

Tracing the Financial Web of Terrorism: A Legal Perspective of Money Laundering in India

Praneeta Jha¹, Dr.Sushant Shadangi²

^{1,2}The Icfai University, Dehradun, L.L.M

ABSTRACT

Terrorism can be traced back to the 1st century AD, and today, it remains a significant issue affecting both developed and developing countries. In India, the first recorded terrorist incident occurred in the northeastern region in 1980. Since then, various attacks and activities have taken place across the country. Over the last few decades, terrorism has increasingly disrupted the peace in India. According to the Ministry of Home Affairs, terrorism poses a major threat to the nation's security. Terrorist activities in India encompass different forms, including ethno-nationalist terrorism, religious terrorism, left-wing extremism, and narco-terrorism. Areas with prolonged terrorist activity include Jammu and Kashmir, the eastern-central and southern-central regions (affected by Naxalism), and the Seven Sister States. Numerous terrorist groups, both small and large, operate in these regions. The South Asian Terror Portal (SATP) lists 180 terrorist organizations that have operated in India over the past two decades, many of which are linked to transnational terror networks in neighboring South Asian countries like Bangladesh, Nepal, and Pakistan. This article aims to analyze terrorism in India by examining its nature, causes, and effects based on historical data. Understanding the evolving nature of terrorist tactics and radicalism may offer potential solutions to mitigate this ongoing issue.¹

Keywords: Terrorist Financing, Money Laundering, Illicit Financial Networks, Anti-Money Laundering (AML), Financial Action Task Force (FATF), Hawala System.

Meaning of Terrorism

The Anti-Terrorism Front (ATF), an initiative of the Anti-Corruption Front, is one of India's prominent mass movement organizations dedicated to promoting peace and opposing all forms of terrorism at every level. Following the 26/11 terrorist attack in Mumbai, ATF launched its national and international peace movement and has since organized numerous events both in India and globally to raise awareness about anti-terrorism and peace. Once again, ATF has strongly condemned terrorism in India and expressed its support for all efforts, including those by the Government of India, to combat terrorism. The organization has been actively promoting dialogue, organizing banner campaigns, and hosting national conferences to further this cause.

Financial Terrorism

Since 2001, combating terrorist financing has been a priority for the Financial Action Task Force (FATF). However, in 2015, the scale and nature of global terrorist threats escalated significantly, with attacks

¹ <https://www.start.umd.edu/data-tools/GT>

occurring in multiple cities worldwide, primarily due to the rise of groups like the Islamic State of Iraq and the Levant (ISIL/Daesh) and Al-Qaeda, along with their affiliated organizations.

Since then, terrorist threats have continued to evolve, shifting from large organizations to the activities of returning fighters and right-wing extremists. Funds flow across borders to support nationally designated groups, and many regions still face persistent attacks from small cells and radicalized lone actors, often inspired by a variety of dangerous ideologies.²

The FATF plays a key role in global efforts to counter terrorist financing by establishing global standards, helping countries implement the financial provisions of United Nations Security Council resolutions on terrorism, and assessing nations' capabilities to prevent, detect, investigate, and prosecute terrorism financing. However, many countries have yet to effectively implement the FATF Standards. These countries often fail to fully understand the terrorist financing risks they face and lack efficient methods to combat them.

The FATF Strategy for Combating Terrorist Financing outlines the broad objectives for its efforts in this area. In collaboration with regional FATF-style bodies, the United Nations, and other partners, the FATF has made significant progress in assisting countries worldwide in tackling the issue of terrorist financing. Terrorist financing refers to providing financial support to terrorists or terrorist organizations to help them carry out their activities. It is closely linked to money laundering, as seemingly legitimate funds are often used to finance terrorism. Sometimes referred to as "reverse money laundering," it involves using funds specifically for criminal acts, as opposed to funds generated from illegal activities. The issue of terrorist financing gained significant attention following the September 11, 2001 attacks. In response, the United States enacted the USA PATRIOT Act, which emphasized the importance of both combating the financing of terrorism (CFT) and anti-money laundering (AML) efforts within US financial institutions. The act also had extraterritorial effects, requiring non-US banks with correspondent banking relationships or business ties to US banks to enhance their AML/CFT procedures.³

Is India a member of FATF?

No, India is not currently a member of the FATF. Instead, it holds observer status at FATF meetings. The Financial Intelligence Unit of India (FIU-IND) is making significant efforts to secure full membership and expects to achieve this soon. One of the main reasons India has not yet attained FATF membership is the relatively low level of suspicious transaction reporting by banks and financial institutions, despite the high volume of large-value cash transactions taking place within these institutions.⁴

Legal Regulation to combat Terror Funding in India

Prevention of Money Laundering Act (PMLA) 2002: This law aims to prevent, detect, and prosecute money laundering activities. It mandates financial institutions to maintain transaction records and report any suspicious activities to the authorities.

Unlawful Activities (Prevention) Act (UAPA) 1967: This legislation empowers the government to ban organizations involved in terrorist activities and seize their assets. It also prescribes strict penalties for individuals engaged in such activities.

Foreign Exchange Management Act (FEMA) 1999: This act governs foreign exchange transactions and

² https://www.worldbank.org/404_response.htm

³ <https://www.jstor.org/stable/41855880>

⁴ <https://www.ncib.in/anti-terrorism-unit.php>

prohibits the use of such transactions for money laundering and terrorism financing.

Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) Guidelines: The Reserve Bank of India has issued these guidelines to banks and financial institutions to prevent money laundering and terrorist financing.

Financial Intelligence Unit (FIU): The FIU is an independent agency responsible for collecting, analyzing, and sharing financial intelligence with law enforcement agencies to combat money laundering and terrorism financing.

In India, the government and law enforcement agencies are actively enforcing laws and regulations to tackle financial terrorism. With the rise in terrorist activities in recent years, the government has taken several steps to curb these threats, including freezing the assets of groups involved in terrorism and monitoring suspicious financial transactions. Efforts are underway to strengthen the implementation of these laws to ensure more effective prevention of financial terrorism. The use of data analytics, artificial intelligence, and machine learning is being explored to detect unusual transactions and patterns, allowing financial institutions and law enforcement to take proactive actions to prevent financial terrorism.⁵⁶

How India used to curtail Financial Terrorism before the enactment of Money Laundering Act 2002?

1. Bank Secrecy Act 1970

The regulations set requirements for recordkeeping and reporting by individuals, banks, and other financial institutions. They are designed to track the source, volume, and movement of currency and monetary instruments entering or leaving the United States, or deposited in financial institutions. Banks are required to (1) report cash transactions exceeding \$10,000 through the Currency Transaction Report, (2) accurately identify individuals involved in transactions, and (3) maintain a record trail by keeping proper documentation of financial transactions.

2. Money laundering Control Act 1986

The law made money laundering a federal offense and prohibited the structuring of transactions to avoid Currency Transaction Report (CTR) filings. It also introduced civil and criminal forfeiture penalties for violations of the Bank Secrecy Act (BSA). Additionally, it mandated that banks establish and maintain procedures to ensure compliance with the BSA's reporting and recordkeeping requirements and to monitor adherence to these standards.

3. Anti Drug Abuse Act of 1988

The definition of financial institutions was expanded to include businesses such as car dealerships and real estate closing agents, requiring them to report large currency transactions. Additionally, it mandated the verification of the identity of individuals purchasing monetary instruments worth more than \$3,000.

4. Annunzio-Wylie Anti-Money laundering Act 1992

The sanctions for violations of the Bank Secrecy Act (BSA) were strengthened. It also introduced the requirement for Suspicious Activity Reports, replacing the previously used Criminal Referral Forms. The law mandated verification and recordkeeping for wire transfers and established the Bank Secrecy Act Advisory Group (BSAAG).

5. Money Laundering Suppression Act 1994

The law mandated that banking agencies review and improve training programs, as well as develop

⁵ <https://www.fatf-gafi.org/en/topics/Terrorist-Financing.html>

⁶ https://www.southindianbank.com/userfiles/cft-what_you_must_know.pdf

enhanced procedures for anti-money laundering examinations. It also required these agencies to improve procedures for referring cases to the appropriate law enforcement authorities. The process for Currency Transaction Report (CTR) exemptions was streamlined. Additionally, it required every Money Services Business (MSB) to be registered by an owner or controlling individual and to maintain a list of businesses authorized to act as agents for the MSB's financial services. Operating an unregistered MSB was made a federal offense. The law also recommended that states implement uniform laws for MSBs.

6. Money Laundering and financial crimes strategy Act 1998

The law required banking agencies to create anti-money laundering training programs for examiners. It also mandated that the Department of the Treasury, along with other agencies, develop a National Money Laundering Strategy. Additionally, it established the High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces, aimed at focusing law enforcement efforts at the federal, state, and local levels in regions where money laundering is most prevalent. HIFCAs can be defined geographically or created to address money laundering issues within specific industries, financial institutions, or groups of financial institutions.⁷

Conclusion and suggestions

Conclusion:

Unraveling the financial networks that support terrorism is a complex and essential component of the global fight against terrorism. Terrorist organizations typically rely on a mix of legitimate and illicit financial systems, extending across borders. These funds are often sourced from state sponsors, criminal activities, and methods like donations, extortion, human trafficking, and the drug trade. The financial structures behind terrorism can include entities like shell companies, informal financial systems such as hawala, and digital platforms that enable anonymous transactions.

While notable progress has been made in tracking and dismantling these networks through international collaboration, intelligence sharing, and enhanced regulations for financial institutions, obstacles still remain. The growing use of digital currencies, unregulated online platforms, and increasingly sophisticated money-laundering tactics complicate efforts to trace and disrupt terrorist funding.

Effective strategies to combat terrorist financing must focus on enhancing transparency, closing loopholes in financial systems, and fostering stronger international collaboration. Additionally, addressing the underlying causes of terrorism, such as political instability, poverty, and ideological extremism, is crucial in reducing the appeal of terrorism.

Suggestions:

- 1. Enhance Global Financial Regulations:** Global organizations like the Financial Action Task Force (FATF) should continue to refine and enforce regulations targeting terrorist financing. This includes improving monitoring of financial institutions, tracking suspicious activities, and implementing harsher penalties for non-compliance.
- 2. Strengthen Government-Financial Institution Cooperation:** Governments and financial institutions should increase their cooperation and information exchange to better detect and trace terrorist financing. This could involve forming joint task forces, sharing intelligence, and creating specialized anti-money laundering units aimed at combating terrorist financing.

⁷ <https://www.ricago.com/blog/laws-on-anti-money-laundering-and-combating-financing-of-terrorism-in-india>

3. **Utilize Technology for Enhanced Monitoring:** Financial technologies (fintech) and artificial intelligence (AI) can be leveraged to improve tracking of suspicious transactions and uncover patterns indicative of terrorist funding. AI-powered predictive models could help in detecting and preventing illicit financial activities in real-time.
4. **Regulate Cryptocurrencies:** Since cryptocurrencies offer anonymity, they have become a popular means of financial exchange for terrorists. Governments should develop regulations to monitor digital currency transactions effectively while still allowing legitimate uses of these technologies.
5. **Foster Public-Private Sector Collaboration:** There should be greater collaboration between private sector financial entities and government bodies to better identify and track suspicious financial transactions. Financial institutions should be incentivized to report such activities, with laws ensuring protection for those who do.
6. **Address Root Causes of Terrorism:** Disrupting terrorist financing must go hand in hand with addressing the fundamental issues that fuel terrorism. By focusing on education, economic growth, and political stability, societies can diminish the appeal of extremist ideologies and hinder terrorist recruitment efforts.
7. **Improve Financial Literacy and Reporting Mechanisms:** In regions vulnerable to terrorism, it is important to boost financial literacy and establish effective reporting systems for suspicious activities. This will empower local communities and authorities to identify and report financial operations linked to terrorism.
8. **Strengthen International Legal Frameworks:** The global community must continue enhancing legal frameworks for prosecuting those involved in terrorist financing, ensuring that individuals funding terrorism face legal action, regardless of their location.

By implementing these measures, governments and financial institutions can build a more effective system to trace and dismantle the financial web of terrorism, thereby enhancing global security and stability.⁸

References

1. The Prevention of Money Laundering Act, 2000.
2. The Prevention of Terrorist Activities Act, 2002.
3. The US Money Laundering Control Act, 1986.
4. The Foreign Exchange Management Act, 1999
5. The Prevention of Corruption Act, 1988.

Web resources

1. <https://www.start.umd.edu/data-tools/GTD>
2. https://www.worldbank.org/404_response.htm
3. <https://www.jstor.org/stable/41855880>
4. <https://www.ncib.in/anti-terrorism-unit.php>
5. <https://www.fatf-gafi.org/en/topics/Terrorist-Financing.html>
6. https://www.southindianbank.com/userfiles/cft-what_you_must_know.pdf
7. <https://www.ricago.com/blog/laws-on-anti-money-laundering-and-combating-financing-of-terrorism-in-india>
8. <https://www.fincen.gov/history-anti-money-laundering-laws>

⁸ <https://www.fincen.gov/history-anti-money-laundering-laws>