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Terror Financing and The Global CTF Regime

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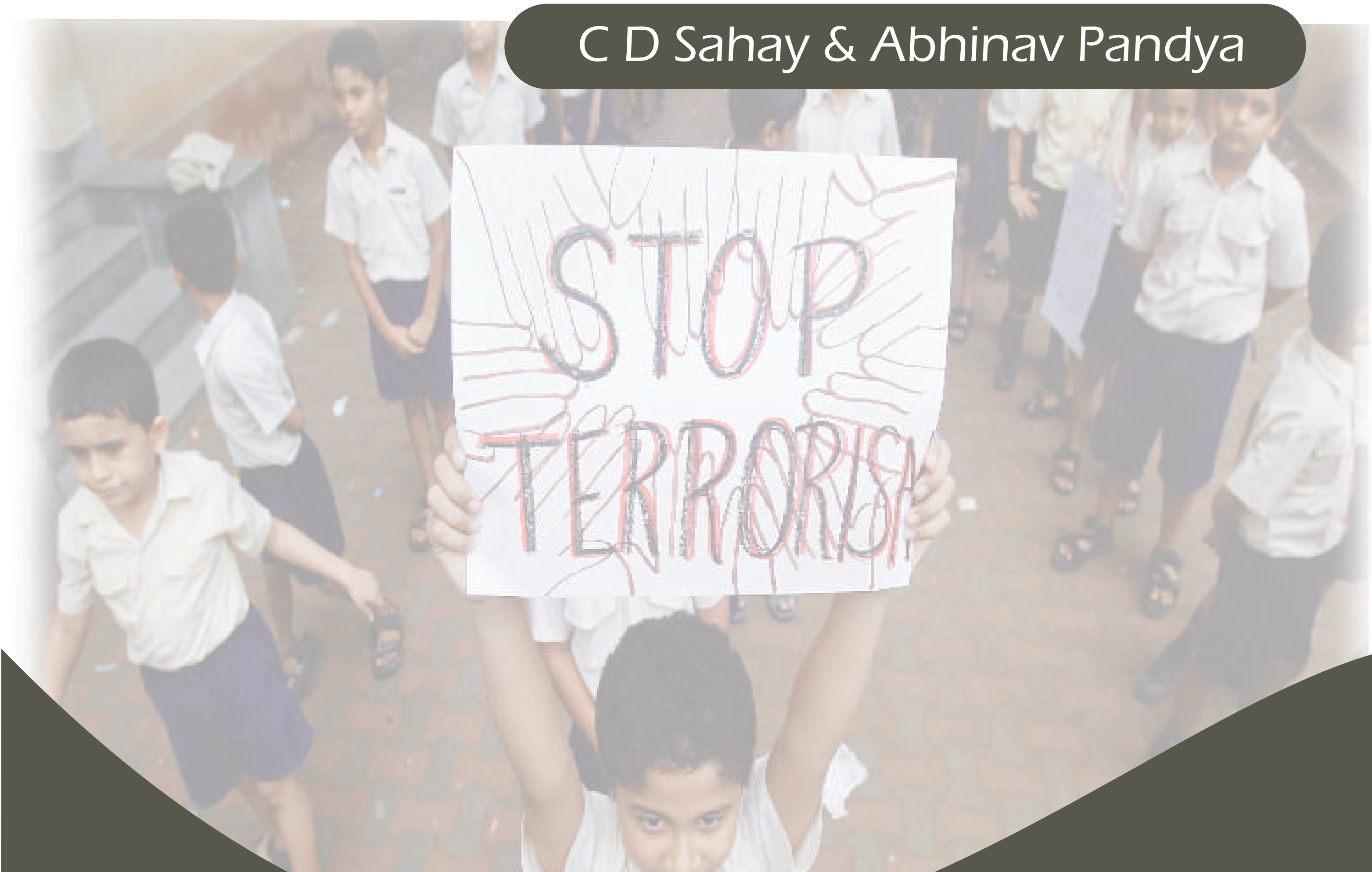

Vivekananda International Foundation

About The Authors

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How do Terrorists Finance their Operations and Supply their Funds?

Finance and movement of funds are crucial to any terrorist organisation. Regular sources of finance are as important as ideology and the ready supply of recruits. The Former US Secretary of State Colin Powell had rightly asserted that "money is the oxygen of terrorism".[1] This paper examines the sources of financing terrorism, movement of terror funds and finally, evaluates the effectiveness of the global Anti-Money Laundering/Countering Terror Finance (AML/CTF) regime. This paper primarily focuses on pan-Islamic terrorist groups like the al-Qaeda (AQ). In the final section, it analyses India's response to terror financing. The analysis brings forth the lacunae in the strategy and proposes a set of recommendations on the establishment of a robust CTF regime. This paper draws heavily upon the research work of Juan Miguel del Cid Gomez, Aimen Dean, Edwina Thompson, Tom Keatinge, Michael Freeman, Moyara Ruchsen, Dr Sanghmitra Sharma, Ramanand Garge and Vivek Chaddha.

Sources of Financing Terror

Terrorist organisations need funding for the following purposes:

1. Specific operations

2. Structural and maintenance costs which include travel costs, recruitment, subsistence, propaganda, communications, training and indoctrination, vehicles, weapons and surveillance material purchasing and charity work (to get social legitimacy—Lashkar-e-Taiba (LeT) and Jamat-ud-Dawa (JuD) do a lot of it).

Affiliate groups of transnational organisations like the AQ generally raise their own funding. These primarily comprise newly radicalised militants who form local cells and have loose and vague linkages with the parent organisations. They neither depend on the centralised authority nor are they directly linked to it. They share fundamental objectives with the AQ but in operational matters and fundraising, are quite independent of the parent organisation.

Fundraisers

Since its beginning, the AQ has used a core of fundraisers to solicit money from a range of donors. Their donors were mostly from the Gulf area, principally Saudi Arabia, but also existed in other parts of the world. Sometimes, the donors are aware of the final destination of their money and sometimes, they are not. The funds also come from the corrupt employees of charitable organisations in the month of Ramazan. Fundraisers often approach the Imams during Ramazan and since the Quran has specific instructions to do *zakat* (money donated for religious works), the fundraisers get a good amount from mosques. Fundraisers have used legitimate charitable organisations, front organisations and even legitimate businesses to provide cover for their activities. The AQ has been able to create a sophisticated financial network with the help of fundraisers throughout the Muslim world and in foreign diasporas. With the spread of awareness about the global Islamic movement through the social media and a rapid increase in the *Tablighi* activity, the zakat donations have increased across the globe, including the hitherto un-approached and remote places like the small villages of North India.[2]

After the UN Security Council sanctions, many original fundraisers like Khalid Sheikh Muhammad, etc. have been arrested. The funds, businesses and assets of known fundraisers have been seized, but still, they continue to operate under other names. In many cases, the AQ has been able to replace fundraisers with yet unknown individuals, organisations and front business ventures, which highlights the loopholes in the existing AML/CTF regime.

Charitable Organisations

Charitable entities enjoy the confidence of the public and have significant access to cash. These also have a transnational presence which enables them to use their infrastructure for national and international transactions. These are subject to limited or no regulation, and no background checks on the employees are made. No initial capital is required to start these and because of their presence in the social sector, they enjoy good linkages among the political, bureaucratic and economic elites of the countries of operation. Further, the Quran facilitates collections as it is mandatory to do zakat (2.5 per cent) of the savings and voluntary *Sadaqah.* Most Muslims pay these contributions to the mosques for humanitarian and social causes, so it is easy to deceptively divert the money to terrorist activities. The AQ often infiltrates the local-level employees of charities to divert funds from humanitarian work towards its own illicit activities. Further, the AQ has its own charitable organisations. Some prominent examples of charitable organisations involved in terror financing include the International Islamic Relief Organization of Jeddah, the Al-Haramain Islamic Foundation of Saudi Arabia and the Revival of Islamic Heritage Society (RIHS) of Kuwait.

The Al-Haramain and its subsidiaries funded the operations of the AQ, Jemmah Islamiyah, Egyptian Islamic Jihad, and LeT. According to a 2009 report of the Pakistani Police, Al-Haramain contributed 15 million dollars to Tehreek-e-Taliban, responsible for suicide attacks and the assassination of Benazir Bhutto. The RIHS has been accused of lending financial and logistic support to the Lashkar, an organisation linked to the AQ and involved in the 2006 train attacks in Mumbai and the 2001 attack on the Indian Parliament (reportedly, the Parliament attack was planned and executed by the Jaish-e- Muhammad (JeM)). The RIHS also funded the Bangladeshi terrorist organisation Jamatul Mujahidin Bangladesh (JMB).[3] Despite the freezing of the accounts of the said charities, these continue to function using the same locations, using bank accounts and resources in the name of third parties.

Offshore Companies

The AQ has used commercial companies to finance itself as well as to transfer funds. Bin Laden used Barakaat, a network of companies, which in 2001, had a foothold in 40 nations operating in telecommunications, money transfer, construction work and cash exchange services from US and Somalia, for cash transfers. Bin Laden had invested in its telecom network. Barakaat also managed, invested and distributed funds for the AQ. These funds were linked with transfers made in the name of Non-Government Organisations (NGOs) like the Al-Haramain and the International Islamic Relief Organization. Another Somalian group, Al-Itihaad Al-Islamiya led terrorist training centres and raised money from its followers in Europe and the Middle East. The said group financed its activities with commercial operations like the export of coal to the Middle East, the provision of transport, security and telecom services, running hawala, agriculture and hotel companies.

The use of fictitious companies and offshore fiduciary companies to protect the identity of the individuals and organisations indulging in terrorist financing present great difficulty for those trying to regulate business transactions. These are companies, funds, entities or business registered in the extra-territorial financial jurisdiction. An example of this are the International Businesses Corporations (IBCs) which are used to create complex financial structures. They do not have to publish accounts. The residents of financial centres can act as fictitious directors or shareholders to hide the real directors or owners. These types of companies are very attractive to the investors as they provide anonymity to conduct illicit activities and safety from official scrutiny.

Drug Trafficking and Common Crime

The Taliban practices extortion at various points in the heroin business in Afghanistan: taxing poppy farmers, drug laboratories and traffickers. The Taliban also taxes the legitimate businesses in Afghanistan to finance its activities. Even though the AQ has diversified its activities to finance jihad, it too indulges in common crime like kidnapping, ransom, contraband and drug trafficking in Mauritania, Mali and Algeria. It makes it difficult to differentiate terrorist financing activities from common criminal activities like money laundering. The terrorists also have links to drug dealers of Latin America. Cocaine is brought to the West African coast and from there, is transported to Europe via Egypt and Libya.[4] Drug trafficking groups operating in North African enclaves of Ceuta and Melilla send profits from hashish smuggling to finance Islamic terrorist groups. In India, in the Malda district (WB), drug trafficking is emerging as a source to finance jihadi terrorism. Drugs are also smuggled by Pakistan's Inter Services intelligence (ISI) into Punjab where the addiction rate is as high as 70 per cent in the males and the revenue is used to finance the proxy war against India.

Moroccan radicals have also specialised in robbery and resale of modern information technology gadgetry like GOS, smart phones and electronic diaries. Spanish investigations revealed that a Salafist group, viz. the 'Group of the Truth', sells designer watches, gold bracelets and emerald necklaces to finance its operations. These days, the Islamic terrorists are also using stolen credit cards to buy GPS systems, night-vision goggles, sleeping bags, knives and telephones from various websites. These items are sent to jihadists in Iraq. Various stolen credit cards and hacked bank accounts were used to buy web-based services in the US and Europe and to create an online global network for the jihadists to exchange information, recruit and plan attacks. Pakistani- origin radicals in Spain have close links with radical cells in the UK which specialise in stealing credit cards. Such cards are cloned and sent to Spain where they are sold by certain business owners for 1000s of Euros, and then used to transfer money to the radical organisations after deducting their commission. The INTERPOL has also confirmed linkages between intellectual property crimes and terrorist financing. Some terrorist groups indulge in production and sale of fake items and divert profits to finance attacks.

Tajheez Al Ghazi

This is the most common method of contributing to the jihad. It is sanctioned by the Quran. It literally means fitting or arming a soldier, which allows those who cannot or will not join the jihad physically to attain a similar honour and reward which a jihadi gets. With the rise of jihadi theaters around the globe, local individuals, clerics and fundraising cells organically emerge to collect the funding for *Tajheez.* The funds are collected in cash and handled by local cells and sympathisers, as a result of which no banking transactions are involved. Since the jihadi terrorist groups are local, there is no requirement for international or national banking transactions. The Tajheez relies on thousands of outlets whether they are clerics or coordinators spread over several countries and has no central authority or any organised structure. Thus, it becomes almost impossible to track these activities. Hence, it is very important to make the local level HUMINT (Human Intelligence) effective and sharp. The use of cash and network of clerics, followers, coordinators and contributors, based on goodwill and secrecy, enables the jihadi groups to retain anonymity and thus escape any scrutiny from formalised national and international CTF/AML regimes.

State Sponsorship and Counterfeit Currency

In the cases of India and Afghanistan, the ISI has been sponsoring jihadist groups for nearly four decades now. Some reports have even suggested that the development and military aids which Pakistan received from the US, have also been diverted to radical and extremist activities. In Kashmir, every year, 250 to 300 million US dollars are being pumped in to fund the protests, civil unrest, stone-pelters and terrorist activities through the hawala networks. Further, the ISI has also pumped in huge amounts of fake Indian currency to fund terrorist activities and destabilise the Indian economy through Nepal, Bangladesh and Sri Lanka.

The Movement of Terror Finance

Cash Couriers

Often, when the borders are uncontrolled and the State is constrained in resources to keep a strong vigil over the borders, couriers are used to carry cash across the border. The cash is normally concealed in vehicles, luggage or anything that can hide large amounts. It is the simplest and the oldest way of moving value.[5]

The AQ is known to have used cash couriers before 9/11. According to a 9/11 Commission monograph, the AQ used money changers to transfer US$ 1 million from UAE to Pakistan and then the couriers were used to transfer the funds in cash into Afghanistan. For the 9/11 attack itself, Khalid Sheikh Muhammad delivered US$ 120,000 in cash to Abdul Aziz Ali in Dubai who then used the cash to wire funds to the hijackers in US.[6] The foreign fighters traveling to Iraq to join the AQ in Iraq (AQI) often brought cash with them. Overall, the cash transfers made 70 per cent of the budget of the AQI which highlights the importance of this mechanism for both raising and moving funds into the organisation.[7]

Likewise, the Jemmah Islamiyah also used cash couriers as the primary method of moving funds in the Bali bombings. For terrorist networks, security is an important criterion when using cash couriers. Only trusted personnel are used. Between the Middle East and South Asia, money couriers moved funds using indirect flights between the places of origin and destination, with a large number of couriers and frequent exchanges of money. This method could be more expensive than a simple transaction, but it leaves no trace even if the courier is detained since the origin and final destination of the cash might not even be known to him or her. However, the transfer in this mechanism is a bit slow, and with the tightening global CTF regime, it also requires complex coordination.

Informal Transfer Systems

Several kinds of informal financial networks have been existing before formal banking networks started in various parts of the world, for example, hawala/ *Hundi* in the Middle East and South Asia, *Feich'ien* in China, *Phoe Khan* in Thailand and, 'Door-to-Door' in the Philippines. These networks have been functioning traditionally and have strong ethnic ties, operating in places where formal banking systems are poorly developed. They are popular in countries populated by emigres and refugees, who use this system to remit money to their families in the home countries to avoid paying exorbitant bank charges. These informal global remittance systems are estimated to be worth US$ 500 billion. In the simplest method to settle accounts, the hawaladars wait for the similar value of transactions to move in the other direction, but they also periodically balance their books by money service businesses, smuggling high- value commodities or false trade invoicing transactions to transfer funds.

Before 9/1, the AQ used a group of trusted hawaladars in Pakistan, Dubai and the Middle East to transfer funds. Besides the AQ, the LeT used hawala networks to move funds before their 2000 Red Fort attack in Delhi. Likewise, Dawood Ibrahim (the Karachi-based Indian fugitive), transferred funds with hawala networks before the 1993 Mumbai serial bomb blasts.[8] In India, the hawala networks are extensively used for moving funds for financing terrorist operations. More recently, these networks were used to transfer US$ 4,900 to the would-be Times Square bomber Faisal Shahzad by the handlers in Pakistan. The hawala networks and other informal transfer systems are fast (happen within hours), and relatively anonymous as there are no standard book-keeping methods among the hawaladars, and even if there are, these are very complex to decipher. These methods are cheap as they charge 1—2 per cent as transfer fees and are very convenient, especially for areas which are underserved by banking institutions like Afghanistan, Africa, Iraq and parts of South Asia. Most of the countries have legalised hawala networks as it is easier to police them if they are registered, but many hawaladars continue working illegally without getting registered because of the complex registration process, to keep anonymity (by not providing the identity of the remitters and beneficiaries) and to avoid heavy licensing and registration fees. In the US, informal networks are required to register with the FinCEN. In the UAE and Afghanistan also, state agencies have made efforts to regulate the hawala network, but the adverse topography and weak state institutions make the task difficult.[9] Most of the other countries have not paid enough attention to regulating these informal banking institutions; rather, they have unsuccessfully tried to prohibit such informal institutions.

Money Service Businesses (MSBs)

The Bank Secrecy Act (BSA) defines money service businesses (MSBs) as "currency dealers or exchangers, check cashers, issuers [or redeemers] of traveler's checks, money orders, or stored value cards; and money transmitters".[10] The MSBs generally follow the same regulations and laws as banks and are subject to regulatory audits. However, unlike the formal banking sector, they do not follow the 'Due Diligence Care' (identification, record-keeping and report of suspicious transactions) and 'Know Your Customer' (KYC) procedures very strictly. The banks conduct business with the customers who have accounts in the concerned bank, and those account-holders must provide relevant personal information when they open the account, but the MSBs do not require the customers to have an account. The customers just have to produce a valid ID card.

Most MSBs, in particular the established ones such as Western Union, transfer funds quickly to most locations and they are quite inexpensive for transfers larger than US$ 1000. The omnipresence of MSBs is very helpful. One can find the MSBs mushrooming in the petty towns of Pakistan, and even in India, one witnesses their spread. The risks of detection are very low, especially if the MSB is unregistered. The suspicious transactions can hardly be noticed as they get lost in traffic of numerous legitimate remittances. The specific terrorist operations generally do not require large amounts of money, and the small amounts of transfers are difficult to detect. In 2013, a Federal jury convicted four Somali immigrants of conspiring to fund Al-Shabab, a terrorist group in Somalia.[11] These funds were being sent from the MSBs located in St. Louis, Missouri, and Minneapolis, where there is a sizable Somali immigrant community. The MSBs operate in those regions and communities where there is a huge diaspora community. In the case of India, states like Kerala have a huge diaspora community of workers in the Middle East who use MSBs. Such MSBs have a fertile ground for operating in places where the Bangladeshi immigrant communities reside.

The AQ made a wide use of MSBs in its financing of the 9/11 attacks. An AQ financer, Ali Abdul Aziz, deposited US$ 120,000 at two MSBs in Dubai: the Wall Street Exchange Center and the UA Exchange Center. Then, the money was transferred to the hijackers' US bank accounts through the MSBs correspondent accounts with the RBC (Royal Bank of Canada) and the Citi Bank, respectively. Even though the MSBs in Dubai required identification, Ali Abdul used aliases and his transactions appeared unremarkable among the millions of MSB transactions flowing out of that area.[12] Before 9/11, the MSBs were not much under the radar of regulatory bodies and could escape detection, but of late, the CTF regime has tightened its hold and monitoring of the activities of the MSBs. These are being subjected to external audits by regulatory agencies and many MSBs in North America are finding it difficult to establish accounts with formal banks which avoid additional risks.[13] In India, a general increase in religiousness or rather radicalisation as a result of proselytising by the *Deobandis* has been accompanied by a mushrooming of the MSBs, mostly functioning between the Middle East and India.

Formal Banking

The formal banking sector includes depository financial institutions (DFIs)— banks, saving and loans and credit unions—which are the sole entities permitted "to engage in the business of receiving deposits and providing access to those deposits" through a payment system of cheques, electronic networks, credit and debit cards and bank-to-bank transfers.[14]

The banks can become a vehicle for criminal financing in myriad ways. Banks which do not ask any questions about the identity and business practices of the customer are the ones most preferred for moving funds for terrorist financing (for example, the Al-Madina Bank of Lebanon). Further, there can be dishonest employees at the lower level or even at the senior level who could facilitate a laundering and movement of funds. Besides, the banks can be used for criminal activity by way of correspondent accounts or payable- thorough-accounts of the correspondent bank, as was the case with HSBC- US.[15] The Lebanese Central Bank was involved in financing the activities of the Hezbollah. The Al-Madina bank facilitated the laundering of funds by Saddam Hussein's regime, conflict diamond dealers, Russian mafia groups and an arms dealer for the Hezbollah.[16] For the 9/11 attack, the AQ used the formal banking sector as its primary method of moving and storing funds. Out of the total of US$ 300,000, US$ 130,000 of the funds that the hijackers used came through bank-to-bank transfers including MSB correspondent account at banks, and the rest was deposited as cash. Once these funds arrived in the US, these were deposited in accounts at the Union Bank of California and the Sun Trust Bank in Florida. The hijackers accessed their accounts with debit cards and ATM cards. The main reason for not being able to detect these funds was their small size (US$47,000 was deposited in the overseas banks; US$ 9600 in the Saudi British Bank in Saudi Arabia and US$ 30,000 in the Standard Chartered Bank branch in Saudi Arabia).

The formal banks are under the strict eye of regulatory agencies and financial intelligence agencies, so there are higher risks of detection. The AQ, however, overcame these drawbacks by utilising bank branches in the UAE and Pakistan, which then lacked advanced regulatory oversight. The formal banking sector is safe and convenient, and large amounts can be easily transferred, but it can be expensive. With the recent emphasis by the global CTF regime on KYC procedures and customer due diligence, it has become riskier for terrorists to operate in the formal banking sector. The formal financial institutions are required to submit Suspicious Activity Reports (SARs) to financial intelligence agencies and other regulatory agencies, but still there are many loopholes as the sheer volume of SARs makes it difficult to scrutinise the huge amount of data. Besides, the Financial Intelligence Agencies' approach towards such activities is to catch money-laundering activities, but a nuanced analysis will show the thin demarcating lines between simple money-laundering activities which are criminal in nature and terror-financing activities. The details will be discussed in the later section.

In a synergy with other mechanisms like offshore companies, the formal financial system can still provide terrorists with enough cover to carry out operations and launder crime money. The sheer volume and the speed at which large sums of money pass through the computer-based international financial system, render the CTF regime ineffective and inefficient. The global AML/ CTF regime still needs to catch up with the speed and complexity of the international financial transactions.

International Trade: This system is also vulnerable to abuse by terrorist and criminal organisations. The enormous volume, complexity of transactions and payment methods makes it immensely difficult to detect individual transactions. The custom agencies have limited resources because of which, in the absence of case-specific additional intelligence, it becomes extremely difficult to detect illegal transactions.

International trade is used for hidden transfers of money by techniques like false trade invoicing. It is one of the most involved methods of laundering which make it extremely difficult to detect. This is the reason why it is extensively utilised by organised criminal gangs and terrorist groups to move funds internationally. It is done through over-invoicing or under-invoicing. For example, if a US-based terrorist group purchases some American honey and then exports it to Yemen, it could overprice the shipment by, say, US$ 70,000 without attracting much attention. When the Yemeni importer pays for the overpriced honey, some of that goes into the pocket of the US honey producer. The additional US$ 70,000 goes right into the pocket of the fellow terrorists in the US. This happened in case of the 9/11 attacks. False trade invoicing may not be simple and be very time-consuming, but it can be highly convenient if the group already has front companies to conduct the transactions. Traditionally, the detection has been low, but with the establishment of TTUs (Trade Transparency Units) around the world, the risk of detection is rising. The TTUs assist port security and search for unusually priced transactions. With this method, it may not be possible to catch falsely- invoiced transactions in real time but the paper trail related to the discovered transactions can be immensely helpful in investigating money laundering and terrorism-financing cases.

Because of the involvement of multiple parties and complex payment methods (personal and bank cheques, transfers, payment orders, banking remittances and credits), the observance of due diligence procedures is very difficult. Additionally, international trade is also vulnerable to the use of falsified documents for money laundering, terrorist financing and avoidance of international embargoes. The terrorist organisations use front companies which make it even more difficult to track these transactions. The international trade in services or commodities is used for complex money laundering schemes like the peso exchange black market, hawala and carousel fraud.

High-Value Commodities: Gold is a very reliable form of transportable payment during strife or when fiat currencies are heavily devalued or not convertible. Besides, gold can be smelted easily into any shape and disguised. Its weight, quality and price can be easily determined, and its origin is almost impossible to trace. Additionally, in Middle East and South Asia, it is used in dowries and has a lot of cultural significance. So the movement of large amounts of gold jewellery is not suspected. The AQ and Taliban pay gold to would-be jihadists.

The Hezbollah has a hand in the diamond business as a large Lebanese diaspora involved in the African diamond trade helps the organisation. Douglas Farah of the *Washington Post* brought to light the use of conflict diamonds by the AQ and later, the FBI investigations confirmed it. After the 1998 East African embassy bombings, the Clinton Administration froze more than USD 220 million of assets belonging to the Taliban and the AQ. The organisations needed to convert their assets into something convertible which could not be easily traced or seized. Diamonds fulfill these criteria.[17] Diamonds and gold are easy to carry, hide and convert into cash, but they are difficult to obtain from the source like African mines. Further, they need to be transported by hand which increases the chances of theft or seizure.

Other Methods: These include prepaid phone cards, online payment services, virtual money that is exchanged in the form of gold, silver and other metals and most recently, mobile phone payments.[18] Prepaid cards are frequently used as an alternative to cash. They can easily be obtained with complete anonymity and easily transported. One type of these cards can be used to withdraw money from ATMs throughout the world. There is no requirement of having a bank account and the users do not have answer all the rigorous questions of the bank employee regarding the former's identity. These cards can also be used for shopping. These cards can be topped up by a member of a terrorist group in one country and be used by the other member in another country, thereby making the task of countering terror finance even more challenging. The vulnerability of these cards lies in the way they can be obtained. They can be bought on the internet, by fax and in those shops which do not require identification from customers.

The online payment services like Paytm, PayPal, etc. are used by people without bank accounts or credit cards to make purchases over the internet. The people who use these services can first use their bank accounts, credit cards, electronic transfers or prepaid cards or simply cash to open an account with an online intermediary who will then carry out the payments. It is difficult to know the client's identity if the service provider has no strict requirement for the proof of identity or is willing to accept cash or giro transfers on opening the account.

The payments via mobile phones are another alternative to the use of cash and formal banking systems. The money sender buys a prepaid phone card which is 'topped-up' anonymously with funds which are subsequently transferred to another person's card. This person can withdraw money from an ATM cash-point using a prepaid card. The sender and receiver, both remain anonymous.

But still, the use of these new payment methods (NPMs) remains unpopular with the terrorists. A 2008 report lists several examples of criminals using NPMs like digital currencies (bitcoins), SVC (stored value cards) and mobile payments, but lists only a single example of a terrorist selling a phone card to raise funds.[19] However, in future, with the rapid pace technological advancement in the cyber world and rigid surveillance of regulatory and intelligence agencies over conventional methods, the terrorists are likely to use NPMs.

The Need for a Robust CTF Regime

Funding is crucial to any terrorist organisation. Personnel records seized from the AQI reveal the minutest detail of the management of finances, spreadsheets, receipts, expenditure reports, etc. This information has invaluable importance for the intelligence agencies as the money trail can lead to the core planners and executioners of the terrorist organisations and prevent an attack with a timely warning. So far, the evidence found in the AQ's Manchester manual has indicated that financial prudence is highly important for the AQ.[20] It divides its finances into funds to be invested for monetary gains and the remaining to be used for operations. The funds are divided amongst the members of a cell to avoid detection and protect the sources of financing. Given the crucial importance of terror finance not just for a terrorist organisation but also for the investigative and intelligence agencies, it becomes essential to examine the effectiveness of the CTF apparatus created after 9/ 11.

The Global CTF Regime

The White House within 100 days of 9/11, hailed the CTF as a great success, reporting that assets of more than 150 terrorists, their organisations and backers had been frozen by the US. 142 countries have issued freezing orders and as a result, more than US$ 33 million in terrorist assets were blocked inside the US, and more than US$ 30 million dollars were blocked outside the US by the global partners under the CTF.[21] The then UK Chancellor, Gordon Brown, hailed the importance and success of the CTF in the following words in his speech to the Chatham House:

> "What the use of fingerprints was in the 19th century, and DNA analysis was to the 20th century, so financial information and forensic accounting have come to be one of today's most powerful investigative and intelligence tools available in the fight against crime and terrorism".

However, the story is not all about an unblemished success. On the one hand, if policy experts like the former Treasury Secretary of US John Snow have praised the global CTF, then on the other hand, AML experts like Dr Demetis have labelled the entire CTF effort as a 'farce.' A study undertaken for a 2011 IMF report has found the global AML/CTF programme disappointing, and poor on compliance and implementation.[22] Despite whatever claims are made about the success of the CTF regime, its true assessment must emanate from Osama bin Laden's October 2001 interview with a Pakistani newspaper in which he said that the AQ's financiers were as "aware of the cracks inside the Western financial system as they are aware of the lines on their hands".[23]

Over the years, a big ideological divide has emerged in the CTF regime between the proponents of the "asset freezers" and the people who want to focus and tighten the movement of terror funds. The question arises that whether the state should focus on the 'cracks in the system' as stated by bin Laden or it should address the root sources of terror finance? The present focus of the CTF regime is in the financial services industry which includes the formal banking sector and The MSB community. The formal financial sector is being subjected to harsh regulatory measures and monitoring which includes an array of practices like customer due diligence and KYC. One of the most ardent critics of the CTF regime is the Somali MSB community based in the UK and the US.[24] It has complained that it is being forced to follow stringent operating procedures and compliance systems under the threat of loss of its bank accounts. For the financial services industry, it is a balancing act between, on the one hand, the blind compliance with regulations for the fear of reputational and financial damage caused in the case of being labelled as non-compliant, and on the other hand, the increasing cost of implementing AML/CTF (250 million pounds in the UK and over USD 1 billion in theUS).[25]

Recent trends show that in the case of the MSBs and the NGOs, they defray the costs of compliance with AML/ CTF by terminating relationships with even the legitimate clients who are not able to meet the stringent customer due diligence requirements. In other cases, financial service providers try to escape the net of regulatory burdens and costs by closing down 'correspondent banking services' and the provision of banking accounts to the so-called 'politically exposed persons.' Further, increased regulation also leads to higher transaction costs as a result of which the customers prefer cheaper means of moving their money, which means the use of informal and unregulated channels. As a result, it becomes even more difficult to monitor the flow of funds. The existing CTF is leading to financial exclusion which is exactly the reverse of what the CTF regime is trying to achieve, at least in its policy papers.

Further, the formal financial sector is required to submit SARs (Suspicious Activity Reports) or STRs (Suspicious Transaction Reports, in India) to the national authorities. Such reports are submitted by banks and other financial services in bulk. There is no special focus on targeting those activities which are linked to terrorism. When such reports come in bulk, the law enforcement and regulatory authorities either lack the technical expertise to analyse such reports (more so in the case of developing countries) or are too inefficient or corrupt to process the majority of reports that are made. Hence, the follow- up actions are missing on the STR filings.[26]

The Financial Action Task Force (FATF)

After 9/11, it was realised that the transnational nature of terrorist operations and organisations would require a globally coordinated and multilateral effort to counter the menace. Especially with regards to the sources and movement of terror finance, the investigations post-9/11 have revealed the complex and global nature of such activities. Hence, for the development of the CTF regime and the enactment of best practices at a global level, the authorities turned to FATF which was originally established in 1989 at the G7 summit in Paris to lead the fight against criminal money-laundering, especially from drug- trafficking. However, after 9/11, it quickly became the nodal authority for knowledge development and for spreading the best practices in CTF across the world community.

The FATF published its nine special recommendations on terrorist financing, supported the UNCTF (United Nations Counter-Terrorism Committee)'s efforts under UNSCR 1267 and 1373. It included calling upon the countries to criminalise terrorist financing and to freeze the assets accordingly, aim to set up international standards for cooperation, report suspicious transactions and regulate and control the NGOs, wire transfers and cash transfers.

The FATF regime was primarily designed to address the issues of criminal money laundering, particularly from drug trafficking. Although, it has helped in developing an advanced CTF regime but, developing the CTF regime in the armour of the FATF ignores the fundamental differences between criminal money laundering and terrorist financing. Terrorist financing originates from a variety of sources like state sponsorship, individual donations and petty crimes, not just drug trafficking. Secondly, contrary to most money laundering practices, terrorist financing is not done for a profit motive.[27]

Further, philosophical assumptions underlying the FATF's nine recommendations are flawed and need a serious review. the FATF regime assumes that the individual nations have a degree of control which in reality is 'often lacking'; that information is easily available in each nation it visits; that the first world standards apply in the 'Global South'; and that complying with its recommendations is as high a priority for all the countries as it is for the FATF's sponsors. It is often not the case 'where greater existential social, economic and security issues deserve the most urgent attention of the government'. For example, in the case of Somalia and other North African nations, the financial systems, law enforcement machinery and regulatory bodies are simply unequipped, understaffed and unskilled. Even in a fairly functioning democracy like India, it becomes difficult to implement the best practices. In other cases like Saudi Arabia and Kuwait, the WikiLeaks US government cables revealed in 2009 that it was a 'challenge to persuade Saudi officials to treat terrorist-financing emanating from Saudi territory as a strategic priority'.[28] Pakistan has also been reluctant to take action against anti-India terrorist outfits like the LeT and JeM, based in and operating from its territory and under the control of the ISI. Pakistan has failed to take any action even against the money-laundering activities of Dawood Ibrahim. Furthermore, the state supports the non-state actors against India through counterfeit currency. In an article published in *The New Yorker,* Lawrence Wright informs that the Pakistanis have diverted American aid to fund the terrorist activities of the Taliban.

The tightening of the AML/ CTF regime has led the banks to withdraw from services deemed too risky, as noted earlier in this paper. Besides, the stringent compliance measures of the CTF regime have led to several unintended consequences, like excluding legitimate businesses and consumers from the financial system.[29]

Over 2.5 billion people in the world do not use a formal banking system because of the cost, travel distance and amount of paperwork.[30] They rely on informal mechanisms like hawala especially for diaspora remittances in hard- to-reach places. Among the Muslim communities, the use of hawala is traditional and very useful in the difficult terrains of Afghanistan and the interiors of Iraq and South Asia (also because the formal financial sector is not well-developed there). In such a milieu, if the AML/CTF regime leads to a further exclusion and marginalisation of the legitimate customers, then it becomes a self-defeating exercise. In such a scenario, the CTF regime will be able to keep track of the small portion of terror financing which operates through formal channels, leaving the unregistered and informal sector vulnerable to abuse. Further, the diaspora communities settled in the Middle East and the Western nations might feel frustrated by their inability to transfer funds and in the process might get radicalised. Hence, broadening financial inclusion must be the key element of a robust CTF regime.

Conclusions

Although the US Treasury Department was graded 'A-' by the Public Discourse Project in 2005[31] for its global CTF efforts, it seems that the AML/CTF regime has been effective only in freezing assets vis-a-vis tracking the movement of terror funds. Further, efforts have been commendable in generating policy papers, best practice guides and recommendations for a globally coordinated action, but the ground-level implementation and compliance has been poor. In assessing FATF compliance, it appears that the countries and financial institutions are more interested in 'box-ticking' rather than the effective implementation of the global standards—some of which are irrelevant or almost impossible to implement given the country's situation and capabilities.[32]

Hence, it can be stated that throughout the early phase of modern jihad during the Soviet invasion of Afghanistan, money was moving freely through formal and informal channels like banking, cash couriers, and hawala, without scrutiny. Post-9/11, with the tightened AML/ CTF regime and advances in fraud detection and prevention technology like biometric passports, ID cards and 'chip' and 'pin' technology, the transnational terrorist groups like the AQ have faced increased challenges. However, as the governments and regulatory authorities have become sophisticated in countering terror finance, the terrorist groups have adopted simpler and mostly under-the-radar technologies which can escape detection. Hence, they avoid electronic means of communications like emails and phones between the leaders and ground-level operatives. They are placing more emphasis on human element for the movement and exchange of money, messages and information.

The strict regulatory and governmental pressure on formal and informal financial services sector has led the terrorist organisations to seek unregulated channels for terror financing and the movement of funds. It has further led to negative consequences like financial exclusion and use of new sources like kidnapping-for-ransom, sale of antiquities and sale of oil (in the case of the ISIS). To conclude, it seems reasonable to argue that most of the terror financing takes place outside regulated channels and the increasing checks and regulatory burden on the formal financial sector makes is a wasteful exercise, leading to dissipation of resources in the wrong direction.

Recommendations

Aimen Dean, Edwina Thompson and Tom Keatinge have provided the following recommendations for a robust AML/CTF regime in their article published in *Perspectives on Terrorism*:

1) **Dialogue**: Broadly, the relationship between the financial service providers and those administering the AML/CTF regime has been confrontational. The formal sector finds the pressing demands of the AML/CTF regime very costly to put in practice. Mostly, it complies out of the fear of loss of reputation. The relationship in

the case of the informal sector is the worst, characterised by rigidity and unwillingness on the both the sides. It must be realised that the informal channels like hawala have been operating in almost all parts of the world for centuries. In South Asia, Afghanistan, Iraq, and Africa, they are still very relevant and useful for the common people because of their familiarity, cheap rates, user-friendliness, cultural factors, illiteracy and lack of banking facilities. Therefore, multilateral institutions and national authorities need to engage them in a constructive dialogue to chisel an effective regulatory regime. Openness and dialogue will result in a better awareness and understanding of the informal channels, and better capabilities to formalise their activities. The regulatory authority's interaction with such informal actors might supply them with the necessary intelligence and critical cooperation required to check the terror finance without annoying the legitimate customers of such informal sectors. In fragile countries like Somalia, where there is a lack of sufficiently developed formal banking sector, such informal channels play an important role for diaspora remittances. When the attitude or multilateral institutions is confrontational and inflexible, then the terrorist organisations like Al-Shabaab get an opportunity to control the nuts and bolts of such informal services, and in the process, gain goodwill among the local residents. Hence a constructive dialogue is necessary, and the approach should be to bring such unchartered terrains of money movement under some kind of engagement process or surveillance. Secondly, better information-sharing is also needed between the regulators and the banks, and the intelligence should be shared. The bank staff do not have sufficient understanding of the phenomenon of terror finance. Therefore, the STR filings are vague, general and bulky. They need better guidance and support. Given the right guidance and collaborative approach, the financial industry can provide higher quality and valuable data to intelligence authorities. Any sound and effective CTF regime must develop this connection on collaborative lines.

2) **FATF Reform**: In 2011, the IMF characterised the FATF's assessment policy as comprehensive, inflexible and general, without reflecting the local realities and requirements of the individual countries. The best practices and compliance model imposed by the FATF on businesses and nations seem like more of the paper work which is cumbersome, complicated and costly. The FATF must take a more nuanced approach which takes into account the local requirements of the individual countries shaped by their specific cultural, social and political factors. For instance, imposing the idea of cashless economy in a country like Afghanistan is certainly going to be counterproductive.

3) **International Cooperation**: A 2010 study of the FATF mutual evaluation data by the AML/CTF group revealed that 80 per cent of the countries were not meeting the most basic standards, i.e. ratification and implementation of the UN instruments and a freezing and confiscation of terrorist assets. This is due to a range of factors like lack of technical capability where identity verification is not possible, and the lack of cooperation between ministries and political parties that makes the passing of laws difficult. But the most important reason for most of the nations is that the relevance of the CTF for them is unclear, and it is seen as a Western-sponsored initiative. Some countries have not shown enough enthusiasm to control terrorist organisations because of their internal dynamics, ideological affinities and the social-political clout of extremist and terrorist organisations in their domestic politics. Therefore, strong and systematic efforts are needed to secure international political support. The sponsors of international CTF regime must demonstrate that their efforts are

effective in reducing crime and terrorism. The non-complaint states must be made to realise that the CTF efforts are as important as the other existential social and security issues for stability and peaceful economic development.

4) **Financial Inclusion**: A systematic and apolitical effort is needed to devise ways for cost-effective and efficient ways of transferring funds to the poorest people who lack access to banking and more formalised channels. A focused effort is needed to address the issues of diaspora remittances and humanitarian aid. Most of the diaspora remittances are genuine, and the zakat donations are also for humanitarian objectives. Hence an effort is needed to develop a nuanced CTF regime which can isolate the cases of terrorism from genuine ones and even develop an effective alternative for the genuine cases of transfer of funds. An effort is also needed to bring the marginalised sections from traditional and informal fund transfer systems into the ambit of modern and formal systems like banking sector and 'mobile money.'

5) **Cashless Systems**: The monitoring and policing of cash couriers, transfer of high-value items like diamonds and gold and use of charitable services for health and welfare by the terrorist organisations is a very difficult task and in some situations, almost impossible. Once cash leaves the bank counter, it is very difficult to track its movement effectively. The clandestine activities of charities that bank with the formal sector are difficult to detect. A charity might use the cash for helping jihadis or building clinics for jihadis in a deceptive manner, under the cover of its legitimate operations. Hence, money transfer companies working with diaspora remittances must convert their operations to cashless systems. This would involve collaboration with telecommunication companies at global and national levels. Though it might be an abstract idea to implement the perfect cashless financial system, even if the larger cash flows are prevented, it can be immensely helpful in checking the terror-financing activity.

6) **Prevent Terrorism at the Source**: Post-9/11, many efforts have been made to target the legitimate and illegitimate funding of terrorists by closing NGOs, Informal Value Transfer Systems (IVTS) and implementing UN and FATF resolutions and best practices, but still the CTF regime has not been able to starve the terrorists of funding due to their deceptive and dispersed style of operations. Furthermore, there are thousands of zakat and *Tajheez* coordinators, individual donors and facilitators. It is not possible to trace and arrest all of them and even if they are arrested, new ones will emerge.

With the tightening of the CTF regime, even the terrorists have moved to criminal fundraising methods like kidnapping, smuggling, bank robbery, cyber fraud and new payment technologies that remain outside the scrutiny of regulators. Nowadays, with spread of jihad at the grass-roots level, the model and modus operandi of the terrorist operations have changed. There is no central command and control structure. All one finds is a loosely connected web of the terrorist network. The terrorists have moved to domestic sources of funding, thus bypassing the risk of international transfers and complex processes. Locally based organisations, working with domestic funding sources make the entire operations highly cost effective. The new phenomenon of lone-wolf terrorism hardly requires any large-scale planning of terrorist operations, collection and movement of terror funds. The said phenomenon presents a very serious challenge to the entire counter-terror apparatus.

Hence to starve the terrorists of funding, the authorities need to focus on the source i.e. donors need to be dissuaded/prevented from providing their support. Therefore, strong steps must be taken to check the sympathetic ideology which exists in society for jihadi causes or even extremist ideas. Some sects preach a puritanical version of faith which might not be directly related to terrorist operations, but it lays the fertile bed for radicalisation and jihadi terrorism. Donations to such puritanical schools must be checked, and their networks busted. Further, oppressive regimes, denial of basic rights, social misery, and squalor in society also generate sympathy for such ideological groups and charities. Poor economic conditions provide the fertile ground for dual-use charities to operate and recruit cadres for jihadi causes without detection. Therefore, efforts must be taken for providing satisfying and fulfilling livelihood sources, economic development, educational development and representative governments. One of the best ways to 'check at the source' is to generate awareness among the donors that their money might be financing terrorist operations. The common people must be encouraged to explore and find out about the charities and coordinators with hidden jihadist sympathies.

Since 9/11, terrorist organisations and terrorist operations have evolved in structure, operations and financing activities. However, the CTF strategy has remained stagnated. A lot has been done to track the formal sector by international agreements, monitoring and the spread of best practices. But the compliance remains poor at the ground level. And the efforts so far have covered a very small part of terror funding lying in the formal sector and that too not without unintended negative consequences like financial exclusion as discussed earlier in the paper.

Hence to conclude, the CTF strategy needs a serious rethinking and intensive research. It must reflect the changes that the terrorist organisations have undergone. The CTF regime must be developed in a nuanced manner rather than as a comprehensive approach. An area, culture and country-specific approach must be adopted for establishing a robust CTF regime. Last but not the least, without goal-setting, benchmarking and continuous evaluation at the local, national and international levels, the CTF regime will not be able to zero-in on the right targets and generate the desired objectives.

India: Evaluation of the CTF Regime and Recommendations

The investigating agencies and research analysts have found that the Indian scenario is characterised by a distinct linkage between crime and money laundering in terror financing. It is also evident that a three-stage progression of terror financing—state-sponsored, privatised and globalised financing of terrorism—has been in operation in promoting and sustaining terrorism in India. In financing terror groups operating in India, Pakistan has used the trinity network of globalisation, privatisation and criminal activities in tandem.[33] Because of the said intricacies, combating terror finance has become a daunting challenge for India. Based on its long experience of dealing with terror financing, India has identified the following major sources of terror financing: funds/resources flowing from organisations outside India including foreign Non-Profit Organisations/NGOs; funds provided by state entities (read ISI); induction of counterfeit currency and funds generated through a variety of criminal activities such as drug trafficking and extortion *(AGP,* June 25, 2010).

Since the publication of the Mutual Evaluation Report on June 24, 2010, India has been reporting to the FATF on a regular basis on the progress made in the implementation of its

Action Plan to strengthen India's counter-financing and money-laundering system. India has particularly focused its attention on:[34]

- Amending nearly all of the technical deficiencies identified with respect to the criminalisation of money laundering and terror financing.
- 'Substantially addressing' the technical deficiencies related to customer due diligence and other preventive measures.
- Augmenting its outreach programme to provide guidance to the financial sector on suspicious transaction-reporting obligations and engaging in extensive compliance monitoring and
- Bringing several of the Designated Non-Financial Businesses and Professions within the scope of anti-money laundering and countering terror financing measures.

In its 2013 Plenary Meeting, the FATF decided that India had reached a 'satisfactory level' of compliance with all the core and key recommendations and could be removed from the regular follow-up process. It pointed out that though India had stepped up investigation into the cases of money laundering and terror funding, yet the cases of conviction in such cases has remained low.[35] The Report said that according to the update provided in May 2013, the number of money-laundering investigations increased from 798 on December 31, 2009 to 1561 on April 30, 2013. This shows that the number of investigations conducted had increased consistently. On prosecutions, the FATF noted that they had increased from 6 on December 31, 2009 to 36 on March 31, 2011. However, there was only a marginal increase from November 30, 2011 (37) to 42 on November 30, 2012. The number of persons convicted for terror financing had remained low—namely, five in total between 2006 and March 2013.[36]

In its report on 'Terrorist Financing,' the FATF Report to the G20 leaders, released in November 2015, the FATF revealed that India had seized assets worth 3 lakh euros (over 2.12 crore INR) of 37 entities, till August 2015.[37] Thus, India's compliance with global standards in countering money laundering and terror funding is on the right track. However, the gaps need to be addressed and worked upon.

Demonetisation and Its Effects on Terror Financing

The recent demonetisation move by the Government of India (November 8, 2016) is expected to make a major dent in terror financing. Terror financing in India is mostly done thorough hawala, couriers and counterfeit currency. In all these channels, cash is used. And, 86 per cent of India's cash was in the denominations of INR 500 and INR 1000, which have been demonetised.

The Indian Statistical Institute, Kolkata, undertook a study on the behalf of the National Investigation Agency, which says that INR 70 crore fake notes had been pumped into the economy every year. 90 per cent of the fake notes were routed into India through Bangladesh, (Nepal *and even Sri Lanka*). They were sent from Pakistan by sea and air routes. The security features of INR 500 and INR 1000 were compromised. The suppliers of raw currency, ink, silver thread are the same for India and Pakistan. India has tried to convince these suppliers based in UK, Germany and US to stop the sales to Pakistan but was unable to do so. With demonetisation, there will be a major dent on counterfeit currency. However, it may be so for some time, i.e. until Pakistan is able to create the duplicate copies of the new notes. Though it is being claimed that the new notes have better security features, but still, in this game, nothing can be 100 per cent-immune. In order to sustain the efforts, enhanced detection measures must be put in place in public sector banks and forensic expertise to understand the technology in faking currency.

The demonetisation move will have its impact on starving the terrorists of their funding sources, but the impact must not be exaggerated. The financing of small-scale terrorist operations will not be affected that much as such operations do not require large amounts of money. The recent attacks in Uri, Pathankot and Nagrota signal a shift in the strategy. Now, the terrorists have resorted to sending small fidayeen groups for quick and lethal attacks on military installations. Such attacks are precise and have an element of surprise. They do not require huge funding. For such attacks requiring small sums of money, the terrorists might resort to formal financial channels like banks and MSBs after the demonetisation.

Operational financing of terrorism will be hurt where financing requires huge sums of money to run the terrorist organisations like Hizbul in Kashmir. It includes funds for logistics, spread of ideology and other structural costs like payments to the cadres and other facilitators including the 'retainer ship' money to the separatist leaders. For these, 'donation' funds were collected in Pakistan and sent to India through the hawala networks, which mostly relied on the old 500 and 1000 INR notes. After demonetisation, those notes are nothing but just a piece of paper and therefore, funding public unrest, students' protests and Intifada stone throwers in Kashmir, are already witnessing a drastic reduction in incidents of protests and unrests, which might not be a coincidence in a strict statistical sense. Further, one can also witness that the terrorists starved of funds, are resorting to new strategies like looting banks, etc.

Large amounts of terror funds are temporarily parked in property, gems and jewellery. Hence, these areas need to be tackled. After demonetisation, the terrorists may resort more to the use of formal channels like banking, digital economy and international trade for financing and the movement of funds. Hence, in the long run, a multipronged strategy is needed but, at least in the short run, demonetisation has dealt a major blow to terror financing and Naxalite funding.

Recommendations Specific to India

Identifying Suspicious Transactions: In a majority of the countries, the current legislative framework for preventing the use of the financial system for terrorist activities is based on the OECD's 48 recommendations. The current CTF regime is modelled on anti-money laundering measures. Though there is a lot of overlapping between the terror financing and money- laundering activities, there are some fundamental differences which must be taken into account. In money laundering, criminal elements need to deposit large amounts of money into the financial system whereas, in financial transactions related to terrorism, the amount of money used is considerably less and is usually consistent with the client's declared profile, which makes it almost impossible to detect.

The financial sector uses several IT programs to detect suspicious transactions of the customers. Each client is given a specific profile that describes 'expected usual practice' of the said client which includes the number of transactions and the amounts involved that are expected to take place over a certain period with a reasonable margin of deviation from the norm. When the client's transactions cross the said margin, the IT program issues an alert. But on closer scrutiny, many of such transactions are found to be 'false positives.' Submitting a large number of 'false positives' for further investigation takes up time and money. Hence to avoid such a situation, it is recommended to maintain the current profile of the clients, consider adequate tolerance ratios for each type of transaction, establish an adequate frequency for review in accordance with the risk presented and the context of conditions of the time and the market must be factored in as it may affect the operations being carried out.

1) India must develop a Terrorist Financing Tracking Program (TFTP) like the US's arrangement with the Belgium-based company, SWIFT (Society for World Wide Inter-Bank Financial Telecommunication). It operates a worldwide messaging system used to transmit financial transaction information—seeking information on suspected international terrorists or their networks. It helps in a better coordination of the CTF efforts at the global level. However, while developing such tracking systems, due care must be given to respect and protect the privacy of the customers.

2) India must also work towards developing a set of indicators for identifying terror funding. Currently, most of the STR filings are the cases of general money laundering crimes. These are filed on the basis of KYC practices. Better implementation and strict compliance of the KYC practices is desired.

3) The financial intelligence units get such data in bulk and no follow- up action is taken. At this stage, it is necessary to have a nuanced approach towards terrorism and develop a set of indicators which have a clear focus on terrorism-related cases. Finance professionals may not have a very strong understanding of terrorism issues. Therefore, when such indicators are developed, people specialising in terrorism in general and terror finance in particular, must be roped in. To equip the finance professionals with skills and understanding to detect terrorism-related cases, capacity-building initiatives like training programmes, seminars and interactive sessions with terror finance experts must be organised for financial institutions and finance professionals.

4) The Financial Intelligence Units are generally manned with people from revenue/customs services or administrative services. Terror finance is an altogether different and specialised field. Unless one has a strong background in geopolitics/international relations, terrorism issues and terror financing, one cannot detect such cases of terrorism. Therefore, people with an intelligence, diplomatic and security background or a sound understanding of special traits of flow of terror funds, must be hired. With this background as the base, they must have a strong expertise in finance in general and terror finance in particular.

In India, one can witness the fast spread of some fundamentalist schools like the Deobandis even in the remotest parts of the country. In our interactions with inhabitants of the remote and inaccessible tribal villages of southern Rajasthan like Karawada, Peeth, etc. (Dungarpur, Rajasthan), we came across the spread of Deobandi doctrines which preach more orthodox and puritanical versions which are quite contrary to what people have been following traditionally. As a result of this missionary activity and religious awareness, there is a huge increase in zakat donations. One can see lavish mosques being built with unknown and undocumented sources of funding. There are lots of preachers and *Tajheez* coordinators working among the populace. The state intelligence bodies like CID and local IB units have neither the trained and skilled intelligence professionals nor the technical know-how and facilities to track and infiltrate such networks. We had interactions with district police officials and administrative officers. Most of them did not possess the elementary knowledge of concepts like zakat, Deobandis, Barelvis, *Tajheez,* etc.

5) Hence, the authorities need to take special steps to build the capacity of state intelligence bodies and law enforcement agencies because to track such activities in a country like India, HUMINT plays a quintessential role. First and foremost, the IPS and state-level police officers and administrative officers must be imparted with some conceptual training in terrorism-related issues like terror financing, zakat and *Tajheez* donations, grass-roots level jihadi networks and the ideology which works underneath. Further, they must also be made aware of the UN resolutions against terrorism, the global AML/CTF regime and the sanctions list of Security Council. Then they must keep track of such religious activities like the visits of religious leaders, zakat collections, preaching, etc., by building good relations and networks with the community leaders at the local level.

6) In India, with schemes like the Jan Dhan, a breakthrough has been achieved in the area of financial inclusion. However, there is a risk of Jan Dhan-like banking schemes or other development schemes involving cash transfers being used for terror financing. The cost of individual terrorist operations is very small as discussed earlier in this paper. Hence, if several Jan Dhan accounts of people belonging to low economic strata are used for any such transfers or deposits, it will be difficult to detect.

7) Further, charities operate among the poorer sections of the minority community. There is a possibility of luring people from the lower economic strata to use their bank accounts for terrorist activities either by using several bank accounts to transfer large sums in parts or even for zakat with the covert intentions of assisting terrorist activities. Hence, to counter this, active intelligence is needed round the year at the grass-roots level where the charities operate to gather information about the *Tajheez* coordinators and the people involved.

8) Special focus must be given to immigrant communities in India. Keeping track of the missionary activity in their areas and the religious scholars and people visiting their localities, in general, is a must. The financial information leaves a trail which can be immensely helpful in preventing the terrorist incidents not just in India but all over the world. STRATFOR, a global intelligence portal, has informed that the locally based immigrant communities and the poorer sections of society can be used to help organizations like the AQ with logistics, finance and for building sleeper cells. Hence, robust intelligence and surveillance can nip horrific terrorist incidents right in the bud.

9) There is a need for developing tools to measure radicalisation. The National Radicalization Index is one such tool that can be developed with several indicators as its components. The detailed description of the tool is beyond the scope of this paper. But such a tool will help in focusing on the areas where radicalisation is higher, as there might be greater flows of terror funds from such areas.

10) There is an urgent need to effectively curb hawala networks. For this, it is imperative to get timely intelligence and understand their style of functioning. Given the fact that they have strong roots in India's cultural and economic fabric, it is

better to engage them and explore their utility in controlling terror finance. However, simultaneously, they must be regulated or brought under some kind of surveillance or formalisation through a licensing system on the pattern of US and Afghanistan.

11) Further, continuous research is needed in the field of terror finance. The diverse aspects of terror funding like the role of the unorganised *Tajheez* sector, new payment methods, use of illicit trade in high- value and low-value goods, extortion money, etc., must be thoroughly investigated and new research material and reports generated. Such knowledge creation will be immensely helpful in charting out the innovative strategy to combat terror financing, in response to the new methods and sources of terror finance adopted by the terrorist organisations. Organisations like the AQ are very strict about bookkeeping and finance. Financial activity leaves a trail. Hence, the expertise in forensic accounting combined with other relevant intelligence inputs can prevent several terrorist incidents from happening.

12) Further, there must be systematic efforts to understand the evolving terrorist operating methods, strategy and their area-specific characteristics and then, intelligence-led indicators must be developed to target the cases of terror financing. There must be regular dialogue between the private and public sectors and the non-profit sector to develop a more risk-based focus and generate better cooperation from the prominent stakeholders.

13) Adequate efforts are needed to protect the charities engaged in real humanitarian work from abuse by terrorist organisations. Charities are an important link in the entire terror finance apparatus. These constitute both a source and a channel for the movement of funds. But the use of charities for terror financing can be in a very deceptive and clandestine manner. Hence, a blanket ban on the activities of all charities or a mass closure of their accounts is not advisable because most of them are engaged in humanitarian work and in providing the necessary relief and aid. If charities face harsh repression, it prepares ground for further radicalisation. Hence a cautious approach is needed. A sustained and constructive engagement with the charities is called for to get over this problem. A dialogue between the private sector, charities, regulatory authorities, intelligence agencies and bank authorities can help in formulating a strategy to prevent the use of the charities for terrorist activities and establish a risk-based AML/ CTF regime. For this, technical expertise can be obtained from the best practices adopted by the US Treasury Department. The charities can have a presence in the small and remote towns of northern India or, in Kerala, in the form of numerous *Tajheez* coordinators, collectors or preachers, and they can also have their operations in international capitals like Riyadh, New York City, Washington DC, Madrid and London. In the light of their widespread, transnational, complicated and deceptive nature of operations, it is necessary to have a proactive approach in intelligence collection and surveillance. There must be round-the-year watch and surveillance of suspicious charities and there has to be a coordination that can help in connecting the dots while studying their operations in small remote towns and the world capitals. The information derived from such proactive and preemptive intelligence and surveillance activities must be shared with the private sector and other donors to such charities to dissuade the donors from making grants to such charities.

14) In our review of the literature on terror financing in India, we have come across a generalist approach characterising the research work on terror financing. However, the financial profile of every terrorist organisation is different. Groups involved in the Naga insurgency, Naxalite violence or separatism in the North-East may be very different from transnational Islamic extremist groups in their style of operations, organisational culture and financing. Hence, a nuanced and focused approach is needed which goes into the specifics of a terrorist organisation and is based on the specialisation and expertise in different strains of terrorist activity.

15) India has adopted its model of combating terror finance based on its own requirements and conditions, as indeed it should be. However, the multiplicity of bodies dealing with the said issue at different levels, generates a degree of lack of coordination and cooperation. Currently, there are multiple bodies dealing with the issues of money laundering, both or in some cases, simply money laundering. Some of them are as follows: (a) Financial Intelligence Unit and FATF Cell (Ministry of Finance) (b) RBI (c) special cell called Combating Financing of Terrorism (CFT) Cell (Ministry of Home Affairs)—to name a few. Though it may not be possible to achieve a complete unification of all the tasks performed by all such entities under one body, it is certainly advisable to create one nodal body on the lines of the US Office of Financial Intelligence and Terror Finance, to coordinate all such activities conducted to combat terror finance. Because of different intelligence bodies and ministries dealing with the issue, unnecessary turf wars and frictions are created between the bureaucracies of different entities. There is a tendency to hide the sources of information gathered, and this makes it immensely difficult to connect the dots in the investigations. Hence for coordinated action, a nodal body with comprehensive powers and functions, and personnel with a background in forensic accounting, security affairs and intelligence affairs and police services on the lines of the proposed National Counter Terrorism Center (NCTC), should be created.

16) Similarly, in the legal domain also, there are multiple acts like the Unlawful Activities Prevention Act (UAPA 1967), the Prevention of Money Laundering Act (PMLA 2002), Foreign Contribution Regulation Act (FCRA 1976), the Narcotics Drug and Psychotropic Substances Act (NDPS 1985) and the Foreign Exchange Management Act (FEMA 1999) that come into play while dealing with the acts of terrorism including terror financing. While the specific laws have their relevance and cannot be totally annulled, as far as acts of terror, including terror financing, go, it would be desirable to merge the provisions into a single all-encompassing national law to cover all aspects of terror with an all-India applicability on the lines of the US Patriot Act, duly modified to suit the conditions and special requirements of India. It must deal with the diverse aspects of terrorism including terror financing and lay a robust legal framework for dealing with terrorism. This is not going to be easy, since evolving an across-the-board national consensus on such matters, in the given political scenario, will take time and a huge deal of effort.

17) There is also a need for improving the prosecution rates in money laundering, terror financing and drug trafficking cases. The FATF has also, in its report on India, as mentioned in the earlier part of this paper, highlighted the low prosecution rates. The State needs to create a smart and efficient cadre of prosecution lawyers in such matters. Secondly, for an efficient delivery of justice and to prevent the decay of crucial evidence, speedy trial is needed. In criminal trials, jurisprudential principles of criminology like 'burden of proof' and 'to prove guilt beyond reasonable doubt',

etc., often favour the accused. But in cases involving terror financing, money laundering and crimes against the State, there should be some exceptions to the said rules and the cases of prosecution side should be examined with the presumption of faith.

18) The Emerging Terror Financing Risks (ETFRs) Report (2015) of FATF highlighted that various social media platforms are today being used by terrorists for fundraising campaigns. A regular watch of terrorist financing, recruitment and propaganda activities is a must. Further, it is advised to infiltrate networks using encrypted services. Such networks are widespread in reach, but their consequences regarding raising financing and supplying new recruits are localised, so here also, the role of HUMINT in infiltrating them at the local level is highly important.

19) Better information-sharing between the Centre and the states on the issues of terror finance, threat assessment and best practices is desirable. Special capacity-building programmes for state-level police and intelligence officers must be organised to train them in the international best practices. Similar programmes for the financial services sector must be organised to generate awareness them among them on the issues of terror finance and FATF recommendations to combat terror finance.

20) In the South Asian region, effective institutional mechanisms are missing for the purpose of well-coordinated multilateral efforts. Since SAARC members have already accepted the International Convention for the Suppression of the Financing of Terrorism of 1999 and UNSCR 1267, India must take a strong initiative in developing such multilateral mechanisms in South Asia to combat terror financing. India can initiate the regional database by using the Colombo-based dormant Terrorist Offences Monitoring Desk and integrate the information related to terror financing, money laundering and suspicious transactions from the Financial Intelligence Units (FIUs) of the member states.[38] Further, such institutions can also be the conduit for putting a diplomatic pressure on Pakistan to stop sponsoring terrorist groups against India.

21) In order to bring transparency in receipt and use of foreign donations, random checks can be undertaken to verify the last five years' transactions of select NGOs having dubious records. Charitable organisations with links to Saudi Arabia, Pakistan and Middle Eastern countries raise funds before Eid prayers and other religious festivals. Efforts must focus on such organisations regarding prior research and the consequent strategy and action for combating terror financing. Finally, the timely monitoring and evaluation of the effectiveness of all the existing systems and of the new ones proposed or being established, on a regular basis, is not only desirable but rather, inescapable. India can no longer afford to continue to exist in a 'reactive' mode: it must, in the field of terror financing and related matters, be seen as proactive.

End Notes

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