of FATF findings for South Africa: economic consequences of FATF greylisting affects South Africa's economic security, a key tenet of national security. It is thus important for the research to analyse the economic consequences and unpack its implications for national security.
- The **political implications** of FATF findings for South Africa: Political implications of FATF findings have an effect on political security of South Africa, a key tenet of national security. It is similarly important for the research to study what the FATF findings mean for South Africa politically.
- The **methodology employed by FATF** to conduct Mutual Evaluations: The methodology of the FATF Mutual Evaluation process is a re-emerging theme as these assessments lead to findings and often greylisting. An analysis of the objectivity, thoroughness, knowledge creation, objectives and effectiveness of the process is important as its findings and recommendations have consequences on national security as far as money-laundering, terrorism financing and proliferation financing is concerned.
- The **impact of geo-politics** at FATF: Closely linked to the FATF methodology, is the geo-political factors that emerge in the FATF processes. As an international organisation, geo-politics are an important consideration. Located in the realm of

international relations, geo-political positioning is an essential pillar of national security

- Corrective measures put in place by government in **response to FATF findings**: what emerged during data collection and analysis, was the response from government following the preliminary findings and final report of the Mutual Evaluation of South Africa. It is important for the research to analyse how the findings by FATF affect South Africa's anti-money laundering, countering of terrorism financing and proliferation financing regime henceforth.

In order to augment the document analysis, semi-structured interviews took place in person and virtually to collect more data for analysis. The participants were drawn from the public and private sector, including government and academia. Brief descriptions of the participants are tabled below:

PARTICIPANT	SECTOR	EXPERTISE
A	Public (State organ responsible for law enforcement)	Legal and Policy formulation. FATF Mutual Evaluations.
B	Private (academia)	Academia and research on FATF, its processes, and consequences of greylisting.
C	Public (state organ responsible for state security)	FATF mutual evaluations, FATF working-groups, threat and risk assessments on AML/CFT.

Table 1: details of participants of semi-structured interviews

These findings conclude with the main findings of the research informed by the document analysis and interpretation of semi-structured interviews. In presenting the main findings, the section highlights the main themes and sub-themes that emerged during both the document analysis and interpretation of semi-structured interviews.

4.2 ANALYSIS AND DISCUSSION

As a data collection tool, the document analysis used both grey and academic literature to explore the methodology used by FATF to conduct its mutual evaluations, the economic consequences of greylisting, and the political implications of the FATF findings as it relates to national security.

Semi-structured interviews took place with officials from the private and public sector. The semi-structured interviews explored the economic and political implications of FATF findings, critiqued the FATF methodology that resulted in South Africa's greylisting and considered the findings that led to South Africa's greylisting.

Finally, the participants shared details and their views on the response by the South African government to address deficiencies identified in the Mutual Evaluation. The interviews were conducted in person and virtually.

4.2.1 A CRITIQUE OF THE FINANCIAL ACTION TASK FORCE'S METHODOLOGY IN CONDUCTING MUTUAL EVALUATIONS.

During the years 2000-2006, FATF listed 23 countries as non-compliant, and subsequently delisted them when they were considered compliant (Julia Morse, 2022). The listings that took place during the mentioned period were considered uncomprehensive compliance assessments of countries (koker, Howell, & Morris, 2023).

Acknowledging the political and economic development concerns as a result of these assessments, the FATF (in partnership with the IMF and the World Bank) adopted the revised methodology in 2004 (koker, Howell, & Morris, 2023).

The need to technically strengthen FATF methodology, highlights the imperfect process that was previously adopted by FATF. The process will continuously require improvements as the world evolves. The current methodology employed by FATF to conduct Mutual Evaluations is through a peer review system, where members from different countries assess another country (FATF, 2023).

Peer reviews, like any other process led by human beings, is prone to cognitive biases. The following biases are just some of the many subjective realities that assessors conducting peer reviews may be susceptible to:

- Confirmation bias: The inability to accept any new information that disproves your preconceived ideas (Friedman, 2023). Assessors may have preconceived ideas of a country's lack of compliance, and may assess it negatively, dismissing new information that prove compliance by the country.

- Bandwagon effect: A belief that is influenced by shared belief of many (Friedman, 2023). Assessors may influence each other's evaluation and rating as they discuss the level of compliance of countries during assessments.
- Information bias: The need to get additional information even if it will not change actions (Friedman, 2023). FATF may seek specific legislation or policy to show enforcement of anti-money laundering, counter terrorism financing and counter proliferation financing measures. However there may be existing mechanisms considered sufficient to combat the above crimes, and not the specific ones required by assessors.
- Availability bias: An overreliance on the validity of information available (Friedman, 2023). Assessors may over-rely on information from a previous assessment that indicated that certain measures were not effective, without objectively looking at whether it is the case with similar measures in the next assessment (or after the observation period).
- Recency bias (Friedman, 2023): A tendency to rely on new information more than older information. Assessors may unfairly discard old measures, policies, frameworks, as ineffective.
- Selective perception: Allowing our perceptions to inform how we interpret what we see (Friedman, 2023). Assessors may allow media publications and unverified reports of a country's anti-money laundering and countering of financing of terrorism regime misinform how they perceive its level of compliance, thus distorting their judgement.

The above are just some examples of cognitive biases' that peer review mechanisms are susceptible to. South Africa's Mutual Evaluation is not immune from all the above mentioned biases that can affect the assessors that evaluated South Africa in 2019.

This is especially relevant where an assessment of effectiveness is concerned. Effectiveness is a value judgement, and thus may be prone to a lot of cognitive biases.

In its introduction, the FATF Methodology manual advices assessors to interrogate risk assessments by countries, and try develop a common understanding of the risk faced by the country under assessment (FATF, 2023). Understanding of risks is a complex process as it is informed by the level of vulnerability and the mitigation measures in place. An understanding of risk is further reliant on an appreciation of the context within which jurisdictions operate.

The manual further encourages assessors to use a "common sense approach" and the use of additional information to ascertain whether risk assessments provided by countries is reasonable and do not need to consider additional factors (FATF, 2023). This lends itself to the risk of cognitive biases listed above, as this approach relies on perception, interpretation and understanding; processes that are considered highly subjective.

The section on technical assistance provides clearly defined criteria to use when assessing a country. However, the effectiveness guidelines relies on subjective interpretation as guidance provided uses phrases such as "to what extent…", "what is the quality of…" and "how well does…"

While the integrity of the assessors is supposed to be beyond reproach, one cannot rule out the possible geo-political influence that peer reviews may be prone to, whether wittingly or unwittingly.

STANDARD SETTING METHODOLOGY BY THE FATF

With regards to the thoroughness and objectiveness of the FATF processes that ultimately result in greylisting, (Participant A, 2023) stated the following:

> *"In the 16 or so years [that] I have attended FATF meetings, there are various working groups that dedicate themselves to review standards, policy guidelines, assessment criteria and research documents of FATF. The turnaround time is becoming quicker, and FATF is self-critical and publishing unintended consequences reports"* (Participant A, 2023)

In an opposing view, (Participant B, 2023) believes the consequences of greylisting should not be retrospective but pre-emptive in nature. (Participant B, 2023) therefore believes that the unintended consequences reports mentioned by (Participant A, 2023) do not prevent economic consequences of FATF recommendations.

Regarding the criticism of FATF on its over-reliance of experts to develop its Recommendations, (Participant A, 2023) indicated that FATF does not solely rely on experts. The participant indicated that the process includes extensive consultation with officials responsible for implementing standards, private and public sector (including supervisors), and regulators. (Participant A, 2023) stated that:

> *"FATF consults widely [in standard setting] including academia, regulators, before proposed changes to set standards and assessment criteria. FATF has moved towards being more outward looking. The requirements are higher but this is commensurate with the increased risk globally".* (Participant A, 2023)

Document analysis provided a critique of the view by participants. In developing it standards (40 Recommendations), the FATF relies on expert views from member states and less on scientific research (Koker, 2022). A failure to conduct objective analysis informed by research findings to set standards, may result in a failure to realise policy objectives, and consideration of negative consequences of set standards. (Koker, 2022) believes that a Regulatory Impact Assessment (RIA) should inform the FATF standard setting process. This will ensure that standards set are evidenced based.

The RIA is a system considered effective in assessing the positive and negative consequences of proposed regulatory changes by the OECD (Koker, 2022). When FATF conducts its Mutual Evaluations, it provides little options to adherence of its standards, and countries have to implement them despite the negative consequences (Koker, 2022).

In 2020, FATF adopted new risk assessment standards for United Nations sanctioned Targeted Financial Sanctions on proliferation financing. The new standard required financial institutions to assess their risk in relation to Iran and North Korea. Proliferation financing risk assessments require technical expertise that are not evenly available across countries (Koker, 2022). The new standards require countries to conduct assessments on proliferation financing, which will often find that there is no violation of the UN sanctions against Iran and North Korea.

This will likely result in low rating of compliance for many countries. International banks will likely consider smaller banks (within jurisdictions) as posing high risks. This will lead to higher compliance costs resulting in financial exclusions, which go against United Nations' Sustainable Development Goals (Koker, 2022).

This methodological weakness may be to the detriment of countries undergoing evaluations. This highlights that there are methodological weaknesses not only in the reliance on personnel's assessments, but institutional weaknesses too. The absence of standards informed by RIA result in standards that are aloof with realities of countries, and disadvantage developing countries with insufficiently capacitated financial institutions.

During South Africa's Mutual Evaluation, the country was found to implement Targeted Financial Sanctions (TFS) on proliferation with delay on new UNSC Resolutions, and highlighted that the mechanism remains untested (FATF, 2021).

According to (FATF, 2021), communication (by the FATF) regarding changes to proliferation TFS does not reach all relevant entities through its real time alert. FATF further highlighted that available guidance documents do not provide sufficient guidance on implementing TFS on proliferation (FATF, 2021).

According to FATF, lack of access to information on beneficial ownership impedes on law enforcement's ability to detect assets and funds linked to proliferation financing. Only large financial institutions have sufficient understanding of new obligations on proliferation funding and thus considered the level of compliance as moderate (FATF, 2021).

These findings against South Africa are synonymous with the assertion by (Koker, 2022) that the new standards by FATF are likely to result in low ratings for smaller banks. This therefore amplifies the negative effect that the lack of a RIA approach had on South Africa's Mutual Evaluation.

Higher compliance costs resulting in financial exclusion for small banks may lead to the collapse and subsequent closure of these banks. Alternatively the increase in costs to conduct due diligence may be carried over to the clients, resulting in an increase in transaction charges.

Bank failures can result in large economic losses, with devastating effect on individuals, and governments (Havemann, 2021). Closure of small banks may impact on individuals and the society as they are the preferred choice for micro short-term loans. Inability to access short term micro-loans with favourable terms hinders efforts to alleviate poverty, finance small businesses, and provide general sustenance within a society.

Financial crises can often lead to unconstitutional means for regime change, with dire political consequences, thus having an effect on South Africa's national security.

According to (Participant A, 2023), several FATF bodies (comprising of different nationals) ensure objectivity in meetings during and following the greylisting of countries. These include assessor teams, reviewer teams (after greylisting) and FATF Style-regional bodies such as the Eastern and Southern Africa Anti-Money Laundering Group [ESAAMLG] (Participant A, 2023). FATF documents and review processes are open to public scrutiny and therefore enhance the objectivity of the assessments (Participant A, 2023).

In contrast, (Participant B, 2023) argues that the mechanisms in place at FATF are not sufficient to safeguard against geo-politics and subjectivity. (Participant B, 2023) is of the view that Mutual Evaluations, in draft status, should be published for public comment.

(Participant B, 2023) informed that he previously highlighted the flaws that characterise the FATF processes. The documents on the Mutual Evaluations of countries that are discussed at plenary are voluminous, and it is unrealistic to expect delegates to study all the relevant documentation beforehand. This inhibits the delegates' ability to make meaningful contributions to the debates at plenary (Participant B, 2023).

(Participant B, 2023) emphasised that:

"*As scholars we raised questions about the FATF process as the greylisting process is opaque*"

(Participant B, 2023)

(Participant B, 2023) indicated that FATF does not look at deficiencies identified and decide to greylist a country, instead, greylisting is a result of FATF not reaching consensus on whether a country under observation has sufficiently addressed all the identified shortcomings.

(Participant C, 2024)confirmed that decisions at FATF and its regional-style bodies is consensus-based. However (Participant C, 2024) highlighted that during Mutual Evaluations, different immediate outcomes are the responsibility of different country assessors. Each assessor writes-up a mutual evaluation on the allocated immediate outcome. Occasionally, assessors may have pre-conceived ideas that may influence their evaluation (Participant C, 2024).

(Participant B, 2023) further claims that an estimated 85% of countries that are under observation (given a year to correct deficiencies) end up on the greylist.

"This brings into question how global are the global standards, if more than half of the world's countries can't comply with them?" (Participant B, 2023).

Greylisting that comes about as a result of no consensus reached highlights the subjectivity that is applied in the FATF process as highlighted earlier. This subjectivity, and inability to reach consensus, may also result in inconsistent findings on countries, unfairly impacting on the regimes of developing countries, including South Africa. While cognitive biases could influence Mutual Evaluations, geo-political considerations could also find their way into the forum.

4.2.2 IMPACT OF GEO-POLITICS IN FATF PROCESSES

(Participant A, 2023) informed that FATF forums are not immune from geo-politics, as some delegates tend to express views espoused by their capital cities. There is an element of protecting national security interests at FATF meetings (Participant A, 2023).

According to (Participant A, 2023), South Africa should also be cognisant of its foreign policies of non-alliance, its BRICS partnership, and its status of being the only African member in FATF. These factors could affect South Africa's engagement at FATF forums. During FATF meetings, countries may support their strategic partners (Participant A, 2023).

(Participant C, 2024) stated that FATF could be used for geo-political objectives, including states using FATF findings to discredit jurisdictions with negative findings. (Participant C, 2024) impressed that South Africa should apply due diligence to ensure it is not misused for geo-political reasons against it.

In raising the geo-political encroachment into FATF processes, Participant A stated the following:

> *"While FATF is supposed to remain apolitical, recent geo-political developments have resulted in FATF platforms used for expressing political views, such as the Israeli-Palestine conflict"* (Participant A, 2023).

The suspension of Russia (over its invasion of Ukraine) from some FATF processes is an example of such geopolitical encroachment. However, Russia remains a part of the FATF regional-style body in Europe, and has applied to become an observer in the Eastern and Southern Africa Anti-Money Laundering Group [ESAAMLG] (Participant A, 2023).

(Participant A, 2023) however highlighted that the extensive deliberations by working groups and guidelines for assessments serve to protect against unfair assessments of countries informed by geopolitical considerations.

As the only African member of FATF, (Participant B, 2023) believes that South Africa has a high degree of influence that should be used strategically within FATF. Similar to how China and America use their influence strategically in the forums.

(Participant B, 2023) highlighted that FATF hardly adds its own member states to the greylist, and mentioned how FATF treated Brazil "with kid gloves", pleading with it to comply with FATF standards at several plenaries.

In highlighting the inconsistencies in some of the FATF work, (Participant C, 2024) also highlighted the favourable findings on the United Kingdom's Mutual Evaluation, despite clear deficiencies that were not reflected in its Mutual Evaluation report.

The inconsistent application of processes that lead to greylisting, highlights the role that geo-politics can play in the FATF processes. Geo-politics can be used for strategic objectives in international relations, through international institutions, particularly in relation to soft and hard power. This is in line with the assertions made by Realists (discussed in the previous chapter), that international law is a vehicle for states with self-interests (Carr, 1964). In the context of FATF, greylisting of South Africa could wane its soft power on the continent and internationally.

Furthermore, the stagnation or decline in GDP owing to greylisting could result in less spending available for strengthening its military power, in machinery, arms, and personnel, thus further weakening its hard power.

(Participant B, 2023) emphasised the soft law that FATF exercises, which is not enforceable by state, but enables FATF to exercise some punitive measures against countries. (Participant B, 2023) stated the following:

> *"FATF standards are some of the hardest soft laws around, countries have no option [but to comply with them]"* (Participant B, 2023)

This soft law, re-affirms the view mentioned in the literature review regarding scholars that subscribe to the "coercion hypothesis". The punitive measures enforced through greylisting and blacklisting create a level of enforceability of FATF standards, and may supersede the political security to establish and govern a country in line with national priorities and interests. International institutions may be used as vehicles to achieve strategic geo-political objectives.

In response to the general question on whether South Africa should be a member of FATF, (Participant C, 2024) responded as follows:

> *"Countries that are not FATF members are not exempt from Mutual Evaluations, therefore it is in South Africa's best interest to be a member and leverage some kind of influence in the organisation"* (Participant C, 2024).

4.2.3 CONTRIBUTING FACTORS THAT LED TO SOUTH AFRICA'S GREYLISTING BY FATF.

(Participant A, 2023) indicated that South Africa's Mutual Evaluation was led by the IMF, in conjunction with the FATF and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). This meant that South Africa was assessed using a more stringent criteria, which is detailed orientated (Participant A, 2023).

A country scoping and materiality note (prior to the final report) identified shortcomings that ultimately led to South Africa's greylisting. The draft report highlighted concerns over endemic corruption (state capture), and areas not previously supervised by the FIC Act such as dealers of precious metals and stones (Participant A, 2023).

(Participant B, 2023) believes that while South Africa's Mutual Evaluation was a fair reflection, it was not accurate, and there is a lot that is not disclosed about the Mutual Evaluation process. (Participant B, 2023) was surprised with the assessors' findings regarding South Africa's technical compliance (or lack thereof).

Regarding the financing of terrorism, (Participant A, 2023) and (Participant C, 2024) indicated that there were initial issues of what assessors identified as risks, as it was not aligned to South Africa's understanding of risk. Assessors made use of sources such as the Global Counter Terrorism Index to inform their terror-financing risk perceptions. This led to a big debate on how the assessors identified so many terror-related incidences.

This preconceived perception of South Africa's terrorism threat level is a reflection of the Selective Perception bias mentioned earlier. These biases can cloud the objectivity of the assessors during Mutual Evaluations.

(Participant A, 2023) informed that in a country assessment, it is important for the country's to highlight its understanding of risk, and effectiveness of its mitigation measures which are commensurate with its risk profile. Failure to do so will result in poor ratings for regulatory framework and law enforcement capacity (Participant A, 2023).

During the Mutual Evaluation, South Africa was unable to show its value chain from financial intelligence investigations (from Financial Intelligence Centre), to evidence gathering in order to secure successful prosecutions (Participant A, 2023).

(Participant C, 2024) informed that the hollowing out of implementing agencies led to South Africa's inability to showcase effectiveness in intelligence gathering, investigations and prosecutions.

(Participant C, 2024) also indicated that there were too many deficiencies in South Africa's AML/CFT regime. South Africa has good technical compliance but was falling short on implementation of policies and legislation (Participant C, 2024).

(Participant A, 2023) believes that the findings of the mutual evaluation is a fair assessment of South Africa's AML/CFT regime, stating that:

> *"We were assessed thoroughly, justly, and the results are a true reflection of South Africa's capacity [or lack thereof], resources, weaknesses and deficiencies"* (Participant A, 2023)

While (Participant C, 2024) also agrees that the Mutual Evaluation was a fair reflection of South Africa's AML/CFT regime, the participant indicated that there were pre-conceived ideas of South Africa as a hub for terrorist planning and financing.

(Participant C, 2024) does not agree with the findings on Immediate Outcome 8, which rated South Africa's confiscation of proceeds of predicate crimes as moderate.

(Participant C, 2024) highlighted that South Africa's policy formulation, at the time of the Mutual Evaluation, was not informed by a common understanding of risk from the different stakeholders in both private and public sector.

On the contrary, (Participant B, 2023) believes that South Africa was criticised unfairly as challenges regarding information sharing by intelligence services is a common feature internationally. Sharing of information is sensitive and requires a balance between sharing of intelligence, while not compromising ongoing operations (Participant B, 2023).

This finding signals some institutional weaknesses within law enforcement, highlighted by FATF. Institutional weaknesses in the value chain of cases from investigation phase to prosecution, results in the country's limited abilities to safeguard its citizens and meet its international obligations.

Terrorist acts are enabled by its financing and therefore an inability to curb financing of terrorism increases the country's risk profile, and likelihood of a terrorist attack. This poses a threat to the lives of those residing in South Africa, and its critical infrastructure, and therefore poses a threat to national security.

South Africa is a signatory to several international instruments, and forms part of a global community that gets direction from the United Nations. The United Nations Security Council (UNSC), recently passed Resolution 2462 (United Nations Security Council, 2019) to combat financing of terrorist activities. Resolutions of the UNSC are binding on all member states and enforceable by sanctions when countries are in violation of the resolutions.

Sanctions can have a detrimental effect on a country's economy. This erodes on a country's ability to dictate its economic policies and trajectory, as international institutions can impede economic activities of sanctioned countries. This is heightened by the interconnectedness of the global economy. This will have debilitating effects on a country's economic and political security.

According to a study by (Jerg Gutmann, 2023), countries under UN sanctions experience a 2 percent growth decline to its GDP, resulting in a decline in GDP per capita of 25 percent. This may lead to a decline in private consumption, investment, trade, and foreign direct investment. This ultimately affects government's spending, resulting in a decreased ability by government to provide services to its people.

Furthermore, international institutions are reluctant to lend money to countries under sanctions. South Africa's reliance on international loans, to fund its infrastructure projects is discussed in the section on economic consequences of FATF.

Political implications of sanctions result in a lack of service delivery, which may lead to protests that may turn violent, or ignite civil unrest. Financial sanctions can also serve as a catalyst for legitimate and illegitimate regime change. The main threat to political security, and to national security in this regard, is illegitimate regime change owing to economic pressures of sanctions.

A study by (Gutmann, 2021) found that UN imposed economic sanctions against 98-less developed countries led to 1.2 to 1.4 decrease in life expectancy. A decrease in life expectancy affects human security as loss of life affects the human capital required for a prosperous nation, a threat to national security.

According to (Participant A, 2023), South Africa was assessed during the investigations and publishing of reports on ‘state capture’. There was lack of information on beneficial ownership (Immediate Outcome 5 of mutual evaluation) of companies and trusts as there were no adequate systems and processes in place.

There were also challenges regarding finalising complex money laundering and terrorist financing cases, as suspects set up companies to hide illicit proceeds of funds (Participant A, 2023).

(Participant A, 2023) further explained that according to FATF, investigations, prosecutions, convictions and mutual legal assistance did not align with the country risk profile. Formal financial systems were exploited, and biggest concerns were regarding high prevalence of the use of cash, porous borders, émigré communities using remittance systems (can be exploited for nefarious activities) and risks from NGOs (Participant A, 2023).

South Africa got a moderate rating for its understanding and mitigating of risks listed above. Greylisting was owing to lack of action to deal with the risks identified by South Africa. Despite South Africa’s finalisation of its National Risk Assessment (after the Mutual Evaluation), there were still persistent deficiencies in outcomes 2 to 11 (Participant A, 2023).

South Africa’s identified shortcomings in addressing porous borders and exploitation of its financial systems have a direct consequence on national security. States are often understood within the confines of borders, a concept of territoriality discussed in the literature review. Porous borders lead to increase in transnational crimes including human trafficking/smuggling, and competition for scarce resources or economic opportunities.

An increase in transnational organised crime due to porous borders may result in an increase in weapons smuggling and drug trafficking. An increase in weapons smuggling will have adverse effects on the security of the citizens of the country as these weapons may be used for cash-in-transit heists, robberies, hijackings and political killings. These crimes could be exacerbated by an increase in drug trafficking and consumption.

Organised crime syndicates may use South Africa's porous borders to smuggle criminals, including violent extremists and terrorists.

Violent extremists and terrorists could use South Africa as a logistical base to plan or carry out attacks on foreign targets in South Africa. Loss of life and insecurity caused by terrorist activity threaten national security of South Africa. This is particularly concerning given the proximity of violent extremist activities taking place in Cabo Delgado, northern Mozambique.

The competition for scarce resources, including economic opportunities, may result in clashes between South African nationals and émigré communities, commonly referred to as xenophobic attacks. Xenophobic attacks often lead to loss of life, social instability and disruption to local and/or national economic activities. This poses a threat to both economic and political tenets of national security.

4.2.4 UNDERSTANDING OF CONCEPTS SUCH AS TERRORISM AND ITS FINANCING, IN THE SOUTH AFRICAN CONTEXT.

(Participant A, 2023), indicated that the FATF methodology provides sufficient mechanisms to ensure that a standardised assessment takes place for all the countries undergoing Mutual Evaluations. There is therefore enough checks and balances to ensure that assessors do not uncritically rate countries under assessment due to their individual "predisposed" understanding of polarising concepts such as terrorism (Participant A, 2023).

In highlighting the deliberative nature of contentious concepts, (Participant A, 2023) stated that:

> *"working group meetings and plenary meetings afford countries like South Africa platforms for discussion if a country feels that assessments did not interpret South Africa's understanding of terrorism correctly and didn't use FATFF standards"* (Participant A, 2023)

> *"FATF assessment criteria are neutral"* (Participant A, 2023)

In contrast, (Participant B, 2023) and (Participant C, 2024) believe that assessments, by nature, have subjective elements, and the FATF assessment are not immune from subjectivity. (Participant C, 2024) stated that FATF Mutual Evaluations have enough checks and balances to guard against subjectivity.

In response to the finding by FATF that South Africa has a “conservative approach” to terrorism, (Participant A, 2023) indicated that it was based on the fact that South Africa did not have recent prosecutions on terror-related activities. Furthermore, there was no financial sanctions framework in place at the time of the assessment (Participant A, 2023).

This led to South Arica amending its counter terrorism legislation, including the removal of the exemption of liberation struggles as acts of terrorism.

(Participant C, 2024) expressed concern that the removal of the exemption of liberation struggles for terrorism charges, may be used as a political tool. (Participant C, 2024) stated the following:

“The broader definition [of terrorism] could be misused in attempts to deal with political opponents on terrorism charges”

(Participant B, 2023) highlighted that FATF assessors are civil servants of member states (seconded to FATF) and do not have enough time to fully understand legislation of countries and where the acts fit within the overall framework of the countries. (Participant B, 2023) stated that:

“FATF assessors are civil servants that are seconded [to FATF], and not experts in studying the laws of other countries.” (Participant B, 2023)

Similarly, (Participant C, 2024) believes that on occasion, assessors may have insufficient experience to adequately evaluate a country’s laws and overall AML/CFT regime. Inexperience is mostly apparent in Joint Groups of the International Co-operation Review Group (ICRG) responsible for reviewing efforts by countries to get off the greylist.

But (Participant C, 2024) hastened to add that the team of assessors that conducted South Africa’s Mutual Evaluation were highly experienced, including on countering the financing of terrorism.

In the POCDATARA Act 33 of 2004 (The Presidency, 2005), prior to its amendment, the preamble exempted actions in furtherance of national liberation as acts of terrorism. While

(Participant A, 2023) highlighted the recommendation to remove this exemption from the legislation was meant to align the concept of terrorism to international standards, its removal has political implications for the country.

(Participant C, 2024) indicated that the omission of the exemption for liberation struggles may result in pressure on South Africa to prosecute violent extremist not considered terrorists by the government.

(Participant B, 2023) expressed shock at South Africa conceding to remove the exemption from the POCDATARA. A concession which Participant B, believes would not have been possible in the year 2004. According to (Participant B, 2023), South Africa erred in that it signed international instruments that did not exclude its obligations to comply with the national liberation clause. (Participant B, 2023) lamented that:

> *"This clause was held to be sacrosanct, it was negligence by the government on the one side, and pressure from FATF on the other side"* (Participant B, 2023).

In the case of South Africa, a political organisation formerly declared a terrorist organisation, the African National Congress (ANC), became a governing party in a democratic South Africa. The exemption of liberation struggles was in line with its political history. This definition is further in line with the African Union's Convention on the Prevention and Combatting of Terrorism which stipulates (in article 3) that struggles waged for liberation and self-determination against colonialism, occupation, aggression and domination by foreign forces shall not be considered acts of terrorism (African Union, 1999).

By way of example, while America and the European Union listed Hamas as a terrorist organisation, the United Nations, and South Africa do not recognise Hamas as a terrorist organisation.

The omission in South Africa's amended legislation, may result in political insecurity, as the criminilisation of acts in resistance to illegal occupation, may result in a proliferation of 'terrorist organisations'. This is highly probable given the continent's political history and attachments to/ interference by former colonial powers.

The change in the counter terrorism legislation has implications on South Africa's foreign policy and the African Union's Agenda 2063. One of South Africa's foreign policy, on illegal occupation, is that of self-determination, as evidenced by its position on the Israel-Palestine conflict. In the African Union's aspirations and main priorities for action, aspiration 4 identifies a peaceful and secure Africa as a key action to realise Agenda 2063 (African Union, 2015).

While counter terrorism measures are important in ensuring national, regional and global peace and security, an uncritical and indiscriminate classification of insurgents as terrorist groups may further aggravate political violence across the three spheres.

As part of the amendments to the POCDATARA Act, (Participant B, 2023) believes that the pressure from assessors to increase the penalty for terrorism related offences to thirty years was ill-informed. (Participant B, 2023) highlights that the assessors highlighted the discrepancy between a higher penalty for money laundering crimes vis-à-vis terror-related crimes.

FATF guidelines however caution assessors against using only one law to interpret laws/regimes of countries under assessment (Participant B, 2023). The assessors should look at evidence that shows whether the initial sentence stipulated in the POCDATARA is dissuasive enough. The negative finding by the assessors is at odds with a previous study by FATF that assessed counter-terrorism laws, and the accompanying sentences of different countries, which commended South Africa's law (Participant B, 2023).

(Participant B, 2023) argues that money laundered through terror-related activities (as a predicate offence) would carry a 30-year penalty under the Prevention of Organised Crime Act 121 of 1998 (The Presidency, 1999). If this consideration was made, then South Africa would not have to increase the penalty for terror-related activities as prescribed by the FATF assessors (Participant B, 2023).

This increase in sentence, accompanied by an expanded definition of what constitutes terrorism, could result in an increased number of people serving longer sentences for crimes that would previously not be identified as terror-related (Participant B, 2023).

Prisons are identified as places of radicalisation. Prolonged detention on acts not previously identified as terror-related activities could result in an increase in South Africa's terrorism threat level due to radicalisation in prisons.

4.2.5 ECONOMIC IMPLICATIONS OF GREYLISTING ON SOUTH AFRICA'S ECONOMIC SECURITY.

Economic consequences of greylisting have implications on foreign aid, creditworthiness, additional listing by other economic blocs, and outlook by credit ratings. These economic consequences have implications on the economic security of South Africa.

In highlighting the initial concerns regarding (possible) greylisting, (Participant A, 2023) stated the following:

> *"When FATF assessors gave us their write up of their preliminary findings (2020) before it was adopted by Plenary in 2021, we knew fairly well where we were going to end up in terms of findings and deficiencies. We were worried about rating agencies, foreign direct investment, trading partners, and rate of borrowing from IMF as it is subject to conditions of FATF requirements."* (Participant A, 2023).

FOREIGN AID

There is an ongoing debate whether FATF greylisting had adverse effects on the economies of affected countries (koker, Howell, & Morris, 2023). In his study on the economic consequences of greylisting, (koker, Howell, & Morris, 2023) found that one of the consequences of greylisting is that listed countries receive less aid from the official development assistance (ODA).

The ODA is a fund that is granted by The Organisation for Economic Co-operation and Development (OECD), to developing countries in order to stimulate economic growth and strengthen social welfare (OECD, 2023). The OECD is an international organisation that works with various governments, using expertise of business, civil society, parliamentarians, citizens and relevant stakeholders. These stakeholders recommend policy in an attempt to address social, economic and environmental challenges (OECD, 2023).

A study that was conducted on 13 Asian countries to ascertain the effect of foreign aid on economies, found a positive correlation between the foreign aid and economic growth (Masha Rahnama, 2017). In a similar study on the relationship between foreign aid and economic growth, (Ekanayake, 2010) found that public investment, enabled through foreign aid, led to economic growth in Sub-Saharan African countries. (Moreira, 2005) found a similar positive correlation between foreign aid and economic growth, dating from 1970-1998.

It is argued that foreign aid can boost the domestic savings of a country, and increase the accumulated capital goods (koker, Howell, & Morris, 2023). While South Africa is one of the richest countries in Sub-Saharan Africa, it is still characterised by high levels of poverty, inequality and unemployment.

In an attempt to address the challenges of child mortality, gender inequality and poor maternal healthcare, South Africa was a beneficiary of large donations from the developed countries at the dawn of democracy (UNDP, 2010).

Historically in South Africa, targeted aid towards specific objectives yielded positive tangible results (koker, Howell, & Morris, 2023). However, when donors moved from empowering specific institutions and governance, towards overall economic development, the positive relationship between foreign aid and economic growth became less significant (Leshore, 2013).

The strength of the relationship between foreign aid and economic development is subject to several other factors. When foreign aid is directed at broad economic growth objectives, and not specific projects, the strength of the relationship is reliant on the economic policies of the beneficiary country.

While South Africa’s dependency on foreign aid has reduced, given its status as a high-income developing country, several key factors impact on the correlation between foreign aid and economic growth. The systems in place to develop and implement policy, and the corruption levels of a country, influence the correlation between the two variables of economic growth and foreign aid (Leshore, 2013).

According to the Global Corruption Index, South Africa is perceived as highly corrupt, ranked 72 out of 180 countries, with a corruption perception index score of 43 out of a 100. In this index, 0 is considered highly corrupt, and 100 considered very clean (Global Risk Profile, 2023).

International institutions such as the World Bank, and the World Economic Forum (WEF) provide data that inform the CPI scores (Global Risk Profile, 2023). From 2019-2022, South Africa's CPI was consistently 44 out of a 100 (Global Risk Profile, 2023). With a score of below 50, it is a reflection of the persistent perception of high levels of corruption in South Africa.

High levels of corruption, whether perceived or real, dissuade foreign direct investment in South Africa, and do not allow for a meaningful positive relationship between foreign aid and economic growth. South Africa is however putting several measures in place to counter corruption. Should South Africa continue to strengthen its anti-corruption framework, including the adoption of the National Anti-Corruption Strategy (South African Government, 2020), a positive relationship between foreign aid and economic growth could be significant.

Foreign aid plays a significant role in relief efforts. Foreign aid is often aimed at reducing poverty and developing initiatives to empower communities. Aid work conducted through international non-governmental organisations (NGOs), plays an important role in preventing radicalisation and recruitment to violent extremism. Aid work through organisations such as the United Office on Drugs and Crime (UNODC) and United Nations Office on Counter Terrorism (UNOCT) is involved in a lot of capacity building work in South Africa, in an attempt to combat violent extremism and terrorism.

Work aimed at countering radicalisation and recruitment to violent extremism and terrorism is intended at securing South Africa's national security, ensuring that its citizens are free from violence and threats to their lives.

Poverty is a push factor towards violent extremism and terrorism, therefore aid work aimed at reducing poverty seeks to prevent recruitment to violent extremist and terrorist groups.

In alignment with the document analysis regarding a positive correlation between greylisting and a reduction in foreign aid, (Participant C, 2024) highlighted that foreign donor work could be negatively affected if South African based entities are used to carry out such aid work.

While South Africa is not solely reliant on foreign aid, the targeted projects (minimal as they may appear to be) play a significant role in ensuring South Africa remains safe and secure, in the interest of its national security.

LOANS FROM INTERNATIONAL INSTITUTIONS

Greylisting by FATF is found to result in a reduction in loans from The International Bank for Reconstruction and Development (IBRD) (koker, Howell, & Morris, 2023). As the largest development bank in the world, and a vehicle for the World Bank Group, IBRD provides loans, guarantees and policy advice to middle-income countries (koker, Howell, & Morris, 2023).

Interestingly, (Participant C, 2024) does not anticipate a reduction in South Africa's creditworthiness for loans from institutions such as the IMF for infrastructure projects. (Participant C, 2024) stated that the effects of the greylisting were not as detrimental as anticipated. It is however the view of this research, and other participants, that the impact of greylisting is not observable in the short-term.

In October 2023, the World Bank approved a $1 billion dollar loan to South Africa to address its challenges in the energy sector. This is pursuant to South Africa's Just Energy Transition Plan that seeks to diversify South Africa's energy mix.

While the loan agreement was between The World Bank, Government of Germany, and the African Development Bank (AfDB), the loan granted emphasises South Africa's reliance on loans from international institutions such as the World Bank. According to (South African Government, 2023) the loan is part of South Africa's funding strategy for strategic government programmes, and to reduce its public debt.

The cost of load shedding to the South African economy are well documented, and lamented. According to the South African Reserve Bank, the expected growth in GDP for

2023 was 0.3%, as it was estimated that load shedding would stifle economic growth by 2 percentage points (Erero, 2023).

Load shedding has adverse effects on several sectors of the economy including, but not limited to, companies inability to be productive, which denies government the opportunity to generate revenue from tax. At the South African Revenue System (SARS), the Diesel Fuel Tax Refund System is impacted by load shedding as there is higher demand for diesel (to power generators), in the agriculture, forestry, fisheries and mining sectors (Erero, 2023).

This impacts on SARS' collection capabilities, an important vehicle in financing the state machinery, including its police, military and its intelligence services. This has a negative effect on service delivery, and the ability of law enforcement agencies to maintain peace and security in the country. An inability to maintain peace and security in South Africa, is a threat to national security.

Load shedding has also affected the health sector, negatively impacting on the hospitals' abilities to provide lifesaving care. Additionally, prolonged periods of load shedding have led to an increase in criminal activities in South Africa.

Unreliable electricity supply further deters foreign direct investment to South Africa (Erero, 2023). Consequently, the low growth in GDP leads to low job creation, and decrease in consumer spending. High unemployment rate, can lead to social instability as the unemployed may carry out sporadic violent protests against the government. These protests could flare up across the country, through the domino effect, and result in possible calls for a revolt against the government. This kind of revolt was experienced in what is known as the Arab Spring, anti-government violent protests, which took place in the Arab world in the early 2010s.

Social stability, an important indicator of political security, is important for national security. The ability to maintain peace and security is an important pillar of a country's national security, including South Africa. Political legitimacy and lack of intra-state conflict is essential in maintaining a country's national security.

The increase in crimes during load shedding, negatively affects the people's right to feel and be safe. According to South Africa's 2019-2024 Medium Term Strategic Framework, priority 6 of the framework places emphasis on establishing safer communities, including combatting crimes (Department of Planning, Monitoring and Evaluation, 2019). An increase in crime is against priority 6 of government's strategic objective for peace and security.

The effects of load shedding on the health sector, impedes on the state's priority to provide quality and accessible health care to all the people in South Africa. Priority 3 of the 2019-2024 Medium Term Strategic Framework, places emphasis on quality healthcare (Department of Planning, Monitoring and Evaluation, 2019). Persistent disruption in electricity supply has negative consequences on this strategic objective. The inability of a country to provide quality and accessible healthcare threatens the human security of a country. Human security refers to a people that are free from fatal diseases and pandemics (Holmes, 2015).

(Participant A, 2023) highlighted that while the IMF considers the FATF findings to determine a country's creditworthiness, it does conduct its own country assessments known as the Financial Sector Assessment Program (FSAP). (Participant A, 2023) mentioned that:

> *"IMF has a chapter on AML/CFT and works with the Reserve Bank to conduct financial sector assessments on the country on four year intervals. They do their own assessment but also look at FATF assessments as well, [so] lending [money] is not solely reliant on FATF findings"*

While (Participant A, 2023) highlights multiple considerations by the IMF, the greylist is still an important factor, albeit not the only one. It therefore becomes clear that the reduction in loans from international institutions such as the World Bank, due to greylisting, may lead to South Africa's inability to finance key projects aimed at reducing challenges such as load shedding. This will have devastating effects on the economy and national security.

THE USE/MISUSE OF GREYLIST BY INTERNATIONAL ORGANISATIONS AND JURISDICTIONS

According to (Participant C, 2024), the biggest greylisting threat to South Africa's economy is the effects of the EU listing. This view was corroborated by the document analysis detailed below. According to (Participant C, 2024) this will largely affect attempts to establish new trade relations and correspondence banking. This is due to the EU's status as South Africa's largest trading partner.

By way of example, (Participant C, 2024) mentioned businesses trying to open new bank accounts in the EU may be unsuccessful owing to the greylist. Businesses that seek to transact using South African banks may be dissuaded by the cost implications of applying due diligence using South African banks (Participant C, 2024).

If supervisory bodies based in other jurisdictions identify South Africa as a high risk country for money laundering and financing of terrorism, then this perception may be imposed on the clients that do business with South Africa (Participant C, 2024).

While de-risking of financial institutions is a concern for greylisting, (Participant C, 2024) does not anticipate such an outcome in the case of South Africa.

(koker, Howell, & Morris, 2023) argues that the decline in foreign aid from developed countries, and credit loans from international institutions such as the World Bank, continues after countries have been removed from grey/black lists.

According to (koker, Howell, & Morris, 2023), countries considered High-Risk Jurisdictions subjected to a Call for Action (also known as blacklists), impede on commercial transactions and strengthen economic sanctions already imposed on listed countries, such as Iran, North Korea and Myanmar.

Regarding Jurisdictions under Increased Monitoring (greylist), FATF claims that it does not yet call for actions to businesses in the listed jurisdictions (FATF, 2023), (koker, Howell, & Morris, 2023) argues that regardless of FATF's claim, countries automatically apply due diligence as soon as a country is listed. This is further compounded by the

FATF statement that members should consider information contained in the risk assessments of greylisted countries.

The FATF greylist, is used to partly inform the Financial Secrecy Index, the US International Narcotics Control Strategy Report, The Corruption Perceptions Index, and the Basel AML Index (koker, Howell, & Morris, 2023).

The Financial Secrecy Index lists countries that aid and abet criminals to launder money and evade tax (Tax Justice Network, 2022). The US International Narcotics Control Strategy Report is an annual publication prepared by the Department of State, identifying actions by various countries to tackle drug trafficking (US Department of State, 2022). The Basel AML Index is a non-profit organisation that works with public and private sector, in various regions around the world, to fight corruption and improve governance (Basel Institute on Governance, 2023).

The above institutions compile reports that are reputable, and relied upon by many jurisdictions and international organisations, to form opinions on countries' efforts to combat money laundering, corruption and other organised crime. When South Africa is greylisted, the above mentioned institutions will rank and assess South Africa's anti-money laundering and counter terrorism regime unfavourably.

This has diplomatic implications, as South Africa will suffer reputable damage as far as its AML/CFT regime is concerned. This impedes on South Africa's ability to administer good governance and uphold the rule of law. These negative perceptions and ratings will consequently affect the country's ability to secure credit and aid from international institutions. (Participant C, 2024) similarly shared concerns about the reputational risk that South faces due to its greylisting.

Perceptions of jurisdictions providing an enabling environment for criminal networks can inadvertently serve as a pull factor for criminals that seek to exploit the perceived weak AML/CFT regime.

According to (koker, Howell, & Morris, 2023), most countries that are greylisted are added to EU list of high risk countries. The EU may further require additional measures to those recommended by FATF, and will not automatically follow the de-listing by FATF (Dalip, 2020).

(koker, Howell, & Morris, 2023) explored several studies that considered the correlation between FATF findings and the economies of countries. In a study by (Farias, 2014), poor FATF findings and corruption were found to negatively impact on local and international investments.

A study by (Collin Matthew, 2016) found that greylisted countries experienced a 10 percent decline in cross-border payments, and found that poor countries were 40% more likely to be greylisted. (Jayasekara, 2021) studied seven countries on the 2019 greylist, and found that their currencies had devalued during their period of listing.

(koker, Howell, & Morris, 2023) asserts that greylisting may increase the cost of doing business, as governments may implement strict trade regulations with listed countries, and even go as far as prohibiting businesses linked to listed jurisdictions. This may result in a reduced supply of goods, thus causing an increase in the price of these goods, and negatively affect profit margins. This will affect the sustainability of the businesses, resulting in less participation in the economy by the affected businesses, possible downscaling (including staff members), and less tax collectable by the state.

The effects of less participation (by businesses) in the economy can result in a reduction in GDP growth, with adverse effects on government spending and job creation. High unemployment rate in South Africa poses a risk on national security as it may lead to an increase in crime, social unrest and possible attempts to illegally overthrow the government.

DOWNGRADE BY RATING AGENCIES

Credit rating agency Moody's, revised Malta's rating from stable to negative, following FATF greylisting. Moody's specifically mentioned the concern around Malta's anti-money laundering supervision highlighted by the FATF (Vella, 2021). The main concern is the implications on Malta's economy, as a prolonged listing may lead companies to re-consider their business operations in Malta due to enhanced regulated process required (Vella, 2021).

Moody's further highlighted that Malta will need to demonstrate the effectiveness of the revised supervisory framework, which go beyond the prescribed 18 months (Vella, 2021). The downgrading by rating agencies is a fate that South Africa is not immune to. Rating agencies are private entities responsible for assessing credit worthiness of institutions, including governments (Charumathi, 2017).

The major credit rating agencies for South Africa include Standard and Poor's, Moody's (which downgraded Malta), and Fitch. These rating agencies play a large role in the country's borrowing costs, including state owned investment funds and pension funds.

Moody's consideration of Malta's greylisting may be a contemplation for South Africa's credit rating, especially if South Africa is considered to have made insignificant progress in improving deficiencies identified by FATF.

In South Africa's Mutual Evaluation conducted by FATF, it found that South Africa's supervision did not adequately apply risk based approach for Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions [DNFBPs] (FATF, 2021).

This led to some amendments in the General Laws Amendment Act No.22 of 2022, wherein the Financial Intelligence Act was amended to increase the number of sectors listed as accountable institutions (Chartered Institute for Business Accountants, 2023). This enables the FIC to gather data from increased number of financial and non-financial institutions.

Credit ratings are important particularly or emerging markets, like South Africa, as they enable international investors to consider opportunities in emerging markets. Rating agencies allow emerging markets, as the biggest borrowers of funding, to access funds from international institutions (Kyle Bales, 2020).

According to a study on the effects of credit ratings on emerging market volatilities, (Kyle Bales, 2020) found that there is a negative correlation as there is an increase in volatility of stocks as the country's credit rating declines.

As mentioned earlier, South Africa tends to borrow from international institutions in order to fund certain projects to boost the economy. If Moody's takes cognisance of FATF's greylisting, it could rate South Africa unfavourably, resulting in the country's inability to borrow money with favourable conditions.

This will have adverse effects on the country's ability to fund projects that seek to address the challenges of poverty, unemployment, and load shedding. High levels of poverty and unemployment can lead to an increase in criminal activities, social instability due to sporadic and violent protests, and instability caused by attacks on foreign nationals competing for limited resources (also known as xenophobic attacks).

All the possible consequences linked to poverty, unemployment and load shedding, affect the country's national security, as South Africans (including its critical infrastructure) should be safe and protected from harm and/or damage.

4.2.6 POLITICAL IMPLICATIONS OF FATF FINDINGS FOR SOUTH AFRICA

The FATF findings and subsequent recommendations to strengthen South Africa's AML/CFT regime have implications on the country's legislative framework, and law enforcement's approach to countering terrorism financing.

PUSH FOR MORE TERROR FINANCING PROSECUTIONS

As part of the findings on South Africa's anti-money laundering and countering financing of terrorism regime, the FATF claimed that South Africa has a "conservative" approach to classifying acts of political violence as terrorism, which impedes on its abilities to counter the financing of terrorism (FATF, 2021).

This follows FATF's narrative that South Africa only prosecuted one person for financing of terrorism since the last mutual evaluation on South Africa. This finding raises the debate on the definition of terrorism, as defined by South Africa's counter terrorism legislation known as The Protection of Constitutional Democracy Against Terrorist and Related Activities Act 33 0f 2004 (the POCDATARA Act).

According to the POCDTARA Act, terrorism is defined along acts committed by a person(s). In the extensive list of acts that constitute terrorist acts and its financing, it does not state political violence as terrorism.

There is no universally agreed upon definition of terrorism, and sovereign states define terrorism in line with their understanding of terrorism. While FATF does not impose a definition of terrorism, it relies on the UN Convention to get guidance on what could possibly constitute financing of terrorism.

Given the different understanding of terrorism between the FATF assessors and the South African government, what is considered ‘acts of terrorism’ by FATF, may be classified as a different priority crime by the South African authorities.

The “conservative” perception by FATF, may be seen as an attempt to push South Africa into prosecuting more suspects on financing of terrorism charges. This push for more financing of terrorism charges may not be commensurate with South Africa’s terrorism threat.

An unwarranted increase in financing of terrorism charges may lead to an increase in incorrect charges laid against suspects, resulting in unsuccessful prosecutions. Whereas different charges could’ve led to successful prosecutions. Financing of terrorism charges need to be associated with terror-related activities, a link that may be difficult to prove. An unwarranted increase in charges will be counter-productive to obtaining successful prosecutions of criminals in order to curb organised crime, a threat to national security.

Furthermore, incorrect classification of crimes such as financing of terrorism, may result in an increased perception that South Africa is a conduit for financing of international terrorism.

There are several media reports that link South Africa to various terrorist organisations, including the Islamic State. A report by media outlet News24, alleged that between 2020 and 2021, an estimated R6.4 billion funds moved from South Africa to Kenya, Nigeria, Somalia, and Bangladesh through mobile money transfer using 57000 unregistered sim cards (News24, 2013).

At face value, the amount of funds cited in the report project South Africa as a major hub for financing of terrorism. Many international institutions may draw their perceptions of South Africa’s financial regime from such reports.

A critical analysis of this media report will reveal that given South Africa's large émigré community from the countries listed above, it follows that there will be a large outflow of money from South Africa to those countries. A large portion of this money is likely intended towards sustenance of the families back home.

While it cannot be ruled out that some of the funds may be used to finance terror-related activities, there is little publicly available evidence that links funds remitted from South Africa to terror-related activities in Kenya, Somalia, Nigeria and Bangladesh.

Unsubstantiated reports may create a perception that may influence the decisions of FATF assessors, and international institutions. Sensational and unsubstantiated media reports alleging that South Africa is financing international terrorism has consequences on the country's national security. Prosecution on terrorism financing should therefore be commensurate with actual terrorist financing taking place in South Africa.

SOUTH AFRICA'S ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM LEGISLATION

The mutual evaluation report on South Africa, made several recommendations to address the shortcomings identified in South Africa's anti-money laundering and counter-terrorism financing regime. Following the recommendations from FATF, South Africa enacted the General Laws Amendment Act No. 22 of 2022.

The General Laws Amendment Act is a culmination of the amendment of different laws, which include: The Financial Intelligence Centre Act, 2001; Trust Property Control Act, 1988; Companies Act. 2008; and the Nonprofit Organisations Act, 1997 (Chartered Institute for Business Accountants, 2023). (Participant A, 2023) indicated that although there was a limited time to amend the South African legislations in accordance with the FATF recommendations, the laws were due for amendments.

The South African government, in an attempt to address identified deficiencies in its AML/CFT regime, enacted the General Laws Amendment Act within 18 months. This has led to concern (from organisations such as Corruption Watch and AmaBhungane) that the bill was rushed and may resultantly have some limitations (Corruption Watch, 2023).

The major concerns raised relate to the insufficient time allocated for consultation of the bill. The relevant stakeholders are believed to have not engaged the bill thoroughly (Corruption Watch, 2023).

In response to the criticism regarding the short consultation process of the amended legislations, (Participant A, 2023) believes South Africa does not have the luxury of time to over-consult on amendments in an attempt to conform to international requirements.

> *"It is just criticism but turnaround time is short. The aim is to show that amendments had impact on mitigating risks and not just showing changes to the law, [to] report on better investigations, better prosecutions and better asset recovery"* (Participant A, 2023).

(Participant C, 2024) is of the view that while there was extensive consultation on the proposed legislative changes, there was not enough time to consider the unintended consequences of the proposed amendments. This may result in legal challenges on the constitutionality of the amended acts, however (Participant C, 2024) does not foresee a favourable outcome of such a challenge.

In recommending changes to policy, the Financial Intelligence Centre consults extensively with private sector and affected stakeholders. This includes inputs on guidance documents developed by the FIC (Participant A, 2023).

A sectoral risk assessment informs the establishment of policy and legislative amendments. An example of the effectiveness in policy and legislative amendments, is that virtual asset providers are now compelled to provide information to the FIC, where previously it was on a voluntary basis (Participant A, 2023)

In showcasing the positive results of legislative changes owing to FATF findings, (Participant A, 2023) referred to the positive impact that FATF findings had on Pakistan. The country changed their penal laws to get off the greylist, resulting in an increase in financial flows and investments in to the country in the years that followed.

(Participant A, 2023) highlighted the importance of strengthening AML/CFT legislation through amendments, stating that:

> *"If you don't amend your policy according to your understanding of risk, then you will never understand how you might be exploited"* (Participant A, 2023).

(Participant A, 2023) and (Participant C, 2024) cautioned against regulations being too stringent, and inadvertently driving activities underground. If the formal economy is considered too stringent, it may drive people to the informal economy. Regulators want to achieve financial inclusion and not exclude people.

(Participant C, 2024) particularly highlighted the need to implement financial inclusion for big business, as law enforcement realises that this provides access to persons who were previously excluded, and strengthens AML/CFT efforts.

(Participant C, 2024) emphasised that over-regulation may push questionable businesses to make use of cash and unlicensed money or value transfer services as means of transaction to launder money. This will make it harder for law enforcement to identify criminal acts.

The strength of any law lies in its ability to be thoroughly engaged, amended and passed through prescribed processes. If the South Africa's General Laws Amendment Act was rushed, and certain aspects of it not thoroughly interrogated, then it may be challenged when used for prosecution. If there are loopholes that exist in the legislation, criminals could exploit it in order to evade prosecution.

In order for South Africa to have an effective AML/CFT regime, the legislation in place should be watertight, transparent and considered legitimate by the public. An absence of these key features of the legislation would not be effective in combatting money laundering and financing of terrorism, and thus result in an increase in criminal activities in South Africa. Heightened criminal activities and ineffective legislation threatens the national security of South Africa.

INAPT LAW ENFORCEMENT CAPACITY

The findings of the Sandy Africa report into the July 2021 unrest corroborates the FATF findings with regards to the shortcomings of law enforcement and intelligence agencies (Participant A, 2023).

The reference to findings of the Report of the Expert Panel Into the 2021 July Civil Unrest, highlights the state of vulnerability within South Africa's law enforcement agencies. Should social instability unfold at a similar scale to the July unrest, prompted by protest over economic conditions as a result of greylisting, then South Africa's law enforcement agencies could be found wanting.

As part of ongoing efforts to strengthen the intelligence services, (Participant A, 2023) anticipates that there will be a pushback on particular amendments that are proposed in the General Intelligence Laws Amendment Bill (GILAB).

(Participant A, 2023) is referring to the proposed amendments to have security companies, religious organisations and institutions and NGO's, including their personnel, vetted by law enforcement agencies (Minister in the Presidency, 2023) prior to their establishment.

The proposed amendment seeks to address the risks associated with NPO's identified by FATF. In Immediate Outcome 11 of its findings (FATF, 2021), FATF found that the measures that South Africa has put in place to counter exploitation of NPOs for terrorist financing is not commensurate with its risk profile.

The intention of the proposed requirement in legislation is informed by the weaknesses identified, however the unintended consequences of such requirements may lead to perceptions of Islamophobia, anti-Semitism, or Christianophobia. These claims would be amplified if registration were denied by authorities of government. Such sentiments may lead to perceptions of religious intolerance or marginalisation and fuel religious extremism.

Religious extremism may ultimately turn violent, posing a threat to human life and critical infrastructure of government. This poses a threat to political security as the government's ability to govern and protect its citizens will be eroded.

TARGETED MITIGATING FACTORS

Targeted mitigating factors on émigré population considered high risk communities may have political (diplomatic) ramifications as the targeted communities could claim xenophobia and profiled victimisation (Participant A, 2023).

An example of this would be recommendations to scrutinize communities from Eastern Africa diaspora at the South African border, as the risk posed by cash couriers could be exploited for money laundering and terrorist financing (Participant A, 2023).

The perceived anti-foreign nationals' sentiments by the South African government, may affect its diplomatic standing, and wane its soft power. This will have a negative effect on South Africa's influence in the region and internationally, a national security concern.

4.2.7 MEASURES PUT IN PLACE BY GOVERNMENT TO CORRECT AML/CFT DEFICIENCIES.

SOUTH AFRICA'S ACTION PLAN

South Africa did well to address the initial 67 deficiencies identified by FATF, in the Mutual Evaluation, to the remaining 21 action items that needed to be addressed at the time of grey listing (Participant C, 2024).

Following the greylisting, (Participant A, 2023) referred to statements by National Treasury that shared South Africa's Action Plan to correct deficiencies identified in the FATF mutual evaluation. This highlights what government has committed to in order to get the country out of the greylist.

The list highlighted specific areas of action (15), some requiring amendments to legislation, development and review of systems and processes, frameworks, operational plans and development of personal performance criteria to show results in each case.

(Participant A, 2023) emphasised that a number of frameworks and Action Plans, were already in process, albeit with less urgency, such as dealing with risks associated with beneficial ownership. There were free off the shelf tools for data standards available for data ownership, and a national implementation framework was developed

In contrast, (Participant B, 2023) believes that South Africa's Action Plan is not developed by South Africa, but is rather FATF's "marching orders" to fix South Africa's deficiencies. Therefore (Participant B, 2023) is doubtful that South Africa can take ownership of the Action Plan, and meet some of the requirements.

Regarding coordination, (Participant C, 2024) informed that investigative and judicial authorities realised the importance of working together, as opposed to working in silos. Public and private sector partnerships are enhanced since the FATF findings (Participant C, 2024). The participant gave an example of a recent invite for (Participant C, 2024) to partake in a sectoral risk discussion on threats (as a public official) by banks based in South Africa.

(Participant C, 2024) mentioned that in addition to an increase in AML/CFT training for officials, Government officials have plans to counter AML and CFT as part of their key performance areas,

South Africa is still on course to meet set deadlines to show progress on corrective measures, including May 2024, September 2024 and the last one in September 2025 (Participant A, 2023).

(Participant C, 2024) expressed concern on the turnaround time to achieve certain objectives in the Action Plan. An example of this is the Action Item in Immediate Outcome 7. This outcome states that 'South Africa should show sustained increase in investigations and prosecutions of serious and complex money laundering...' (Participant C, 2024). Considering the complex nature of investigating money laundering cases, (Participant C, 2024) believes that showing a sustainable increase in investigating and prosecuting complex money laundering cases can take longer to achieve than the prescribed deadline (25 January 2025).

Citing a similar example for South Africa to show a sustained increase in its investigation and prosecution, (Participant B, 2023) believes that the observation period for countries to correct deficiencies before greylisting, should be extended beyond one year. This can also be viewed as a critique to the methodology employed by FATF.

Following the mutual evaluation, work-streams were established, and relevant agencies responsible for companies developed registries to address deficiencies. It is important for law enforcement to show how these changes led to successful prosecutions and present this to FATF (Participant A, 2023).

(Participant B, 2023) however expressed disapproval at the beneficial ownership registry, and its requirements, and considers it unworkable. (Participant B, 2023) narrated personal experience and frustration over banking obligations to comply with FICA regulations. This would have negative economic consequences given its complexities.

(Participant B, 2023) stresses that over-compliance can be more damaging to South Africa's economy than greylisting. This is in light of the bureaucratic red tapes and cumbersome processes that will be required henceforth.

Similarly, (Participant C, 2024) expressed concern over the implications of some of the new AML /CFT measures, particularly beneficial ownership. (Participant C, 2024) stated that the beneficial ownership registry relies on volunteered information on actual beneficiaries for the purpose of due diligence. This would require due diligence related costs as well as follow-up action as the registry would only provide leads, but not the detailed information of possible criminality.

(Participant C, 2024) indicated that if South Africa does not meet all the deadlines set out in the Action Plan, it is unlikely to be blacklisted, but will probably stay on the greylist for a longer period. This prolonged stay on the greylist will increase the economic impact of increased monitoring (Participant C, 2024).

POLITICAL WILL

(Participant A, 2023) believes that the response by National Treasury (through private-public partnership and consistent communication with stakeholders) assisted in ensuring that the economic impact of greylisting is not as severe as was anticipated.

According to (Participant A, 2023), political commitment to get off the greylist by South Africa's Cabinet and the President, and implementing the national Action Plan, helped mitigate the possible severity of greylisting.

(Participant C, 2024) explained that the greylisting led to an increase in political will to strengthen South Africa's AML/CFT regime. There was an increased interest from institutions such as Parliament of South Africa and lead to the establishment of the Interdepartmental Committee (IDC) on Anti-Money Laundering and the Combatting of Terrorism (AML/CFT) to address South Africa's deficiencies

Additional support from CEO's of big banks helped mitigate concerns associated with greylisting. Research reports and rating agencies found that the impact of the greylisting was not severe, however there is a counter argument that it is too soon to determine the effects of greylisting. It is further argued that given South Africa's downwards economic trajectory, it is difficult to find a causal relationship between the greylisting and poor economic performance of South Africa (Participant A, 2023).

(Participant A, 2023) further asserted that following the greylisting, there was a spike downward of GDP, foreign direct investment, flows of funds out of the country and an increase in the rate the Reserve Bank can borrow and lend money. But there was an observable improvement shortly thereafter.

The real economic impact of greylisting can only be determined between five to ten years (Participant A, 2023). (Participant A, 2023), also cautioned against attributing stagnation or decline in GDP to FATF greylisting alone (single cause fallacy).

Credible institutions such as the World Bank and IMF still consider South Africa as relatively stable economically. Despite this outlook, (Participant A, 2023) stated that:

> "However since the Covid-19 pandemic the IMF and World Bank requirements are more contingent on a country showing results first, in line with sustainable development criteria (goal 16.4), which are largely informed by [the] FATF"

In contrast, (Participant B, 2023) asserts that South Africa is rushing through laws that it does not have the capacity to ensure compliance with, just to get off the greylist. This could cause more negative findings in the next round of assessments (of South Africa) owing to rushed laws. A revolving door of greylist would cause greater economic and political harm, affecting South Africa's ability to secure its national security.

RESPONSE BY LAW ENFORCEMENT

Since the FATF mutual evaluation findings, significant improvements in coordination by law enforcement to successfully investigate, prosecute and convict ML and TF suspects has been observed. This is informed by the monthly feedback, including technical assistance provided by international partners from countries who have been through similar assessments (Participant A, 2023). All the departments worked collaboratively, as opposed to previous silos, to address deficiencies (Participant C, 2024).

(Participant C, 2024) corroborated the observable improvements made by law enforcement, indicating that investigators and prosecutors have done well to correct negative findings in Immediate Outcomes 6 and 7. Immediate outcome 6 assesses the country's ability to use financial intelligence for successful investigations and prosecutions. Outcome 7 assesses the country's ability to prosecute money laundering cases through dissuasive punishment (FATF, 2023).

Given the urgency and tight deadlines, the requirement for law enforcement to showcase successful investigations, prosecutions and evictions may lead to a bungling of cases and arrests of low-ranking criminals and not the crime bosses. This poses a national security concern as attempts to curb crime levels may be undone by rushed cases and targeting of low ranking criminals.

The European Union (through its newly established unit called Global Facility on AML/CFT) and the United Kingdom, continue to provide technical assistance and share experiences with countries such as Mauritius, which have been greylisted, (Participant A, 2023).

(Participant C, 2024) indicated that law enforcement agencies are making efforts to change the AML/CFT posture and should continue on the trajectory in order to ensure that the next mutual evaluation is favourable. It is therefore important to ensure that the experience gained in the recent Mutual Evaluation is retained or cultivated for the next evaluation (Participant C, 2024)

South Africa is under the FATF's International Cooperation Review Group (ICRG) focusing on Africa /Middle East for greylisted countries and countries with minor deficiencies. South Africa has submitted two progress reports since its greylisting to provide an update on recommended actions to remedy deficiencies (Participant A, 2023).

> "All the deliverables out of the process will not only assist [South Africa] to get off the grey list but also [prepare the country] for next round of mutual evaluations" (Participant A, 2023).

In describing the response by government to strengthen its AML/CFT regime, (Participant A, 2023) expressed that:

> "The FATF findings were a necessary catalyst to spring the country into action" (Participant A, 2023)

Sharing similar sentiments to (Participant A, 2023), (Participant C, 2024) stated that:

> "Greylisting [of South Africa] was the best thing that could've happened to South Africa" (Participant C, 2024)

(Participant C, 2024) hastened to highlight that it is important for government to finalise CFT and AML strategies to complement progress made on correcting identified deficiencies.

(Participant B, 2023) agrees that South Africa's response to the FATF findings has been exceptional, describing it as:

> "One of "the most spectacular improvements that countries on greylists have shown" (Participant B, 2023).

Despite this impressive response by South African government, (Participant B, 2023) cautioned that South Africa should be forward looking. (Participant B, 2023) expressed concerns about future FATF assessments of South Africa, which will evaluate commitments made in the response to the 2019 Mutual Evaluation.

(Participant B, 2023) is concerned that South Africa might have committed to measures it may not be able to implement, similar to his reservations on beneficial ownership requirements.

Failure to implement or show effectiveness of new policies and legislation, may result in repeated negative findings against South Africa. This could lead to South Africa remaining on the greylist, with the prolonged stay exacerbating the economic and political consequences of greylisting. This would have dire consequences for South Africa's political and economic security (for reasons highlighted above), and ultimately its national security.

4.3 CONCLUSION

By providing a critique of the FATF process, and the influence of geo-politics in the institution, it is clear that the FATF still requires constant reviews to its processes. Despite some initial pre-conceived perceptions by assessors, contributing factors that led to South Africa's greylisting are considered a fair reflection of the country's AML/CFT regime.

The economic consequences of greylisting are far reaching, and extend beyond delisting. The most impact is from international institutions, as they can cut South Africa's credit, aid and inform on socio-economic outlook.

The consequences on legislative framework, diplomatic relations, counter-terrorism posture and law enforcement capacity are some of the political implications of the FATF findings. Participant are positive that coordinated efforts through private-public partnership will yield positive results to strengthen the country's AML/CFT regime. This is further bolstered by the political will to meet the deadlines set out in South Africa's Action Plan.

The next chapter will provide a summary of the main findings of the research, including recommendations to curb the consequences of the FATF findings on South Arica's national security.

CHAPTER 5: CONCLUSION

5.1 INTRODUCTION

This research sought to explore the implications of the Financial Action Task Force on South Africa's National Security. This followed South Africa's addition to the list of Jurisdictions under Increased Monitoring by the FATF, also known as the greylist, in February 2023. This was South Africa's Fourth Round of Mutual Evaluation.

Previous articles/studies reduced the implications of the FATF greylist to only reputational damage and enhanced due diligence by foreign banks that conduct correspondence banking (National Treasury, 2023). This research is unique in that it explored the implications of the FATF greylisting along key tenets of national security, namely political and economic security.

5.2 RECAP OF RESEARCH OBJECTIVES

This research study explored what the FATF findings and recommendations mean for South Africa's anti-money laundering, countering the financing of terrorism and counter proliferation financing regime. Following the findings, the research explored the efforts by government to correct the identified deficiencies, in preparation for the next review scheduled to take place in 2025.

5.3 SUMMARY OF CHAPTERS

CHAPTER 2:

This research was anchored in academic literature that analysed the concepts of institutionalism, international law, international relations and international regimes. The research linked these concepts to literature on national security.

Understood as a system of rules, interactions and structures that inform behaviour (Hodgson, 2016), the analytical lens of institutionalism assisted in assessing the FATF as an international organisation. This lens assisted in analysing the rules set out by FATF in the form of standards and Recommendations, its reports and how these relate to the South African government and its AML/CFT regime.

With the guideline provided by Rational Choice theory, the research analysed how FATF standards create a level of predictability and standardisation in international efforts to combat money laundering and financing of terrorism. The main findings of the research, coincide with the critique of rational choice institutionalism in the literature review, as it found that actors within the organisation influence the outcomes of the FATF.

Discursive institutionalism emphasises the role of political ideas and debates in persuading actors within institutions (Shmidt, 2010). This understanding of Discursive institutionalism was helpful in critiquing the process that leads to setting the FATF standards, and the subjective elements (political ideas) of mutual evaluations by assessors as actors in the organisation. Discursive institutionalism was additionally used to analyse the policy and establishing/amendments to legislation by the South African government following the FATF findings. The study found that the findings by FATF resulted in changes in legislation, policies and overall posture of law enforcement in addressing money laundering and terrorist financing. The research went further than what is prescribed by historical institutionalism, unpacking the geo-political factors and personal biases that influenced some of the FATF processes.

Another strand of institutionalism, Sociological institutionalism, was used to explain what informs the decisions taken by the actors within the FATF during the Mutual Evaluation of South Africa. Sociological institutionalism helped explain findings in the reports published on new methods and trends on raising funds for the financing of terrorism, money laundering and proliferation of arms. Sociological institutionalism was a relevant tool to unpack the processes in the methodology that could affect the behaviour of actors and decision making (ratings). This ranged from little experience to not enough time allocated for civil servants to thoroughly study FATF documents ahead of plenaries.

At national (institutional) level, the research used Sociological institutionalism to explore the rationale behind the decisions of policy makers, including the definition of terrorism in the South African context, and its omission of national struggles for liberation as exempt from terrorism charges.

Literature review on international law, international relations and international regimes was important in order to contextualise the relationship and obligations of South Africa to the Financial Action Task Force. Defined as a global system that exercises authority on actions of nation states (Emily Crawford, 2023), the literature on international law contextualised the obligations South Africa has as a member of FATF.

The enforcement of these FATF standards was better understood against the 'coercion hypothesis' that states that international agreements that include monitoring, arbitration and dispute resolution mechanisms create a level of enforceability (Fortna, 2003). The enforcement of the FATF standards is enabled by its grey and blacklist.

The assertion of Realists such as E.H Carr, that define international law as a vehicle for nation states with self-interest (Carr, 1964), enabled the research to identify the geo-political considerations that creep into the FATF process. The approach to greylisting Pakistan, considered unfair to many, was juxtaposed to the more lenient approach to Brazil.

The research highlighted how the FATF (as an international organisation) uses the international regime to transcend the sovereignty of countries as defined by its borders. This concept of territoriality was a useful tool in analysing how the FATF standards affect the legislations and policies of a country. (Tsirigotis, 2015) argues that the increase in globalisation reduced the importance of borders, particularly where economic, and political implications are concerned. The research highlighted the importance of the FATF in combatting transnational crimes such as money laundering and terrorism, resulting in South Africa's legislation aligning to international norms.

The research analysed the implications of FATF findings (for South Africa) along non-military pillars of economic and political security. This concept is intertwined with domestic and international security and the implications on soft and hard power emerged during the data analysis. The possible waning of soft power on the continent, due to its revised definition on terrorism according to legislation, and the decrease in military budget due to economic pressures from greylisting were highlighted as some of the soft and hard power implications.

In this research, political security was concerned with protecting the sovereignty of South Africa, and its governance. Economic security was concerned with the ability of South Africa to pursue its developmental agenda and how the FATF findings had an effect on the governance of its economy.

METHODOLOGY:

The study made use of qualitative research in order to explore the implications of FATF findings on South Africa's national security. Appropriate for the study of organisations and relationships (C. Auriacombe, 2007), this method enabled the study of the FATF and the South African government as organisations, and how the two institutions relate.

Qualitative method allowed the researcher to analyse the implications of the policies and the amended laws. Data was collected using document analysis and semi-structured interviews. In conducting its document analysis, the research studied and analysed both grey and academic literature. This proved to be quite useful as document analysis triangulated the information obtained through semi-structured interviews. Document analysis also enriched the semi-structured interviews with discussion points for consideration.

The semi-structured interviews gathered data from both the public and private sector experts. There are only few officials who have an appreciation of the FATF processes and the mutual evaluation process in its entirety, as most people only possess knowledge on risks and mitigation measures in place for a specific sector.

Although the pool of experts is small, the research did well to identify officials and academics that are conversant with the FATF and its processes, and national security. While the discussions that take place behind closed doors at FATF are confidential, there was enough (unclassified) information forthcoming, to enable thorough analysis by the researcher.

DATA ANALYSIS AND DISCUSSION

Several themes emerged during the data collection and analysis. First it was the *imperfect thorough assessment* by FATF. While the FATF Mutual Evaluations are generally considered robust and fairly neutral, there are elements of subjectivity and procedural flaws that may influence the outcome.

South Africa's assessment was considered a fair reflection of its AML/CFT regime, even though assessors had pre-conceived ideas of South Africa's terrorism threat picture. It was important that the assessors and the South African officials *develop a common understanding of the risks associated with terrorism.*

One of the criticism levelled against the FATF processes is that the one year observation period is not enough to correct identified deficiencies.

Geo-political encroachment into FATF is a reality and the greylist may be used as a political tool by adversarial states. The geo-political considerations will have consequences on the soft and hard power of South Africa, should economic implications impact its defence budget.

5.4 MAIN FINDINGS OF THE RESEARCH

The different aspects explored by the research, in an attempt to answer the research question, culminated in the emergence of several themes and sub-themes.

With regards to the research objective to analyse the FATF and its processes, the following themes emerged:

IMPERFECT THOROUGH ASSESSMENTS BY FATF

While the peer review by FATF is considered to be thorough and interrogative, there are some general weaknesses in the process that may lead to a country being greylisted unfairly, including South Africa. These include, but not limited to, cognitive biases of assessors, secondment of civil servants, and geo-political factors.

The FATF methodology manual provides guidance for assessors, however it still requires a lot of value judgement from the assessors, particularly on measuring effectiveness of AML/CFT measures in place.

While participants believe that the FATF mutual evaluation process is thorough, transparent and objective, there is a view that the process relies on civil servants that do not have enough time to interrogate and fully interpret the laws of countries under assessment. While experienced assessors conducted the Mutual Evaluation of South Africa, there were some pre-conceived ideas on South Africa as hub for financing of terrorism.

It became apparent that assessors that conducted South Africa's assessment were very experienced, despite a prevalence of inexperienced assessors in the FATF processes. There is a call that the FATF Mutual Evaluations should be more transparent and consultative (with public outside of the FATF) in its draft phase.

This would enable more robust engagement from academia and civil society that will improve the FATF processes.

FATF needs to balance their over-reliance on experts in setting standards, with the regulatory impact assessments to establish the possible negative effects of its recommendations beforehand. An example of its importance is the adoption of the new proliferation financing assessment which will continue to result in lower ranks for smaller banks, as was the case with South Africa.

Unintended consequences of FATF standards, such as the new requirements for countering proliferation financing, could lead to closure of small banks and cause financial crises'. Closure of small banks will result in inability to access micro-loans with favourable conditions to alleviate poverty, and improve living conditions.

Financial crises' and high levels of poverty negatively affect South Africa's economic and political security, and ultimately its national security. RIA's are pre-emptive in nature and do not compel countries to conform to standards that may have negative consequences for their economic and political security.

Countries under observation are greylisted because assessors could not reach consensus whether governments of jurisdictions under review have done enough to correct deficiencies identified in the initial findings. Consensus is a difficult objective to reach, and this could explain the large number of countries that have been greylisted.

The inability to reach consensus highlights the subjective element of the FATF Mutual Evaluations. Considering the economic and political consequences of greylisting, which are far-reaching, it is important to have a process that is as objective as possible, to ensure that countries that have sufficient measures in place to counter money laundering and terrorism financing, are not unfairly greylisted.

GEO-POLITICAL ENCROACHMENT INTO FATF

Participants of the study are in agreement that geo-politics tend to creep into the FATF processes', however it is claimed that working groups and plenary discussions provide a level of protection against geo-political encroachment. There is a strong view that South Africa is not using its influential position within FATF strategically. Recent actions by FATF in response to regional conflicts is testament to the apolitical nature of FATF coming into question. The inconsistent application of greylisting highlights the geo-political considerations that can impact FATF decisions. Outside of the FATF mechanism, countries may use the negative findings by FATF to discredit countries, including South Africa, for geo-political objectives.

Greylisting of South Africa could negatively affect its soft power (as its regime is considered conducive to money laundering, terrorism financing and proliferation financing). The economic consequences of greylisting could negatively affect its ability to strengthen its military capacity (hard power). The waning of soft and hard power poses a threat to South Africa's national security from both non-military and military concepts.

Regarding the research objective to gain an understanding of South Africa's AML/CFT regime, the following themes and sub-themes emerged:

INEFFECTIVE ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM MEASURES

South Africa was found to have too many deficiencies in its AML/CFT regime. South Africa fell short in showcasing the effectiveness of AML/CFT measures in place.

Weaknesses in South Africa's law enforcement and intelligence agencies

South Africa could not showcase the value chain of financial intelligence resulting in collection of evidence for successful prosecutions on financing of terrorism, money laundering and proliferation financing. This was exacerbated by the incapacitation of South Africa's law enforcement and intelligence agencies during what is commonly referred to as 'state capture'.

While South Africa's Mutual Evaluation is considered fair, and the findings a true reflection of South Africa's AML/CFT regime, there are views that differ with its findings on intelligence sharing, which is a common challenge for most countries.

The identified weaknesses in South Africa's law enforcement agencies increase the country's risk profile as acts of terrorism are enabled through its financing, thus endangering the lives of citizens. Weakened and incapacitated law enforcement provides a conducive environment for terror-related activities.

Furthermore, an inability to put effective CFT/AML measures in place is a dereliction of South Africa's international obligations (UNSC Resolution 2462) which may result in international sanctions against the country. International sanctions will have both economic and political implications to the country as GDP growth and service delivery will be impeded. This poses a threat to national security as a result of high unemployment and violent social unrest.

Use of cash and porous borders

FATF believed that South Africa's investigation, prosecution and mitigation factors is not commensurate to its risk profile. FATF believed that South Africa was not doing enough to deal with identified risks of the use of cash and porous borders.

South Africa's identified shortcomings in addressing porous borders and exploitation of a cash economy, have a direct implications on its national security. Porous borders lead to increase in transnational crimes such as human trafficking/smuggling, and competition for scarce resources including economic opportunities.

An increase in transnational organised crime due to porous borders may result in an increase in weapons smuggling and drug trafficking, resulting in an increase in violent crimes. Organised crime syndicates may use South Africa's porous borders to smuggle criminals, including violent extremists and terrorists. This poses a threat to the lives of people living in South Africa, and its critical infrastructure, as it may be the target of terrorist planning and attacks.

Pursuant to the research objective to analyse the consequences FATF findings along key tenets of national security, the following themes and sub-themes emerged:

ECONOMIC CONSEQUENCES OF FATF GREYLISTING ON SOUTH AFRICA'S ECONOMIC SECURITY.

There are several sub-themes that emerged during analysis and discussions of the economic consequences of greylisting on South Africa's economic security. These sub-themes are with regards to foreign aid to South Africa, reputational damage to the country, its creditworthiness and its relationship with international institutions, and how it's perceived by rating agencies.

Decline in foreign aid

Greylisting is found to negatively impact on foreign aid that a country receives. It is difficult to establish the impact that greylisting has on foreign aid directed to South Africa. This is owing to the high levels of corruption that plague the country. This makes it difficult to determine the correlation between the foreign aid received, and its impact on economic growth.

While South Africa does not rely heavily on foreign aid for its development, targeted aid produces positive results in focused aid. Foreign aid assists in alleviation of poverty, and unemployment. High unemployment, relative deprivation and poverty are drivers of violent crimes and civil unrest. Foreign aid directed at alleviating poverty and unemployment has direct implications on national security as crimes and potential for social unrest similar to that of the Arab spring are minimised.

Reputational damage and impact on creditworthiness from international institutions

Reduction in loans from international institutions, impedes on South African government's ability to finance strategic programmes, such as reducing load shedding, which have adverse effects on the GDP, health and service delivery programmes of government.

Stagnant, or slow economic growth have negative effects on economic security of South Africa. The impact of load shedding on service delivery and government programmes have an adverse effect on human, and political security.

The decline in foreign aid and credit loans from international institutions continues even after countries are off the greylist. This will further exacerbate the economic consequences of greylisting beyond the duration of listing.

International institutions and instruments such as Financial Secrecy Index, the US International Narcotics Control Strategy Report, The Corruption Perceptions Index, the Basel AML Index and the EU listing refer to the greylist (and assessments) to form an opinion on listed jurisdictions. This has diplomatic implications as South Africa could be considered to have inadequate AML/CFT measures in place. This could serve as a deterrent for trade, and a pull factor for would-be criminals, thus increasing criminal activities, and threatening South Africa's national security.

Several studies have found that greylisting resulted in decline in investment of listed countries, devalued currencies, and an increase in costs of doing business. These can result in a reduction in GDP growth, and decrease in government spending and job creation. High unemployment rate in South Africa poses a risk on national security as it may cause social unrest resulting in domestic instability.

The downgrade in ratings by agencies such as Moody's, owing to greylisting, is a possibility as evidenced with Malta. Ratings downgrade will negatively affect investment opportunities, and inhibit access to funds from international institutions with favourable rates. Lack of investment and limited access to capital will affect government's service delivery, economic growth, job creation and efforts to alleviate poverty.

This will have a negative effect on South Africa's national security as the above consequences may lead to: violent anti-government protests (targeting critical infrastructure, and potential attempts to remove the government through illegitimate means), pandemics and poor health of the population (lack of basic services) , increase in crime and no social cohesion as society is polarised along class lines (due to high inequality).

The cumulative impact of greylisting on South Africa's economic security is observable in the long-term, and not the short to medium-term.

POLITICAL IMPLICATIONS OF FATF FINDINGS FOR SOUTH AFRICA'S POLITICAL SECURITY.

Several sub-themes emerged as part of the analysis and discussions on the political implications of FATF findings on South Africa's national security. These relate to South Africa's international obligations, its counter-terrorism and anti-money-laundering legislations, and its political position on terrorism and its financing.

Developing a common understanding of concepts such as terrorism

The FATF assessors may have a different understanding of terrorism that is not similar to the South African government's definition of terrorism. This led to the perception of a "conservative" approach (from the assessors) by the South African government.

FATF findings had political implications as it made findings that influenced South Africa's counter terrorism legislation, the POCDATARA Act. While some argue that the amendment to omit the exemption of liberation movements as terrorism is in line with international standards, others believe that South Africa was strong armed unnecessarily, and surprised how South Africa conceded to the amendment.

The amendment has implications for South Africa's foreign policy (in as far as illegal occupation is concerned) and collective pursuit of the AU's 2063 Agenda. An uncritical classical of national liberation movements as terrorists may result in retaliatory attacks (should South Africa act against them), and reverse South Africa's efforts to remain a regional hegemony.

It was further highlighted that the increase in penalty for terror-related activities was unwarranted and should have been read in conjunction with other South African laws. An increase in penalty, in addition to a broadened definition of terror acts, may increase South Africa's terrorism threat level due to an increase in indiscriminate arrests and radicalisation of inmates due to prolonged detention on charges that previously would not have been classified as terror-related.

Further risks in the broadened definition of terrorism includes; increase in recruitment to violent extremist groups (push factor), criminalising of genuine freedom fighters, and impaired diplomatic relations with states under foreign occupation. The revised definition also goes against the AU's convention on combatting terrorism, which protects the struggles for national liberation against occupying forces, and Agenda 2063.

The removal of exemption of freedom fighters may lead to pressure for the South African government to prosecute violent extremists not considered terrorists previously. The removal of the exemption may be misused by politicians to try and subdue political opponents with terrorism charges.

Changes to legislative framework

Participants indicated that legislative changes were good for South Africa, and indicated that the criticism that the laws were rushed through is unfair as South Africa did not have the luxury of time to over-consult. However there was concern raised over South Africa's next Mutual Evaluation because the country might have rushed to legislate laws that might be challenging to implement. An example of this is the policy to establish beneficial ownership registry which is considered a mammoth task to implement.

Participants cautioned against legislating laws that are too stringent as this may push people and business from the formal to the informal economy. Stringent policies may push businesses to rather opt for cash and unlicensed money or value transfer services, which are harder to trace. Stringent laws on NGO's in the religious sector could lead to an inadvertent increase in radicalisation, and violent extremism.

South Africa's inability to showcase a consistent flow of information from intelligence gathering to prosecution phase highlights systemic weaknesses within the country's law enforcement agencies. These law enforcement agencies are responsible for securing the country's national security, and systemic weaknesses increases the risk to national security. Laws that require flow of information from intelligence gathering, to investigations and prosecutions, require a capacitated and well-resourced investigative and judicial authorities.

Implications of FATF findings on South Africa's international obligations

South Africa's inability to honour its international obligations to counter financing of terrorism could be in violation of its responsibilities under UNSC Resolution 2462. This could lead to punitive sanctions should the global community consider it as an enabler of terrorist financing.

Economic sanctions often lead to a decline in a county's GDP, consumer spending, foreign direct investment and trade. This will negatively affect the country's ability to grow its economy and provide services to its population. This poses a risk to a democratic dispensation, life expectancy and the well-being of the population required for national security.

South Africa's inability to adequately mitigate against risks identified with its porous borders, as identified by FATF, may lead to an increase in transnational crimes such as human trafficking/smuggling, weapons smuggling, competition for resources and economic opportunities, which may result in an increase in violent crimes, terrorist activities, and so-called xenophobic violence. All these pose a threat to physical security of people and infrastructure, and national security ultimately.

Sectoral risk assessments assist in formulation and amendment of policies. These sectoral risk assessments may recommend targeted action on specific groups such as the East African diaspora. Such mitigation efforts may lead to perceptions of xenophobic policies by the South African government, which could have implications on its diplomatic relations and soft power. This would have a bearing on South Africa's international relations, geo-politics and ultimately national security.

In an attempt to gain insight on South Africa's response to the FATF findings, as per the research objective, the following themes and sub-themes emerged:

MEASURES PUT IN PLACE BY GOVERNMENT TO CORRECT IDENTIFIED DEFICIENCIES IN ITS AML/CFT REGIME.

Participants commended the elaborate Plan of Action by the South African government to correct identified deficiencies. However those with different views, like one of the participants, believes that the Action Plan is marching orders from FATF and was not developed by the South African government.

Participants are in unison in their praise of South African government's response so far, and agree the greylisting will strengthen South Africa's AML/CFT regime. In the follow up by FATF, it is important that South Africa shows the effectiveness of developed and amended laws and frameworks.

Failure to do so could lead to an extended stay on the greylist, or unfavourable outcomes in the next Mutual Evaluation. A prolonged stay and repeated addition to the greylist will exacerbate the economic and political consequences of greylisting, further undermining South Africa's national security.

There are concerns that South Africa may have created a regime characterised by over-compliance, which could be more damaging to the South African economy. Over-regulation could lead to a delay in doing business and may drive businesses to the informal economy. An effective AML/CFT regime needs to include business into the formal economy to the extent possible, to enable identification and investigation of illicit activities. Driving businesses to the informal economy due to overregulation, will negatively impact on the growth of the formal economy, which is important for the development of South Africa.

Tight deadlines in government's Action Plan

Similarly, there's concern that some of the required action by government may have tight deadlines. An example of this is the action item required under Immediate Outcome 7, which requires the government to show a sustained increase in investigating and prosecuting complex money laundering cases. Finalising money laundering cases requires an extended amount of time given its complexity.

Improved coordination to address AML/CFT risks

The South African government's response has been positive. The FATF findings highlighted the need for law enforcement agencies and judicial authorities to break down silos. Different government entities are working collaboratively in an attempt to address identified deficiencies. There is agreement that the greylisting had an unintended benefit of harnessing South Africa's political will to strengthen its AML/CFT regime. Similarly, private and public sector are collaborating in their efforts to strengthen South Africa's AML/CFT regime.

It appears that South Africa may do just enough to get off the greylist if it continues to meet its deadlines and implement required changes to its AML/CFT regime. It would be important that whatever policies and frameworks South Africa develops, such as with the beneficial ownership registry, it should be able to show implementation and effectiveness in the next round of evaluations. As the classic saying goes, 'Laws are only as good as their enforcement.'

A failure to meet deadlines and show effectiveness of measures in place, could lead to a prolonged period on the greylist. This would further exacerbate the economic and political insecurity caused by the FATF findings, with adverse effects on South Africa's national security.

The FATF findings were a necessary catalyst to spark the South African government into a concerted effort to address organised crime and financing of terrorism.

5.5 RECOMMENDATIONS

It is in light of the main findings of the research that the following recommendations are made, pursuant to South Africa's national security:

- South Africa should use the FATF forums to advocate for a regulatory impact assessment by the organisation. This would ensure that Standards set by the FATF, consider the unintended consequences beforehand. This will assist in mitigating against any potential harm to political and economic security of countries, including South Africa.

- South Africa should use the FATF forums to advocate for an extension of the observation periods (post evaluation) to ensure that countries, including South Africa, have enough time to correct initial deficiencies identified, and avoid greylisting.
- South Africa should take cognisance of its foreign policy and geo-political developments. It should ensure that the FATF is not used (by adversarial states) to advance geo-political interests to discredit or weaken South Africa’s soft and hard power.
- South Africa should implement recommendations contained in the report on the July unrest of 2021, and High Level Review Panel on the State Security Agency, to further strengthen law enforcement capacity and coordination. This will help ensure that law enforcement increases its capacity to investigate, and prosecute perpetrators of money laundering, financing of terrorism and proliferation financing.
- The newly established Border Management Authority should understand their role informed by the National Risk Assessment. This would ensure that it effectively mitigates against the risks identified with cash moved across borders, and risks associated with porous borders in general.
- South Africa should continue with its battle against corruption to ensure that there is an observable correlation on foreign aid and economic development.
- South Africa should leverage its engagement with the Financial Sector Assessment Program (FSAP) of the IMF to ensure that the greylist assessment is not used as the only source of information to determine the creditworthiness of South Africa. A failure to secure loans from international institutions will impede on government’s efforts to obtain funding for its priority infrastructural projects.
- South Africa should continue to effectively communicate its efforts to address identified shortcomings (by FATF) to the international community. This would be in an attempt to manage the reputational damage caused by the greylisting. This will assist in ensuring that South Africa continues to attract foreign direct investments. Such communication will further assist to ensure that credit ratings do not rate South Africa unfavourably owing to the greylisting.

- South Africa should ensure that the expanded definition of terrorism under the POCDATARA Act 33 of 2004 does not result in indiscriminate arrests and prosecutions on terrorism charges. This may serve counter-productive to curbing acts of terrorism financing, resulting in an increase in radicalisation and retaliatory attacks by violent extremists.
- Law enforcement and relevant stakeholders should ensure that they can demonstrate effectiveness in newly established and amended policies and laws. Failure to showcase effectiveness will result in negative findings in the next round of Mutual Evaluations. Equally important is the need for South Africa to retain or transfer the experience gained in the previous Mutual Evaluations, in order to effectively manage future evaluations.
- South Africa should finalise strategies on countering financing of terrorism and money laundering, to augment the ongoing efforts by the government.
- Law enforcement should device a strategy to ensure that new measures in place, such as the beneficial ownership registry are implementable and effective.
- South Africa should ensure that it allocates more time for consultation of proposed amendments to laws in order to ensure laws that are promulgated are considered legitimate by the population. The laws should receive as many inputs as possible from civil society, to strengthen them and avoid legal challenges to the laws.
- South Africa should ensure that its support for international instruments and resolutions do not go against its political posture towards contentious phenomenon such as terrorism.
- In its efforts to strengthen its AML/CFT regime, South Africa should avoid over-regulation as this may push big business to the informal economy, making it harder to counter financing of terrorism and money laundering.
- South Africa should continue on its positive trajectory to implement its Action Plan. It should build on the strengthened coordination of law enforcement agencies and departments, and the public-private partnership beyond the FATF process.
- A follow up study should be conducted in the next five to ten years to ascertain the cumulative implications of the FATF findings (and greylisting) on South Africa's

economic and political security. This is informed by the fact that the effect of FATF findings is only observable over an extended period of time.

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ANNEXURES

RESEARCH QUESTION

What are the implications of FATF findings on South Africa's national security?

The following sub-questions will assist to address the main research question:

- What are the contributing factors that resulted in South Africa being greylisted?
- What are the overall economic and security implications of South Africa’s greylisting?
- How effective are the mechanisms the government has implemented?
- What mechanisms has the government put in place to rid of the greylisting?
- Which recommendations can improve financial reporting in the country?