

The Issue of Money Laundering and Terror Financing

Introduction

Money laundering and the financing of terrorism pose serious problems for the majority of nations in terms of prevention, identification, and criminal prosecution. The intricacy of these problems is increased by sophisticated methods used to finance terrorism and launder money. A variety of financial institutions, numerous financial transactions, the use of intermediaries like financial advisers, accountants, shell corporations, and other service providers, transfers to, through, and from different countries, as well as the use of various financial instruments and other value-storing assets, are all possible components of such sophisticated techniques. However, the principle of money laundering is essentially straightforward. It is a method for disguising the proceeds of criminal activity in order to hide their dubious source. In essence, rather than the actual property, money laundering involves the proceeds of criminally obtained property. The funding of terrorism is also a fundamentally simple concept. It is the financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism.

The definition of terrorism itself, however, is more complicated because, depending on the nation, it might have important political, religious, and national ramifications. Similar transactional characteristics, primarily involving concealment, frequently distinguish money laundering from terrorist financing. While individuals who finance terrorism transfer cash that may be legal or illicit in origin in such a way as to disguise their source and ultimate use, which is the support of terrorism, money launderers send illicit funds through legal channels in order to conceal their criminal origins. However, the outcome is the same: reward. Criminals make money from their conduct when money is laundered; they are rewarded by hiding the criminal activity that results in the unlawful gains and by hiding the source of what looks to be legitimate money. Similar to this, those who support terrorism are rewarded for hiding their sources of funding and hiding the money they use to carry out their terrorist attacks.

What Is Money Laundering?

Many crimes are committed with the intent of making money for the person or group who commits the crime. The processing of these criminally obtained funds to conceal their illicit source is known as money laundering. This procedure is crucial because it allows the criminal to benefit from the income without endangering their source. Smuggling, drug trafficking, prostitution rings, illegal arms sales, and other organised crime endeavours can bring in enormous sums of money. Large profits can also be made by embezzlement, insider trading, bribery, and computer fraud schemes, which incentivizes people to use money laundering to "legitimise" their unjustified earnings.

From a legal point of view, the general accepted definition of Money Laundering is the definition adopted by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (Vienna Convention) and the United Nations Convention Against Transnational Organized Crime (2000) (Palermo Convention):

“The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offense or offenses or from an act of participation in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions.”

What is Terrorist Financing

To support themselves and carry out their terrorist activities, terrorist organisations need money. The techniques and procedures employed by terrorist organisations to fund their operations are collectively referred to as "terrorist financing." This money may originate from reputable sources, such as corporate and nonprofit organisation earnings. However, criminal activities including the trafficking of weapons, drugs, or persons as well as kidnapping for ransom are

another source of funding for terrorist organisations. Fighting terrorist financing (CFT) is a very complicated effort that involves a variety of players. With a wide range of responses—from legislation, international policy, and operational level responses—we assist Member States. The International Convention for the Suppression of the Financing of Terrorism, in particular, serves as the foundation for our legal defence (1999).

How are the both related

The methods used to cover up the sources and uses of terrorist financing are substantially the same as those used to launder money. Money used to finance terrorism might come from legal or illegal activity, or from both. Regardless of whether the source is legal or illegal, it is crucial to conceal the source of terrorist financing. The source can still be used to fund terrorism in the future if it can be kept secret. Similar to this, it is crucial for terrorists to hide how they spend the money so that their financing operations go unnoticed. Because of these factors, FATF has advised that each nation make funding terrorism, terrorist activity, and terrorist organisations a crime by designating these activities as money laundering predicate offences.

The forty money laundering recommendations and the nine special recommendations, according to FATF, form the fundamental basis for stopping, identifying, and repressing both money laundering and terrorism funding. In order to ensure that charities in particular are not utilised, either directly or indirectly, to finance or assist terrorism, governments must take into account increasing the scope of their AML framework to include non-profit organisations. Examining alternate remittance or money transmission methods, including hawalas, is another requirement for CFT activities. This initiative takes into account what steps should be done to prevent terrorists and money launderers from using such organisations.

As mentioned above, a key distinction between money laundering and terrorist funding is that the cash at issue might come from both legal and illegal activity. These acceptable sources could include gifts or grants of money or other assets made to foundations or charities, which then fund terrorist organisations or terrorist actions. As a result, to address terrorist financing, particular regulations are needed. However, depending on the nature of the predicate offences for money laundering, funds used to finance terrorism that come from illicit sources may already be covered by a nation's AML system.

How does it take place

Money laundering was initially a source of worry because of its early association with illicit narcotics trade. Drug traffickers wanted to exchange frequently tiny amounts of money into legitimate bank accounts, financial instruments, or other assets. Today, a wide variety of criminal activities, including governmental corruption, the sale of illegal weaponry, and the exploitation and trafficking of people, earn ill-gotten wealth. Money launderers use placement, layering, and integration techniques to transform illegal funds into items that appear to be legitimate, regardless of the crime they are doing.

1. **Placement:** The first step of the procedure entails introducing funds that were obtained illegally into the financial system, typically through a financial institution. Cash deposits into a bank account can be used to achieve this. Large sums of cash are divided into smaller, less obvious amounts and gradually deposited in many locations of a single financial institution or in several different financial institutions. At this point, currencies may be converted into one another as well as smaller notes into larger ones. Additionally, in order to avoid suspicion, illicit monies may be transformed into financial instruments like money orders or cheques and mixed with lawful ones. In addition, placement can be done by paying cash for a security or kind of insurance contract.
2. **Layering:** After the illicit earnings have entered the financial system, the monies, securities, or insurance contracts are converted or transferred to other institutions, further severing them from their illicit origins. This is known as the second stage of money laundering. These money might then be used to buy further securities, insurance policies, or other transferrable financial products, which could subsequently be sold through a different organisation. The money might also be moved electronically to other accounts in different countries or by any type of negotiable document, including a check, money order, or bearer bond. A money launderer may also move the money to a shell company or present the transfer as payment for goods or services.

- 3. Integration:** Integration of money into the legal economy is the third stage. This is done by investing in assets like real estate, securities, other financial assets, or upscale items. The same three phases are used in terrorist financing schemes, but stage three integration involves giving money to terrorists and the groups that support them, whereas money laundering, as was previously described, involves integrating illicit cash into the legal economy.

Effects and Repercussions

Criminal enterprises and terrorist financing operations are successful to the extent that they can sanitise the proceeds by transferring them through domestic and international financial systems while hiding the origins or sources of their funding. Lack of, or a weak or corrupt anti-money laundering regime, allows criminals and those who fund terrorism to operate, using their financial gains to further their illegal activities and support corruption, drug trafficking, human smuggling, illicit human trafficking, arms smuggling, and other illegal activities. Although money laundering and the financing of terrorism can happen in any nation, poor nations are particularly affected because their marketplaces are typically tiny and, consequently, they are more vulnerable to being disturbed by criminal or terrorist influences. Because unstable financial systems are equally prone to disruption from such forces, money laundering and terrorism financing have substantial economic and social repercussions for those nations. In the end, countries that serve as hubs for money-laundering or terrorism financing risk their economies, societies, and security.

A nation's development may suffer greatly if it develops a reputation for being a sanctuary for money laundering or terrorist financing. Foreign financial institutions may elect to restrict the institutions with which they trade, to subject these transactions to further scrutiny, raising the cost of the transaction, or to completely sever correspondent or lending connections. The soundness of a nation's financial system and the stability of specific financial institutions can also both be negatively impacted by money laundering and terrorism funding in a number of ways.

Money launderers are also known to employ "front firms," which are commercial establishments that appear legal and conduct lawful business but are actually managed by criminals. In order to conceal the proceeds of crime, these front companies mix illegal funds with legal ones. Due to their access to illegal cash, front companies can offer their goods and services at discounts or for free. Since these front firms' only goal is to safeguard and preserve the illegal funds, not to make a profit, legitimate businesses find it challenging to compete with them.

The Financial Action Task Force on Money Laundering

The Financial Action Task Force on Money Laundering (FATF), an intergovernmental organisation established in 1989 by the G-7 nations, was created with the aim of developing and promoting an international response to combat money laundering. Resolution 1373 of the UN Security Council. Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States make up the G-7. FATF increased its mandate to include preventing the financing of terrorists in October of that year. To achieve national legislation and regulatory AML and CFT changes, the FATF, a policy-making group, brings together legal, financial, and law enforcement specialists. 31 nations and territories as well as two regional organisations currently make up its membership. In addition, FATF works in collaboration with a number of international bodies³⁴ and organizations. These entities have observer status with FATF, which does not entitle them to vote, but otherwise permits full participation in plenary sessions and working groups. FATF's three primary functions with regard to money laundering are:

1. monitoring members' progress in implementing anti-money laundering measures;
2. reviewing and reporting on laundering trends, techniques and countermeasures; and
3. promoting the adoption and implementation of FATF anti-money laundering standards globally.

The FATF has approved a series of forty suggestions known as The Forty Recommendations on Money Laundering (The Forty Recommendations), which serve as a complete framework for AML and are intended for widespread adoption by all nations. The Forty Recommendations outline actionable concepts and provide each country the freedom to apply them however it sees fit in light of its own unique circumstances and legal needs. The Forty Recommendations have

received widespread support from the international community and pertinent organisations as the global standard for anti-money laundering, although not being legally binding on any jurisdiction.

Conclusion

Less than 15 years have passed since the creation of international policies and standards to combat money laundering, which is still considered to be in the early phases of lawmaking. However, the environment where organised crime thrives is always changing. The effectiveness of the implemented measures must be continually reviewed in light of new risks, particularly those related to terrorism and its financing. Additionally, the picture in the struggle against money laundering is highly complicated. There are far too many financial markets, and tax havens in particular, that provide protection for drug traffickers and money-launderers.

The level of company law has not adopted the transparency that has been incorporated into financial transactions. Given the almost instantaneous pace of electronic funds transfers, international judicial cooperation is still in its infancy and cannot respond quickly enough. Therefore, should we doubt the success of the existing approach? The techniques are effective, but it is important to point out that given the lack of widespread adoption of the established standards, the goals the international community set for itself in combating money laundering and terrorism financing are far from being met.

In order to achieve appropriate financial transparency for tracking the transfers of funds of illegal origin, all efforts must now be focused on this issue. Government mobilisation must be relentlessly pushed, and comprehensive cooperation from the banking sector and the business sector more broadly is also required.