

LIFEBLOOD OF TERRORISM



COUNTERING
TERRORISM FINANCE

VIVEK CHADHA

BLOOMSBURY

Terrorism finance has aptly been termed as the *lifeblood of terrorism*. Yet, this remains one of the most under researched facets of terrorism. This limitation is even more apparent in the Indian context, despite the fact that the country has faced the scourge of terrorism and insurgency for over five decades. *Lifeblood of Terrorism: Countering Terrorism Finance*, is the first book on the subject in an Indian context. The book contextualises the concept of terrorism finance to local realities based on distinct peculiarities as related to India. It documents the sources, transfer mechanisms and employment of funds for supporting organisational structures and acts of terrorism. The book also analyses two case studies to highlight in detail the methods employed for external and internal funding. The challenges associated with terrorism finance are further related to contributing factors which have aggravated the threat.

A SWOT analysis of existing sources, challenges and approach to terrorism finance is employed to suggest a strategy for countering the financing of terrorism. The strategy recommends measures at the policy planning level to curb the threat at the source of terror funding, transfer stage and during distribution of finances. The book further suggests organisational changes to improve the approach to terrorism finance without undertaking major restructuring of the existing setup.

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B L O O M S B U R Y
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Abbreviations

AFSPA	– Armed Forces (Special) Powers Act
AIS	– Automatic Identification System
AIJS	– All India Judicial Services
AML	– Anti Money Laundering
APG	– Asia Policy Group
ATS	– Anti Terrorism Squad
CBDT	– Central Bureau of Direct Taxes
CBEC	– Central Board of Excise and Customs
CBI	– Central Bureau of Investigation
CBN	– Central Bureau of Narcotics
CCTNS	– Crime and Criminal Tracking Network System
CDD	– Customer Due Diligence
CEIB	– Central Economic Intelligence Bureau
CFT	– Countering the Financing of Terrorism
CIA	– Central Intelligence Agency
CFTRA	– Currency and Foreign Transaction Reporting Act
CISF	– Central Industrial Security Force
COFEPOSA	– Conservation of Foreign Exchange and Prevention of Smuggling Act
CPI (Maoist)	– Communist Party of India (Maoist)
CRPF	– Central Reserve Police Force
CT	– Counter Terrorism
CTM	– Charitable Trust for Minorities

CTR	– Cash Transaction Report
DGFI	– Directorate General of Forces Intelligence
DIA	– Defence Intelligence Agency
DNFBP	– Designated Non Financial Businesses and Professions
ED	– Enforcement Directorate
EIC	– Economic Intelligence Council
ETA	– Euskadi Ta Askatasuna
KFD	– Karnataka Forum for Dignity
FATF	– Financial Action Task Force
FEMA	– Foreign Exchange Management Act
FICN	– Fake Indian Currency Note
FIU	– Financial Intelligence Unit
GRPN	– People’s Republic of Nagalim
GWOT	– Global War on Terrorism
HPCC	– High Powered Coordination Committee
HSBC	– Hong Kong and Shanghai Banking Corporation
IB	– Intelligence Bureau
ICP	– Immigration Check Post
IM	– Indian Mujahideen
IMCC	– Inter Ministerial Coordinating Committee on Combating Financing of Terrorism and Prevention of Money Laundering
IMF	– International Monetary Fund
IPC	– Indian Penal Code
IRA	– Irish Republican Army
IRDA	– Insurance Regulatory and Development Authority
ISI	– Inter Services Intelligence
ITBP	– Indo Tibetan Border Police
JIC	– Joint Intelligence Committee

JNPT	– Jawaharlal Nehru Port Trust
JOC	– Joint Operation Centre
JSEP	– Janamaitriyi Suraksha Project
KCF	– Khalistan Commando Force
KYL	– Know Your Customer
LeT	– Lashkar-e-Taiba
LWE	– Left Wing Extremism
LTTE	– Liberation Tigers of Tamil Eelam
MAC	– Multi Agency Centre
MCA	– Ministry of Corporate Affairs
MTSS	– Money Transfer Service Scheme
MCC	– Monitoring and Coordinating Committee
MDF	– Muslim Defence Force
MHA	– Ministry of Home Affairs
MEA	– Ministry of External Affairs
MNF	– Mizo National Front
MoF	– Ministry of Finance
MoLJ	– Ministry of Law and Justice
NATGRID	– National Intelligence Grid
NCB	– Narcotics Control Bureau
NCRB	– National Crime Records Bureau
NCTC	– National Counter Terrorism Centre
NDF	– National Development Fund of Kerala
NDPS	– Narcotics Drugs and Psychotropic Substances Act
NGO	– Non Governmental Organisation
NIA	– National Investigation Agency
NPM	– Non-traditional Payment Method
NPO	– Non Profit Organisation
NSC	– National Security Council

NSCN	– National Socialist Council of Nagaland
NSCS	– National Security Council Secretariat
NSG	– National Security Guards
NTRO	– National Technical Research Organization
OFAC	– Office of the Foreign Assets Control
PFI	– Popular Front of India
PLO	– Palestine Liberation Organisation
PMLA	– Prevention of Money Laundering Act
POTA	– Prevention of Terrorism Act
PREPAK	– People’s Revolutionary Party of Kangleipak
RAW	– Research and Analysis Wing
RBI	– Reserve Bank of India
RTI	– Right to Information
SEBI	– Securities and Exchange Board of India
SEC	– Securities and Exchange Commission
SFIO	– Serious Frauds Investigation Office
SIMI	– Students Islamic Movement of India
SR	– Special Recommendations
SSB	– Sashastra Seema Bal
STR	– Suspicious Transaction Report
SWOT	– Strength Weakness Opportunity Threat
TBML	– Trade Based Money Laundering
TFFC	– Terror Funding and Fake Currency Cell
TTU	– Trade Transparency Unit
UAPA	– Unlawful Activities Prevention Act
UNCAC	– United Nations Convention Against Corruption
UNLF	– United National Liberation Front
UNODC	– United Nations Office on Drugs and Crime
UNSC	– United Nations Security Council

Introduction

The financing of terrorism and its related activities may be ages old, however, formal direction to counter this threat is a relatively new phenomenon. While initiatives commenced internationally in 1963, with the adoption of fourteen universal legal instruments and four amendments, Countering the Financing of Terrorism (CFT) came into focus in 1999. The world witnessed unprecedented devastation, in all its manifestations, on 9/11, with impact that was similar to that of the aircraft crashing into the twin towers. The strike jolted the United States (US), and resulted in the declaration of Global War on Terrorism (GWOT) against *Al Qaeda* and its affiliates.¹ The war on CFT was formalised soon thereafter, with the adoption of the International Convention for the Suppression of the Financing of Terrorism in 1999.²

When the international convention was adopted by the United Nations General Assembly (UNGA), India had already been a victim of terrorism for over 40 years, and a substantial percentage of the financing had emanated from across the borders. An assessment of domestic regulations, laws and structures suggests that despite the seriousness of the issue, much like the US and the rest of the world, India too had not taken adequate measures to counter the threat. The strengthening of domestic legislations and regulations followed in the wake of initiatives taken by the United Nations (UN) and the US, after 9/11. These efforts proved inadequate when the 26/11 attack shook Mumbai, and the world. Unlike the US, for India, neither was terrorism new, nor its resultant impact. However, it was the sheer audacity and temerity with which the act was executed by the ISI, that finally led to substantive changes in the country's counter terrorism approach, including

¹ George W. Bush, "Address to Congress and the American People following the September 11, 2001 Attacks" ("War on Terror" Declaration), September 20, 2001, http://www.history2u.com/bush_war_on_terror.htm (accessed April 22, 2012).

² See International Convention for the Suppression of the Financing of Terrorism, *United Nations*, December 09, 1999, <http://www.un.org/law/cod/finterr.htm> (accessed on July 19, 2013).

a renewed impetus to CFT. While these efforts received an impetus after 26/11, the decision to take membership of the Financial Action Task Force (FATF), further made it mandatory to introspect deeper into existing laws, procedures and regulations.

The GWOT, was accompanied by a war on the global scale against terrorism finance.³ This was based on the acknowledgement that, “If radical ideology and extremism are at the heart of terrorism today, finance is its lifeblood.”⁴ Amongst the systemic changes which were put in place, was a concerted bid to *trace, track and terminate* sources of terrorism finance. It became evident to law enforcement agencies that severe constraints of financial sources could not only bring perpetrators of terrorist attacks to justice, it could also become the prime medium of tracing and tracking the entire network of terrorist groups.⁵

The analysis of case studies revealed that terrorism finance was increasingly becoming linked with money laundering, which in turn was related to criminal activity.⁶ However, the challenge of pursuing the “money trail”, as a precursor to neutralising terrorism, proved much more difficult than policing action, which involved physical aspects of arresting or eliminating terrorists. This difficulty was further enhanced since the scope of terrorism finance went beyond terrorists and terrorism, given the linkages with crime, money laundering and in some cases governments of failed and failing states. As a result, efforts aimed at curbing and eliminating terrorism proved ineffective, before the scope and canvas was enlarged to an all government and a multinational approach, in all its manifestations. It has since been

³ See “Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism”, *US Department of the Treasury Office of Foreign Assets Control*, September 23, 2001, <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/terror.pdf> (accessed April 18, 2012).

⁴ Arabinda Acharya, *Targeting Terrorism Financing: International Cooperation and New Regimes*, Routledge, New York, 2009, p. 7.

⁵ Financial intelligence is considered most reliable. The 9/11 puzzle was solved to a great extent on the basis of this form of intelligence. See Thomas J. Biersteker, and Sue E. Eckert (eds.), *Countering the Financing of Terrorism*, Routledge, New York, p. 2, 2008.

⁶ See Moises Niam, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy*, Doubleday, New York, 2005 for an overview of how crime, money laundering and terrorism finance have interlinked domains and interests.

realised that any improvement in combating terrorism globally, as well as in India, can be better achieved through “preventive, deterrent, investigative and analytical functions” on the basis of tracing the terrorism finance network.⁷

COUNTERING THE CHALLENGE

Countering the Financing of Terrorism is a far greater challenge in India, as compared to the US and Europe. This is primarily a result of the nature of the threat and environmental realities. Unlike the US and Europe, where the threat is essentially external and from non-state actors, India faces a cross-section of challenges. These include state sponsorship of terrorism and its financing from Pakistan, domestic insurgencies localised in specific regions of the country, and finally terrorist groups like the Indian Mujahideen (IM), which are fast evolving as pan-India operatives. The heterogeneity of the threat makes formulation of a “one-size-fits-all” national policy difficult. This is not only a result of different characteristics of existing threats, but also because of the need to deal with each one of them according to their peculiar and distinctive characteristics.

The research conducted as part of this study indicates a hybrid form of terrorism finance in case of India. This is at variance with international trends, especially as related to the developed world, which has witnessed a sequential progression from state sponsored to privatisation and finally globalisation of terrorism finance, as discussed by Loretta Napoleoni in her book.⁸ India, on the other hand, continues to face an amalgam of all three threats in the four principle regions impacted by terrorism in the country. Jammu and Kashmir (J&K) has seen state sponsored terrorism finance, while the northeastern states and areas affected by Maoists are essentially funded through the process of privatisation of terrorism finance. The latest addition to this list is terrorism in the hinterland. Led by the IM, terror funding has been state sponsored, globalised, as well as privatised to an extent. This diversity of sources and trends makes the process of CFT challenging and complex. It also complicates the task of pursuing a threat-based approach to terrorism finance. A more detailed assessment of the trend will be undertaken while contextualising the core argument.

⁷ Thomas J. Biersteker, and Sue E Eckert (eds.), *op. cit.*, Routledge, New York, p. 2.

⁸ Loretta Napoleoni, *Terror Incorporated: Tracing the Dollars Behind the Terror Networks*, Seven Stories Press, New York, 2005.

The enactment and implementation of laws is also impacted by local conditions. This difference is a result of the environmental realities of each country, which are bound to be distinct. In India, this reality is challenged by the prevalent complexities and structural weaknesses, which impact enforcement. Amongst the recent and most potent threats to enactment and enforcement of laws has been the era of coalition politics and its resultant impact on governance. The rise of regional political parties has further accentuated the challenge of enacting and implementing laws. It is for this reason that counter terrorism laws and regulations have had a mixed record of enactment and implementation. The differences over the Armed Forces (Special Powers) Act, 1958 and 1990, enacted to counter terrorism in north-east India and J&K, have been in the public domain for some years. The polarisation of positions in J&K, with the army on the one hand, and the political dispensation of the state on the other, is well documented.⁹ Similarly, the debate over Prevention of Terrorism Act (POTA), was equally acrimonious.

The experience with establishing new organisational structures has not been any different. The federal structure of the country, and the responsibility of states for law and order ensures that the centre cannot push its initiatives, unless there is broad-based consensus amongst states. This is in stark contrast to the US, where the Department of Homeland Security (DHS) was established, in what was the biggest administrative overhaul after the reorganisation of the Department of Defence (DOD) by Truman, more than five decades earlier. The initiative of the central government to establish the National Counter Terrorism Centre (NCTC) in India has remained mired in controversies. Despite watering down some of the contentious provisions, a veto by states has ensured that the organisation is unlikely to be established in the near future.

This challenge is aggravated by a weak enforcement structure, which is manned well below the authorised levels and further suffers from lower numbers of personnel than the demands of existing challenges. This cyclic weakness is worsened by issues of limited capacities and capability, especially given the fast evolving threat of terrorism finance. When these two critical and fundamental weaknesses are seen in correlation to each other, it becomes

⁹ For a detailed assessment of the debate see, Vivek Chadha (ed), *Armed Forces Special Powers Act: The Debate*, IDSA, New Delhi, 2012, <http://idsa.in/monograph/ArmedForcesSpecialPowersActTheDebate> (accessed July 22, 2013).

evident that the mere enactment of laws and the desire to enforce them is not enough. The agencies designated to do so have proved to be inadequately prepared for the threat of terrorism and terrorism finance in the past.

The high levels of corruption provides ideal circumstances for the exploitation of these limitations. It not only creates an environment of inefficiency, but also gives a fillip to crime, money laundering and terrorism finance. At every level and stage of enforcement and implementation, this weakness allows circumvention of rules and laws. It provides an ideal breeding ground for terrorism finance to take root and spread, given the leeway provided by corruption.

The undercover initiative of the *Cobra Post*, an investigative journalism website,¹⁰ led to the unearthing of what was probably the largest series of incidents of financial impropriety witnessed in public domain. This saw a large number of banks and insurance providers more than willing to launder money for customers. In the cases that came to light, there was the requirement of more than usual diligence, based on the politically exposed profile of customers, as indicated by the under cover journalist. However, instead of undertaking a more detailed and thorough scrutiny of the potential customer, one branch after the other agreed to launder the proceeds of debatable origin by bending and breaking rules. While actual laundering of resources did not take place, and the banks were penalised for not adhering to laid down procedures,¹¹ the incidents indicate a much graver threat from the perspective of money laundering and terrorism finance. The blatant violation of rules displayed moral and procedural weaknesses, which while relatively harmless in this case, given the journalistic cover of investigations, could well be exploited for actual money laundering and terrorism finance. It also raised questions regarding financial institutions like cooperative banks and post offices, which do not have procedures that are as stringent, as those applied for public and private sector banks.

There is a tendency for terrorism finance related activities, which have the potential to be mutually beneficial, to come together in a symbiotic relationship. From the perspective of terrorism finance, this linkage is deep rooted with crime and politics. The prime example of this equation exists in

¹⁰ See *Cobra Post*, <http://www.cobrapost.com/index.php/news-detail?nid=1120&cid=23> (accessed on July 22, 2013).

¹¹ "RBI penalises 22 Banks", *Reserve Bank of India*, July 15, 2013, http://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=29081 (accessed July 22, 2013).

some of the states in north-east India. There exists a cycle of extortion within every segment of society, to include private and government institutions and political classes, which funds terrorism. The terrorist groups, in turn, throw their weight behind political parties to support their election campaign.¹² This gives terrorism finance the status of a parallel economy, with an undeniable role in governance. This not only leads to stonewalling of efforts to root out terrorism finance, but also terrorism. The benefits of a conflict economy, created by this cesspool of crime and terrorism, has become endemic to the region, and has resulted in the establishment of deep-rooted vested interests. In addition to local politics, it also impacts central economic resources as well. Since terrorism finance directly feeds on state expenditure, the higher the central allocation to states (which is always more for states affected by terrorism, and low developmental levels), more is the financial share that terrorist groups receive. Therefore, the central government ends up becoming an unwilling partner in funding local armed struggles.

India is a multicultural, multiethnic and multireligious country. The experiment of retaining cohesion amongst a heterogeneous mix, and converting it into a homogenous entity, remains work in progress. The threat of centrifugal forces taking up arms in rebellion is not new to India, nor is the propensity of regional politics exploiting religion. As a result the state while handling internal security threats, which involves minorities, is understandably sensitive. Under such circumstances, there is a tendency to keep a distance from the internal functioning of groups, organisations, and parties, which have religious affiliations. This leads to opaque procedures and controls that can potentially become ideal breeding grounds for exploitation by radical elements for funding terrorism. Non-governmental organisations (NGOs) have often functioned as fronts for terrorist groups in the past, and their limited level of accountability continues to raise the possibility of terrorism finance as a potential threat.

In addition to internal challenges, some of which have been discussed here in brief, India probably faces its most potent terrorism finance threat from across its borders. Pakistan has since long pursued a policy of aiding and abetting terrorism as state policy. This includes both direct and indirect

¹² See Vasundhara Sirnate and Rahul Verma, "Where Bullet and Ballot Go Hand in Hand", *The Hindu*, March 12, 2013, <http://www.thehindu.com/opinion/op-ed/where-bullet-and-ballot-go-hand-in-hand/article4497903.ece> (accessed July 23, 2013).

funding of terrorism. There is little doubt that terrorism in Punjab could not have lasted as long as it did, without the financial backing of Pakistan. Similarly, violence in J&K is essentially a proxy war waged against India, with the financial backing of Pakistan. These factors, in conjunction with porous borders with Nepal, Myanmar and Bangladesh, add fuel to fire, and raise the level of complexity in the fight against terrorism and terrorism finance.

RELEVANCE OF COUNTERING THE FINANCING OF TERRORISM

In the Indian context, very limited work has been carried out on the subject of terrorism finance in its totality. The existing work is either region or source specific. N.S. Jamwal assessed *Terrorist Financing and Support Structures in Jammu and Kashmir*.¹³ Brig S.P. Sinha highlighted the role of narcotics and arms trafficking in his book *Lost Opportunities*.¹⁴ Anoop J. elaborated upon Maoist funding, highlighting its sourcing.¹⁵ S.K. Saini highlighted the problems and prospects related to terrorism finance.¹⁶ Kshitij Prabha analysed *Narco-terrorism and India's Security*.¹⁷

The limitations of scholarship on the subject is despite the fact that terrorism finance has been referred to as the lifeblood of terrorism more than once in the past. Its contribution to sustaining terrorism is not disputed. However, it is the approach for limiting, if not eliminating its influence that remains an issue of debate. Under ideal conditions, CFT should be able to facilitate the preemption of terrorist attacks and in a worst case scenario, become the initiating agents for investigations, leading to the unraveling of an entire

¹³ N.S. Jamwal, "Terrorist Financing and Support Structures in Jammu and Kashmir", *Strategic Analysis*, vol. 26, no. 1, 2002, pp. 140–50.

¹⁴ Brig S.P. Sinha, "Northeast: The Role of Narcotics and Drug Trafficking", *Indian Defence Review*, February 27, 2012, <http://www.indiandefencereview.com/spotlights/northeast-the-role-of-narcotics-and-arms-trafficking/> (accessed March 23, 2012).

¹⁵ A.J. Anoop, "Maoist Funding: Dimensions, Sources and Implications", *Vivekanand International Foundation*, <http://www.vifindia.org/article/2011/january/14/Maoist-Funding-Dimensions-Sources-and-Implications> (accessed on March 23, 2012).

¹⁶ S.K. Saini, "Problems and Prospects of Combating Terrorist Financing in India", *Strategic Analysis*, vol. 33, no. 1, pp. 85–100.

¹⁷ Kshitij Prabha, "Narco-Terrorism and India's Security", *Strategic Analysis*, IDSA, <http://www.idsa-india.org/an-jan-6-01html.html> (accessed March 17, 2012).

terrorism network. However, this desirable condition is often offset by realistic imperatives. This reality is not only reinforced by ongoing cases in India, but also worldwide, despite more advanced procedures in place. Terrorist strikes have taken place with unerring regularity in the country, and a case is yet to come to light, where, preemptive CFT action stalled a strike. However, it is also evident that limitations imposed as a result of drying up of financial resources will eventually cripple the ability of groups to not only run their routine affairs, but also strike with regularity and impunity.

Even as strategies are formulated to deal with terrorism finance, there is a need to take into account certain fundamental characteristics and limitations of terrorism finance, which over a period of time have come to define it. These facets of terrorism finance underscore the approach that needs to be adopted for any CFT effort.

Understanding terrorism finance facilitates the overall ability to understand terrorists and their methods. This in turn, helps in the overall goal of defeating terrorism. However, this remains a challenge since money employed for the purpose, unlike money laundering, can come from legal sources. It remains a contradiction, wherein, terrorism is inherently illegal, while terrorism finance, unless proved and linked with terrorism, could continue to remain a completely legal process. And since its sourcing is legal in a number of cases, the ability to link it with terrorism becomes a unique challenge, unless very distinct evidence can corroborate the same. Unlike money laundering, this limitation, makes the challenge of preempting terrorist strikes that much more difficult. *Second*, terrorism finance rides over a financial network, which is seamless and transcends geographical boundaries. This implies application of multiple laws in different countries, which often makes prosecution complicated, and creates lacunae in their interpretation. *Third*, collection of funds for charitable purposes is often a sensitive issue in most countries. This can also have religious overtones, which makes its regulation challenging. *Zakat*, as a means of collecting charity in countries like Saudi Arabia and Pakistan, has been misused in the past and funneled for terrorism finance. Despite increasing pressure and strengthening of laws, transparency and accountability in its processing remains elusive. *Fourth*, terrorism finance has evolved faster than most monetary systems and regulatory mechanisms. From the use of age old systems like *hawala* for transferring value, to e-commerce in the cyber world, more often than not, enforcement agencies have ended up playing catch-up. A recent report indicated the increasing possibility of “digital laundering” as a result of the

increasing use of digital currency. *Indiaforensic*, in its report *Laundering in Cyber World – The Digital Currency War*, quoting the example of ‘Liberty Reserve’, a US-based digital currency website, suggested that the site was used to launder US\$ 6 billion by thieves, drug dealers and criminals.¹⁸ This highlights the possibility of money laundering in cyberspace and at the same time, raises the possibility of its exploitation for terrorism finance.¹⁹ *Fifth*, most acts of terrorism require very little funding to execute. Therefore, the pursuit of large and abnormal fund transfers with the aim of stalling such attacks is likely to result in failure. However, since organisational needs of terrorist groups need large-scale funding, terrorism finance can be employed as a tool to unravel terrorist organisations over a period of time. *Sixth*, even as an established money laundering operation falls into a pattern over a period of time, terrorism finance continues to change its sourcing and means of transit of funding, thereby making it more difficult to detect.

Some of the challenges listed, may give an impression that the efforts and money required to trail and track finances employed for terrorism, do not fit into a logical cost benefit analysis. Nothing could be further from reality. CFT remains a critical component of any counter terrorism approach based on specific areas that it can potentially contribute towards.

Sue E. Eckert while highlighting the objective of CFT writes, “Thus, the objective of efforts to counter terrorist financing is often to better understand terrorists, terrorist organisations, and their support structures in order to disrupt and prevent operations.”²⁰ CFT investigations can become a critical facilitating agent to help join the dots and bring investigations to their logical conclusion. This, just like the inherent limitations of CFT, also stems from the characteristics of financial processes. Once the challenge of linking financial transactions with terrorism is overcome, these very linkages provide irrefutable evidence for building watertight cases against the accused. The seemingly invisible strands that connect various terrorist subsets,

¹⁸ See “Digital currency to abet money laundering: Report”, *The Economic Times*, June 21, 2013, http://articles.economictimes.indiatimes.com/2013-07-21/news/40709270_1_bitcoin-liberty-reserve-money-laundering (accessed July 23, 2013).

¹⁹ See “Technology in the Fight Against Money Laundering in the New Digital Currency Age”, *Thomson Reuters*, June 2013, http://trmcs-documents.s3.amazonaws.com/cfbf4386891bc6cb7ee26f9690294222_20130617083834_AML%20White%20Paper.pdf (accessed July 23, 2013).

²⁰ See Sue E. Eckert, “The US regulatory approach to terrorist financing” in Thomas J. Biersteker, and Sue E. Eckert (eds.), op. cit., pp. 209–233, 2008.

provides intelligence on a number of aspects. These include the hierarchy of the organisation and its functioning. It also includes sources sustaining its operations and the administrative machinery. Additional important factors are domestic and foreign support bases, levels of support from states sympathetic to the cause, limitations and loopholes in the fund transfer channels, destinations for stashing money and the impact of policy initiatives to curb funding. Each of these inputs can have far reaching consequences for the survivability of a terrorist group. It can be equally critical for CFT efforts aimed at dismantling the network. Since the ultimate aim of any counter terrorism approach should remain the eradication of the contagion, rather than merely succeeding in neutralising a local terrorist module, CFT becomes a very important tool in the hands of government agencies.

CONTEXTUALISING THE ARGUMENT

Literature related to international trends provides a detailed assessment of terrorism finance and money laundering. Writing on sources and trends of terrorism finance, Loretta Napoleoni, has described the progression through three distinct stages.²¹ The first, is identified as state sponsored, second, privatisation and third globalisation of terrorism finance. She argues that state sponsored terrorism and its finance was witnessed through most of the Cold War with both the US and the USSR employing their proxies to fight each other for influence and control. Napoleoni describes the US efforts as cloaked in the doctrine of counterinsurgency and those of the Soviet Union in the concept of “international solidarity”.²² She goes on to give examples of the Irish Republican Army (IRA) and Palestine Liberation Organisation (PLO) amongst others, as groups which pioneered privatised funding of terror to illustrate the second stage in the evolution of terrorism finance.²³ Finally, Napoleoni describes the globalisation of the economy of terror, through the use of transnational instruments of the modern economic system.²⁴ Given the three-stage evolution, state sponsorship of terrorism finance no longer remains relevant in view of this argument. Arabinda

²¹ Loretta Napoleoni, *Terror Incorporated: Tracing the Dollars Behind the Terror Networks*, op. cit., p. xiii.

²² Loretta Napoleoni, *Modern Jihad: Tracing the Dollars Behind the Terror Networks*, Pluto Press, London, 2003, p. 15.

²³ *Ibid.*, pp. 29–46.

²⁴ *Ibid.*, pp. 188–201.

Acharya,²⁵ Harold Trinkunas and Jeanne Giraldo,²⁶ also argue that state funding of terrorism reduced substantially after the end of the Cold War. This, according to Acharya, led to greater reliance on local funding efforts in some cases, even as the impact of globalisation opened a number of avenues of creating and transferring funds. Napoleoni further draws a linkage between crime, money laundering and terrorism finance,²⁷ as has also been done by some other scholars.²⁸ She cites a number of examples to include those of the PLO, which had mastered the techniques of linking crime and money laundering with terrorism finance. She also gives the example of the Euskadi Ta Askatasuna (ETA), fighting for the independence of the Basque region. The group used kidnapping, extortion and armed robbery to raise almost US\$8 million in a decade.²⁹

A case study of the Hezbollah based on a testimony of Mathew A. Levitt to the Committee on Homeland Security, highlights the means adopted by the group for raising finances.³⁰ Levitt's testimony indicated that a large proportion of funding of the group came from Iran, which was estimated at US\$ 100 to 200 million per year by 2005. Interestingly, the nature of support provided by Iran to the group, finds similarity with Pakistan's support for terrorism in J&K. As an example, funding was used for creating unrest in the West Bank and Gaza. Large amounts were spent on training and equipping the Hezbollah in the Syria controlled Beka Valley. Funds were received through charities and donations. Pirated software sales were used for raising money for the group. The group exploited Western Union,

²⁵ Arabinda Acharya, *op. cit.*, 2009, p. 8.

²⁶ Harold Trinkunas, and Jeanne Giraldo (eds.), *Terrorism Financing and State Responses: A Comparative Perspective*, Stanford University Press, California, 2007, p. 9.

²⁷ Loretta Napoleoni, *op. cit.*, p. 161.

²⁸ Phil Williams in his chapter, "Terrorist financing and organized crime" in Thomas J. Biersteker and Sue E. Eckert (eds.), *op. cit.*, pp. 126–146 highlights the linkage of terrorism and crime. Also see Yvon Dandurand and Vivienne Chin, "Links Between Terrorism and Other Forms of Crime", *International Centre for Criminal Law Reform and Criminal Justice Policy*, Canada, April 2004, http://www.icclr.law.ubc.ca/publications/reports/tnoc_links_study_report.pdf (accessed August 24, 2012).

²⁹ Loretta Napoleoni, *op. cit.*, pp. 37-38.

³⁰ Matthew A. Levitt, "Hezbollah: Financing Terror Through Criminal Enterprise", *Hearing of the Committee on Homeland Security and Governmental Affairs United States Senate*, May 25, 2005, <http://www.investigativeproject.org/documents/testimony/313.pdf> (accessed on December 26, 2013).

both to transfer funds, as also to raise them by running some of its branches. A snapshot of Hezbollah's funding and transfer systems indicates the nature of funding mechanisms established by it, for supporting terrorist activities.

Rachel Ehrenfeld, reinforces the role played by drugs in funding the *Al Qaeda*.³¹ The article not only reinforces drug trade as the most cost effective and lucrative means of raising funding, it is also linked with corruption to highlight how such a high profit venture can exploit systemic weaknesses to fund terrorism.

Research of sources and trends in the Indian context reinforces only some of these arguments and international trends. Amongst these, there is overwhelming evidence that links crime, money laundering and terrorism finance. This is clearly illustrated as a distinct characteristic in the Indian context, and will be discussed in the next chapter.

In the context of the three-stage progression of terrorism finance, while there is substantial evidence indicating the presence of state sponsored, privatised and globalised terrorism finance in India, its progression has not been sequential and co-exists, though with varying degrees of influence and impact. This is especially relevant in terms of state sponsorship of terrorism finance. As an example, Naga insurgency was given perceptible support by China and Pakistan. Naga groups received training, weapons and financial support from China, in the sixties and seventies, with escalation taking place after the 1962 India-China War.³² The insurgency in Mizoram also received support of both China and Pakistan during the same period.³³ The impact of the same was clearly shown, as receding Chinese support and creation of Bangladesh became critical factors responsible for neutralisation of the Mizo insurgency in 1986. Pakistan also supported terrorism in Punjab right through the eighties and till the nineties.³⁴ The late eighties and the period

³¹ Rachel Ehrenfeld, "Funding Terrorism: Sources and Methods", http://www.au.af.mil/au/awc/awcgate/lanl/funding_terror.pdf (accessed on December 26, 2013).

³² D.B. Shekatkar, "India's counterinsurgency campaign in Nagaland" as part of Sumit Ganguly and David Fidler (eds.), *India and Counterinsurgency: Lessons Learned*, Routledge, New York, 2009, p. 24.

³³ Vivek Chadha, "India's counterinsurgency campaign in Mizoram", as part of Sumit Ganguly and David Fidler (eds.), op. cit., p. 36.

³⁴ Ved Marwah, "India's counterinsurgency campaign in Punjab", as part of Sumit Ganguly and David Fidler (eds.), op. cit., p. 94 and C. Christine Fair, *Urban Battlefields of South Asia: Lessons Learned from Sri Lanka, India and Pakistan*, Rand, Santa Monica, 2004, pp. 78-79.

thereafter, witnessed support for the insurgency and subsequent proxy war in J&K from Pakistan.³⁵ This further morphed into support for terror groups in the Indian hinterland through employment of ISI sponsored, trained and financed *tanzeems* like the Lashkar-e-Taiba (LeT) to strike across the length and breadth of the country. Not only has state sponsorship of terrorism and terrorism finance in the Indian context been a consistent reality for the last five decades, it also had no linkages with the Cold War. This is contrary to some of the international trends in evidence.

During the period of support for uprisings in India by China, insurgencies in the north east, simultaneously continued to raise a very large percentage of funds locally. The National Socialist Council of Nagaland (NSCN) and Mizo National Front (MNF), amongst other insurgency groups, relied on taxation and extortion, a pattern the NSCN and even the Naxalite groups continue to employ effectively in the present context. In Punjab, in addition to support from Pakistan, criminal activities and financial support from the diaspora contributed to the funding activity.³⁶ Therefore, even as state sponsorship was prevalent, though in varying degrees, privatisation of finance was very much the norm and continues to remain so.

This dual support mechanism has further been augmented by the tools and facilitating mechanisms of globalisation, as evident from international linkages for raising, transferring and laundering of funds by terrorists in J&K and in the hinterland by groups like the IM and their benefactors in Pakistan.

An assessment of the four major regions impacted, include J&K, the north east, Naxal affected areas and the hinterland, reinforces this trend.

J&K, presents a classical case of state sponsored terrorism finance. The ISI employs state and private resources like drug money, donations and charities, as well as the globalised network for raising and moving funds from the Gulf countries. This support is augmented by funding from the Kashmiri diaspora and NGOs.³⁷ These are thereafter used as part of Pakistan's proxy war against India, thereby bringing these components together.

³⁵ Robert G. Wirsing, *India, Pakistan, and the Kashmir Dispute: On Regional Conflict and Its Resolution*, Macmillan, London, 1994, p. 119.

³⁶ C. Christine Fair, op. cit., p. 79.

³⁷ "Choking funds to militants", *Daily Excelsior*, December 11, 2010, <http://www.dailyexcelsior.com/web1/11dec10/edit.htm#2> (accessed August 29, 2012).

Most insurgencies of the north east, receive funding from extortion and taxation, which is a local source. This is supplemented by trafficking of drugs, weapons and counterfeit currency. The region witnesses limited state sponsored funding and privatisation for raising finances is the norm.

The case of CPI (Maoist) led insurgency is similar, with local financial resources providing the bulk of its funding. There is as yet no substantive evidence of state sponsorship of the insurgency, nor have the insurgents profited substantially from the globalised financial environment.

However, in the case of IM, state sponsorship in the form of financial support from Pakistan, privatisation through criminal activities to raise funds and exploitation of globalisation for moving financial resources, yet again brings the trinity together.

The book in light of this reality argues that a hybrid form of terrorism finance exists in India. As part of this, state sponsorship, privatisation and globalisation of terrorism finance are its distinct components. It reinforces the linkages between crime, money laundering and terrorism finance, which is in keeping with international trends.

This hybrid form of terrorism finance in India's context creates one of the most complex challenges for policy planners, intelligence and enforcement agencies. It is rare to find a wide variety of uprisings in a single country. It is even rarer to find these functioning at completely different levels, with ideological, strategic and material interests that vary greatly. This leads state agencies to confront groups and individuals committed to their cause at one end, and profiteers at the other. While such variance amongst terrorist groups is seen and documented elsewhere in the world, however, its prevalence in a single country makes CFT a serious challenge.

The book further argues that strong laws, requisite capacity of enforcement agencies and political will of the state, can provide a platform for meeting these diverse and difficult challenges. A number of contributing factors listed in subsequent chapters indicate weaknesses associated with these issues. It is also clearly evident that even as the debate over counter terrorism evolved over a period of time and some steps were initiated in this regard, terrorism finance remains a niche area as part of the overall counter terrorism strategy and is inadequately addressed. This limitation not only comes up as part of intelligence and enforcement, but also in the fundamental understanding of terrorism finance in general, and its applicability in the Indian context

in particular. This in the past has led to episodic, short term and local measures being initiated within departmental silos, without simultaneously finding solutions, which could build capability at a more broad-based and fundamental level.

In the backdrop of these findings, the book attempts to go beyond the sources and challenges of terrorism finance. It contextualises this information, and outlines the importance of a national strategy, rather than piece meal suggestions for sector specific issues. This is in keeping with the finding that terrorism finance in the Indian context has international linkages, and any suggested strategy must recognise this reality. However, it is also understood that each region affected by terrorism finance has limitations imposed by local peculiarities.

SHAPING THE APPROACH

Having seen the challenges faced as a result of terrorism finance, potential capabilities of an effective CFT initiative and its characteristics in the Indian context, it is important to relate the approach to CFT to these fundamental realities. This commences with contextualising the threat in relation to India. It is important to make a clear distinction in this regard, since the approach to each CFT initiative is influenced by it. Most Western literature has concentrated on evolutionary trends of terrorism finance as related to the US and Europe. These include domestic challenges and those emerging from West Asia and the AfPak region. There have also been studies analysing insurgencies in South-East Asia and Sri Lanka. However, it is important to relate domestic Indian threats and classify them accordingly. With this aim in mind, the first section of the book contextualises terrorism finance from the Indian perspective. It assesses the scope of threats and concludes that unlike the international understanding of a sequential progression, India faces hybrid threats, which includes state sponsorship, privatisation and globalisation of terrorism finance. In accordance with global trends, it also establishes the linkages between crime, money laundering and terrorism finance, which while distinct, remain interconnected with each other.

The distinct nature of terrorism finance demands that the CFT approach should be international in scope, but shaped by local realities that define it. The book has attempted to identify these local realities in detail on the basis of a regional scan of all major terrorism finance models employed in the country. This reinforces the need to follow a dual track approach. *First,*

a holistic assessment as a result of this research, indicates the need for a capability or capacity oriented strategy, which should aim at strengthening state structures. This would ensure that the state and its agencies create the ability to face all kinds of challenges on the basis of its enhanced capability. *Second*, it is equally important to identify, analyse and understand the nature of threats posed as a result of terrorism finance in each region, in order to tailor the response accordingly. The second section attempts to identify the sources and challenges of terrorism finance. In doing so, each of the four major regions including J&K, north-east India, Naxal affected states and the hinterland have been analysed. The sources have been divided into external and internal, and these are dealt with in detail in separate chapters. The method of transfer of terrorism finance has been analysed thereafter to include legal channels, trade, cash and *hawala*. Finally, the contributing factors, which facilitate the proliferation of terrorism finance are assessed. These chapters aim to identify not only the sources, but also the challenges associated with them.

The international character of terrorism finance necessitates basic understanding of guidelines and resolutions, which have become the basis of the approach adopted by most countries. Amongst these, the US and European Union (EU) stand out in terms of the initiatives undertaken by them. While these have been adopted to suit local realities, however, in terms of capacity building that has taken place, there are a number of lessons that can be drawn from both experiences. Accordingly, the third section outlines international guidelines related to CFT at the UN, with reference to most important resolutions on the issue of terrorism finance. This is followed by a brief description of the CFT initiatives of the US and EU, with the aim of highlighting important takeaways from the same.

An understanding of the sources of terrorism finance, its trends and the challenges as a result, must provide the basis for outlining a CFT strategy. In the absence of detailed CFT policy initiatives, as a prelude to the strategy, it was felt that a Strength, Weakness, Opportunity and Threat (SWOT) analysis would assist in better identification of areas of decision and action. This SWOT analysis (Annexure 1), makes the assessment of the weaknesses and strengths of India's CFT rules, regulations, organisations and laws. These are employed to further identify opportunities and threats.

The SWOT analysis helps identify the long term vision and the need for a strategy. This is followed by a detailed CFT strategy for India on the same

format, as the chapter on sources and challenges of terrorism finance in order to assist in co-relating the two issues. The strategy has been suggested at the macro level, with areas for improvement of existing mechanisms. However, it stays short of providing specific guidelines for departments, which can best be done by respective ministries based on the suggested strategy.

The last chapter outlines the existing organisational framework for terrorism finance. It goes on to suggest changes with the aim of making the structure more responsive and effective.

The book attempts to follow a sequence of chapters according to the suggested approach to a CFT strategy. While this can be neither comprehensive nor complete, given the complexity of the issue, it aims to provide relevant pointers for policy formulation, as well as better understanding for students of the subject.



SECTION I
SOURCES AND CHALLENGES
OF TERRORISM FINANCE



Existing Assessment of the Sources and Linkages Between Terrorism Finance, Money Laundering and Crime

The identification of the sources of terrorism finance is an important step for implementing a risk-based approach. Towards this end, the Government of India, possibly for the first time, as part of an open source document, not only highlighted the sources of terrorism finance, but also money laundering. While the scale of both these threats has not been indicated, however, it does provide an assessment of how the threat is visualised. This makes it a good starting point for further evaluation of the sources of terrorism finance, especially so in the case of different regions of the country, given the distinct diversity of financing.

IDENTIFICATION

The identification of primary sources of money laundering and terrorism finance at the official level, is based on past trends. The primary money laundering threats, both from inside and outside the country include:

- drug trafficking
- fraud, including counterfeiting of Indian currency
- transnational organised crime
- human trafficking, and
- corruption.¹

Connected with these, the government has also identified sources of terrorism finance, under external and internal threats. Internal threats emanate from groups like the Communist Party of India (Maoist) [CPI (Maoist)], Indian

¹ “Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism”, *Asia Pacific Group on Money Laundering and Financial Action Task Force*, June 25, 2010, p. 10, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed November 26, 2014).

Mujahidden (IM) and insurgent groups in north-east India. External threats emerge from terrorist groups like the Lashkar-e-Taiba (LeT), Jaish-e-Mohammed (JeM), Harkat-ul-Ansar (HuA) or Harkat-ul-Jihad-e-Islami (HuJI).² According to the government, the sources primarily employed by these groups to raise finance are:

- funds/resources from organisations outside India including foreign Non-profit organisations (NPOs)
- counterfeiting of currency
- criminal activities including drug trafficking and extortion, and
- use of formal channels and new payment methods.³

ASSESSMENT

An assessment of the primary sources of money laundering and terrorism finance indicates that there is a common threat of drug trafficking and counterfeiting. However, while the government identifies drug trafficking as the major source of money laundering, in case of terrorism finance, it is funds from sources outside India, which finance terrorism.

Assessment by the government also indicates that the threat of terrorism finance is higher from organisations outside India and counterfeit currency, as compared with formal payment channels and new methods like cards. This assessment is partially correct in the case of Jammu and Kashmir (J&K), since it essentially receives Pakistan intelligence sponsored funding collected by charities and NPOs. However, this does not hold true for the insurgency hit states of the north east and areas affected by CPI (Maoist) along the eastern belt of the country. In these areas, which incidentally have the largest geographical spread, extortion is the major source of terrorism finance. This is evident from the research discussed in the succeeding chapters, and also from a case study of the United National Liberation Front (UNLF), a group based in Manipur.

The sources identified by the government, includes formal channels and new payment methods. However, it needs to be emphasised that there is a clear distinction between sources and channels of money transfer. In this particular instance, the two seem to have been grouped together, which can lead to confusion.

² Ibid., p. 12.

³ Ibid., p. 13 (text in parenthesis by author).

In addition to the external sources listed in the Mutual Evaluation Report of 2010, a major source of terrorism finance in India's context, is state funding of terrorism by Pakistan. It is important to draw a distinction between "organisations outside India", and direct funding by the state and its agencies. While Pakistan's support for drug trafficking, counterfeit production and its trafficking is well documented, there is inadequate focus on state funding. As the case studies in the chapter on external funding shall indicate, Pakistan's Inter-Services Intelligence (ISI) has been the conduit for such actions.

In the context of internal funding, the role of NGOs also needs to be highlighted. These groups either through funding from sources outside India, or domestic collections, have acted as front organisations, even if their direct role has not as yet been established in most cases. While details of these activities will be covered in the chapter on internal terrorism finance, it is important to highlight the issue, while discussing the sources identified by the government. In addition to NGOs, the limited scrutiny and regulation of Designated Non Financial Businesses and Professions (DNFBPs), opens a large sector, which can be exploited for terrorism finance. There is a need to bring this under the ambit of sources to ensure close scrutiny of the threat posed by it.

This brief assessment of the existing sources and the differences thrown up as a result of this research, necessitates a more detailed analysis of both internal and external sources of terrorism finance, and the methods employed for its transfer, and finally the intended recipients. The structure followed for illustrating the findings is given at Figure 1.



Figure 1: Terrorism Finance Cycle

As the illustration indicates, external sources of terrorism finance include counterfeit currency, drug trafficking, NGOs or charities and direct state funding by Pakistan. While most external sources can be traced back to Pakistan, internal sources, as the name suggests, are fundamentally located within the country. These sources primarily include extortion or taxation, criminal activities, NGOs and DNFBPs.

The method of transferring funds also needs greater emphasis and clarity. Funds can be moved through legal channels, such as banks or trade. In addition, as part of the unorganised channels, cash and *hawala* have been used extensively in the case of India. Cash has been included as part of the the unorganised segment, even though small amounts can be transferred legally; however, a larger proportion moves illegally. Given the importance of the transfer systems in terrorism finance, a separate assessment is critical to examine external and internal sources of terrorism finance.

The third key determinant of the process is revealed by reviewing the supporting or contributing factors, which can either create conditions that are conducive for terrorism finance, or help in neutralising it. Some of these include coordination between agencies, the nature of Countering the Financing of Terrorism (CFT) legislation, success in prosecutions, rate of convictions, capacity and quality of enforcement and border management. Since contributory factors are largely common, irrespective of sources, these have been analysed collectively after an assessment of the external and internal sources of funding, and the means of transfer of terrorism finance.

The assessment of terrorism finance challenges and the consequent CFT strategy is based on a Strength, Weakness, Opportunity and Threat (SWOT) analysis.⁴ This analysis has been attempted to initially identify

⁴ This concept was initially introduced as a business tool. Though there are different views on its history and attribution, however, there is little difference of opinion on its importance as a research tool. See "History of SWOT Analysis", <http://www.marketingteacher.com/swot/history-of-swot.html#> (accessed December 07, 2012). Defence forces across the world have employed this tool to evaluate the effectiveness of an organisation. It is used as an analytical tool in some armies, and is increasingly being employed for scientific assessment in the modernizing process. See "The U.S. Army and its Use of Business Management Theory", Nathan Bigler, *Utah Valley State College*, <https://www.uvu.edu/is/pdfs/armybusiness.pdf> (accessed November 26, 2014). SWOT analysis is an integral part of assessments in the Indian Army commencing from battalion level and going right up to the army.

the weaknesses and limitations of the existing systems. As a follow-up to the weaknesses, the strategy also suggests means to overcome them.

The final stage of the cycle gets completed with the identification of the intended recipients. These, as the book highlights are not only terrorist groups, but also their supporters, who could well be part of a systematic process of radicalising sections of the population and spreading the separatist ideology. Since they work on the fringes of permissible activities under law, identification of the funding patterns becomes difficult. Recipients could also be criminals, who in turn can be employed for furthering the terrorists agenda.

CRIME, MONEY LAUNDERING AND TERRORISM FINANCE NEXUS

The threats identified establish the close linkages between money laundering and terrorism finance. Corruption as one of the sources of money laundering, adds a third dimension to this linkage. However, it is not merely corruption but also crime, which breeds in an environment of corruption and creates opportunities for money laundering and terrorism finance that needs to be highlighted.

Crime and its resultant proceeds remain the fountainhead of money laundering, which can be a potential source for terrorism finance. There are different estimates of monetary flows, as a result of crime at the global level. The United Nations Office on Drugs and Crime (UNODC) provides one such assessment. It indicates criminal proceeds to be in the region of US\$ 2.1 trillion in 2009, which was 3.6 per cent of global GDP, however, when this is limited to transnational organised crime, which primarily includes “drug trafficking, counterfeiting, human trafficking, trafficking in oil, wildlife, timber, fish, art and cultural property, gold, human organs and small and light weapons”, then it represents 1.5 per cent of world GDP or, US\$ 870 billion.⁵

The Prevention of Money Laundering Act (PMLA), 2002, subsequently amended in 2008 and 2012, defines money laundering as, “whosoever directly or indirectly attempts to indulge, or knowingly assists or knowingly is a party, or is actually involved in any process or activity connected with

⁵ “Estimating Illicit Financial Flows Resulting From Drug Trafficking and Other Transnational Organised Crime”, *United States Office on Drugs and Crime*, October 2011, Vienna, p. 9.

the proceeds of crime and projecting it as untainted property shall be guilty of the offence of money laundering.”⁶ A simpler understanding would define it as: “Money laundering is the process by which large amounts of illegally obtained money (from drug trafficking, terrorist activity or other serious crimes) is given the appearance of having originated from a legitimate source.”⁷ Money laundering includes three stages of operations: “placement, layering and integration” of money.⁸ Placement involves the introduction of money in the financial system, layering implies disguising it by repeated movements through multiple sources and integration is the reintroduction of money as a legal source into the market.

Money laundering, as a term was first sighted in print during the Watergate scandal in 1973 in media writings, and was employed in legal terms in 1982 as part of a criminal case in the US.⁹

The global scale of the money laundered, also presents figures as alarming as crime. The total amount of money laundered in a year through the financial system is estimated to be US\$ 1.6 trillion or 2.7 per cent of GDP, with both figures of money laundered and criminal activity almost falling within the IMF “consensual range” of 2 to 5 per cent of GDP.¹⁰ The John Walkers Crime Trends Analysis, suggests a comparatively higher figure for money laundered at, US\$ 2.85 trillion.¹¹ Moises Naim, the author of *Illicit* indicates a similar range of 2 to 5 percent of GDP. However, he also quotes the possibility of estimates to be of the tune of 10 per cent.¹²

⁶ The Prevention of Money-Laundering Law, 2002, Section 3, January 17, 2003.

⁷ *International Money Laundering Information Bureau*, http://www.imlib.org/page2_wisml.html (accessed March 16, 2012).

⁸ *Ibid.*

⁹ *Ibid.* The Bureau also indicates the origin of the term from the word “laundromats” given the cash intensive nature of the business, which was used by gangsters to legalise their incomes. It is also associated with the notorious gangster Al Capone, who was finally prosecuted in 1931.

¹⁰ “Terrorist Financing”, *Financial Action Task Force*, February 29, 2008, p. 21, <http://www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Terrorist%20Financing%20Typologies%20Report.pdf> (accessed April 04, 2012), p. 7.

¹¹ “Modeling Global Money Laundering Flows: Some Findings”, *John Walkers Crime Trends Analysis*, <http://www.johnwalkercrimetrendsanalysis.com.au/ML%20method.htm> (accessed March 15, 2012). This data is based on the number of recorded crimes committed in each country. Since all crimes are neither recorded nor reported, even this figure could be an underestimation.

¹² Moises Niam, *op. cit.*, p. 137.

Money laundering takes place essentially through three major means. The first is movement of cash, second, exploitation of the financial system and third, trade.¹³ While the Financial Action Task Force (FATF), focused its efforts on the first two, while formulating the 40+9 recommendations,¹⁴ the third continued to flourish as a medium of laundering. Major economic powers faced a peculiar dichotomy, since they were the biggest beneficiaries of global trade and stood to lose the most, as a result of strict controls. There was a conflict of interest, between free trade, lifting barriers, opening markets and strict regulatory mechanisms, which could have applied brakes to this money making juggernaut.¹⁵

Running a terrorist organisation is similar to a corporation spread across a large geographical area, with subsidiaries functioning with varying degrees of autonomy. It has been seen internationally that terror strikes do not need large scale funding, however, it is the sustenance of a terrorist network which requires elaborate funding mechanisms.¹⁶

The organisational requirements of a terrorist group, requires money for salaries, logistics, transportation, procurement of weapons, disruptive stores and propaganda amongst others. A rough estimate of monetary needs for the monthly allowances of terrorists in J&K by Pakistan was estimated between Rs 20 and 30 crores in 1999.¹⁷ An extrapolation of the same based on the increase in monthly salary of terrorists being sent into India from Rs 2,500 then to Rs 10,000¹⁸ now, would increase the figure four fold to almost Rs 100 crores per month, without including escalation in other incidental costs. This assessment is constrained by the fact that the number of terrorists have reduced dramatically over the past few years. Conversely, the investment of ISI on funding civil disobedience, radicalism and separatism has certainly increased. While it will be difficult to provide a specific figure, however, the

¹³ For a detailed analysis of the system see “Terrorist Financing”, op. cit.

¹⁴ See http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf, (accessed November 26, 2014).

¹⁵ Interview of a senior government official on April 02, 2012, who wished to remain unnamed.

¹⁶ “Terrorist Financing”, op. cit.

¹⁷ Kshitij Prabha, “Narco-Terrorism and India’s Security”, *Strategic Analysis*, IDSA, <http://www.idsa-india.org/an-jan-6-01html.html> (accessed March 17, 2012).

¹⁸ Josy Joseph, “Kashmir terrorists get pay hike”, *The Times of India*, <http://timesofindia.indiatimes.com/india/Kashmir-terrorists-get-pay-hike/articleshow/5938412.cms> (accessed November 26, 2014).

numbers are indicative of the high level of money transfers needed to sustain the movement by Pakistan.

On the other hand, the operational activities of a terrorist group, relates specifically to the execution of strikes, which would include funding for reaching the intended target area, temporary stay in its vicinity, creating an informational network, procurement of material for triggering explosions and hiring vehicles, to name a few. Depending on the complexity of a strike, a few thousand to a few lakh of rupees for a small-scale strike could also suffice. It is for this reason that the long term focus of enforcement remains on destabilising of the financial network, rather than merely apprehending a few terrorists.¹⁹

Terrorism finance has evolved over a period of time. This includes incorporation of new financial sources, means of money transfers and establishing support structures. Globally, this evolution witnessed state sponsored funding during the Cold War, with the prime example of the Taliban's operational success, based on US dollars. The second stage saw greater reliance on self sustainment in the absence of state funding. Religion was exploited and appeals made to raise funds, with alms in service of Islam and the poor siphoned, for employing against the perceived enemies of Islam.²⁰ Finally, globalisation brought about seamless integration of people, organisations, countries and especially the financial system.²¹ This gave improved means and methods for transfer of funds, thereby providing terrorists, the fastest and most efficient means of moving money across the world. Ironically, in the age of globalisation, terrorism was also financed by a combination of what might be considered a primitive, yet efficient form of money transfer in the form of *hawala*, along with modern methods of electronic transfers.

Right through the evolutionary process, failed and failing states like Afghanistan and Pakistan proved to be the key components of the terrorism

¹⁹ The neutralisation of the LTTE was largely influenced by the blocking of its European funding resources, which in turn effected its ability to run its organisation.

²⁰ See Millard J. Burr, and Robert O Collins, *Alms for Jihad*, Cambridge University Press, Cambridge, 2006, for a detailed analysis of Islamic charities, which have financed terrorism.

²¹ See for a detailed analysis of the impact of globalisation on terrorism finance, Loretta Napoleoni, *Terror Incorporated: Tracing the Dollars Behind the Terror Networks*, Seven Stories Press, New York, 2005, pp. 195–224.

finance strategy. They provided multiple resources to run terror and the terrorism finance networks. ISI became the terror nerve centre. Recruits were misled in the name of *jihad*, funds siphoned from a lucrative drug trade, mastery achieved in production of counterfeit currency, and a nexus established with criminals like Dawood Ibrahim, who was willing to give shape to Pakistan's strategic objectives.

EXPLORING THE NEXUS

Crimes like drug trafficking, smuggling, black marketing and gun running generate very large cash volumes, which, are "cleaned" as part of the money laundering process. This gets facilitated by an extensive global financial network. Unless strictly regulated, the larger the number of transactions, the easier it is to hide the illicit amongst the legit. According to one estimate, the volume of global transactions was 73.5 times²² the world nominal GDP of a little over US\$ 63 trillion by 2010.²³

Crime, money laundering and terrorism finance are not subsets of each other, however, the high prevalence of crime raises the need for laundering proceeds, which in turn, has an intrinsic structural capacity to feed terrorism finance. Both crime and money laundering, establish their channels over a period of time. Criminals exploit their channels to create wealth, and the laundering channel legalises these proceeds. These are symbiotic in nature, and benefit from each other. However, the common aim of both remains focused on making profits. Peter Reuter and Edwin M. Truman highlight some subtle yet important differences between terrorism finance and money laundering.²⁴ Unlike crime and money laundering, terrorism does not aim to make profits. It's objective is political, and the means employed to achieve it, is by exploiting the fear psychosis that it generates. *Second*, generally terrorism

²² Stephan Schulmeister, "A General Financial Transaction Tax: A Short Cut of the Pros, the Cons and a Proposal", *WIFO*, Working Paper 344/2009, http://www.steuer-gegen-armut.org/fileadmin/Dateien/Kampagnen-Seite/Unterstuetzung_Wissenschaft/09-10_GFTT_short_version.pdf (accessed November 26, 2014). The rate of 73.5 per cent is calculated for the GDP of 2008, however, this is likely to go up with every passing year. The rate would also be comparatively higher for advanced economies as compared to developing and underdeveloped ones.

²³ "Gross Domestic Product 2010", *World Bank*, <http://siteresources.worldbank.org/Datastatistics/Resources/GDP.pdf> (accessed March 27, 2012).

²⁴ Peter Reuter and Edwin M. Truman, *Chasing Dirty Money: The Fight Against Dirty Money*, Institute for International Economics, Washington DC, 2004, pp. 2-3.

finance receives funds from legit sources, where as, money laundering from illegitimate. *Third*, the quantum of funds routed for terrorism finance is lesser than money laundering and *finally*, the resultant impact of terrorism finance is far more devastating than money laundering. However, despite this distinct differentiation, terrorism finance and the combination of crime-money laundering can prove to be mutually beneficial.

The employment of the crime – money laundering network for terrorism finance is similar to data riding on a communication backbone. Once a network is in place and if it is inadequately regulated or monitored, its usage is open to both the greedy and fanatic, which essentially defines the criminal and terrorist.

Financing of terrorism, like any other financial activity, needs a source, and a medium for transit, means of receiving funds and transferring them to a recipient. It is always more difficult to prevent a terrorist attack, if the monetary movements, which are considered amongst the most discernible indicators, take place across legal financial channels. This blends successfully into the international system due to diverse country specific regulations, varying interpretations, local interests and indifferent professional capacities. These obstacles are further accentuated by an extremely large number of transactions that are required to be monitored, with one estimate indicating “two trillion transfers and other instructions annually.”²⁵

However, given the increased scrutiny by legal networks, enhanced capability and cooperation of intelligence and enforcement agencies, financiers of terrorism also move funds through illegal channels like *hawala*, cash couriers and trade-based transfers.

Thus, the line between crime, money laundering and terrorism finance becomes blurred, requiring an understanding of not only terrorism finance, but also the intricacies of national and international legit and criminal money channels.

Amongst the foremost examples of linkages between crime, money laundering and terrorism finance is drug trafficking. From the source to its destination, the journey of the drug trade includes producers, transporters, contractors, government officials, security services, politicians, drug mafia,

²⁵ Moises Niam, op. cit., p. 143.

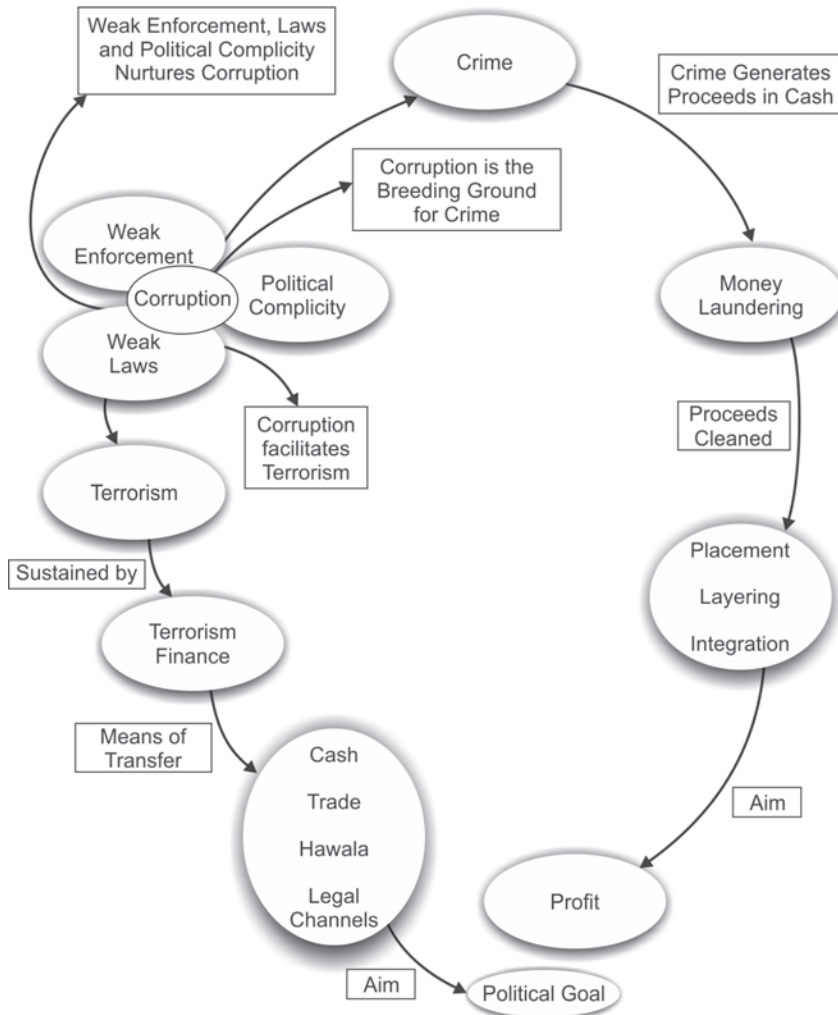


Figure 2: Linkage between Terrorism Finance, Money Laundering and Crime

retailers or peddlers and finally the consumers amongst others.²⁶ The sourcing of the illegal drug trade is evident in cases like Afghanistan, which is estimated to have produced opium worth US\$ 1.4 billion in 2011.²⁷ This

²⁶ For a detailed and illustrative account of the complete drug business see Moises Niam, *op. cit.*, pp. 65-85.

²⁷ Jack Healy, "Afghanistan Sees Increase in Poppy Cultivation", *The New York Times*, October 11, 2011, <http://www.nytimes.com/2011/10/12/world/asia/un-reports-sharp-rise-in-opium-production-in-afghanistan.html> (accessed March 27, 2012).

is a jump of 133 per cent over 2010, and is about 9 per cent of Afghanistan's GDP.²⁸ According to the United Nations Office on Drugs and Crime, the production further rose to 36 per cent in 2013. Amongst major destinations, the US had 22 million people taking drugs by 2010, which is 9 per cent of its population above the age of 12 and 22.5 per cent between 18 and 25.²⁹ While these figures are merely indicative of the large drug market worldwide and its exploitation by criminal cartels, however, it is the funnelling of a substantial percentage of drug revenues into funding terrorism, which links crime with terrorism, and allows terrorists to exploit an efficient criminal network that functions with varying degrees of immunity in different countries. The deep roots of this network are evident even in countries like the US, where the free flow of drugs is seen in the vicinity of the offices of enforcement agencies.³⁰

INDIAN EXPERIENCE

Crime, corruption and money laundering have not only led to exponential monetary losses for India, but also adversely impacted the existing security mechanisms. It has provided terrorists a large population base involved in crime, which can be exploited, both with and without their knowledge to perpetuate terrorism. Crimes like drug trafficking, gun running, transfer of counterfeit currency and human trafficking, provides terrorists with income and transit channels for exploitation.

The flight of illegal proceeds from the country to tax havens represents amongst the largest illegal movement of funds. The value of India's illicit assets abroad, as on 2008, was estimated at US\$ 462 billion, which was approximately 72 per cent of the country's underground economy.³¹ A detailed assessment of these figures by Dev Kar, a senior economist with the IMF, further indicated that the "total capital flight represents approximately 16.6 per cent of India's GDP as of year-end 2008" whereas, these capital

²⁸ Dan Morrison, "The First Opium Win", *International Herald Tribune*, April 18, 2012, <http://latitude.blogs.nytimes.com/2012/04/18/buy-afghanistans-opium-to-undermine-the-taliban-and-curb-the-heroin-trade/?ref=global-home> (accessed April 19, 2012).

²⁹ "Study: 22 million Americans use illegal drugs", *CNN Health*, September 8, 2011, <http://thechart.blogs.cnn.com/2011/09/08/study-22-million-americans-use-illegal-drugs-3/> (accessed March 27, 2012).

³⁰ Moises Niam, op. cit., p. 68.

³¹ Global Financial Integrity, *The Drivers and Dynamics of Illicit Financial Flows from India: 1948-2008*, <http://india.gfintegrity.org/> (accessed March 16, 2012).

outflows “grew at the rate of 11.5 per cent per year while in real terms they grew by 6.4 per cent” and “India lost US\$16 billion per year from 2002–06.”³²

The linkage between crime, money laundering and terrorism finance is further strengthened in an environment of corruption. India figures 95th in the 2011 transparency index, a drop from 87th the previous year, which bases its rankings on corruption levels in countries.³³ A Communist Party of India (Marxist), CPI(M), party document alleged that Hasan Ali’s interrogation revealed his involvement in laundering money for influential corporate figures and politicians.³⁴ Major Sudhir Sawant, a former Member of Parliament states:

Infiltration is often reconciliatory. Dignified members of society having direct links with the ISI through the narcotics syndicate provide for politicians what is not provided by the state. A politician, unlike popular perception is entirely dependent on external sources for finance. Thus, drug money is playing a big role now in financing politicians, who many a times unwittingly fall into a trap.... The drug trade cannot be successful if the money generated from the same cannot be utilised with immunity. Thus, an elaborate system to launder drug money has been established.³⁵

Amongst the most difficult hurdles for Indian law enforcement has been to break this nexus between criminals, politicians and certain enforcement agencies. This trend is not recent, and came to the fore after the 1993 Mumbai blasts. On the basis of this reality highlighted by intelligence agencies, a committee under the chairmanship of the then Home Secretary, N.N. Vohra was formed, to assess the linkages of criminals, politicians and

³² Ibid.

³³ “India transparency International corruption index blow”, *BBC*, December 01, 2011, <http://www.bbc.co.uk/news/world-asia-india-15979646> (accessed March 21, 2012). India’s ranking in the 2013 Corruption Perceptions Index is 94.

³⁴ “Big Corporates-Politicians-Bureaucracy: The Fountainhead of Corruption”, Booklet Brought Out on the Occasion of the Left Parties Campaign Against Corruption (July 2011), http://www.cpim.org/documents/20110720-anti-corruption_booklet.pdf (accessed March 21, 2012).

³⁵ Major Sudhir Sawant (Retired), “Internal Security: Dangers of Narco-Terrorism”, *Indian Defence Review*, 1995, <http://www.bharat-rakshak.com/LANCER/idr00007.htm> (accessed March 21, 2012).

enforcement agencies.³⁶ The study observed, that criminal gangs and drug peddlers had developed links with bureaucrats, government representatives and politicians at all levels. It went on to say that some cases of linkages with foreign intelligence agencies had also been identified.³⁷ The report's damning indictment stated:

The Bombay blast case and the communal riots in Surat and Ahmedabad have demonstrated how the Indian underworld has been exploited by the Pak ISI and the latter's network in UAE to cause sabotage, subversion and communal tension in various parts of the country. Investigations into the Bombay bomb blast cases have revealed extensive linkages of the underworld in various governmental agencies, political circles, the business sector and the film world.³⁸

From the Indian perspective, the linkages of crime, money laundering and terrorism finance has been the most pronounced in Dawood Ibrahim's funding, organisation and execution of a number of strikes in the country. A group which commenced its underworld journey through crime, transformed itself into a business conglomerate with simultaneous involvement in money laundering and terrorism finance, besides being the perpetrator of terrorism.³⁹ According to some estimates, Dawood has the largest "organized crime syndicate" in Asia, the Middle East and Africa.⁴⁰ The network was exploited to use the proceeds of crime, process them through money laundering and finally plan and execute terrorist strikes in conjunction with the ISI and Indian recruits.⁴¹

³⁶ "Vohra Committee Report", *Ministry of Home Affairs*, Order No. S/7937/SS(ISP)/93 dated July 09, 1993, http://mahendra-agarwalonline.20m.com/PR_VohraCommitteeReport.htm (accessed March 30, 2012).

³⁷ Ibid.

³⁸ Ibid.

³⁹ *US Department of Treasury*, Office of Foreign Assets Control, Executive Order 13224, blocking the terrorist property of Dawood Ibrahim, <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/terror.pdf> (accessed March 31, 2012).

⁴⁰ Divya Sharma, "Growing Overlap between Terrorism and Organized Crime in India: A Case Study", Advance Online Publication, December 26, 2011, *Security Journal* 1-20, Palgrave Macmillan, <http://www.palgrave-journals.com/sj/journal/vaop/ncurrent/full/sj201133a.html> (accessed April 01, 2012).

⁴¹ Ibid., Divya gives details of fatal casualties as a result of Dawood's "funding and/or logistical support" from 1993 to 2007 as 520.

The crime, money laundering, terrorism finance nexus has exploited various loopholes and limitations within the system. Amongst these are large scale financial transactions which take place in the country. The number of transactions handled by the State Bank of India (SBI), which roughly represents 20 per cent of national banking transactions, translate into a figure of Rs 104 crore in a month, which by correlation would imply Rs 520 crores for all banks in the country.⁴² As a national average, this would imply Rs 62 billion or 6200 crore transactions in a year. While this figure represents all forms of transactions, in terms of cash, there were 9.6 million transaction reports received by the Financial Intelligence Unit (FIU) in 2013-14, which only includes monetary exchanges above Rs 10,000.⁴³ The ability of a country to monitor these transactions and thereafter, sift data remains an obvious challenge. Given the scale of this challenge, detection of money laundering and further its linkage with terrorism finance becomes difficult to discern.

This difficulty is further aggravated, since terrorism finance also circumvents existing norms, as a result of operations through multiple accounts, keeping transactions below the threshold of the reporting process,⁴⁴ using cash couriers, *hawala* and trade to transfer funds. As an example, a money launderer who “moved US\$36 million in U.S. cocaine profits back to Columbia by way of Europe, did so by using a hundred accounts spread across sixty-eight banks in nine countries.”⁴⁵

The enactment of the 2002 Money Laundering Law and the amendment in 2008, as well as the amendment of 2012, has substantially strengthened anti-money laundering provisions in India. After the act came into force, its ability to enlarge the enforcement net is evident from the 1561 cases

⁴² Extrapolated based on figures for January, 2012 of State Bank of India. This figure was multiplied by five to get the national figures for all banks and thereafter by 12 to get an approximate figure for one year. Figures received on request of anonymity.

⁴³ Ministry of Finance – India, Annual Report 2013-14, <http://finmin.nic.in/reports/AnnualReport2013-14.pdf> (accessed November 19, 2014), p. 303.

⁴⁴ In India, amounts above Rs 10,000 need the PAN number to be affixed and cash deposits and withdrawals over 10 lacs are reported as suspicious transaction reports. See Reserve Bank of India guidelines on “Know Your Customer” norms and Cash Transactions, <http://www.rbi.org.in/commonman/English/scripts/notification.aspx?id=117> (accessed March 28, 2012).

⁴⁵ Moises Niam, op. cit., p. 144.

registered under the PMLA, till April 1, 2013, which resulted in the issue of 197 orders for attaching property worth Rs 35,737.3 million.⁴⁶

In the Indian context, the primary counter terrorism law is the Unlawful Activities (Prevention) Act (UAPA), 1967 (amended in 2008 and 2012).⁴⁷ The law has again been taken up for amendment to incorporate economic offences, including terrorism finance.⁴⁸

However, despite substantial improvement in reporting and intimation of cases to the investigative and law enforcement agencies, there have been no convictions for money laundering in India.⁴⁹ This is not as much a reflection on the enforcement agencies, but more of the limited provisions of the law in its earlier *avatar*, and the long-drawn judicial process, which unless expedited, will continue to encourage unscrupulous elements to take up money laundering and crime as a profit making venture.

⁴⁶ "Mutual Evaluation of India: Eight Follow-up Report", *FATF*, June 2013, http://www.fatf-gafi.org/media/fatf/documents/reports/mer/India_FUR8_2013.pdf (accessed August 19, 2013), pp. 10-11.

⁴⁷ Unlawful Activities (Prevention) Act 1967, [http://nia.gov.in/acts/The%20Unlawful%20Activities%20\(Prevention\)%20Act,%201967%20\(37%20of%201967\).pdf](http://nia.gov.in/acts/The%20Unlawful%20Activities%20(Prevention)%20Act,%201967%20(37%20of%201967).pdf) (accessed August 27, 2012).

⁴⁸ "Govt intends to amend UAPA to tackle terrorist financing", *DNA*, 18 July 2012, http://www.dnaindia.com/india/report_govt-intends-to-amend-uapa-to-tackle-terror-financing_1716723 (accessed August 27, 2012).

⁴⁹ Subhomoy Bhattacharjee, "Column: No money laundering in India!", *Financial Express*, June 09, 2011, <http://www.financialexpress.com/news/column-no-money-laundering-in-india/801100/> (accessed May 03, 2012).

2

External Sources of Terrorism Finance

A major part of funding for terrorism from external sources comes through counterfeit currency, drug trafficking, charities, Non-governmental organizations (NGOs) and finally as a result of state sponsorship by Pakistan. In the case of counterfeit currency and drugs, the funding process starts with production. The initialisation is different for NGOs and charities, where it begins with the collection of funds. This can be open and legal as done through *zakat*, or clandestine and illegal. The next stage sees the transferring of funds into India. Finally, once the transfer has been completed, money is received by terrorist groups and their front organisations. These stages have been discussed individually for each source, to illustrate the nature and cycle of funding.

NGOs, CHARITIES AND DONATIONS

The sourcing of funds for terrorism is often accompanied by religious appeals, coercion and peddling fears of Islam's victimisation. These trends have been witnessed both at the global and regional level. Traditional societies in countries like Saudi Arabia, have been supporting customs which encourage donations. These have existed well before the US employment of Taliban against Soviet Union commencing in 1979 in Afghanistan, Pakistan based proxy war in Jammu and Kashmir (J&K) since 1989, and the 9/11 attack against the US.

Non-governmental organizations or Non-profit organisations (NPOs) form large economic entities across the world. While there are a few estimates of the number of NGOs in the world, however, the Johns Hopkins Comparative Non-profit Sector Project, raised some interesting insights into this segment.¹ The study done in 2003, used data from 1995–98.

¹ Lester M. Salamon, S. Wojciech Sokolowski and Regina List, "Global Civil Society: An Overview", The Johns Hopkins Comparative Nonprofit Sector Project, The Johns Hopkins University, Baltimore, 2003, pp. 13-14.

Despite the dated information of the project, it is the scale in percentage terms, which needs emphasis. It employed data from 35 countries including 16 advanced industrial economies, 14 developing and five transitional economies. The study revealed that the sector had an aggregate expenditure of US\$ 1.3 trillion in the late nineties. This represented 5.1 per cent of the Gross Domestic Product (GDP) of these economies, and it employed approximately 39.5 million full-time workers. While a large percentage of these funds is used for justifiable purposes, however, inadequate regulation of the sector raises cause for concern.²

In Pakistan, the government has limited control over charities and NGOs.³ A similar challenge is faced in countries like Saudi Arabia.⁴ Terrorism finance is generated from NGOs and charities within Pakistan and through its coordinating role in West Asia. Workers from India are also radicalised and encouraged to fund terrorist groups.⁵

Non-profit organisations can be divided into “complicit” and “exploited”.⁶ While the former willingly function as a front for terrorist organisations, the latter are abused. Charities, through acts of omission or commission become a part of this funding effort, and money is transferred through international channels to terrorist groups. The funding of charities like *Jamaat-ud-Dawa* (JuD) in Pakistan continues unabated.⁷ Despite the ban

² See “NPO Sector Vulnerabilities: Typologies Report”, *Asia/Pacific Group on Money Laundering*, July 22, 2011, <http://www.apgml.org/includes/handlers/get-document.ashx?d=b80c8fa2-41f0-455c-91d3-7ac28b5e3d4b> (accessed May 2, 2013), p. 18.

³ Khawar Ghumman, “Govt Advised to Scrutinise NGO Funds”, *Dawn.com*, December 12, 2012, <http://dawn.com/2012/12/12/govt-advised-to-scrutinise-ngo-finances/> (accessed March 26, 2012).

⁴ Christopher M. Blanchard and Alfred B. Prados, “Saudi Arabia: Terrorist Financing Issues”, *CRS Report for Congress*, September 14, 2007, <http://fas.org/sgp/crs/mideast/RL32499.pdf> (accessed March 26, 2013).

⁵ Praveen Swami, “Diaspora cash fed domestic jihad”, *The Hindu*, May 08, 2009, <http://www.hindu.com/2009/05/08/stories/2009050855531300.htm> (accessed August 29, 2012).

⁶ Emile van der Does de Willebois, “Non-profit Organisations and the Combatting of Terrorism Financing: A Proportionate Response”, *The World Bank*, Washington D.C., 2010, <http://issuu.com/world.bank.publications/docs/9780821385470> (accessed May 02, 2013), p. 4.

⁷ Declan Walsh, “Wikileaks cables portray Saudi Arabia as cash machine for terrorists”, *The Guardian*, December 05, 2010, <http://www.theguardian.com/world/2010/dec/05/wikileaks-cables-saudi-terrorist-funding> (accessed March 14, 2013).

on JuD, an affiliate organisation named *Falah-e-Insaniyat* (FeF) Foundation was established to continue terrorism finance. This has since been banned by the US government.⁸ Even though the organisation has been banned, it raises questions regarding the ability of terrorist groups to create fronts for financing terrorism. Saudi Arabia has also emerged as a large source for funds for terrorist groups like the Lashkar-e-Taiba (LeT), which functions on a budget of approximately US\$ 5.25 million per year.⁹ Given the scale of money collected in the country, even a small percentage is adequate to support terrorism.

Funds from NGOs and charities can potentially flow into India in a similar way, as any other source of funding. This includes *hawala*, cash, legal financial routes and trade. Once received in India, its distribution is carried out based on the nature of transfer, which could be legal through financial channels, or illegal in case of *hawala*.¹⁰ While legal funding can be funnelled through Indian NGOs, illegal funds are handed over to terrorist supporters and groups in cash.

An assessment of some of the specific sources of terrorism finance have been discussed to further elaborate the nature of funding.

ZAKAT

The primary source of traditional funding in Islam is based on *zakat*. This is an accepted and legal system of almsgiving. Considered as one of the five pillars of Islam, *zakat* is compulsory and has sanction in the holy Koran.¹¹ The obligatory system of donation is described in the Koran:

(Koran, Surah Taubah (9), verse 60)

Zakat is only for the poor, and the needy who collect them, and to

⁸ Jason Ditz, "State Dept Says Charity an Alias for Lashkar-e-Taiba" Antiwar.com, <http://news.antiwar.com/2010/11/24/us-adds-pakistani-flood-charity-to-terror-list/> (accessed November 25, 2014).

⁹ Declan Walsh, *op. cit.*

¹⁰ Ajit Kumar Singh, "J&K: A Tentative Peace", South Asia Intelligence Review, http://www.satp.org/satporgtp/sair/Archives/sair10/10_33.htm (accessed November 25, 2014).

¹¹ Jean Charles Brisard, and JCB Consulting, "Terrorism Financing: Roots and trends of Saudi terrorism financing", December 19, 2002, p. 12. Report prepared for the President of the Security Council, United Nations, www.investigativeproject.org/documents/testimony/22.pdf (accessed March 20, 2012), p. 13.

attract the hearts of those who have been inclined (towards Islam); and to free the captives and those in debt, and for the cause of Allah, and for the wayfarers; a duty imposed by Allah. And Allah is Knower, Wise.¹²

The scale of collection of *zakat* funds only in Saudi Arabia was US\$ 10 billion in the early years of the previous decade.¹³ When this figure is extrapolated for the entire Gulf region and countries like Pakistan, the figure is likely to be multiplied substantially. It does not imply that this entire amount is siphoned for terrorism finance. However, of the three uses that *zakat* can be put to, “Feesabeelillah (in the way of Allah), Lil-Fuqara (for the poor), and Lil-Masakeen (for the needy)”,¹⁴ it is the first, which has often been misinterpreted by radical elements to channel funding for spreading terror in the name of *Jihad*. A percentage of this element of *zakat*, finds its way into terrorism finance in countries like India.¹⁵

CHARITIES AND DIASPORA

Besides *zakat*, which is state regulated in Saudi Arabia and Pakistan, charities have mushroomed in a number of countries which have a very strong radical component. One of the assessments in the case of Pakistan indicates:

...some officials from Pakistan’s Inter-Services Intelligence Directorate continue to maintain ties with a wide array of extremist organizations, in particular the Taliban, LeT and other extremist organizations. These extremist organizations continue to find refuge in Pakistan and exploit Pakistan’s extensive network of charities, NGOs, and *madrassas*. This network of social service institutions readily provides extremist organizations with recruits, funding and infrastructure for planning new attacks.¹⁶

Daniel Glaser, the US Assistant Secretary of State (terrorist financing)

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid., p. 13.

¹⁵ See “Audit reveals ISNA funded militants”, *Money Jihad*, <http://moneyjihad.wordpress.com/2013/08/05/audit-reveals-isna-funded-militants/> (accessed on December 13, 2013).

¹⁶ “Terror charities making Pakistani state irrelevant: US warning (Wikileaks)”, May 31, 2011, *RTN Asia*, http://rtn.asia/v-s/1103/516_terror-charities-making-pakistani-state-irrelevant-us-warning-wikileaks (accessed March 21, 2012).

echoed these sentiments, indicating the use of charities, which are openly advertised in Pakistan, and have become a source for terrorists to “raise, move, and utilize funds.” The charities, have become a cover for radicalisation, indoctrination and are better placed to provide logistical cover for moving of funds. These, he indicated were funneled through the *hawala* network across borders.¹⁷

Some of the charities, despite being banned internationally, continued with their campaign after the 2005 earthquake in Pakistan Occupied Kashmir (POK). These include the JuD, LeT and Hizbul Mujahidden (HM) in Pakistan,¹⁸ and this trend is also widespread in the Middle East.¹⁹ On January 18, 2010, the JuD organised a public meeting at Gulshan-e-Iqbal, Karachi, with Abdul Rehman Makki, Chairman of the Jamia Al-Dirasat Al-Islamic Trust, which was ostensibly in the process of being registered as a co-educational institution. However, Makki, also the Deputy Amir of JuD, called for “jihad against India and the US for the welfare of Muslims” with the ultimate aim of collecting funds in the process.²⁰ The HM Chief, Syed Salahuddin, has been involved in exploiting a charity called Jammu and Kashmir Affectees Relief Trust (JAKART) for funneling more than Rs 100 crore in J&K.²¹ While the funds were meant for relief, they were used for financing terrorism in the state.

¹⁷ “Charities in Pak being used to legitimize extremism: US”, *The Times of India*, March 08, 2009, <http://timesofindia.indiatimes.com/world/us/Charities-in-Pak-being-used-to-legitimize-extremism-US/articleshow/4240986.cms> (accessed February 25, 2012).

¹⁸ Walsh Declan, “Pakistani Extremists Take Lead on Earthquake Disaster Aid: International Relief Agencies Are only Beginning to Arrive”, *San Francisco Chronicle*, October 17, 2005, <http://www.sfgate.com/news/article/Pakistani-extremists-take-lead-on-earthquake-2575963.php> (accessed March 22, 2012).

¹⁹ For a detailed analysis of Typologies see, “Typologies and Open Source Reporting on Terrorist Abuse of Charitable Operations in Post Earthquake Pakistan and India”, http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/charities_post-earthquake.pdf (accessed March 22, 2012). A number of other charities have also been involved in the post 2005 earthquake phase with questionable credentials to include Al Rasheed Trust, Al Akhtar Trust, Al Furkan Trust, Amina Welfare Trust, Islamic Relief Council, Jamaat-e-Islami, amongst others.

²⁰ Bharti Jain, “Jamaat-ud-Dawa collects funds for jihad against India & US from PoK mosques”, *The Economic Times*, http://articles.economictimes.indiatimes.com/2010-02-05/news/28435559_1_pok-abdul-rehman-makki-jihad, February 05, 2010.

²¹ Rahul Tripathi, “Hizb chief used charity to fund terror in Valley: NIA”, *Indian Express*, August 19, 2012, <http://www.indianexpress.com/news/hizb-chief-used-charity-to-fund-terror-in-valley-nia/990138/0> (accessed August 30, 2012).

The funding received through charities and NGOs is also interlinked with the support for some of the movements amongst the diaspora. The outbreak of the insurgency in J&K, especially during the early nineties, saw the Jammu and Kashmir Liberation Front (JKLF), receiving substantial support from this community.²² The Kashmiri diaspora, from both sides of the Line of Control (LoC), supportive of the clarion call for independence, contributed generously. One of the prominent areas of support was the United Kingdom (UK). There is a large segment of the Mirpuri²³ population from POK, which has settled there. This group constituted almost half of the Pakistani migrants and became a strong support base for the movement.

Terrorist groups in the Indian hinterland have also been supported by a large diaspora in West Asian countries, Europe and the US. The arrest of Sarfaraz Nawaz, a computer engineer, confirmed the involvement of large sections of the diaspora in West Asia.²⁴ Ghulam Nabi Fai, since convicted in the US, had also been involved in funding terrorism in India since the early nineties. Shahabuddin Gouri, associated with Fai, was arrested in 1991 after receiving Rs 16 lakh from Shambhu Dayal Sharma, a hawala dealer. The money had been contributed by foreign donors for the “Kashmiri cause”.²⁵

The funding for terrorist groups supporting terrorism in Punjab, does not fall into the four categories, i.e. J&K, north east, Naxal areas and hinterland being analysed in the book. However, given the continuing trend of fund collection, it is important to flag the same. Funding and support for terrorism emanates from Pakistan and the diaspora in Canada, the US and Europe. On April 3, 2012, a New York court sentenced Khalid Awan to 14 years imprisonment for providing material support and resources to the Khalistan Commando Force (KCF), including funding.²⁶ The National Investigation

²² Luv Puri, *Across the Line of Control: Inside Pakistan-Administered Kashmir*, C. Hurst and Co, London, 2012, p. 58.

²³ Mirpur is located in Pakistan Occupied Kashmir. The people from the area are referred to as “Mirpuri”.

²⁴ Praveen Swami, op. cit.

²⁵ Rajesh Ahuja, “Fai funded terror in Kashmir valley”, *Hindustan Times*, July 26, 2011, <http://www.hindustantimes.com/India-news/NewDelhi/Fai-funded-terror-in-Kashmir-valley/Article1-725639.aspx> (accessed August 29, 2012).

²⁶ “Khalid Awan Re-Sentenced to 14 Years’ Imprisonment for Providing Material Support and Resources to Indian Terrorist Organisation”, The Federal Bureau of Investigation, <http://www.fbi.gov/newyork/press-releases/2012/khalid-awan-re-sentenced-to-14-years-imprisonment-for-providing-material-support-and-resources-to-indian-terrorist-organization> (accessed November 25, 2014).

Agency (NIA) has also indicated the involvement of NGOs in countries like Germany, the UK and Canada in raising funds for terrorist groups like the Babbar Khalsa International (BKI). Money raised by them has been sent by *hawala*, bank transfers and human couriers.²⁷

REMITTANCES

Links between former Students Islamic Movement of India (SIMI) and Indian Mujahideen (IM) cadres in India have also been established with financiers from the Gulf. Sarfaraz Nawaz, a former SIMI operative who subsequently joined the LeT, revealed his links with Ummar Haji, a key IM cadre who was planning strikes in Chennai and Bangalore, as well as in training of radicalised youth from Kerala in POK.²⁸ The large flow of foreign remittances into Kerala has also become a source of concern for agencies. This legit inflow from West Asia, provides a suitable cover for funds meant for groups like the IM. Amongst groups assisting with funding is the Jamayyat-ul-Ansar, the new avatar of Harkat-ul-Ansar in Saudi Arabia.²⁹

The challenges posed by this source of funding include:

- Limited control on the collection of funds by local governments and the international community, since it is difficult to establish culpability, despite intelligence on involvement of certain groups.
- Charities and NGOs are not controlled by the regulatory bodies in many countries. This leads to both their exploitation and establishment for the sole reason of terrorism finance.
- Given the large number of charities and NGOs, it is difficult to focus attention on all of them, which makes the role of the enforcement and intelligence agencies quite challenging.
- This in turn leads to the inability to freeze assets, as building of legally sustainable cases remains a challenge in the face of inadequate evidence.
- Charities have multiple ways of moving funds to include legal channels,

²⁷ Rahul Tripathi, NIA lens on foreign NGOs funding BKI”, *The Financial Express*, September 03, 2012, <http://www.financialexpress.com/news/nia-lens-on-foreign-ngos-for-funding-bki/996847/2> (accessed on December 16, 2013).

²⁸ “1993 Mumbai blasts: Four of Memon family convicted”, *rediffnews*, September 12, 2006, <http://www.rediff.com/news/report/security/20060912.htm> (accessed March 20, 2012).

²⁹ Vicky Nanjappa, “How SIMI set up terror shop in Kerala once again with ease”, *rediff.com*, March 8, 2011, <http://www.rediff.com/news/report/how-simi-resumed-kerala-operations-with-ease/20110308.htm> (accessed April 19, 2012).

hawala, cash and through trade routes. This makes it difficult to track and trace funding.

- The location of sources outside the country, limits the ability of enforcement and intelligence agencies to trace funding and take legal action, unless the donor country is willing to cooperate with the legal efforts.

SUPPORT FOR RADICALISM

In addition to external funding for terrorism finance, a much larger proportion of finances are received for supporting of radical views and ideologies. Since strictly, this is not in contravention of existing laws, the use of funds received legally cannot be challenged. Further, there is inadequate empirical evidence to indicate that a larger number of youth take to terrorism as a result of this ideology in India. However, the growing radicalism, funded by money received from charities and donations, has led to extremist views on religion and its influence on society. The prime example of growing radicalism is the influence of Saudi funded *Wahabi* ideology in the Kashmir Valley. In a report in 2011, Asit Jolly indicated this trend and reported the mushrooming of mosques and *madrassas*, funded by the Ahl-e-Hadith.³⁰ The report, quoting US intelligence sources, highlighted the House of Saud decision of 2005, to allocate US\$35 billion for building mosques in South Asia. A large number of *madrassas* have also accompanied this growth, and have penetrated the poorer segment of Kashmiri society. While organisations which are registered for receiving foreign funds, have followed laid down Foreign Contribution Regulation Act (FCRA) procedures, others however continue to receive money through *hawala*.³¹

COUNTERFEITING OF CURRENCY

Counterfeiting of Indian currency not only funds terrorism, but what is more important, is used as a tool by Pakistan to destabilise the Indian economy.³²

³⁰ Asit Jolly, "The Wahhabi Invasion", *The India Today*, December 23, 2011, <http://indiatoday.intoday.in/story/saudi-charities-pump-in-funds-through-hawala-channels-to-radicalise-kashmir-valley/1/165660.html> (accessed December 17, 2013).

³¹ Ibid.

³² See "Fake currency pumped into India as "policy matter": Pranab", *The Economic Times*, August 11, 2011, http://articles.economicstimes.indiatimes.com/2011-08-11/news/29876191_1_currency-with-face-value-counterfeit-currency-fake-currency (accessed May 14, 2013).

The existing threat from counterfeit currency emanates at three levels. *First*, the relative ease with which Indian currency is counterfeited. This has been aided by improving technologies available with counterfeiting agencies, and is partly a result of state sponsorship by Pakistan.³³ Fake Indian currency notes are largely produced in Pakistan, and to a much smaller extent locally in India.³⁴ While the Pakistani counterfeits are of very high quality, making them difficult to distinguish from the real, Indian notes are scanned copies, making them easier to detect. Fake Indian currency is used to fund groups like LeT, Al-Badr, Harkat-ul-Jihad-e-Islami (HuJI), Khalistan Commando Force (KCF) and Dawood Ibrahim run operations.

Second, terrorist and criminal groups have developed the ability to introduce the fake currency into the Indian and world markets with relative ease. It is difficult to estimate the scale of counterfeit currency in the Indian market, however one estimate suggests that approximately Rs 300 crores is introduced into India every year as counterfeit currency.³⁵ The Financial Intelligence Unit (FIU) received 3,27,382 counterfeit currency reports in 2011-12. The total amount reported until March, 2012 amounted to Rs 60 crores.³⁶ Dubai, which is the melting pot of international financial business, found the Indian rupee to be the most counterfeited currency of 2011, overtaking the US dollar. During the year, 10,700 Indian currency notes were seized by the Dubai police, as compared to 9,000 US dollar notes.³⁷

Third, the limited ability to detect circulation and bring down the growing trend of counterfeit currency in the country has remained a challenge. The percentage of detection of counterfeit currency is lower than the actual

³³ See Rahul Tripathi and Varinder Bhatia, "Rs 16,000 cr in fakes, 'printed in Pakistan' and circulated all over", *The Indian Express*, June 10, 2012, <http://www.indianexpress.com/news/rs-16000-cr-in-fakes--printed-in-pakistan--and-circulated-all-over/960280> (accessed March 08, 2013).

³⁴ According to the Minister of State for Home, R.P.N. Singh, as part of question 694 in the Rajya Sabha, answered on December 11, 2013, all fake currency noted seized in India are printed only in Pakistan.

³⁵ Manan Kumar, "DNA Special: India seeks US tech to curb fake currency", *DNA*, November 03, 2012, http://www.dnaindia.com/india/report_dna-special-india-seeks-us-tech-to-curb-fake-currency_1759578 (accessed March 08, 2013).

³⁶ "Annual Report 2011-12", *Financial Intelligence Unit, India*, <http://fiuindia.gov.in/downloads/Annual%20Report%202011-12.pdf>, p. 25.

³⁷ Jay B. Hilotin, "Class A fake notes stump officials", *Gulfnews.com*, February 23, 2012, <http://gulfnews.com/news/gulf/uae/crime/class-a-fake-notes-stump-officials-1.985012> (accessed November 25, 2014).

inflow, with the Central Bureau of Investigation (CBI), FIU and the National Investigation Agency (NIA) estimating it as 28 to 30 per cent of the total amount.³⁸ According to figures of the FIU, there has been a growing trend in circulating counterfeit in the country (see Table 1). The figures surprisingly indicate a larger percentage of reports emanating from private banks, despite a predominant share of business being handled by public sector banks. This raises questions regarding the ability and technical facilities, available with public sector banks to conduct requisite checks.

Table 1: Counterfeit Currency Reports

<i>Reporting Entity</i>	<i>2008-09</i>	<i>2009-10</i>	<i>2010-11</i>	<i>2011-12</i>	<i>Total</i>
Public Sector Banks	396	1,391	1,896	2,649	6,413
Indian Private Banks	29,846	1,15,7202	2,34,400	3,10,714	6,98,068
Foreign Banks	5,422	7,099	7,936	9,273	30,841
Others	66	3,571	7,216	4,746	15,599
Total	35,730	1,27,781	2,51,448	3,27,382	7,50,921

Authority: FIU, Annual Report 2011-12.³⁹

A comparative assessment of the cases by the intelligence and enforcement agencies indicates that there have been 67 overseas fake Indian currency seizures from January 2011 to June 2013, as compared to 29 from 2006–2010. Of the 67 seizures, Pakistani nationals have been involved in 48 per cent of the cases. This also includes 26 cases of seizures at foreign international airports, of which 10 flights originated from Pakistan, and the others were connecting flights. In comparison, Pakistani involvement was found in 45 per cent cases during 2006–2010.⁴⁰

It has become increasingly difficult to curb the transfer of fake currency, given the diverse routes being employed for the induction of counterfeit currency. Fake currency is smuggled through a “hub and spoke” business model. While Pakistan is the hub of the operation, the spokes are both direct and indirect. The direct routes include the Munnabao-Khokrapar and Attari border routes, as also across the fence. Indirect routes emanate from the UAE, Nepal and Bangladesh. However, Thailand, Malaysia, Myanmar and Sri Lanka have also been used as transit points. Landing points are also equally varied, including Bengaluru, Chennai, Calicut, Kochi, Hyderabad,

³⁸ See Rahul Tripathi and Varinder Bhatia, *op. cit.*

³⁹ “Annual Report 2011-12”, *op. cit.*

⁴⁰ Based on inputs from unnamed intelligence sources.

Mangalore, Mumbai and New Delhi.⁴¹ Lately, China has also emerged as a transit point. As an example, the NIA, in a major interstate operation, seized counterfeit currency worth Rs 9.85 lakhs during raids conducted in Delhi, Uttar Pradesh and Bengaluru.⁴² The currency was smuggled into India by Iqbal Kana of the Kairana Tehsil in Muzaffarabad, Pakistan. Iqbal is considered to be the mastermind for inducting counterfeit currency into India. The route used for inducting the currency was: Pakistan-Dubai-Bengaluru. After landing in Bengaluru, further distribution was done for circulation. As a follow-up of the case, raids were conducted in the Malda district of West Bengal, leading to the arrest of Morgen Hussain and Rakib Sheikh, responsible for coordinating smuggling and the circulation of fake currency across the country.⁴³ The raids revealed the modus operandi of criminal elements involved in the country-wide activity. High quality Fake Indian Currency Notes (FICN) were printed in Pakistan, and brought to Bangladesh by air. Thereafter, they were smuggled into India, with bundles of notes being thrown into villages across the border. These were collected and distributed across the country, with local agents receiving 60 per cent of the value of FICN circulated. Completing the cycle, a number of 49,000 rupee tranches were deposited into accounts of suppliers. This avoided raising of suspicious transaction reports, thereby circumventing law enforcement requirements.

Besides the traditional porous routes, traffickers have also blatantly used high visibility means like air travel. In one such case, Tahir Merchant has been implicated by the NIA in a case of counterfeit currency. On August 16, 2008, counterfeit currency worth Rs 72.5 lakhs was seized from the Ras-al-Khaima flight landing at the Karipur airport.⁴⁴ Tahir was accused of

⁴¹ "Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism", *Asia/Pacific Group on Money Laundering and Financial Action Task Force*, June 25, 2010, p. 11, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed November 25, 2014).

⁴² NIA Case 01/2012 of Hyderabad branch vide RC-01/2012/NIA/Hyd on 03/01/2012 U/s 489(B), 489©, r/w 120(B) IPC and Section 15, 17 and 18 of Unlawful Activities (Prevention) Act, <http://www.nia.gov.in/niacase0112hyd.aspx> and http://www.nia.gov.in/writereaddata/press_28032012.pdf (accessed May 04, 2012).

⁴³ National Investigation Agency FICN case Hyderabad, http://www.nia.gov.in/writereaddata/press_10012012.pdf (accessed May 04, 2012).

⁴⁴ P. Ramdas, "Mumbai blast accused was having free run in Kerala: NIA", *The Indian Express*, November 06, 2012, <http://www.newindianexpress.com/states/kerala/article1329024.ece?service=print> (accessed April 26, 2013).

being the main conspirator in the case. He has not only been charged with handling fake currency, but also with laundering it in the real estate market, reinforcing fears that the sector is inadequately regulated and controlled. The money was also used for funding terror in the country.

The complete process of counterfeiting not only has an adverse impact on the Indian economy, but also gives an impetus to criminalisation of society. On the other hand, the ISI makes an annual profit of Rs 500 crores given the average of 30 to 40 per cent profit on the face value of notes.⁴⁵ The economics of this process are based on a well-conceived operation in Pakistan. Forensic experts indicate the cost of production of a Rs 1,000 or 500 currency note in India as Rs 29, and that of a fake Indian currency note of the same denomination as Rs 39. The notes are sold at different stages. In the first stage, the sale of a Rs 1,000 fake Indian currency note is at Rs 350–450, giving a profit of at least Rs 300. The consignee, adds his cost of transportation, logistics and the risks involved. He sells it with a 12 per cent markup. The wholesaler receives it for Rs 470–570 and retailer at Rs 590–690. While this had been the practice in the past, evidence of Pakistan bringing down their profit to zero per cent, in order to enhance the incentive has also come to light.⁴⁶

In addition to the more traditional methods used for inducting fake currency in the country, there have been cases wherein, courier services have also been used. China figures prominently amongst the countries of origin.⁴⁷

The large scale counterfeiting of Indian currency, and the relative ease with which it is introduced in both the international and Indian markets, indicates weaknesses related to security parametres. On the physical security front, it also displays the inability to block trans border movement of counterfeit currency into India. While this relates to a larger border management issue, deficiency in personnel and electronic scanners contributes to the limitation.

Some of the specific cases that have come to light regarding different areas

⁴⁵ Khushboo Narayan, and P.R. Sanjai, "ISI pockets Rs 500 cr annually from fake Indian notes: officials" *Livemint*, November 27, 2011, <http://www.livemint.com/Politics/bgIvj3lMnHvydrHanA3deN/ISI-pockets-Rs-500-cr-annually-from-fake-Indian-notes-offic.html> (accessed March 22, 2012). The article indicates the cost of production at Rs 39 though its sale is at Rs 350–400 a piece. Given the 2010 figure of 1,600 crores, the total profit is estimated at Rs 500 crores.

⁴⁶ Based on inputs from unnamed intelligence sources.

⁴⁷ *Ibid.*

affected by terrorism in the country have been highlighted, to illustrate the nature of involvement in various areas of the country.

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Cases of counterfeit currency came to light with the arrest of Shahid Sheikh, Zakir Hussain, Mubarak Ahmad Bhatt and Shoukat Mohi-ud-din Kuchay.⁴⁸ The case involved circulation of counterfeit currency by cadres of the HM in J&K, which was received from Malda in West Bengal. FICN worth Rs 1.5 lakhs was also seized in the process.

INDIAN MUJAHIDEEN

The Maharashtra Anti Terrorism Squad (ATS) arrested former members of the SIMI and IM involved in a counterfeit currency racket on September 12, 2011.⁴⁹ The main accused, Asrar Ahmed Abdul Hamid Tailor, a computer trainer was caught from the Borivili railway station in Mumbai. He had received training in Pakistan in 2000 and was involved in the distribution of fake currency.

NORTH EAST

Bangladesh and Nepal are amongst the most viable routes for inducting FICN. This has given opportunities to insurgent groups in the north east to profit from its trafficking into India.⁵⁰ Even couriers and criminals not necessarily involved in terrorist activities, get engaged because of their percentage of the cut, with the exchange rate for counterfeit to original in the range of approximately 2:1 (60 per cent indicated in a particular case earlier), thereby incentivising the induction of fake currency.⁵¹

⁴⁸ National Investigation Agency, RC/07/2011/NIA/DLI on July 16, 2011, http://nia.gov.in/writereaddata/press_16072011.pdf (accessed May 04, 2012).

⁴⁹ "ATS arrests SIMI member in fake currency racket", *zeenews.com*, September 13, 2011, http://zeenews.india.com/news/maharashtra/ats-arrests-simi-member-in-fake-currency-racket_731428.html (accessed May 15, 2012).

⁵⁰ Ajit Kumar Singh, "FICN: Relentless Intent", *Institute for Conflict Management*, http://www.satp.org/satporgtp/sair/Archives/sair10/10_41.htm (accessed on May 15, 2012).

⁵¹ "Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism", *op. cit.*

NARCO FINANCE

Drugs are a major source for terrorism finance. Similar to counterfeit currency, the threat can be evaluated in three stages; production, transfer of drugs or its financial proceeds into the country, and its circulation to terrorist groups. Afghanistan has emerged as the hub for the global production of opiates. “In 2009, the Afghan Taliban was estimated to have earned around US\$ 150 million from the opiate trade, Afghan drug traffickers US\$ 2.2 billion, and Afghan farmers US\$ 440 million.”⁵² There is evidence of terrorist groups in Pakistan gaining access to the proceeds of drug trafficking.⁵³ This has been used by the ISI to spread terrorism⁵⁴ and fight Pakistan’s proxy war against India.⁵⁵ The ISI is also using the network of terrorist groups in India for drug trafficking, thereby creating a link between external sourcing and internal trafficking (see Map 1).⁵⁶

This threat has been exploited in the Indian context, as a result of porous borders with states like Nepal.⁵⁷ It is further aggravated since countries like Myanmar have limited writ on their border areas. Criminal and terrorist groups from Bangladesh have also exploited the drug trade to fund terrorism.⁵⁸ In the case of Pakistan, besides criminals, state sponsorship of

⁵² “The Global Afghan Opium Trade: A Threat Assessment”, *United Nations Office on Drugs and Crime*, July 2011, http://www.unodc.org/documents/data-and-analysis/Studies/Global_Afghan_Opium_Trade_2011-web.pdf (accessed March 26, 2013), p. 8.

⁵³ Ibid.

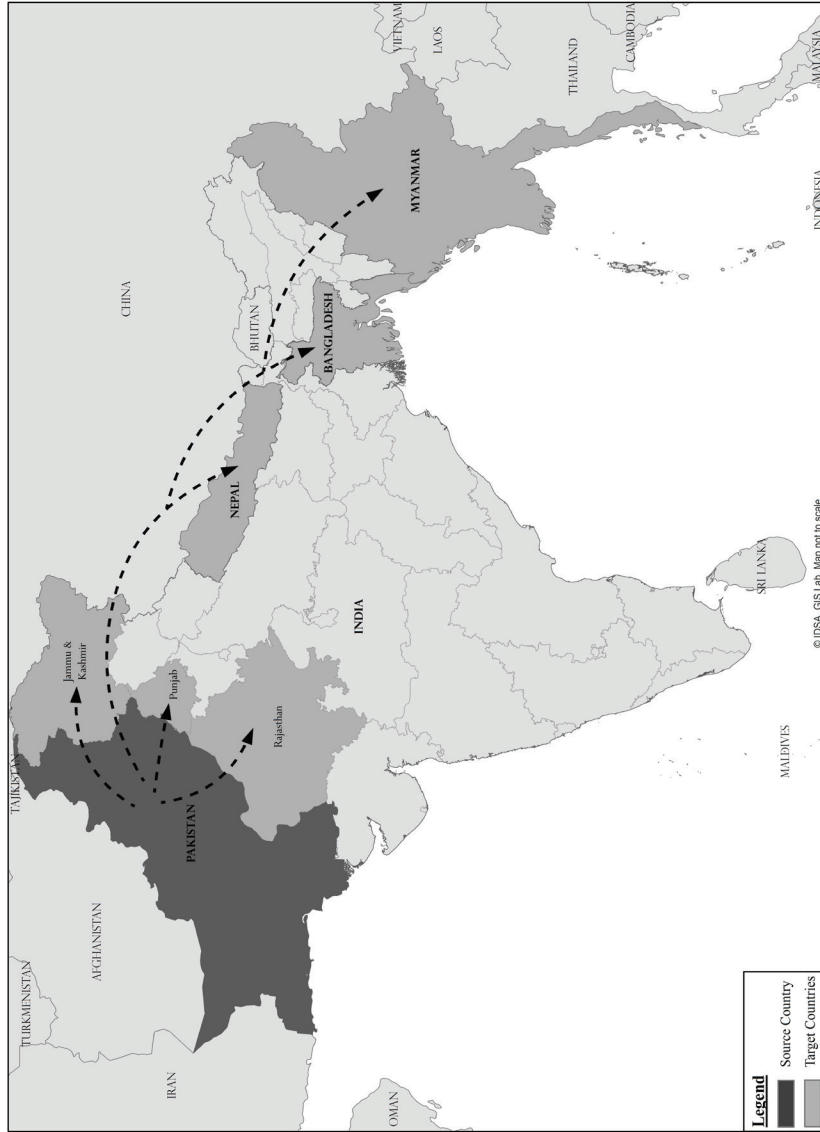
⁵⁴ Veena Kukreja, *Contemporary Pakistan: Political Processes, Conflicts and Crises*, Sage, New Delhi, 2003, pp. 213–219 and “A Global Overview of Narcotics-Funded Terrorist and Other Extremist Groups”, *The Library of Congress*, May 2002, http://www.loc.gov/rr/frd/pdf-files/NarcsFundedTerrs_Extrems.pdf (accessed March 26, 2013), pp. 8-9.

⁵⁵ Kshitij Prabha, “Narco-Terrorism and India’s Security”, *Strategic Analysis*, IDSA, <http://www.idsa-india.org/an-jan-6-01html.html> (accessed March 17, 2012).

⁵⁶ Abhishek Bhalla, “Drug Trafficking: Money Funds Terror Acts in India”, *Mail Online India*, September 11, 2012, <http://www.dailymail.co.uk/indiahome/indianews/article-2201870/Drug-trafficking-Money-funds-terror-acts-India.html> (accessed March 26, 2013).

⁵⁷ See Pushpita Das, “Drug Trafficking in India: A Case for Border Security”, *IDSA*, http://www.idsa.in/system/files/OP_DrugTraffickinginIndia.pdf (accessed March 25, 2013).

⁵⁸ There has been an increase in drug trafficking from Bangladesh. See Pallab Bhattacharya, “Dhaka, Delhi Agree to Curb Drug Trafficking”, *The Daily Star*, October 06, 2012, <http://www.thedailystar.net/newDesign/news-details.php?nid=252651> (accessed March 12, 2013).



Map 1: Drug Trafficking Routes from Pakistan

terrorism leads to the exploitation of the lucrative drug trafficking business.⁵⁹ This has led criminal gangs, terrorist groups and state intelligence agencies to exploit vulnerabilities on the borders for drug trafficking.⁶⁰

The porous and disputed borders as well as extensive coastlines need considerable force levels to guard the areas effectively. As will be covered under the section on manpower, shortages have proved to be a severe limitation for border guarding forces.

These shortages are aggravated by limitations imposed by the absence of technological aids, which can effectively carry out checking of human, and large vehicular as well as container based traffic. The cases of Jawaharlal Nehru Port Trust (JNPT) and Mumbai Port are useful case studies. While the Mumbai port does not have any scanners, the JNPT has only two scanners, which scan 10 per cent of containers coming into the country,⁶¹ despite JNPT handling 60 per cent of the total containers received by major ports in the country.⁶²

A visit to the foreign post office in New Delhi, presented a similar scenario. The post office receives and dispatches packages to foreign destinations. It does not have any scanners for evaluating the contents of packages.⁶³ Manpower constraints limit its ability to check only 10 per cent of the packages. In the past, this has led to attempts at smuggling out and getting drugs into the country. The second limitation relates to the inadequate enforcement of Know Your Customer (KYC) norms, which can result in the use of fake identities to receive and book packages.

The deployment of different border forces, further leads to service specific procedures and systems to be adopted by each, with best practices being

⁵⁹ Vicky Nanjappa, "India-Pak talks: Why the Emphasis on Drug Smuggling", *rediff.com*, March 28, 2011, <http://www.rediff.com/news/report/india-pak-talks-why-the-emphasis-on-drug-smuggling/20110328.htm> (accessed March 12, 2013).

⁶⁰ "Drug Smuggling Rising Along India-Myanmar Border", *Zeenews.com*, May 19, 2012, http://zeenews.india.com/news/north-east/drug-smuggling-rising-along-india-myanmar-border_776353.html (accessed March 12, 2013).

⁶¹ Divyesh Singh, "Only 10% of Containers are Scanned at JNPT", *DNA*, January 06, 2011, http://www.dnaindia.com/india/report_only-10pct-of-containers-are-scanned-at-jnpt_1490841 (accessed March 12, 2013).

⁶² See Jawaharlal Nehru Port Trust, <http://www.jnport.gov.in/AboutJNPT.aspx?id=2&cid=1> (accessed March 12, 2013).

⁶³ Based on a visit to the Foreign Post Office, New Delhi.

limited to specific services. This has led to uneven standards and procedures, thereby impacting efficiency and making cooperation relatively more difficult.

The impact of drug trafficking varies in different regions that are impacted by terrorism.

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The Pakistan sponsored proxy war has used this source from the inception and employed it for funding terrorism.⁶⁴ Smuggling of drugs from Pakistan for sale in India is yet another source, which has repeatedly been seen as a means to support the proxy war. There is an indication of increase in both the smuggling and cultivation of drug yielding crops, with Scott Baldauf assessing that “the areas where narcotics are most often found are the same areas where militants are most active.”⁶⁵ Terrorist groups have not only been funded by drug generated money by the ISI, they have also been directly involved in raising funds based on drug proceeds.⁶⁶ Members of the HM and Al Jihad have in the past been involved in the sale of drugs.⁶⁷

Pakistan sponsored activities have also seen a trend of composite smuggling. This includes drugs like heroin, explosives, weapons, detonators, timers and ammunition. Details available from three border states of J&K, Punjab and Rajasthan reinforces this trend (see Table 2).

NORTH EAST

The impact and influence of narco finance has become evident amongst the north-eastern insurgents as well. Groups like the National Socialist Council of Nagaland (NSCN), which essentially relied on collection of taxes in their

⁶⁴ Kshitij Prabha, op. cit.

⁶⁵ Scott Baldauf, “Heroin money could fund Kashmir’s militants”, *Christian Science Monitor*, October 20, 2003, <http://www.csmonitor.com/2003/1020/p07s02-wosc.html> (accessed April 06, 2012).

⁶⁶ “Combatting Terrorism”, *Second Administrative Reforms Commission*, Eighth Report, June 2008, <http://arc.gov.in/8threport.pdf> (accessed May 15, 2012), p. 6.

⁶⁷ Ishfaq-ul-Hasan, “Kashmir too fights narco-terror”, *DNA*, January 07, 2009, http://www.dnaindia.com/india/report_kashmir-too-fights-narco-terror_1219463 (accessed May 15, 2012).

Table 2: Composite Seizures of Explosives, Arms, Ammunition and Narcotic Drugs 2000 – March 2012

<i>S. No.</i>	<i>State</i>	<i>Number of Seizures</i>	<i>Drugs</i>	<i>Weapons</i>	<i>Explosives</i>	<i>Arrested</i>	<i>Currency</i>
1	J&K	5	Heroin - 35 kg Poppy Straw - 542 kg Charas - 12 kg	AK-47 - 4 Pistols - 4 Other Rifles - 4	RDX - 38 kg	23	
2	Punjab	28	Heroin - 429.5 kg Brown Sugar - .7 kg	AK-47 - 7 Pistol - 104 pistols	RDX - 23 kg	34 arrested, 4 killed	Fake Indian Currency Note – Rs 109,595 lacs
3	Rajasthan	5	Heroin - 80 kg Hashish - 10 kg	Pistols - 20	RDX - 14.5 kg	4 arrested	Fake Indian Currency Note – Rs 2.73 lacs

Source: Narcotics Control Bureau (NCB)⁶⁸

⁶⁸ Data compiled based on inputs received.

areas of influence to run their organisation have also incorporated the benefits of raising easy money by trading in drugs and gun running.⁶⁹ The NSCN has become one of the major suppliers of weapons, easily available from the Cambodian market and subsequently traded in Cox's Bazaar. Since some transit points are controlled, these are smuggled through the border states.⁷⁰ The group is also known to take a 20 per cent cut from the inflow of drugs through their areas, which are either being consumed in the north east itself, or smuggled to the more lucrative markets of Europe and the US through Nepal.⁷¹ NSCN is not the only group involved in these activities, since some groups in Manipur, also take a similar route to raise funds for their clandestine activities.

MAOISTS

The easy revenue available from narco finance has also lured the Maoists to exploit its revenue generation potential for procuring weapons. A raid by the Central Reserve Police Force (CRPF) in 2012, led to the discovery of a standing poppy crop on 12 acres of land in the Chaibasa Saranda forests in Jharkhand, which could have given an income of Rs 60-65 crore.⁷² In 2008, the Justice P.K. Mohanty Commission had found extensive cultivation of cannabis (ganja) in Odisha supported by the Chasi Mulia Samiti, a front organisation of the Maoists, which has since been banned.⁷³ The Minister of State for Home Affairs, Jitendra Singh confirmed the strategy of CPI(Maoist) to allow "poppy/ganja cultivation in order to collect money from such illegal activity."⁷⁴

⁶⁹ Subir Bhaumik, "Insurgency in the Northeast", *Bharat Rakshak Monitor*, vol. 5, no. 2, 2002, <http://www.bharat-rakshak.com/MONITOR/ISSUE5-2/bhaumik.html> (accessed March 23, 2012).

⁷⁰ Brig S.P. Sinha, "Northeast: the role of Narcotics and Drug Trafficking", *Indian Defence Review*, February 27, 2012, <http://www.indiandefencereview.com/spotlights/northeast-the-role-of-narcotics-and-arms-trafficking/> (accessed March 23, 2012).

⁷¹ Ibid.

⁷² Rakesh K. Singh, "Maoists Taking to Opium Farming to Source Funds", *Yahoo News*, <https://in.news.yahoo.com/naxals-taking-poppy-farming-source-funds-120735184.html> (accessed November 25, 2014).

⁷³ Debabrata Mohanty, "Maoist Support to cannabis farming in Orissa: report", *The Indian Express*, December 23, 2008, <http://www.indianexpress.com/news/maoist-support-to-cannabis-farming-in-orissa/401612/> (accessed May 15, 2012).

⁷⁴ Ministry of Home Affairs, "Farming of Poppy by Naxals", May 15, 2012, <http://pib.nic.in/newsite/erelease.aspx?relid=83869> (accessed May 16, 2012).

Much like the north-eastern insurgent groups, the Maoists have essentially relied on extortion and tax collection to raise funds in the past. However, an increase in security forces presence has forced the group to look at drug trafficking as an option, with certain estimates indicating as high as a third of their annual budget for 2011-12 of Rs 1,500–2,000 crore, being raised from poppy cultivation.⁷⁵

INDIAN MUJAHIDEEN

There is no evidence of narco taxation, or direct involvement in the cultivation of drugs bearing crops by IM cadres. However, given Pakistan's means of generating terrorism finance through the drug trade, indirect narco-funding is applicable to terrorism in the hinterland.

STATE SPONSORSHIP

Besides the use of charities and NGOs, Pakistan has employed its intelligence agency, the ISI to directly fund terrorist activities in India. Addressing the Hindustan Times Leadership Summit, Home Minister Rajnath Singh said:⁷⁶

Terrorism here is not home grown. It is externally aided. Pakistan blames non-state actors for it. I ask them whether the Inter Services Intelligence (ISI) is a non-state actor. If any one is fully helping terrorists, it is the ISI.

This is not only employed as part of the proxy war in J&K, as is widely known, but also in the north east.⁷⁷

National Investigation Agency's interrogation report of David Coleman Headley provides a detailed account of state funding by the ISI for the 26/11 terrorist attacks. The report says:

⁷⁵ Rakesh K. Singh, "Maoists taking to opium farming to source funds", op. cit. This report has however, not been substantiated by official sources and is likely to be on the higher side.

⁷⁶ See "Pakistan Aiding Terrorism: Rajnath", *The Hindu*, November 23, 2014, <http://www.thehindu.com/news/national/dawood-is-in-afghan-border-rajnath/article6625240.ece> (accessed December 26, 2014)

⁷⁷ Vicky Nanjappa, "ISI funding insurgency in North East, says ex ISI chief", *rediff.com*, March 20, 2012, <http://www.rediff.com/news/slide-show/slide-show-1-isi-funding-insurgency-in-north-east-says-ex-isi-chief/20120320.htm> (accessed March 26, 2013).

The 26/11 Mumbai attacks were possible only due to the complete support of ISI. According to Headley, every big action of LeT is done in close coordination with ISI. The money which was used by Headley for his surveillance activities in Mumbai was provided by Major Iqbal of the ISI. Headley believes that the money with which the first boat costing Rs 25 lakhs was purchased, was also provided by the ISI.⁷⁸

The ISI uses various sources for funding terrorism including charities, NGOs, drug trafficking, *zakat* donations, counterfeit and trading amongst others.⁷⁹ It has also used its links with terrorists turned businessmen like Dawood Ibrahim, who is a front for funding activities.

Details of Pakistan's direct involvement in funding terrorism in India had become apparent by 1998. Pakistan's embassy in Saudi Arabia was involved in sending funds through charities like Kashmir Medicare Trust and Muslim Welfare Society. It was also discovered by the J&K Police, that Mohammad Nazir, an ethnic Kashmiri in the embassy was transferring funding through a businessman, Muhammad Shafi Mir in Dubai.⁸⁰

Maloy Krishna Dhar, highlights the links between Pakistan, Bangladesh and Indian terror organisations. "Pakistan had exported jihad to the mainland India from Kashmir and it was ably assisted by the Directorate General of Forces Intelligence (DGFI) from Bangladesh... SIMI's umbilical growth, the Indian Mujahideen and other *tanzeems* in different parts of India have emerged as the open faces of hidden international Islamic Jihad. They may change names but the kernel of SIMI-Lashkar-ISI-DGFI linkages would remain intact."⁸¹ Dhar further gives details of a number of institutions in

⁷⁸ "Interrogation Report of David Coleman Headley", *National Investigation Agency, India*, http://www.investigativeproject.org/documents/case_docs/1602.pdf (accessed March 26, 2013), p. 4.

⁷⁹ Kanchan Laxman and Ajaat Jamwal, "J&K: Financing the Terror", *South Asia Intelligence Review*, http://www.satp.org/satporgtp/sair/Archives/6_50.htm#assessment1 (accessed November 25, 2014).

⁸⁰ Praveen Swami, "APHC: The Nexts with Terror", *Kashmir Herald*, vol. 2, no. 10, March 2003, <http://www.kashmirherald.com/featuredarticle/APHCnexus.html> (accessed on December 20, 2013).

⁸¹ Maloy Krishna Dhar, "SIMI: The Open and Hidden Faces of Indian Jihad", September 25, 2008, <http://maloykrishnadhar.com/simi-the-open-and-hidden-faces-of-indian-jihad> (accessed April 19, 2012).

India, which are being used as front organisations, involved in recruiting and fund raising.⁸²

State sponsorship of terrorism finance is also evident in the case of terrorist groups demanding Khalistan, and their close association with ISI and ISI backed groups like LeT. Intelligence agencies suggest that, “Following the diktat from the ISI, most of the Pak-based Sikh militant leaders are in a fix. Well aware that Sikh militancy in India was a thing of the past and no longer a viable entity, these Sikh fugitive militant leaders have slowly graduated to crime and are involved in narco trafficking and fake Indian currency note smuggling.”⁸³

MEANS OF TRANSFER

HAWALA SYSTEM

Hawala is an age old system of money transfers. Roger Ballard, in his background report on the system, explains that a system of ‘transfer of debt’ functioned during the 11th century, as described by the Egyptian scholar Sarakhshi.⁸⁴ It is interesting to see that *hawala* began as a system, which merely envisaged transfer of value and not physical currency, to keep trading revenues safe during transfers. Therefore, an ideal system did not envisage any transfer of funds. However, even though this system was based on implicit trust, and was prevalent amongst a very close circle of associates, who were very often family members, there was an elaborate method of record keeping. Promissory notes called *hundi*, were provided to indicate the nature of indebtedness.⁸⁵ Wilson gives a practical explanation for its continued popularity. “*Hawala*-type informal transfers are often faster, more reliable, reach more destinations, sometimes benefit from a better exchange

⁸² Ibid.

⁸³ Neeraj Chauhan, “Babbar Khalsa International plans big strikes in Punjab: Tunda”, *The Times of India*, August 20, 2013, http://articles.timesofindia.indiatimes.com/2013-08-20/india/41428331_1_bki-sikh-babbar-khalsa-international (accessed on December 16, 2013).

⁸⁴ For a detailed assessment of the hawala system see, Roger Ballard, *A Background Report on the Operation of Informal Value Transfer Systems (Hawala)*, April 06, 2003, <http://www.casas.org.uk/papers/pdfpapers/hawala.pdf> (accessed August 27, 2012), p. 3.

⁸⁵ Ibid., p. 4.

rate, and can be much cheaper than transfers through established, licensed financial institutions.”⁸⁶

The *hawala* route has traditionally been the medium of choice for providing funds for terrorist operations. However, it needs to be emphasised that *hawala* is not a source, but merely a medium. While it is used for terrorism, however, there is far greater reliance on the system for transfer of funds, by small time workers to their native places, given the convenience and cost effectiveness associated with it. *Hawala* does not involve physical movement of money but is a system of book balancing. As an example, money is given to a *hawaladar*, say in London by a taxi driver in pounds. The same amount, less service charge is made available by his counterpart in a remote village in Punjab to the family of the taxi driver. At the end of a pre-designated period, book balancing is done to adjust the two way transfer of funds. Despite the reality of the wide spread use of the system, *hawala* remains illegal in India, given the lack of regulations, which as evidence suggests, has led to its exploitation. One of the reasons for its easy exploitation is the lack of a monetary or electronic trail.⁸⁷ This makes it extremely difficult to trace the source and channels of funding, thereby making the challenge of terrorism finance that much more difficult.

Besides a large number of transactions on behalf of the people who find it cheaper and easier to operate, it is used extensively for money laundering and terrorism finance.⁸⁸ The Reserve Bank of India (RBI), indicates that the total remittances that came into India through formal channels in 2007-08 was US\$ 42.6 billion. According to an estimate, *hawala* equals 30 to 40 per cent of formal fund transfers.⁸⁹ The primary motivation for using *hawala*, is tax avoidance and transfer of illegal wealth. Therefore, even if there was a move to formalise *hawala*, until the need to transfer value for illegal proceeds remains, *hawala* or a similar system will continue to flourish. The challenge therefore lies both in the existence of illegal channels of value transfer, and the relative ease with which illegal wealth continues to be raised.

⁸⁶ John F. Wilson, “Hawala and Other Informal Payments Systems: An Economic Perspective”, May 16, 2002, <http://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/wilson.pdf> (accessed August 27, 2012), p. 3.

⁸⁷ *Ibid.*, p. 9.

⁸⁸ “Hawala money in India linked to terrorist financing: US”, *The Indian Express*, February 28, 2009, <http://www.indianexpress.com/news/hawala-money-in-india-linked-to-terrorist-financing-us/429240/> (accessed March 11, 2013).

⁸⁹ *Ibid.*

The convenience of *hawala* and the absence of digital and electronic signatures makes it ideal for terror networks, which have since long exploited this system. A case was filed against the Hurriyat (G) legal advisor, Ghulam Muhammad Bhat, Peoples League leader, Muhammad Siddiq Ganai, and Ghulam Jeelani Leelo and Farooq Ahmad Dagga for crores worth of *hawala* transactions. The NIA also indicated a flow of Rs 4 crore 5 lakhs and 40 thousand for LeT and HM terrorists between 2008–11.⁹⁰ The charge sheet filed in the case, revealed a number of *hawala* transactions since November 2008, with amounts ranging from Rs 1–5 lakhs. However, this increased to Rs 10–22 lakhs later, once the logistic linkages were established.⁹¹ The dealings were linked with Maqbool Pandit and Ejaj Ahmad Bhat of J&K, who shifted their operations to Pakistan and Saudi Arabia.

Lashkar-e-Taiba's activities have not remained limited to its primary base in Pakistan, but also includes the Gulf nations, as part of its financial network. The Anti Terrorism Squad (ATS) of Mumbai recovered 37,000 Saudi Riyals from the residence of LeT's Mumbai chief, Faizal Aatur Rehman Sheikh, who indicated that the transfer of this money was in two installments though a *hawala* network from Riyadh through Rizwam Ahmed Davre, designated as the *amir-e-baitulmaal* (chief exchequer) by Azam Cheema and Faizal Sheikh of the LeT.⁹²

The 2003 Mumbai blasts, saw explosions at the Gateway of India and Zaveri Bazaar. It has since been revealed that the LeT planned operation was funded through *hawala* channels by non resident Indians from Saudi Arabia.⁹³

The 7/11 blasts in 2006 also received funding from similar sources. However, given the complexity and scope of the operation, "more than

⁹⁰ "Charge sheet filed in multi crore Hawala case", op. cit.

⁹¹ Rahul Tripathi, "Hizbul man, Saudi trader raised Hawala money: NIA", *The Indian Express*, <http://www.indianexpress.com/news/hizbul-man-saudi-trader-raised-hawala-money/908692/> (accessed May 04, 2012).

⁹² Animesh Roul, "Lashkar-e-Taiba's Financial Network Targets India from the Gulf", *Terrorism Monitor*, *The Jamestown Foundation*, vol. VII, no. 19, 2009, [http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=35221](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=35221) (accessed March 17, 2012).

⁹³ Somit Sen, "Saudi-based NRIs funded Mumbai blasts: ATS", *The Times of India*, August 02, 2006, http://articles.timesofindia.indiatimes.com/2006-08-02/india/27797078_1_mumbai-blasts-gujarat-muslim-revenge-force-nris (accessed April 13, 2012).

nine lakh riyals – nearly Rs 1.2 crore” were transferred from Saudi Arabia through hawala channels. “A part of the money was used over a period of six months, to plan and execute the blasts on Mumbai’s suburban trains, which highly placed sources said was the job of Lashkar-e-Taiba, which had used ex-SIMI members.”⁹⁴ It was further revealed by the police that, “while part of the funds received were used to carry out dry runs, to procure or transport material for explosives, to arrange accommodation and transport for operatives, a significant amount is still lying around.”⁹⁵

The 2008 Mumbai terrorist attacks involved four Pakistani LeT terrorists. They operated from Muscat and Sharjah to raise funds and monitor the operations. Abu Haroon, a travel agent from Muscat, moved the money through *hawala* channels.⁹⁶

The 2008 Bengaluru blast also led to the identification of Abdul Aziz Hooti, the chief terrorist financier in Oman. His involvement in the Mumbai blasts is under investigation, with the strong possibility of being directly involved.⁹⁷

TRADE-BASED MONEY LAUNDERING/TERRORISM FINANCE

Trade-Based Money Laundering (TBML) can be defined as “the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illicit origins.”⁹⁸ The limited focus on TBML has been further impacted by large trade volumes, diverse financial arrangements and limited customs officials focusing on such issues.⁹⁹ Financial Action Task Force (FATF) has studied the available typologies to come up with the common methods that are employed. According to FATE, “The most basic schemes involve fraudulent trade practices such as: over and under-invoicing of goods and services, multiple invoicing of goods

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Animesh Roul, op. cit., pp. 6–8.

⁹⁷ Ibid.

⁹⁸ “Trade-Based Money Laundering”, *Financial Action Task Force*, June 23, 2006, <http://www.fatf-gafi.org/media/fatf/documents/reports/Trade%20Based%20Money%20Laundering.pdf> (accessed May 15, 2012), p. 3.

⁹⁹ Ibid., p. 2.

and services, over- and under-shipment of goods and services, and falsely describing goods and services.”¹⁰⁰

Trade-based money laundering/terrorism finance is likely to emerge as one of the most challenging forms of terrorism finance in the future. This is primarily because of the complexity involved in detection, and the difficulty in linking it with terrorism finance. Finance of terrorism through trade includes two important facets. The first is the trading company and second, the legal channel through which money is transferred. Since trade is considered as an engine of economic growth, and banks as lubricants, it is often difficult to assess the degree of regulation and control. The difficulty also increases since it requires wide ranging domestic and international coordination to include intelligence organisations, regulators and enforcement agencies.

There has been an increase in the number of cases of trade-based exploitation of the financial system, as a result of the increased pressure on financial, institutional and cash flow curbs.¹⁰¹ This increase is reflected in a number of reports registered as suspicious transactions by the FIU. While the report highlights red flag indicators of all forms, a gradual increase in the number of reports is also indicative of the increase in trade-based crime and terrorism finance (see Table 3).

Table 3: Suspicious Transaction Reports (STR)

<i>Category</i>	<i>2007-08</i>	<i>2008-09</i>	<i>2009-10</i>	<i>2010-11</i>	<i>2011-12</i>
Banks Financial	1,183	2,826	7,394	12,287	14,949
Institutions	288	841	1,655	7,006	14,712
Intermediaries	445	742	1,018	1,405	1,656
Total	1,916	4,409	10,067	20,698	31,317

Source: FIU – India, Annual Report 2011-12.¹⁰²

Employing trade-based means of financing terrorist activities in India has come to light in the recent past. On the India-Pakistan border, innovative means have been used to exploit the barter trade. The modus operandi involved, is pushing into India a larger value consignment against a lower

¹⁰⁰ “Best Practices on Trade-Based Money Laundering”, *FATF*, June 20, 2008, <http://www.fatf-gafi.org/topics/fatfrecommendations/documents/bestpracticesontradebasedmoneylaundering.html> (accessed on April 09, 2012).

¹⁰¹ “Trade-Based Money Laundering”, op. cit., p. 1.

¹⁰² Annual Report 2011-12, op. cit., p. 23.

declared value, thereby creating a value surplus, which could subsequently be used to raise funds for terrorist groups. In order to eliminate this problem, monetisation of the barter trade has since been started.¹⁰³

The existing capabilities of screening and scanning goods remains limited. Even with all the facilities available, it is difficult to track the benefits of trade, which could be funnelled to terrorist organisations. In one of the few successes, five people were arrested by the police in J&K for distributing Rs 13.85 lakhs amongst terrorist organisations, which had been raised through the sale of goods sent from PoK.¹⁰⁴

An Asia Policy Group (APG) report provides fresh analysis of TBML through typologies, based on case studies of some selected areas.¹⁰⁵ The report indicates a distinct vulnerability in existing trade practices. Some key observations of the report are:

- TBML cases have been reported, affecting analysis for specific regions.
- There is lack of awareness and training for TBML.
- TBML is not distinguished from money laundering.
- There is a lack of TBML investigators and absence for systems for the same.
- There are impediments in the domestic coordination and international cooperation.
- Tax evasion and customs offences are important predicate offences for TBML.
- Trade in commodities has become a good means for movement of cash and transfer of funds to indulge in money laundering/terrorism finance.

¹⁰³ Amitav Ranjan, "To check hawala, cross-LOC barter will now have bank trail", *The Indian Express*, February 15, 2011, <http://www.indianexpress.com/news/to-check-hawala-crossloc-barter-will-now-have-bank-trail/750099/0> (accessed April 09, 2012).

¹⁰⁴ "Trade money across LoC being used to finance LeT in J&K: Police", *The Times of India*, March 21, 2010, http://articles.timesofindia.indiatimes.com/2010-03-21/india/28123912_1_salamabad-pok-hawala-money (accessed March 09), 2013.

¹⁰⁵ See APG Typology Report on Trade Based Money Laundering, *Asia Pacific Group*, July 20, 2012, <http://www.apgml.org/methods-and-trends/documents/default.aspx?s=date&c=2f18e690-1838-4310-b16a-8112ffa857b1> (accessed December 20, 2012), pp. 5-6.

EXPLOITATION OF LEGAL FINANCIAL CHANNELS

Enforcement and intelligence agencies will continue to face challenges of tracing and tracking clean transactions through legal financial institutions, since characteristically terrorism finance is also funnelled through these channels. The use of legal channels to withdraw large amounts of cash by Al Qaeda for the 9/11 attack, reinforced this reality.¹⁰⁶

There are a number of examples where legal channels have been exploited for funding terrorism. An assessment of the Al Qaeda's 9/11 attack, reveals a simple and yet uncomplicated exploitation of the existing legal financial channels:

The best available evidence indicates that approximately US\$300,000 was deposited into the hijackers' bank accounts in the United States by a variety of means...Al Qaeda funded the hijackers in the United States by three primary and unexceptional means: (1) wire or bank-to-bank transfers from overseas to the United States, (2) the physical transportation of cash or traveler's cheques into the United States, and (3) the use of debit or credit cards to access funds held in foreign financial institutions. Once here, all the hijackers used the US banking system to store their funds and facilitate their transactions.¹⁰⁷

The 1993 Mumbai blasts saw the Dawood and Tiger Memon networks clinically plan and execute an extensive series of bomb blasts in Mumbai, which resulted in the death of 257 innocent people. It has now been established that financial support for conducting training for the attack and the subsequent bomb blasts was organised through firms in Dubai, on behalf of the Dawood gang and their Pakistani handlers. The Pakistani connection was confirmed when the absence of immigration formalities at the Islamabad airport came to light.¹⁰⁸ Funding, specifically meant for the attack, was routed through a legal NRI account of Yakub Memon in Bandra.¹⁰⁹

¹⁰⁶ See John Roth, Douglas Greenburg and Serena Wille, "Monograph on Terrorist Financing", *National Commission on Terrorist Attacks Upon the United States*, http://counterterrorismblog.org/upload/2008/09/911_TerrFin_Monograph.pdf (accessed March 05, 2013).

¹⁰⁷ *Ibid.*, p. 133.

¹⁰⁸ "1993 Mumbai blasts: Four of Memon family convicted", *op. cit.*

¹⁰⁹ *Ibid.*

The IM, besides receiving funding through LeT and hawala channels for strikes in India, have also used bank transfers from the Gulf region to finance their activities. The possible arrest of Faseeh Mahmood in Saudi Arabia, could provide more details on the financial support received by the group for its terrorist activities.¹¹⁰

A case in 2012, saw supporters of terrorists exploit the Hong Kong and Shanghai Banking Corporation (HSBC) bank to fund their activities. This is an example of how despite clearly laid down rules and regulations, banks for reasons of profiteering, can come under pressure to indirectly fund terrorism.¹¹¹

The use of credit and debit cards is yet another way of exploiting legal financial channels. An account opened in a bank in a particular country, with multiple international debit cards, can without raising any suspicion, be used for drawing money anywhere else in the world.

The NIA has received permission from the government to send Letters Rogatory (LR) to Pakistan for the arrest of the Hizbul Mujahideen chief, Syed Salahuddin, for pumping in money into J&K to fund terrorism. The channels employed for sending funds vary from *hawala*, banking channels and trade.¹¹²

Money Transfer Service Schemes (MTSS) like the Western Union have been used by supporters of terrorists to transfer funds. Since these funds can be sent to overground supporters and subsequently channelled for terrorism, it becomes very difficult to identify the nature of their use. Raja Lahrasib Khan was arrested in March, 2010, and charged with sending funds to Ilias Kashmiri to support terrorism. Raja, a Pakistan born Chicago taxi driver sent US\$ 930 to a contact in Pakistan, with further instructions to deliver

¹¹⁰ Dwaipayan Ghosh, "Saudi cops may have arrested Indian Mujahideen financier", *The Times of India*, May 18, 2012, <http://timesofindia.indiatimes.com/city/delhi/Saudi-cops-may-have-arrested-Indian-Mujahideen-financier/articleshow/13233230.cms> (accessed May 18, 2012).

¹¹¹ See *United States Senate Permanent Committee on Investigations*, "U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case Study", July 17, 2012, <http://www.hsgac.senate.gov/subcommittees/investigations/hearings/us-vulnerabilities-to-money-laundering-drugs-and-terrorist-financing-hsbc-case-history> (accessed November 26, 2012), pp. 6-7.

¹¹² "NIA to send LR to Pak for arrest of Hizbul Chief Salahuddin", *The New Indian Express*, December 01, 2013, <http://www.newindianexpress.com/nation/NIA-to-Send-LR-to-Pak-for-Arrest-of-Hizbul-Chief-Salahuddin/2013/12/01/article1921833.ece> (accessed on December 20, 2013).

approximately US\$300 for supporting attacks on India.¹¹³ Concerns have also been raised by the government in the past, regarding the possibility of such systems being exploited by terrorists.¹¹⁴

The proliferation of new payment methods has emerged as a serious threat. The provision of pre-charging cards and mobiles with money, creates an opportunity for subsequently using the money at different locations. Internet payment services also open avenues for terrorism finance. The nature of the medium introduces methods of transactions without adequate controls and regulations. The very characteristic of the medium limits Customer Due Diligence (CDD) procedures and safeguards, unless stringent controls are exercised by regulators and service providers.¹¹⁵

Table 4: Actions Initiated by RBI for KYC Violations

<i>Entities</i>	<i>Advisory Notices Issued</i>	<i>Show Cause Notices</i>	<i>Letters of Warning</i>	<i>Entities Penalised</i>	<i>Penalty Amount in Millions</i>
Scheduled Commercial Banks	1	2	1	1	2.5
Urban Co-operative Banks	67	43	46	35	9.2
District Central Co-operative Banks	–	–	–	2	1.0
Regional Rural Banks	–	–	–	–	–
Authorised Persons	–	–	–	–	–
Money Transfer Service Scheme	–	6	1	–	–
Authorised Money Changers	–	–	–	–	–
Authorised Card Payment Networks	–	–	–	–	–
Non Banking Finance Companies	–	–	–	–	–

Authority: RBI Annual Report 2011-12.¹¹⁶

¹¹³ “Chicago: Pakistan based cabbie pleads guilty in terror case”, *rediff.com*, February 7, 2012, <http://www.rediff.com/news/report/chicago-pakistan-origin-cabbie-pleads-guilty-in-terror-case/20120207.htm> (accessed on December 18, 2013).

¹¹⁴ Preeti R Iyer, “Western Union may come govt lens”, *The Economic Times*, September 26, 2007, http://articles.economicstimes.indiatimes.com/2007-09-26/news/27688584_1_anil-kapur-western-union-money-transfer (accessed on December 18, 2013).

¹¹⁵ See “Money Laundering Using New Payment Methods”, *FATF*, October 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/ml%20using%20new%20payment%20methods.pdf> (accessed May 01, 2013).

¹¹⁶ Annual Report 2011-12, *Reserve Bank of India*, http://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=27088 (accessed March 15, 2013).

Legal financial channels become a serious threat as intelligence and enforcement resources are focussed towards more obvious and identified channels of illegal funding. This includes *hawala* and counterfeit currency. Since most transactions taking place through the legitimate financial channels are legal, it is difficult to trace terrorism finance related activities. It is also difficult to assign pre-designated red flags in every case, which would automatically indicate affiliation of transactions with terrorism, since the sheer volume of suspicious transactions can overwhelm any system.

Amongst the prime reasons for the exploitation of financial institutions is the inability to enforce laid down procedures like KYC. These potential vulnerabilities can be exploited for commercial gains by banks and worse by terrorist groups for terrorism finance.¹¹⁷ Amongst the reasons for poor implementation, are the weak punitive norms prescribed by the Reserve Bank of India. As an illustration, the action initiated by RBI for KYC violations is given in Table 4.

CASH TRANSFERS

India remains essentially a cash based economy. According to an Assocham-Deloitte report of 2011, 65 per cent of all retail transactions were made in cash.¹¹⁸ Overall, 67 per cent of transactions are made in cash, while 33 per cent are done electronically. Credit and debit cards, despite their increasing proliferation, still account for only 13 per cent of the electronic transactions. This is because large sections of the population, are not being exposed to banking and e-transactions. The fear of frauds, besides slow adoption of technology, remains a deterrent for most. This makes it difficult to screen illegal cash transactions, given their large volumes.

The movement of cash does not leave trails, unless it enters banking channels. Therefore, its movement will remain a challenge for tracing and tracking terrorism finance.

¹¹⁷ Vivek Prakash, "India probing money laundering accusations against lenders" Reuters, March 15, 2013, <http://www.reuters.com/article/2013/03/15/us-india-banks-moneylaundering-idUSBRE92E05C20130315> (accessed November 25, 2014).

¹¹⁸ See "Mobile Payments in India: New Frontiers of Growth", *Assocham India and Deloitte*, April 2011, <http://www.assocham.org/arb/study-on-mobile-payments.pdf> (accessed March 22, 2013) and <http://news.webindia123.com/news/articles/india/20110904/1825474.html> (accessed November 25, 2014).

Given the large-scale use of cash in the economy, the ability of intelligence to throw up red flags to highlight suspicious transactions is a critical issue. In the absence of this ability, businesses like property dealing and the precious stones trade, can become conduits for terrorism finance.

The APG report on TBML indicates the challenges posed by a cash-based economy.

Predominance of cash transactions builds uncertainty in the financial system. Transactions in cash allow for concealment of the true value of a transaction and/or the misrepresentation of true records. Cash transactions may even facilitate cash smuggling. Such transactions also fuel the underground economy and tax evasion.¹¹⁹

Cash transfers, in small denominations are permitted to be moved both within the country and overseas as a legal activity. While these transactions may be inadequate for large-scale organisational requirements of terrorist groups, however, they often prove to be adequate for specifically funding strikes, and for slowly building finances as these can also assist in funding terrorism.

The arrest of Talib Lali, a top HM terrorist, revealed the estimated infusion of approximately Rs 80 crore into the Kashmir Valley. Large sums of the money were collected through the HM affiliated JKART, which is headquartered in Rawalpindi. Besides banking channels and *hawala*, cash couriers were also employed to send in these funds.¹²⁰

Cash has also been handed over to representatives of far-right organisations like the Khawateen Markaz by Pakistani Embassy staff in India. The Delhi Police charged Pakistan's Charge d'Affaires, Jalil Abbas Jilani, for giving Anjum Zamruda Habib Rs 3,70,000 in February, 2002.¹²¹

The right wing terrorist group, like the one accused of carrying out the Malegaon blast, collected and moved money as cash.¹²² This confirms that

¹¹⁹ See APG Typology Report on Trade Based Money Laundering, op. cit., p. 41.

¹²⁰ Deeptiman Tiwary, "Man who funded Hizb terror in Valley held", *The Times of India*, September 05, 2013, http://articles.timesofindia.indiatimes.com/2013-09-05/india/41800700_1_jkart-mohammed-shafi-shah-terror-funding (accessed on December 16, 2013).

¹²¹ Praveen Swami, op. cit.

¹²² See "Financier of Malegaon blasts group arrested: Maharashtra ATA", *The Times of India*, November 04, 2008, http://articles.timesofindia.indiatimes.com/2008-11-04/india/27903691_1_rakesh-dhawde-malegaon-blast-ajay-rahirkar (accessed on December 16, 2013).

even small-scale cash dealing and the resultant ability of the group involved to remain below the law enforcement radar can finance terrorism.

There have been improvements in the checks and procedures at major airports in India. However, smaller airports, land and sea entry and exit routes have inadequate surveillance facilities. This not only allows small denominations to be moved legally, but also larger ones, which can facilitate terrorism finance.

The issue of cash transfers in small denominations relates to the legal movement of money. Therefore, unless improved intelligence and surveillance can connect this small but sustained movements with supporters of terrorist groups, it will be difficult to achieve substantive results.

Case Study: Fake Indian Currency Notes

Fake Indian Currency Notes (FICN) have been identified as a major source for funding terrorism in the country. While production, trafficking and circulation of fake currency is not new, however, over a period of time, it has developed serious implications for the economy and for the security of the country.

Increase in the circulation of FICN based on specific cases has been dealt with earlier in the book. There is mounting evidence to suggest that the activity is carried out under the close supervision and control of Pakistani state agencies. This includes use of a number of countries like the UAE, as bases for transferring FICN, and others like Bangladesh and Nepal, as staging areas. Evidently, this has been done to widen the geographical spread of the operation, thereby making it that much more difficult to trace and track the movement of FICN. It also creates a challenge to link these actions with Pakistan, given the widespread use of proxy agents, of whom some are of Indian origin.

The principle law under which offences related to FICN are charge sheeted for prosecution is the Unlawful Activities (Prevention) Act, 1967, amended in 2004, 2008 and finally in 2012. The process of amendment was undertaken in 2011, based on the recommendations of the Financial Action Task Force (FATF) constituted Mutual Evaluation Report of 2010. Amongst the recommendations, was amendment of Section 15 of the act:

with the purpose of enlarging the ambit of ‘terrorist act’ by incorporating the ‘economic security’ of the country and to protect the monetary stability of India by way of production and smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material.¹²³

The amendment of the law provided the necessary provisions to prosecute FICN-related crimes in relation to terrorism, thereby improving the chances of convictions. The first case, which has led to the conviction of six accused

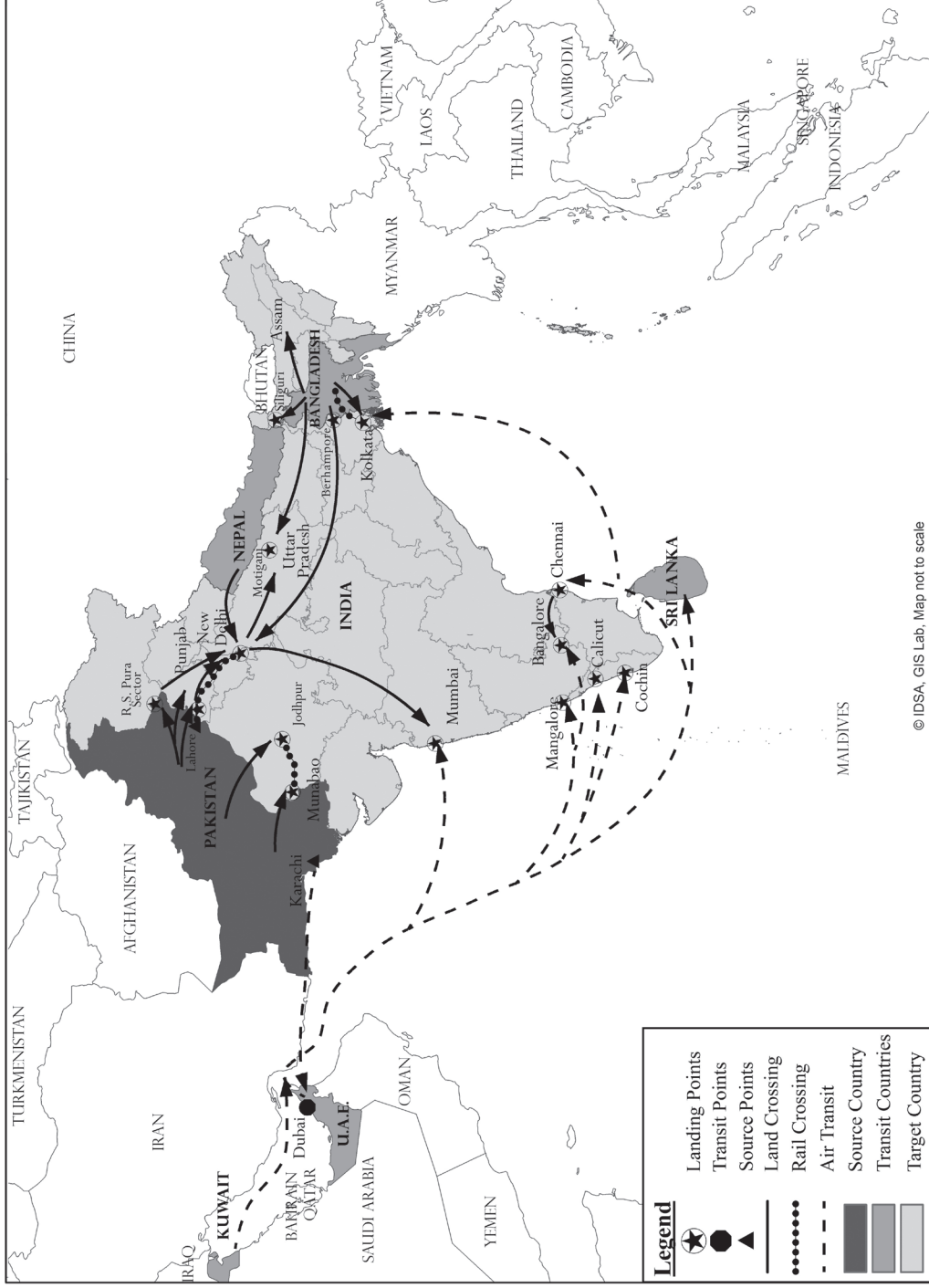
¹²³ Department Related Parliamentary Standing Committee on Home Affairs on The Unlawful Activities Prevention Amendment Bill, 2011, *Rajya Sabha*, para 1.2.2, March 28, 2012 (accessed on February 04, 2014).

members, has not only resulted in awarding life imprisonment to them, but has also conclusively nailed the involvement of Pakistan. This case study is based on the Special Court judgement of January 30, 2014, in the Gr. Mumbai Sessions Case No. 674 of 2009(NIA), a copy of which is with the author.

ORIGIN OF FAKE INDIAN CURRENCY NOTES

An assessment of the origin of recovered FICN was based on a detailed understanding of the safety features of Indian currency notes, and comparison with the recovered counterfeit notes. This led to the establishment of a pattern on the basis of common features. The technical details of safety features was provided by Shri Manjunath J, retired General Manager, Bhartiya Reserve Bank Note Mudran Pvt Ltd and Mr Marlenhalli C Bylappa, General Manager, Indian Government Mint Calcutta (West Bengal). Manjunath revealed the security features of Indian currency notes in detail, which in turn became the critical guiding principles to establish the nature of FICN in the case (see Annexure 2). The court noted that a specially designated committee, which was qualified for examining currency notes was provided samples of Rs 1,000 and Rs 500 that were recovered from different parts of the country to include Mumbai, Badawani (Madhya Pradesh), Chandigarh, Thane (Maharashtra), Chitradurga (Karnataka), Bhopal, Sambha (J&K) and Marmagoa. They were also provided with the original currency notes of Pakistan, Bangladesh, Myanmar, Sri Lanka, Nepal and Bhutan. This was done to enable them to compare the counterfeit currency in terms of quality of paper, ink, printing characteristics and other physical features, with the currency notes of these countries. The report indicated the following:

...the paper used in the manufacturing of FICN is genuine currency paper (100% cotton rag) and the paper has been made on the regular cylindrical mould machines which only sovereign nations have access to. Going by the sophistication of the security features it is concluded that the FICN were manufactured in regular currency making machines, which are available only to sovereign nations and the Central Banks. Report revealed that FICN seized in Sambha (J&K) and in Chandigarh are exactly similar to the FICN seized in this case. The FICN seized in Sambha area was recovered from two Pakistani terrorists who were killed in an encounter on the Indo-Pak Border while infiltrating into India. The FICN which was seized in Chandigarh was being brought from Pakistan by the



Map 2: Flow of FICN into India

accused Savinder Kaur and it was seized while she was getting down from Attari Express.¹²⁴

This established that the notes seized in this case from Mumbai as also other locations in India, were high quality fakes manufactured with state connivance. Given the involvement of terrorists in the recovery, it further proved that FICN was being pumped into India through terrorists as well.

The involvement of Pakistan in the printing of FICN was further reinforced, when samples of counterfeit currency seized from terrorists infiltrating into the country, and those seized in different locations like Mumbai and Kochi and Pakistani legal tender were compared by a committee of experts.¹²⁵ The judgement notes:

According to this witness during the course of further investigations and after forwarding a detailed questionnaire asking specific question about the parameters of samples of FICN and Pakistan legal tenders, the second report of the committee of experts revealed that that the most pivotal features of the samples of FICN and the legal tenders of Pakistan were exactly similar. The GSM of the FICN was exactly similar to the GSM of Pakistan legal tender and it was different from the GSM of the legal tender of India. The PH Value which determines the compositions of the currency paper was also exactly similar. The wax pick quotient and the poly vinyl alcohol coating was also exactly similar. The committee of experts concluded that based on the properties of paper and the sophistication of printing the manufacture of FICN points towards Pakistan as the manufacturing country.¹²⁶

The judgement therefore designated the case as a terrorist act, with direct involvement of Pakistan:¹²⁷

¹²⁴ The Court of Special Judge Constituted Under the National Investigation Agency Act 2008, for Gr. Mumbai Sessions Case No 674 of 2009(NIA), pp. 151-152.

¹²⁵ Shri M.C. Bylapp, Dy. GM & HoD, BNP, Dewas Convener, Shri S.Mahapatra, Manager (QA), SPM Hoshangabad and Shri R.P. Shirwadkar, DWM, CNP Nasik were the members of committee of experts, pp. 218-219.

¹²⁶ The Court of Special Judge Constituted Under the National Investigation Agency Act 2008, for Gr. Mumbai Sessions Case No 674 of 2009(NIA), p. 154.

¹²⁷ *Ibid.*, p. 177.

It is certainly a terrorist act in which the neighbouring sovereign country, i.e. Pakistan is involved with the sole purpose and intention to damage and threaten the unity, integrity, economic security and sovereignty of this country and also to strike terror in the people.

CREATION OF A NATIONAL NETWORK

The case established a close nexus between the six accused for the purpose of circulating fake currency in Mumbai and Thane, and for recovering authentic currency in lieu and funnelling the same to Malda. The similarity of currency note series seized in locations like Kochi and Mumbai indicated the creation of a well established network. In most cases, the smuggling hub in India was traced back to Malda, which given its proximity with the international border, had been exploited for distributing FICN.

MODUS OPERANDI

The modus operandi in this case involved the circulation of fake currency by the accused in the Mumbai and Thane areas. Thereafter, genuine currency was deposited in the name of Bhodu T. Sheikh and Shamsuddin Miya, in their bank accounts. This was withdrawn by them at Malda through an ATM. The cycle of FICN circulation was thus completed. The accused ensured that amounts in excess of Rs 49,500 were not deposited at any given time, thereby avoiding any needle of suspicion.

ROUTES EMPLOYED FOR TRANSFER OF FAKE INDIAN CURRENCY NOTES

The details of seizures made from 2004-2010, which were produced as evidence in the case, indicate an elaborate and dispersed network put in place by Pakistan. It clearly highlights varied means employed for transporting FICN into India. This includes smuggling counterfeit by land routes through couriers, trains and by air amongst others. Dubai emerges as a major hub that is utilised for transferring FICN by air to destinations like Bengaluru, Chennai, Kolkata and Mangalore. The Samjhauta Express was exploited for transferring counterfeit, as also other train routes from Bangladesh to India. Land routes from Bangladesh and Nepal to India, as well as from Pakistan into Punjab and Rajasthan are also employed for

smuggling FICN. A graphical representation of the same is given at Map 2 and details of seizures illustrating these details at Annexure 3.¹²⁸

IMPLICATIONS OF CONVICTION

The judgement noted that the case of FICN smuggling and circulation goes beyond the immediate arrests, wherein, it is an attempt to “threaten the unity, integrity, economic security, sovereignty of India, as well as with a will to strike terror in the people by smuggling and circulating FICN with the full knowledge that such FICN will cause damage, loss, disruption of supplies and services essential to the life of the community of India.”¹²⁹

This case is likely to become a landmark judgement in the fight against FICN smuggling and circulation in the country. The exemplary punishment awarded to the guilty is likely to serve as a deterrent in future cases as well. It will also be useful in focussing international attention on Pakistan’s attempt to not only spread terrorism in India, but also destabilise the economy of the country.

¹²⁸ *Ibid.*, pp. 126-136.

¹²⁹ *Ibid.*, p. 163.

3

Internal Sources of Terrorism Finance

The internal sources of terrorism finance have a history of illegal finance, which is older than external funding. Internal sources funded the earliest militant uprisings in the country, commencing with Nagaland in 1956 (though the funding may have commenced earlier), to Mizoram in quick succession from 1966. While there has been evolution in the external funding methods over a period of time, internal funding patterns have not changed substantially. Extortion and illegal taxation continues to remain the most important source for terrorism finance. This source has been assessed in the succeeding paragraphs. It is followed up with a case study of the United National Liberation Front (UNLF), to illustrate and substantiate its impact.

EXTORTION AND TAXATION

The biggest source of internal funding for terrorist groups in India remains extortion or taxation. This is specially relevant for groups in the Northeast and the Maoist affected areas.

The process of extortion starts with the collection of funds. Briefly, it includes extortion from industries¹ in the region, taxes on people, which vary from 20 to 25 per cent in most terrorist affected areas of the north east.² Every commercial vehicle pays a fixed amount.³ Contracts are given to sympathisers of terrorists to ensure a steady flow from government departments. In some

¹ A.J. Anoop, "Maoist Funding: Dimensions, Sources and Implications", *Vivekanand International Foundation*, <http://www.vifindia.org/article/2011/january/14/Maoist-Funding-Dimensions-Sources-and-Implications> (accessed March 23, 2012).

² Shantanu Nandan Sharma, "Naga shadow Centre's tax system", *The Economic Times*, October 31, 2004, http://articles.economictimes.indiatimes.com/2004-10-31/news/27395307_1_tax-system-nscn-house-tax (accessed April 14, 2012).

³ Jimi Dey Gabriel, "Wages of War", *Tehelka*, vol. 8, no. 32, 2011, http://www.tehelka.com/story_main50.asp?filename=Ne130811WAGES.asp (accessed August 27, 2012).

cases, direct misappropriation has also been carried out, in connivance with officials.

Once the funds are collected, these are moved for safekeeping. The method of storage varies from cash bundles to gold biscuits, which are not adversely affected by the weather.⁴ The final stage involves expenditure for payment to cadres, purchase of weapons and ammunition, running camps and welfare programmes to retain the support of the local people. Some terrorist groups have also moved large sums of money outside India. Such funds have further been invested in businesses, which provide a constant source of revenue.⁵

MAOISTS

The Communist Party of India (Maoist) does not hide its major source of funding. In fact, its sources have clearly been outlined in its “Party Constitution” as early as 2004. Chapter 13 of the Constitution deals with “Party Funds”.⁶ Article 60 states: “The party funds shall be obtained through membership fees, levies, donations, taxes, penalties and the wealth confiscated from enemies.” Article 61 adds: “The levy to be paid by party members shall be decided and collected in their respective state committees.”

The traditional method of internal revenue generation for most groups in the north east and the Naxal belt, has been extortion and tax collection. However, a major difference between the north east and some of the mineral rich areas in the Naxal belt, is the presence of industries. Extortion by the Maoists is estimated to be as high as Rs 1,500 crores.⁷ The total estimated income,

⁴ Karn Kowshik, Gold biscuits found on Andhra Naxals sets police thinking”, *The Indian Express*, September 07, 2006, <http://www.indianexpress.com/news/gold-biscuits-found-on-andhra-naxals-sets-police-thinking/12858> (accessed on March 27, 2013) and “Maoist gold dump recovered”, July 14, 2010, *The Hindu*, <http://www.hindu.com/2010/07/14/stories/2010071464141300.htm> (accessed March 27, 2013).

⁵ “ULFA investing in Bangla tea, textile sectors: Assam Tribune”, *Zee News*, March 16, 2009, http://zeenews.india.com/home/ulfa-investing-in-bangla-tea-textile-sectors-assam-tribune_515149.html, (accessed on November 25, 2014).

⁶ See *Banned Thought*, “Founding Documents (Sep 2004) – Constitution of the CPI(Maoist)”, <http://www.bannedthought.net/India/CPI-Maoist-Docs/> (accessed August 14, 2014).

⁷ P.V. Ramana, “Profiling India’s Maoists: An Overview”, as part of Arpita Anant (edited), *Non-State Armed Groups in South Asia: A Preliminary Structured Focused Comparison*, Pentagon Security International, New Delhi, 2012, p. 156.

a majority of which is sourced from extortion, is reinforced by the former Home Secretary, Shri G K Pillai, who puts the figure at approximately Rs 1,400 crore (the minor variation can be attributed to the approximate figures provided). These estimates have subsequently been lowered to approximately 140–250 crores.⁸ Maoists derive the bulk of their income in Chhattisgarh from “extortion of contractors, miners, traders of *tendu* leaf and other forest produce, including ivory and sandalwood merchants and smugglers.”⁹

The funding profile is not different in Bihar, with extortion and levies on forest produce, builders, contractors and industrialists.¹⁰

Extortion has become a rich source of income for the CPI(Maoist), given their exploitation of every stage of the industrial cycle, from mining to manufacture and movement of finished products. The nature and scale of extortion is indicated by the following input:

Jharkhand which contributes the major share to the Maoist exchequer, has the bulk of the corporations including Rungta Mines, Usha Martin, Torian Iron & Steel, etc., which have allegedly paid Rs 25 lakhs each, the Birla Bauxite Company in Palamau which paid Rs 80 lakhs, Latehar based Tetaria Mines which has paid Rs 2 lakhs to the Maoists in 2007-08 and many more.¹¹

The method of collection, according to an Institute for Defence Studies and Analyses (IDSA) research suggests, is based on targets given by the central committee of the CPI (Maoist).¹² This in turn is conveyed to the zonal committees. The report suggests that collections are done by overground

⁸ “Maoist objective is to overthrow Indian state: Home Secretary”, *NDTV.com*, March 05, 2010, <http://www.ndtv.com/news/india/maoist-objective-is-to-overthrow-indian-state-home-secretary-17255.php> (accessed March 23, 2012). Also see Alope Tikku, “Maoists raise 140-250 crore a year through extortion, protection rackets”, *The Hindustan Times*, July 20, 2013, <http://www.hindustantimes.com/India-news/NewDelhi/Maoists-raise-Rs-140-250-crore-a-year-through-extortion-protection-rackets/Article1-1095290.aspx> (accessed August 14, 2013).

⁹ Medha Bisht, “Naxalism in Chhattisgarh”, as part of Arpita Anant (ed.), *Non-State Armed Groups in South Asia: A Preliminary Structured Focused Comparison*, Pentagon Security International, New Delhi, 2012, p. 171.

¹⁰ Nihar Nayak, “Maoist Insurgency in East Indian States”, as part of Arpita Anant (ed.), *Ibid.*, pp. 190-191.

¹¹ A.J. Anoop, *op. cit.*

¹² Alope Tikku, *op. cit.*

workers, and armed cadres are not involved in the process. The allocated funds are retained at each level, before the balance is sent to the next higher level. The percentage of levy is estimated between 7 to 10 per cent by the study.

NORTH EAST

The National Socialist Council of Nagaland (NSCN) has the most well organised and elaborate tax collection system. This runs parallel with the tax collection structure of the government. After the ceasefire came into effect with the government in 2001, the self-styled Finance Minister of NSCN Khaplang (K), Kughalu Mularonu, said in 2004, that their group enforces four types of taxes; “government employees’ tax, house tax, contractors’ tax and a tax on trade and commerce,” which amounts to approximately 20 to 25 per cent of the monthly salary.¹³ Kughalu calls it a voluntary payment, which is even paid by top bureaucrats and ministers without reminders.¹⁴

The system followed by the NSCN Isak Swu-Thuingaleng Muivah (IM) is not very different. Phunting Shimrang, a senior office bearer of the ceasefire monitoring group in 2001, indicated that taxes are collected in Naga inhabited areas, irrespective of state boundaries, on behalf of the self-styled “Government of People’s Republic of Nagalim (GPRN)”. The collection is executed by the armed wing at the “rate of Rs 100 per individual per annum as ration tax, the GPRN itself levies 24 per cent of an individual’s annual income as royalty tax and Rs 10 as house tax.”¹⁵ In addition, contractors pay approximately Rs 2,00,000 to 3,00,000 lakhs annually and small businessmen Rs 50,000 to Rs 1,00,000.¹⁶

Just like the Naxal areas, every aspect of business, transportation and income is taxed. A light motor vehicle (LMV) plying in the area is taxed between Rs 1,000–5,000, medium vehicle Rs 5,000–10,000, heavy vehicle Rs 10,000, oil tanker Rs 5,000–10,000, taxi Rs 100–200, and bus Rs 3,000–5,000.¹⁷

¹³ Shantanu Nandan Sharma, *op. cit.*

¹⁴ Shantanu Nandan Sharma, *op. cit.*

¹⁵ G. Vinayak, “NSCN(I-M) admits collecting ‘tax’”, *rediff.com*, July 31, 2001, <http://www.rediff.com/news/2001/jul/31naga1.htm> (accessed on April 14, 2012).

¹⁶ *Ibid.*

¹⁷ Jimi Dey Gabriel, *op. cit.*

While all these figures can only be approximations, yet they give an estimate of the scale of extortion and taxation in the region.

JAMMU AND KASHMIR

There have been a lower number of reports of extortion from J&K, as compared to other regions. However, even as extortion is neither as extensive, nor as well organised in the state, there is adequate evidence to support its prevalence. The ghastly killing of Sudhir Kumar Pundir and his brother, Sanjay Pundir, both engineers with the Indian Railways Construction Company (IRCON), in South Kashmir, confirmed the apprehensions. Both the brothers were kidnapped on June 23, 2004 and a ransom of Rs 50 lakhs demanded for their release. However, despite the amount being settled at Rs 5 lakhs thereafter, both were killed by the terrorists.¹⁸ Similar calls were reported by sub-contractors of IRCON, who were tacitly allowed to inflate the labour figures to adjust the increase in costs, as a result of the extortion paid.¹⁹ This reflected a shift from looting of government institutions to a cleaner method of extortion, especially given the increase in developmental funding efforts in the state.²⁰ The cases of looting reported between 1990-2001 are as follows:

Table 5: Cases of Looting in J&K

<i>Year</i>	<i>Amount Looted (Million Rs)</i>
1990	22.62
1991	6.23
1992	6.48
1993	8.35
1994	13.91
1995	15.00
1996	3.00
1997	1.47
1998	1.09

¹⁸ See Praveen Swami, "Public funds for terrorism", *Frontline*, vol. 21, no. 15, 2004, <http://www.frontline.in/static/html/fl2115/stories/20040730006011800.htm> (accessed August 30, 2012).

¹⁹ Ibid.

²⁰ Ibid., according to Praveen Swami, looting was to the tune of Rs 26,57,440 in 2003 and 53,73,865 in 2002.

<i>Year</i>	<i>Amount Looted (Million Rs)</i>
1999	2.40
2000	1.00
2001	4.38

Source: SAIR²¹

The challenges posed by extortion/taxation, with reference to various stages are:

- The long period of ongoing extortion activity by groups in north-east India and Maoist affected areas has resulted in a degree of acceptance of this threat as an unavoidable reality. This has led to enforcement agencies taking inadequate measures to curb the trend. Emboldened by such inaction, terrorist groups are able to sustain themselves financially, even as their ideological base has eroded.
- Application of weak laws has a limited impact on the fund collection efforts of terrorists. A poor conviction record further affects establishment of the rule of law in far flung areas of the country. This allows terror funds to flow with impunity.
- The focus of counter terrorism efforts has largely been in apprehending or neutralising terrorists. There has been inadequate focus on the need to identify and unravel terrorism finance networks. This allows funding of terrorist groups to continue over a period of time, thereby sustaining their organisational structure.
- Intelligence and enforcement agencies have developed information on local extortion and the modus operandi used by the terrorists for such activity. However, the inability to trace and track subsequent financial channels used for transferring and storing money, both within and outside the country, have limited their ability to squeeze terrorist funding.
- The nexus between the regional political leaders and terrorist groups has allowed a degree of safety from prosecution, especially in north-east India. The inability to break this nexus has led to a marriage of convenience, which is financially beneficial for both sides.²²

²¹ Kanchan Lakshman in SAIR, quoted by Mahendra P. Lama, "Terrorism and Insurgency in India: Economic Costs and Consequences", *ICSSR Journal of Abstracts and Reviews*, <http://117.240.228.68/ojs/index.php/JARPS/article/viewFile/275/268> (accessed August 30, 2012), p. 18.

²² See Dinesh Kotwal, "Instability Parameters in Northeastern India", *IDSIA*, <http://www.idsa-india.org/an-apr-09.html> (accessed May 14, 2013).

CRIME

All acts associated with crime that are used to raise funds for terrorism go through a similar process as extortion to include committing the criminal act, moving the proceeds and finally using it for terrorism. At each of these stages, intelligence and law enforcement agencies try to pre-empt terrorism finance and arrest the progression of the act.

It is well established that the channels exploited by criminal groups for moving goods and finances can also be exploited by terrorists for terrorism finance. Some crimes like drug and human trafficking, smuggling and the arms trade, are especially vulnerable in this regard. However, agencies which deal with these crimes function under different ministries, and at times, in different states. This limits the ability of authorities to build a cogent picture for cohesive action. Identifying the problem, the former Home Minister, Chidambaram notes:

It is our experience that the networks of terror overlap with the networks of drug-peddling, arms-trading and human-trafficking. The agencies that deal with the latter category of crimes are scattered. For example, the Narcotics Control Bureau is under the Ministry of Home Affairs while the Central Bureau of Narcotics is under the Ministry of Finance. The Arms Act is administered by MHA. As far as human-trafficking is concerned, the primary responsibility lies with the State Governments, but anti-human trafficking cells have been set up only in 9 districts of the country. Regulation and enforcement in each of these areas require to be strengthened and brought under the overall management of internal security.²³

Over a period of time, as insurgencies lost their appeal and support base, the character of funding operations has also shifted to criminal activities. Besides extortion, which has already been highlighted earlier, kidnapping has become a rich source of generating funds. In Assam, “4083 people were kidnapped from 1991 to 1995,” with tea garden employees, businessmen and employees of central government ventures being prominent targets.²⁴ Two students of Mysore were abducted on June 8, 2011 for ransom, by operatives of the Karnataka Forum for Dignity (KFD), an alleged front organisation

²³ P. Chidambaram, “Home Minister proposes radical restructuring of security architecture”, December 23, 2009, <http://pib.nic.in/newsite/erelease.aspx?relid=56395> (accessed December 10, 2012).

²⁴ G. Vinayak, *op. cit.*

of Students Islamic Movement of India (SIMI). It was revealed by the police that the kidnapping was done to raise funds for Karnataka Forum for Dignity (KFD).²⁵

The Indian Mujahideen (IM) and former SIMI have also been directly involved in criminal activities in the recent past. The police arrested six former members of SIMI in 2011, who revealed their plans to commit robberies to fund operations.²⁶ These erstwhile SIMI cadre, subsequently a part of IM, received instructions to “take to street crime” for funding. “According to Madhya Pradesh Anti Terror Squad (ATS), the robbery of 13 kg gold (worth Rs 2.5 crore) was planned and executed by the same men. They had robbed five banks in Dewas, Itarsi and two other places in the state, and are also suspected to be behind the 2008 Ahmedabad blasts.”²⁷ The IM has also resorted to ingenious methods of raising money locally. An arms factory set up by the group in Nangloi was used to manufacture cartridges, which were in turn sold to anti-social elements at a substantial profit. According to Yasin Bhatkal, the arrested leader of IM, a cartridge, which cost Rs 3 to manufacture, was sold for Rs 200.²⁸

Some incidents of Maoists indulging in crimes like robbery have also come to light. Maoists looted an ICICI bank branch in Jharkhand in 2007, and made away with Rs 5 crores in cash.²⁹

Reports of criminal activities like robberies of government institutions and private property, with the aim of augmenting finances has been confirmed by the Ministry of Home Affairs (MHA).³⁰

²⁵ Deepa Balakrishnan, “Police suspect SIMI link behind Mysore killings”, *ibnlive*, <http://ibnlive.in.com/news/police-suspect-simi-hands-behind-mysore-killings/162033-3.html> (accessed April 19, 2012).

²⁶ Dwaipayan Ghosh, “Street crime funding Indian Mujahideen ops”, *The Times of India*, February 05, 2012, <http://timesofindia.indiatimes.com/city/delhi/Street-crime-funding-Indian-Mujahideen-ops/articleshow/11760360.cms> (accessed March 15, 2012).

²⁷ Ibid.

²⁸ Neeraj Chauhan, “Indian Mujahideen sold ammunition to fund terror”, *The Times of India*, December 21, 2013, http://articles.timesofindia.indiatimes.com/2013-12-21/delhi/45443549_1_yasin-bhatkal-mir-vihar-indian-mujahideen (accessed on December 23, 2013).

²⁹ A.J. Anoop, op. cit.

³⁰ Ministry of Home Affairs, “Foreign Funding to Naxalites Being Closely Monitored”, May 15, 2012, <http://pib.nic.in/newsite/erelease.aspx?relid=83914> (accessed May 16, 2012).

This brings to the fore certain serious challenges from the perspective of fighting crime and terrorism finance. *First*, there is a multiplicity of organisations dealing with different crimes related to terrorism finance. Unless these crimes can be linked to terrorism finance, the linkage between the two will not be established. *Second*, porous borders facilitate transnational crime.³¹ *Third*, the challenge of close coordination and integration is accentuated by different border guarding forces functioning within their respective spheres of influence. Under these circumstances, terrorist organisations exploit local, transnational and petty crimes to fund their activities.³²

NON-GOVERNMENTAL ORGANIZATIONS

A large volume of funds flow to non-governmental organizations (NGOs). This funding is received for a large variety of social work undertaken by the NGOs. However, unless there is close scrutiny of the funds, there remains the possibility of their diversion for terrorism. NGOs sympathetic to particular groups or causes, have in the past been under surveillance. This limitation was substantiated with the possibility of a large proportion of funds “being diverted for terror acts.”³³

An assessment of past cases indicates that NGOs usually facilitate terrorism finance through the following means:³⁴

- By posing as legitimate entities.
- Exploiting legitimate entities as conduits for terrorism finance funds.
- Concealing or obscuring legitimate diversion of funds meant for legal purposes.

³¹ See Pushpita Das, “Drug Trafficking in India: A Case for Border Security”, *IDSA*, http://www.idsa.in/system/files/OP_DrugTraffickinginIndia.pdf (accessed March 25, 2013), pp. 8 and 24.

³² See “Illegal funds being used to foment terror: Vohra”, 14 September 2012, *The Indian Express*, <http://www.indianexpress.com/news/illegal-funds-being-used-to-foment-terror-vohra/1002566> (accessed March 25, 2013).

³³ Prafulla Marpakwar, “State forms cells to detect sources of terror funds”, *The Times of India*, December 24, 2011, http://articles.timesofindia.indiatimes.com/2011-12-24/mumbai/30554078_1_terror-funding-terror-acts-foreign-funds (accessed on Mar 13, 2012).

³⁴ International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, *The FATF Recommendations*, February 2012. See http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf (accessed May 14, 2013), p. 54.

The vulnerability of NGOs/non-profit organizations (NPOs) has been identified by the Financial Action Task Force (FATF) under five distinct factors. These are:³⁵

- They enjoy public trust.
- Have access to considerable funds.
- Have a global presence, which facilitates transnational financial transactions.
- Some of the beneficiaries can be vulnerable to radicalisation.
- They often have little or no government oversight.

The processing of funds by NGOs is done in three stages. The first stage, involves receipt of funds. This can include both domestic or foreign sources. In the second stage, funds received are expended by the NGOs. Finally in the third stage, they are required to account for funds received, which includes filing reports with the government in case of foreign remittances in accordance with the Foreign Contribution (Regulatory) Act (FCRA) 2010.

The Indian NGO sector is a vibrant group, which has been involved with various public sector projects. However, despite the enormous growth of this sector, there has been inadequate regulation and scrutiny. According to the report compiled by the MHA controlled FCRA wing for 2010-11: “There is no centralised database on the number of non governmental organisations in the country, and the quantum of finance involved in their operations, however unofficial figures indicate that there are over 20 lakh non governmental organisations registered under the Societies’ Registration Act, Trust Act etc.”³⁶ According to the report, a little over 40,000 NGOs are registered with the government for receiving foreign contributions. This is just over 2 per cent of the total NGOs in the country. Even amongst these, 71,009 filed income tax returns in 2006-07 and 38,591 had

³⁵ See “NPO Sector Vulnerabilities: Typologies Report”, *Asia/Pacific Group on Money Laundering*, 22 July 2011, <http://www.apgml.org/documents/docs/6/NPO%20Sector%20Vulnerabilities.pdf> (accessed May 02, 2013), p. 17.

³⁶ “Receipt and Utilization of Foreign Contribution by Voluntary Associations”, FCRA Annual Report 2010-11, *Ministry of Home Affairs, Foreign Division, FCRA Wing*, November 13, 2012, <http://mha1.nic.in/fcra/annual/ar2011-12.pdf> (accessed March 09, 2013), p. 3.

undertaken the process for receiving funds from abroad.³⁷ For the year 2010-11, only 22,735 NGOs submitted their annual returns for the year. Evidently, there is a perceptible gap in information about NGOs and this indicates a lack of transparency in their financial activity.

The easy flow of money to these groups has caused great concern within governmental circles.³⁸ There has also been a steady increase in the flow of funds to NGOs from abroad. “Rs 9914.19 crore foreign contributions were received by 21,365 non governmental organisations in 2007-08, Rs 10987.05 crore by 22,544 non governmental organisations in 2008-09 and Rs 10340.25 crore by 21,674 non governmental organisations in 2009-10.”³⁹ Violations of FCRA 2010 have already led to the freezing of 30 accounts and banning of 70 for violating laid down procedures.⁴⁰

One hundred NGOs were placed under surveillance for not only violating existing rules, but also for funding terrorists. These NGOs are spread across the country, including states like Uttar Pradesh, Gujarat and Nagaland.⁴¹

A number of examples of the role of front organisations and NGOs are listed in succeeding paragraphs. However, it will be evident that unlike the large scale involvement found in case of charities and NGOs in Pakistan and Saudi Arabia in the immediate aftermath of 9/11, the role of Indian NGOs remains on the margins of terrorism finance. It is characterised by ideological support, and for creating a cadre base for furthering extremist views. This is also reinforced by the absence of convictions in the present context. While this does not rule out the possibility of their future involvement, however, the scale is likely to be dependent on the nature of procedural enforcements.

³⁷ “Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism”, *Asia/Pacific Group on Money Laundering and Financial Action Task Force*, June 25, 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf>, p. 214.

³⁸ Vicky Nanjappa, “Govt puts NGOs under scanner for terror financing”, *rediff.com*, December 19, 2011, <http://www.rediff.com/news/report/govt-puts-ngos-under-scanner-for-terror-financing/20111219.htm> (accessed March 22, 2012).

³⁹ “Govt freezes NGOs’ funds over FCRA violations”, *GovernanceNow*, March 20, 2012, <http://governancenow.com/news/regular-story/govt-freezes-ngos-funds-over-fcra-violations> (accessed January 03, 2013).

⁴⁰ *Ibid.*

⁴¹ “Money Laundering: NGOs under intel scanner”, *Nagaland Post*, September 29, 2011, <http://www.nagalandpost.com/ChannelNews/State/StateNews.aspx?news=TkVXUzEwMDAwNjU1Mw==mS29MccEbgo=> (accessed May 16, 2012).

The strong possibility of using NGOs by terror groups has led to their role coming under scrutiny. As an example, when members of Al Ummah, were convicted after the Coimbatore blast case, the Charitable Trust for Minorities (CTM), volunteered to help resettle them on their release. However, the police alleges that CTM is funded from Saudi Arabia, and in turn has been involved in funding extremist organisations like the Muslim Defence Force (MDF).⁴² The police has also raised suspicions regarding activities of organisations like Manitha Neethi Pasarai (Organisation for Human Justice), National Development Front of Kerala (NDF), KFD and Popular Front of India (PFI), especially since their leadership was in the hands of former SIMI cadres.⁴³

The Maoists have also exploited NGOs to collect funds on their behalf. There have been reports of groups like Vajra Bodhi Society supporting Maoists financially. Umesh Kumar Singh, DIG of the Magadh Range revealed as early as 2007: “Some months ago a few Naxal women leaders were caught in Bodhgaya. During interrogation, we could gather that they are attached with the naxals. They get money in the name of imparting education in rural areas. But they are part of the naxals.”⁴⁴

DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS

Designated Non Financial Businesses and Professions (DNFBPs), according to the Eurasian Group on Combating Money Laundering and the Financing of Terrorism, implies casinos (which also includes internet casinos), real estate agents, dealers in precious stones and metals, lawyers, notaries, other independent legal professionals and accountants.⁴⁵ It is evident from the nature of professions, that despite these not being financial institutions, they deal with large volumes of finances, both in terms of being directly involved in transactions, and by acting as intermediaries for the same. This makes

⁴² T.S. Subramanian, “Building New Bases”, *Frontline*, vol 24, no. 24, December 8, 2008, <http://www.frontlineonnet.com/fl2424/stories/20071221500800700.htm> (accessed April 19, 2012).

⁴³ Ibid.

⁴⁴ “NGOs funding naxals”, *Naxal Terror Watch*, March 17, 2007, <http://naxalwatch.blogspot.in/2007/03/ngos-funding-naxals.html> (accessed August 14, 2013).

⁴⁵ “Glossary”, *Eurasian Group on Combating Money Laundering and the Financing of Terrorism*, <http://www.eurasiangroup.org/glossary.php> (accessed May 03, 2013).

them vulnerable to money laundering and terrorism finance risks, unless they are regulated.

As an example, the real estate sector, unless regulated, can be involved in terrorism finance.⁴⁶ Transactions in property, through repeated buying and selling can assist in successfully layering tainted money, which may have an illegal source like terrorism, or other criminal activities. Similarly, investment of money in tourism-related activities, can assist in the final stage of cleaning the layered funds. The lack of regulation can also lead to *benami* deals, which can hide the real ownership of funding, thereby providing a parking slot for funds and multiplying them for groups with questionable credentials. Terrorists can take advantage of this lacunae in the system, if ownership is not established as part of the transaction process, leading to its abuse. Finally, the undervaluation of deals can generate unaccounted funds, which can also become a source for terrorism finance.

The strengthening of laws and regulations for financial institutions have improved implementation of Anti-Money Laundering (AML) provisions. However, until the recent amendment of the Prevention of Money Laundering Act (PMLA), DNFBP were outside the purview of the AML law. This was specially relevant given the money laundering and terrorism finance risks visualised from businesses like real estate, and trade in precious stones.⁴⁷ However, even after their inclusion based on the 2012 amendment to the PMLA, unless regulation of these sectors is formalised, implementation of existing provisions will remain difficult.

The challenges relating to DNFBP stem from the contradictions that arise from the existing rules, and a reality check of sectors like property dealing and the precious stones trade. In a city like New Delhi, almost every property transaction is likely to be over the limits set for suspicious transactions, both for cash and cheques/drafts. Despite this, property dealers are not required to report suspicious activities, or cash transaction reports. This problem is further enhanced, since the sectors wield considerable influence and resist regulation and control. Vested interests also work to keep the legal profession outside the purview of regulations, thereby presenting challenges, which

⁴⁶ “Designated Non Financial Businesses and Professions (DNFBPs) in relation to AML/CFT”, *MENAFATF*, 10 November 2008, http://www.menafatf.org/images/UploadFiles/DNFBPs_in_relation_to_AMLCFT.pdf (accessed May 03, 2013), pp. 3-4.

⁴⁷ See Mutual Evaluation Report, *op. cit.*

work against transparency and effective enforcement.

Therefore, regulation and control of DNFBP remains uneven from the perspective of money laundering and terrorism finance. As an example, these businesses are not required to send Suspicious Transaction Reports (STRs) to the Financial Intelligence Unit (FIU). Details of their ownership, transaction details, including corresponding beneficiaries remain unclear. The pattern of movement of monetary trails with ownership and cross-linkages at each stage are critical for ensuring transparency and obviating money laundering/terrorism finance concerns. The absence of these details, opens the possibility of their exploitation.

The National Investigation Agency (NIA) brought to light a case of cash funnelled to Bengaluru by a Manipur-based group, People's Revolutionary Party of Kangleipak – the United People's Party of Kangleipak (PREPAK – UPPK). An amount of Rs 1.14 crores was handed over by N. Shanti Meitei to a businessman in Bengaluru to invest in real estate, shares and bonds.⁴⁸

The intelligence community in India is also facing the possibility of terror funds being invested and generated through stock markets. In 2012, a list of 95 companies involved in such activities came to light. These companies have maintained a low profile and have not only succeeded in converting black money to white, they have also facilitated parking of terror funds.⁴⁹

MEANS OF TRANSFER

The means of funds transfer in case of internal sources is very different from external sources. Most importantly, the direction of funding, except for NGOs to an extent, and in exceptional cases DNFBP, wherein money flows from abroad, sees flow of funds mainly within the country, or in some cases, to safe havens and businesses outside the country. The means employed for transfers can be similar to the flow of funds from outside the country, though, smuggling of precious metals and drugs present an opportunity of moving large sums, since they represent high values in small packages.

⁴⁸ "Rs 1.14 crore "terror fund" for investment seized by NIA", *The Indian Express*, November 05, 2013, <http://www.indianexpress.com/news/rs-1.14-crore-terror-fund-for-investment-seized-by-nia/1190993/> (accessed on December 14, 2013).

⁴⁹ Vicky Nanjappa, "95 companies using stock markets to fund terror", *rediff.com*, November 08, 2012, <http://www.rediff.com/business/slide-show/slide-show-1-95-companies-using-stock-market-to-fund-terror/20121108.htm> (accessed on December 15, 2013).

Movement of funds by cash couriers remains a common method employed by all groups for transferring funds within the country. This method is also employed at the terminal end of the external funding chain. As an example, *hawala* is employed for moving funds into India for terrorism. However, the same system is further used to move money to specific recipients within the country. The employment of *hawala*, however remains the easiest and cleanest method. It does not require physical movement of money, with the additional advantage of not leaving electronic trails. Similarly, cash couriers also branch off to different destinations after their induction into the country. Formal financial channels follow an induction chain, which may be initiated outside the country, but once it reaches India, the final movement continues within the local system, thereby linking the two systems. Cases are known wherein, trade-based laundering has been employed by setting up fake companies and thereafter using them to invest in stocks. Former Home Minister Sushil Kumar Shinde notes: “Credible intelligence suggests that terrorists outfits are investing in stock markets through spurious companies, setting up businesses and laundering money.”⁵⁰ The specific reference of LeT has also come to light in the context of the Karachi Stock Exchange.⁵¹

⁵⁰ “Terror group investing in stock market”, *World Check*, <http://www.world-check.com/insights-tbrief/terror-group-investing-stock-market/2013/01/07> (accessed May 01, 2013).

⁵¹ “Terror outfit LeT investing through Karachi Stock Exchange in Pakistan”, *The Economic Times*, November 15, 2012, http://articles.economictimes.indiatimes.com/2012-11-15/news/35133358_1_terror-strikes-terrorist-outfits-terror-outfit (accessed May 01, 2013).

Case Study of the United National Liberation Front

The trend of internal financing of terrorist groups in the country, has been reinforced by a specific case study of United National Liberation Front (UNLF). UNLF is the oldest Meitei insurgent group which was formed in 1964 and is active in Manipur.⁵² The group is fighting for an independent Manipur and feels that the merger of Manipur in 1949 was under coercion of the central government. The annual statement of 2006 issued by the group clearly highlights its objectives:

In the wake of the forcible annexation of Manipur by the Dominion of India in 1949, patriotic individuals grouped together to establish the UNLF on November 24, 1964, with the objective of restoring Manipur's sovereign independence by waging a national liberation struggle against India.⁵³

The sources of funding of UNLF are similar to most groups in the region, wherein, extortion is the largest contributor. The case of UNLF thus falls under the category of privatisation of funding, on the basis of its sourcing.

The analysis is based on the financial balance sheet available with the author, which provides details of accounts of the group from January 01, 2008 till December 31, 2008 (Refer Table 6 and 7). The financial document follows all modern accounting methods currently in practice. This indicates the employment of professional accounting services for the purpose. The systematic maintenance of accounts carries forward the balance for the year 2007, and thereafter includes credits and debits for 2008. The first two pages give a summary of accounts for the year. This is followed by each individual entry under separate heads. It also includes a column for receipt

⁵² See United National Liberation Front, *satp.org*, http://www.satp.org/satporgtp/countries/india/states/manipur/terrorist_outfits/unlf.htm (accessed July 01, 2013).

⁵³ Quoted by Amarjeet Singh, "Armed Conflict in Manipur: The Case of UNLF", as part of Arpita Anant (ed), *Non-State Armed Groups in South Asia: A Preliminary Structured Focused Comparison*, Pentagon Security International, New Delhi, 2012, p. 69.

numbers, possibly given for the money received. While these have not been indicated in every case, however, in a large percentage of entries, it has been highlighted against receipts of money. The degree of detail is illustrated by reference to loans given and partial or complete recovery receipts.

It is evident that the largest percentage of funds are generated by the group from extortion or taxation. These have been listed as part of the income generated from “business”. This head accounted for Rs 10,113,967 for 2008. This amount has been raised through three sources, including dealers and sellers of rice, wheat and oil. It clearly indicates the stranglehold of the UNLF over critical essential commodities, which are required for the daily subsistence of local people. In addition, the annual balance sheet also includes incomes under the head “business centre”. This term is used to identify extortion from a number of businesses being run in the area. As an illustration, it includes brick kilns (called brick farm), stone crushing business, retailers, fast moving consumer good (FMCG) distributors, motor companies, hotels, petrol pumps, hospitals and clinics amongst others. This accounts for Rs 2,500,900.

A number of government departments have also been listed in the details provided in the balance sheet. The rate of extortion for these departments varies from 2 per cent to 10 per cent as per the balance sheet. This includes a large number of government departments like horticulture, agriculture, zilla parishads (state finance commission), forest department amongst others. Members of the state legislative assembly have also made contributions, with shares ranging from 5 to 10 per cent. It is not clear whether these departments are paying extortion money only to the UNLF or some other groups also that are active in the region. These collections fall under the head of “central fund” and amount to 26,856,052.00 for the year.

A major percentage of funds were raised from what has been termed as “contract and supply”. This includes a number of government departments like public works and private companies as well. The total extortions amount to 12,301,282.

The transport sector, given the reliance of the state of Manipur on surface movement, is also a large contributor. All the bus services run in the area, including school buses contributed Rs 500 to 5,000 per month. The total collection for the period was Rs 5,524,900.

With the balance of Rs 72,640,538 brought forward from 2007, the total income for 2008 was Rs 380,651,445.

A summary of the credits is as follows:

Table 6: Department of Finance: United National Liberation Front (RO)
Annual Balance Sheet from January 01, 2008 to December 31, 2008
(Credits)

<i>Account</i>	<i>Amount (Rs)</i>	<i>Total (Rs)</i>
OPENING BALANCE		
RO GI 2007 KI	7,26,40,538.00	7,26,40,538.00
BUDGET	2,12,30,000.00	2,12,30,000.00
BUSINESS		
Business/Rice	5,24,51,331.00	
Business/S K Oil	39,43,900.00	
Business/Wheat	1,01,13,967.00	6,65,09,198.00
BUSINESS CENTRE		
Business Cent/Annual	82,32,000.00	
Business Cent/Lamsum	27,00,000.00	
Business Cent/Monthly	25,00,900.00	1,34,32,900.00
CENTRAL FUND	2,68,56,052.00	2,68,56,052.00
CONTRACT & SUPPLY	11,81,49,705.00	11,81,49,705.00
CUSTODIAL TRANSFER	1,50,00,000.00	1,50,00,000.00
DONATION/PROFESSIONAL	1,50,47,000.00	1,50,47,000.00
OTHERS	7,33,900.00	7,33,900.00
RECOVERY		
Recovery/Fine	91,50,500.00	
Recovery/Loan	30,55,350.00	
Recovery/Refund	8,36,120.00	
Recovery/Balance	1,57,000.00	
Recovery/Share	1,23,01,282.00	2,55,00,252.00
TRANSPORT SECTOR		
Transport/Annual	37,76,900.00	
Transport/Lump-sum	17,00,000.00	
Transport/Trip System	48,000	55,24,900.00
TOTAL		38,06,51,445.00

The annual expenditure of the group gives details of the systematic allocation of funds and the nature of utilisation.

Table 7: Department of Finance: United National Liberation Front (RO)
Annual Balance Sheet from January 01, 2008 to December 31, 2008
(Debits)

<i>Account</i>	<i>Amount (Rs)</i>	<i>Total (Rs)</i>
A/C	35,10,500.00	35,10,500.00
CHQ		
CHQ/Headquarters	49,76,190.00	
CHQ/KYU-KFC	14,200.00	55,26,290.00
CHQ/KYU-JTF	5,35,900.00	5,35,900.00
DEPT OF REGIONAL AFFAIRS	1,89,700.00	1,89,700.00
DEPT. OF HUMAN RESOURCE DEVELOPMENT	64,86,950.00	64,86,950.00
DEPT OF DEFENCE		
GHQ/Jiri	7,64,450.00	
GHQ/Units	4,88,01,500.00	
GHQ/Valley	40,66,550.00	5,36,32,500.00
DEPT OF ECO AFFAIRS		
Farm	1,22,72,350.00	
Project	5,53,01,000.00	6,75,37,350.00
DEPT OF ORGANISATION		
DoO/Organisational	42,04,645.00	
DoO/Mahei	18,02,800.00	60,07,445.00
DEPT OF PUBLICITY	1,81,050.00	1,81,050.00
DEPT OF FINANCE		
DoF/Anniversary & Function		
DoF/Anniversary	3,98,000.00	
DoF/Function	23,29,200.00	
DoF/Cultural Function	5,72,400.00	
DoF/Assets		
DoF/Assets-Lam Leiba	4,45,74,500.00	
DoF/Bail Out	14,39,950.00	
DoF/CFT	12,10,100.00	
DoF/Custodial Transfer		
DoF/CT-COAS	4,50,00,000.00	
DoF/CT-Co-ordinator, DoRA	3,00,000.00	
DoF/CT-Joint Secy of Finance	30,00,000.00	
DoF/CT-Sir Mani	17,00,000.00	

<i>Account</i>	<i>Amount (Rs)</i>	<i>Total (Rs)</i>
DoF/CT-Sir Nongyai	80,000.00	
DoF/Exchange to \$	50,00,000.00	
DoF/Family Maintenance	42,93,300.00	
DoF/FARMS-PROJECTS		
DoF/Farm-Equipments	2,30,000.00	
DoF/HNB (Hongbiban)	2,63,000.00	
DoF/Farm-Lou-u-lup	1,81,000.00	
DoF/Farm-NILL	1,44,800.00	
DoF/Project-AGCO	23,12,000.00	
DoF/Project-Chemical Project	55,50,000.00	
DoF/Project-Phunga Marup	52,77,000.00	
DoF/Project-Ratan (Miyaam Lup)	10,93,000.00	
DoF/Project-Sarik	15,000.00	
DoF/Project-Track Suit	26,00,000.00	
DoF/Jail Maintenance	2,19,000.00	
DoF/Loan	2,46,45,000.00	
DoF/Loan Procurement	83,000.00	
DoF/Lost	54,550.00	
DoF/Medical (For MPA)	37,59,933.00	
DoF/Others	64,500.00	
DoF/Social Relations/Relief		
S/R-Individual Relief	36,39,725.00	
S/R-Lup-Relief	56,57,900.00	
S/R-Medical Relief (Civilian)	21,54,728.00	
Travelling Allowance	15,72,770.00	16,94,14,356.00
	Total	31,25,22,141.00
	Balance c/d	6,81,29,304.00
	G Total	38,06,51,445.00

In balance, Rupees six crore, eighty one lac, twenty nine thousand, three hundred and four only.

January 15, 2009.

4

Contributing Factors

The challenges related to sources and method of transfer have been identified, both for internal and external means that are employed. The terrorism finance chain functions effectively because of a large number of factors. While these are not agents of direct influence in most cases, however, the resultant affect can be contributory, if their role and function is inadequately defined, or executed. It is difficult to identify each contributing factor, however some of the major ones are discussed, with the aim of outlining the challenges posed. These challenges will subsequently become the basis of the suggested Countering the Financing of Terrorism (CFT) strategy.

IDENTIFICATION AND EVALUATION OF THREAT

Terrorism finance is a nascent area of study. It is also amongst the least researched constituents of terrorism, especially in the Indian context. In the functional domain of policy making, coordination, regulation and enforcement, terrorism finance is yet to be identified as a serious threat by some agencies. There are varied levels of understanding of terrorism finance amongst different organs of the government. It is better appreciated in departments which have a more direct role in intelligence, regulation and enforcement activities related to terrorism finance. Other subsidiary organisations, which have a supportive function, or an indirect linkage and where CFT is secondary to their primary responsibility, the threat of terrorism finance needs greater understanding.¹ An assessment of the charter of duties of agencies, which according to India's Mutual Evaluation Report

¹ The intelligence agencies, Enforcement Directorate (ED), National Investigation Agency (NIA) and Central Bureau of Investigation (CBI) have dealt with CFT directly in the past whereas agencies like Narcotics Control Bureau (NCB), Border agencies like Border Security Force (BSF), Coast Guards, Sashastra Seema Bal (SSB), Indo Tibetan Border Police (ITBP) state police organisations, Reserve Bank of India (RBI), etc., have an indirect role in prevention of terrorism finance.

Table 8: Identification of Terrorism/Terrorism Finance in Organisational Charter and Corresponding Laws

<i>Agency/Dept.</i>	<i>Identification of Terrorism/Terrorism Finance as a threat</i>	<i>Identification in Corresponding Law</i>	<i>Adequacy of Existing Provisions</i>	<i>Remarks</i>
MHA				
NIA	Yes	Yes	Yes	UAPA amended in 2012 in line with FATF recommendations
NCB	No	No	No	
MoF				
ED	No	Yes	No	PMLA amended in 2012 in line with FATF recommendations
FIU	No#	NA	No	# Thrust on money laundering
CEIB	No@	NA	No	@ Thrust on eco offences
CBN	No	No	No	
CBDT	No	No	No	
CBEC	No	No	No	
OTHERS				
BSF	No	No	No	
SSB	No	Yes	No	
Coast Guards	No	No	No	

Note: Laws Administered by Enforcement Agencies.

The National Investigation Agency (NIA): UAPA (Unlawful Activities (Prevention) Act); *Narcotics Control Bureau (NCB):* NDPSA (Narcotic Drug and Psychotropic Substances Act, 1985), PITNDPS (The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988), RCS Order; *Central Bureau of Narcotics (CBN):* The Narcotics Drugs and Psychotropic Substances (Regulation of Controlled Substances) Order, 1993; *Enforcement Directorate (ED):* Prevention of Money Laundering Act (PMLA) 2002; *Central Board of Direct Taxes (CBDT):* Income Tax Act, Wealth Tax Act, Gift Tax Act, Expenditure Tax Act, Interest Tax Act, Finances Act; *Customs:* Customs Act, 1962, Customs Tariff Act, 1931, Foreign Trade (Development and Regulation) Act, 1992; *Excise:* Central Excise Act, 1985; *Coast Guards:* Coast Guard Act, 1978; *Border Security Force BSF:* BSF Act 1978; *Sashastra Seema Bal (SSB):* SSB Act 2007.

Authority: Derived from the respective charter of each organisation and laws implemented.

of June 2010, are part of the country's CFT architecture, indicates the degree of importance given to the threat.² The charter outlined and laws implemented by each organisation were analysed, in order to carry out a preliminary assessment of the same. This is not a comprehensive analysis of an organisation's orientation towards terrorism or terrorism finance. However, at the very fundamental level it does indicate the focus, which presently exists in these departments. An assessment of the same is given at Table 8.

In contrast, a comparative assessment of the US Department of Homeland Security (DHS) is revealing for the focus which has been generated in this regard since its establishment.³

The second stage of threat assessment involves evaluation. The Indian Government has carried out an outline assessment of the threat faced as a result of terrorism finance.⁴ However, a more detailed agency or department oriented assessment, based on the well-established system of risk-based approach to terrorism finance has not been carried out.⁵

Given the limited capacity of law enforcement agencies, especially with respect to numbers, the absence of a risk-based approach to terrorism finance can place the existing systems under greater stress.

CORRUPTION

Corruption is a world-wide phenomenon. According to the World Bank, the financial losses as a result of corruption amount to between one and four thousand billion US dollars or approximately 12 per cent of the world gross economic output.⁶ This scale has an impact on the financial systems, enforcement officials and facilitates terrorism finance. In the Indian

² See Mutual Evaluation Report, "Anti Money Laundering and Combating the Financing of Terrorism", *FATF*, 25 June 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed December 20, 2012), pp. 25–32.

³ For an evaluation of the organisational structure of the Department of Homeland Security see, <http://www.dhs.gov/organization> (accessed March 14, 2013).

⁴ See Mutual Evaluation Report, *op. cit.*, p. 13.

⁵ See recommendation 3.1 of Mutual Evaluation Report, *op. cit.*, p. 251.

⁶ "Fighting corruption – Fostering transparency", *BMZ*, Federal Ministry for Economic Cooperation and Development, http://www.bmz.de/en/what_we_do/issues/goodgovernance/korruption/index.html (accessed April 30, 2013).

context, the high level of corruption in society has developed deep roots, and is symptomatic of a larger administrative dysfunction of the governance system. The India Corruption Study report of 2010, while indicating an improvement in both perceptions and realities of corruption in rural areas of the country, still highlighted disturbing levels of corruption.⁷ As per the report, the rural experience of corruption has dropped from 56 per cent in 2005 to 28 per cent in 2010, as related to four essential services to include, the public distribution system, education, health care and provision of water services.⁸ However, despite the survey covering only rural areas in 12 states, an estimated amount of Rs 4,718 million was paid in bribes.⁹ While it is debatable, the possibility of a far larger scale cannot be ruled out in urban areas, and especially in states which are the financial hubs of the country.

Corruption remains the single most important factor, which has facilitated the growth of crime and created conditions favourable for money laundering and terrorism finance.¹⁰ Corruption creates an environment, which facilitates the growth and sustainability of terrorism finance. It facilitates bribery and nepotism, which allow the systems to be exploited for personal gain. Any system, which falls prey to corruption can not only benefit criminals, but also terrorists, who exploit the greed of the corrupt, to work the system to their advantage. In this way, the limited goal of seeking profit from a few, facilitates the achievement of political goals of terrorists. The contagion of corruption works at the subterranean level, eating away at the foundations of every facet of the financial system.

Corruption can be seen merely as a law enforcement challenge under normal circumstances. However, when terror groups need to fund their activities, corruption, which yields illicit wealth and money laundering that attempts

⁷ See "India Corruption Study: 2010 – Is the Scenario Changing?", *Centre for Media Studies*, New Delhi, 2011, <http://www.cmsindia.org/publications/INDIA-CORRUPTION-STUDY-report-2010.pdf> (accessed August 27, 2012).

⁸ *Ibid.*, p. 26.

⁹ *Ibid.*, p. 7.

¹⁰ For an assessment on the linkage between crime, corruption and terrorism see, Louise Shelly, "The Unholy Trinity: Transnational Crime, Corruption and Terrorism", *Brown Journal of World Affairs*, Winter/Spring 2005, vol. XI, no. 2, p. 101. Also see "Corruption: A Reference Guide and Information Note on the use of the FAFT Recommendations to support the fight against Corruption", *FATF*, <http://www.fatf-gafi.org/media/fatf/documents/reports/Corruption%20Reference%20Guide%20and%20Information%20Note%202012.pdf> (accessed May 08, 2013).

to legitimise it, can become tools in the hands of terrorists.¹¹ This challenge becomes acute in the case of India, given the high levels of corruption and the threat of terrorism. While assessing the impact of corruption on terrorism finance, at times it is difficult to differentiate between crime and corruption, given the interlinkages between the two. Therefore, while assessing sources, there is a possibility of an overlap between the two.

The cases of money laundering accusations, as a result of sting operations by *Cobra Post*, should be seen beyond the desire to launder money by clients and bank officials seeking business.¹² In these cases, institutions mentioned in the report had profit as their primary motive. They circumvented laid down procedures for establishing the identity of clients and in doing so, bypassed the need to carefully examine the source of funds. This was completely against the laid down norms of the RBI, guidelines of the Financial Action Task Force (FATF) and banking regulations. The disregard for norms creates the very conditions, which can potentially facilitate the flow of terrorism finance. The ability of bank officials to flout red flag indicators, highlights the ability of individuals to circumvent existing procedures. The large number of cases reported by *Cobra Post*, points towards the ease with which officials can critically sever the enforcement chain. In the long run, this can lead to creation of crippling lacunae in the financial system, its exploitation for terrorism finance and loss of faith in the banking system.

The inadequacy of laws, weak enforcement, lack of will at the executive level, inadequate follow-up for prosecution, adds up to create an environment where corruption continues to flourish. With a rank of 94 in the Corruption Perception Index, India remains mired with this challenge.¹³

¹¹ “Anti-Money Laundering/Combating the Financing of Terrorism – Topics”, *International Monetary Fund*, <http://www.imf.org/external/np/leg/amlcft/eng/aml1.htm> (accessed August 27, 2012).

¹² See “PRESS RELEASE – Operation Red Spider Part 2”, *Cobra Post*, May 05, 2013, <http://www.cobrapost.com/index.php/news-detail?nid=605&cid=23> (accessed May 08, 2013).

¹³ “India ranked 94th in the Corruption Perception Index ratings says Transparency International”, *The Indian Express*, December 05, 2012, <http://www.indianexpress.com/news/india-ranked-94th-in-corruption-perception-index-ratings-says-transparency-international/1040857> (accessed March 12, 2013).

NORTH EAST

Corruption is usually characterised by weak governmental structures. This enables crime and terrorism finance to sustain, given the limited law enforcement capabilities. This can be seen in all regions of the country, including Maoist effected areas and Jammu and Kashmir (J&K), where insurgency and terrorism have taken root. However, this situation is aggravated, when stake holders in states become either coerced or willing accomplices for corruption. This challenge is most pronounced in the north east, where a parallel government is openly run by groups like the National Socialist Council of Nagaland (NSCN). The group through its different factions, is known to support the election of sympathetic political parties. This ensures continuation of a symbiotic association right through the elected term of the government. It also leads to developmental funds being syphoned off by insurgent groups, often with the tacit understanding of government officials. This situation represents the most difficult stage of institutionalised crime and corruption, when the protectors of the state become its worst enemies.¹⁴ Under such circumstances, terrorism finance becomes an endemic reality of everyday life. E.M. Rammohan writes:

In the elections of 2000, the different groups were hired by politicians of all hues, both state and national.... This was the case again in the elections of 2002, with the different groups firing at each other on the polling days with abandon on behalf of their candidates. It is even reported that leaders of some of these groups stay in the houses of senior politicians of the state in the nation's capital.¹⁵

While the problem of corruption is merely treated as a social ill, its impact on security is increasingly being felt through the finance of terror. The north east has witnessed very large amounts being provided by the central government for development. However, large sums of these funds are either directly or indirectly siphoned off to insurgent groups. In 2009, investigations by the government into the NC Hills Autonomous Council in Assam revealed that at least "20 per cent of the annual funds allocated to the council to run the

¹⁴ For a graphic description of the acute dangers of state facilitation of terrorism finance see Moises Naim, "Mafia States: Organized Crime Takes Office", *Foreign Affairs*, May/June 2012, vol. 91, no. 3, pp. 100–111.

¹⁵ E.M. Rammohan, "Blueprint for Insurgency in Manipur", *USI Journal*, April-June 2002, p. 245. Also quoted in Lt Col Vivek Chadha, *Low Intensity Conflicts in India: An Analysis*, Sage, New Delhi, 2005, p. 320.

30 departments, find their way into the coffers of NSCN-IM, NSCN-K and Dima Haram Daogah (Nunisa), who have declared ceasefire with the Centre, Dima Haram Daogah (Jewel), Dimasa National Liberation Front, United Kuki National Front, Hmar People's Convention (Democratic).¹⁶ It was further estimated that every year the outfits would receive Rs 13 to 16 crore based on the funds allotment to the council.¹⁷

The picture in Nagaland is not very different. The state witnesses a catch 22 situation, wherein any increase in developmental funds automatically assists terrorism finance. The centre, in its bid to develop the region and to wean away youth from insurgency, provides developmental assistance. However, the very funds which are given for development of the region, end up with the insurgents. Thus, every attempt to increase budgetary allocations, ends up increasing the availability of funds for terror activities. Nagaland receives approximately 70 per cent of its budget, which is Rs 1,750 crores, from the central government. As a rough estimate about Rs 600 crore of this allocation ends up with the insurgent groups.¹⁸ While there exists an elaborate collection system at every level, even a tool like Right to Information (RTI), which was aimed at empowering the people, has ended up achieving empowerment of the insurgents. Using RTI, fund allocation for the state is queried, and as a result, early estimates of the same are available with groups even before receipt of funds.¹⁹ Thus, the groups have complete clarity regarding their share of funds from the state exchequer.

MAOISTS

There is no evidence of direct state involvement in funding Maoist groups. However, both the weakness of state governance and collusion of the state with industry has allowed exploitation of resources like minerals and forest produce. This provides profits to industry and a cut of the profits to the Maoists.

¹⁶ Dima Haram Daogah and Dima Haram Daogah (Jewel) are Dimasa insurgent groups in Assam.

¹⁷ "Militants thriving on NC Hills council funds", *The Times of India*, June 02, 2009, http://articles.timesofindia.indiatimes.com/2009-06-02/guwahati/28211800_1_militant-outfits-dhd-karbi-anglong-district (accessed August 27, 2012).

¹⁸ Jimi Dey Gabriel, "Wages of War", *Tehelka*, vol. 8, no. 32, August 13, 2011, http://www.tehelka.com/story_main50.asp?filename=Ne130811WAGES.asp (accessed August 27, 2012).

¹⁹ Ibid.

SHORTAGE OF MANPOWER

Former Home Minister, P. Chidambaram, has repeatedly emphasised the acute shortage of police personnel in the country. As on January 01, 2008, this figure was less than 50 per cent of the international average of 270 policemen for a lakh of population.²⁰ Highlighting the problem, Chidambaram said that by March 2010, there was a deficiency of 4,00,000 police personnel.²¹ The problem is more acute in critical states like Uttar Pradesh, which has a porous border with Nepal, and has witnessed large scale smuggling in the past. The state as against the sanctioned strength of 3,68,260 personnel has an actual strength of 1,49,168 as on January 01, 2011.²² He ascribed the reason for this limitation to inadequate allocation of funds for policing by state governments. He also highlighted the interlinked need for technology integration. “Unless we marry technology and police, the police personnel will remain far behind law breakers.”²³

While this was a generic policing problem, specific limitations related to economic offences were highlighted by the former Central Bureau of Investigation (CBI) Director, A.P. Singh, who said that there was a need to incorporate specialists to deal with economic offences. He also indicated the limitations imposed, as a result of an inadequate work force, of approximately 6,000. The director felt the need to double this strength, if the force had to deal with complex cases.²⁴

The deficiencies are similar in some other intelligence organisations. After Chidambaram’s directive in 2009 to recruit 6,000 additional personnel in

²⁰ P. Chidambaram, “Home minister proposes radical restructuring of security architecture”, December 23, 2009, <http://pib.nic.in/newsite/erelease.aspx?relid=56395> (accessed December 10, 2012).

²¹ “We must marry technology and police to tackle crime: Chidambaram”, *The Indian Express*, November 03, 2010, <http://www.indianexpress.com/news/we-must-marry-technology-and-police-to-tackle-crime-chidambaram/706539/0> (accessed December 19, 2012).

²² “Data of Police Organisations in India”, January 01, 2011, p. 11, http://www.humanrightsinitiative.org/postoftheday/2012/Police_Data_File772.pdf (accessed December 19, 2012).

²³ “We must marry technology and police to tackle crime: Chidambaram”, op. cit.

²⁴ Vinay Kumar, “Now CBI to take specialists’ help to handle cases of economic offences”, *The Hindu*, November 29, 2012, <http://www.thehindu.com/news/national/now-cbi-to-take-specialists-help-to-handle-cases-of-economic-offences/article4144090.ece?homepage=true> (accessed November 29, 2012).

the IB, the numbers have gone up by merely 5 per cent, given the capacity of the training establishments to train only 600 personnel in a year.²⁵

The Enforcement Directorate (ED) is at the forefront of anti-money laundering (AML) initiatives of the government. With the increasing number of organisations coming under the scope of Prevention of Money Laundering Act (PMLA), as also the number of cases under progress, the limitations imposed by manpower constraints are likely to adversely impact functioning.²⁶

Border management is also affected by paucity of manpower. The Sashastra Seema Bal (SSB) faces deficiencies to the tune of 25 per cent.²⁷ Coast Guards are functioning at “a 48 per cent shortfall in ships and vessels, and a 68 per cent shortfall in air assets and 42 to 46 per cent shortfall in manpower.”²⁸

Most of these agencies are part of the national CFT architecture. This gives an indication of the limitations under which they function, despite the increasing complexity of challenges faced.

CAPACITIES

The CFT architecture is an elaborate mechanism, which involves a number of government and non-government organisations, in an executive, coordinating, intelligence and enforcement role. While numbers can be made up over time, however, the ability of each link in the chain to function effectively to its optimum capacity, remains a critical factor. An assessment

²⁵ Praveen Swami, “Five years after 26/11, India faces intelligence famine”, *The Hindu*, <http://www.thehindu.com/news/national/five-years-after-2611-india-faces-intelligence-famine/article4456325.ece?homepage=true> (accessed February 27, 2013).

²⁶ The decision to enhance the authorised manpower from 745 to 2064 is a step in the right direction. However, the time frame in which this manpower is incorporated into the system remains to be seen. See “The Prevention of Money Laundering (Amendment) bill 2011”, *Standing Committee on Finance Fifteenth Lok Sabha*, May 2012, <http://www.prsindia.org/uploads/media/Money%20Laundering/SCR%20Prevention%20of%20Money%20Laundering%20Bill%202011.pdf> (accessed March 12, 2013), p. 35.

²⁷ Vijay Mohan, “Deficient by 25%, SSB to raise 16 new battalions”, *The Tribune*, August 18, 2012, <http://www.tribuneindia.com/2012/20120819/nation.htm#11> (accessed March 08, 2013).

²⁸ Pushpita Das, “Four Years Hence: A Review of the Coastal Security Mechanism”, *IDSA*, November 26, 2012, http://idsa.in/idsacomments/AReviewoftheCoastalSecurityMechanism_pdas_261112 (accessed December 18, 2012).

of the state structures indicates weaknesses of these very grass root level elements, which lead to the inability of the overall structure to function at the desired efficiency levels. The capacity of enforcement and intelligence agencies is a combination of a number of factors and abilities. From forensic expertise, training in core policing duties, intelligence collection at the grass roots level and its analysis thereafter, ability of a bank clerk and insurance agent to distinguish between genuine and criminal intent, effective manning of borders, and pursuit of cases to achieve high levels of conviction are all contributory factors which are derived from building capacities of agencies. A leading national daily's editorial summed up the challenge aptly, when it wrote:

The assumption seemed to be that technology and islands of excellence could substitute for the unglamorous business of building grass roots police capabilities and competence. The idea has failed. India's new systems for intelligence sharing are useless, for there is little intelligence to be shared; its new guns and listening devices have been rendered impotent by poor training and utilisation; and its forensic skills are overstretched and under-skilled.²⁹

Along with professional capacities, the morale and well being of enforcement agencies is also an important determinant, especially given their working conditions. According to Chidambaram, the "average policeman in India works 12 to 14 hours a day, does not get a weekly holiday - he gets it once in three to four weeks. Housing for him is extremely poor. Housing satisfaction for him is no more than 15 to 20% in the country as a whole...If you go and see the police housing in Mumbai, its a virtual slum in which he is living - practically a slum."³⁰

COORDINATION

One of the most critical aspects of successful investigations and prosecution is cooperation and coordination amongst agencies. In the past, reports of lack

²⁹ "Rebuild India's police forces", *The Hindu*, September 09, 2011, <http://www.thehindu.com/opinion/editorial/rebuild-indias-police-forces/article2439809.ece> (accessed May 10, 2013).

³⁰ P. Chidambaram in an interview with Geeta Anand, "Chidambaram: Poor Conditions 'Dehumanize' Police", *The Wall Street Journal*, February 07, 2012, <http://blogs.wsj.com/indiarealtime/2012/02/07/chidambaram-poor-conditions-dehumanize-police/> (accessed May 10, 2013).

of coordination have emerged, indicating its impact on investigations.³¹ The inability of agencies to coordinate and share intelligence has emerged as a serious structural weakness.³² Opposition to establish the National Counter Terrorism Centre (NCTC) as a central coordinating agency highlights differences, not only between the centre and state governments, but also amongst competing agencies.

It is evident from Table 8 that there is a distinct variation in the focus area of agencies like the NIA and ED at one end of the spectrum, which have clearly identified terrorism finance as a priority area and others which essentially focus on economic crimes. However, since the investigation of terrorism and terrorism finance are integral to each other, the difference in focus on terror strikes in case of agencies like the NIA and on financial crimes in the case of CEIB, creates a functional and perceptual gap which becomes difficult to bridge.

FORENSIC TRAINING

One of the critical facets of investigative skills is forensic training. The US National Commission for the 9/11 terrorist attacks reveals that “...forensic evidence such as fingerprints and DNA from documents and items recovered from suspects overseas have proven critical to a number of terrorist apprehensions and disruptions.”³³ Thereafter, the need for improving existing skills and enhancing trained personnel are critical for improving prosecution.

Forensics is increasingly becoming multi-disciplinary. However, existing structures employ in-house expertise, within the narrow confines of individual departments.

Limitations imposed by inadequate numbers trained for forensic examination,

³¹ Rajesh Ahuja, “Reality of counter-terror ops: ego wars derail India’s war on terrorism”, *The Hindustan Times*, 24 February 2013, <http://www.hindustantimes.com/News-Feed/HyderabadBlasts/Ego-wars-derail-India-s-war-on-terror/Article1-1016889.aspx> (accessed March 13, 2013).

³² Namrata Goswami, “Blood, bullets and beyond”, *IBN Live*, <http://m.ibnlive.com/news/blood-bullets-and-beyond-bitter-2611-lessons/206053-8.html> (accessed March 13, 2013).

³³ “Report to the National Commission on Terrorist Attacks Upon the United States”, *The FBI’s Counterterrorism Program Since September 2001*, http://govinfo.library.unt.edu/911/hearings/hearing10/mueller_fbi_report.pdf (accessed March 13, 2013), p. 16.

especially in non-traditional areas like cyber crime, ascertaining electronic trails, and financial crime, places constraints on investigation of terrorism finance cases.

PROSECUTION AND CONVICTION

The ability of the state to prosecute terrorists and their supporters and achieve high rates of conviction is vital for curbing terrorism and terrorism finance. It also has a demonstrative impact on segments, which choose to participate or support such actions. Despite this realisation, the existing record of prosecution remains inadequate in the overall counter terrorism efforts. Delhi Police has claimed 68 per cent convictions since 1992 of the 82 individuals it prosecuted.³⁴ According to the National Crime Records Bureau (NCRB) report, the conviction rate for crimes covered under the Indian Penal Code (IPC) is 40.7 per cent in 2010 and 41.1 per cent for 2011. However, in case of economic crimes, it is a mere 30.3 and 28.6 per cent during the same period.³⁵ This is likely to encourage terrorists and their funding agencies to exploit existing limitations within the system, especially with relation to the poor convictions record.

SPEED OF TRIAL

The slow pace of trials have had a crippling affect on the judicial system in the country. A report quoting the Chief Justice of the Delhi High Court in 2009, suggested that it would take 466 years to eliminate the backlog of cases.³⁶ Amongst the problems affecting the system are the limited number of judges available in courts. India has 11 judges for every million people, whereas, the US has roughly 110 for the same number.³⁷

When the slow speed of trial is seen in the context of poor conviction rates, it negates the deterrent impact of law enforcement and gives an impetus to terrorism finance.

³⁴ Praveen Swami, "A state of criminal injustice", *The Hindu*, October 22, 2012, <http://www.thehindu.com/opinion/lead/a-state-of-criminal-injustice/article4019671.ece> (accessed March 13, 2013).

³⁵ "Crimes in India: Compendium for 2010", *National Crime Records Bureau*, <http://ncrb.nic.in> (accessed March 13, 2013).

³⁶ "Report: India court 466 years behind schedule", *NBC News*, December 02, 2009, <http://www.nbcnews.com/id/29164027/#.UUAi9aVXtbw> (accessed March 13, 2013).

³⁷ *Ibid.*

Funding Patterns and Trends

This chapter, as the title suggests aims at providing the funding patterns and trends, based on sources and data presented in the book. It is not a definitive assessment on the sources and means of transfer of funds, which while useful, are difficult to create in the absence of detailed information on individual cases in the public domain. The buildup of a more elaborate, detailed and long term database, with the added benefit of official sources, can probably provide more accurate indicators in the future.

This assessment highlights generational funding as an important aspect of terrorism finance evolution. It also draws from both internal and external funding patterns to illustrate the diversity of the sources of funding and the means employed to transfer terrorism finance in the Indian context.

GENERATIONAL FUNDING

It is evident from the description of sources that India faces a hybrid threat of terrorism finance. While internationally, the stages of terrorism finance are considered as generational, however, there is a distinct pattern, which is a combination of state sponsored, privatisation and globalisation of sources when applied to the four areas assessed in the chapter.

Table 9: Funding Patterns – Generation of Terrorism Finance

<i>State/Region</i>	<i>State Sponsored Terrorism Finance</i>	<i>Privatisation of Terrorism Finance</i>	<i>Globalisation of Terrorism Finance</i>
J&K	Yes	Limited	Yes
IM	Yes	Yes	Yes
Left Wing Extremism	No	Yes	No
Insurgency in the Northeast	Limited	Yes	No

Jammu & Kashmir (J&K) essentially witnesses state sponsorship of terrorism finance on the basis of Pakistan sponsored and controlled funding.

There is evidence of diversification of sources, which can be seen from funds emanating from West Asia through *hawala* channels. However, despite locational subterfuge, Pakistan's control over the process has been established over a period of time. This diversification also involves the criminalisation and indigenisation of financing, by including members of the Dawood Ibrahim gang and extremist Indian elements in J&K and the Gulf region. The state sponsorship process achieved critical mass through the globalised monetary system, by exploiting its transnational character, limitations and loopholes and country specific interpretations and regulations. The most recent indictment for the 26/11 attack in Mumbai, led the investigative trail to David Headley, who in his interrogation report revealed that the ISI was directly involved in funding terror strikes. He said that "at least two of his missions were partly paid for by the Inter Services Intelligence and that he regularly reported to the spy agency."¹

The Indian Mujahideen (IM) has successfully bridged all three stages of financial evolution. Pakistan and its agencies provide state support. Criminal activities like robberies and sale of weapons indicate a desire to achieve a degree of privatisation and the means and methods of money transfer have exploited advances of globalisation.

Insurgency in the north east and Left Wing Extremism (LWE), are yet to fully exploit the benefits of globalisation, and are almost completely funded by local sources in the form of taxes imposed and extortion. In the case of north east, an indirect external element is factored as a result of transnational crimes like gun running, drug trafficking and movement of counterfeit currency. There is also support from the ISI, though it is limited compared to the groups in J&K.²

DIVERSITY OF SOURCES

Terrorism finance has seen increased diversification of sources. This reflects in the requirement of keeping alternate avenues of monetary flow open, even if the primary ones get blocked. The trend follows a well established

¹ Jason Burke, "Pakistan intelligence agencies 'aided Mumbai attack'", *The Guardian*, October 18, 2010, <http://www.guardian.co.uk/world/2010/oct/18/pakistan-isi-mumbai-terror-attacks> (accessed March 17, 2012).

² National Socialist Council of Nagaland – Isak-Muivah, *satp.org*, http://www.satp.org/satporgtp/countries/india/states/nagaland/terrorist_outfits/nscn_im.htm (accessed May 16, 2012).

international norm. Exceptions to this trend are evident in cases where enforcement agencies have not succeeded in curtailing specific sources of finance, despite their wide spread prevalence. Illegal taxation and extortion in the north east are prime examples of the failure to stem this limitation.

Given the diversity of financial systems, detection and plugging of systemic weaknesses takes time. The ability of Al Qaeda to continue its operations despite international pressure is indicative of this factor.³ It is very much like terrorist networks, which can either be organised on hierarchical or starfish models.⁴ Financial networks have evolved in a similar fashion, making it that much more difficult for law enforcement agencies to neutralise them, even if some of the cells are destroyed. Further, it is a challenge to trace the flow of funds and by correlation its nerve centre and other arms.

The study broadly looks at four categories of sectors affected by terrorism to include J&K, north-east India, Naxal areas and terrorism in the hinterland. However, these categories have further been elaborated upon in some cases, to facilitate better understanding of the dynamics of each region.

As an example, J&K is not only affected by *jehadi* terrorists, but also by separatist leaders and growing radicalisation. The challenges faced by each of these threats is distinct. Similarly, the nature of funding received and the means employed are also different. As seen from the examples cited earlier, *jehadi* terrorism has been supported by a greater variety of funding sources. However, the source of funding remains essentially external and that too state sponsored. A relatively smaller component of the same comes from charities and donations. A very small percentage also flows from the local trading community more for protection from attacks, rather than willing contributions to the movement. Separatist leaders are clearly supported by state funding from Pakistan. A bulk of the same is channelled through *hawala* and cash couriers. A small percentage also comes from legal channels. The third category of funding comes for supporting propagation of radical ideology. This is done through legal channels like the banking system and illegal sources like *hawala*. A large percentage of these funds are received through charities/donations and non-governmental organizations (NGOs).

³ Arabinda Acharya, *Targeting Terrorism Financing: International Cooperation and New Regimes*, Routledge, New York, 2009, p. 9.

⁴ For an interesting analysis of the business equivalent of the model see Ori Brafman and Rod A. Beckstrom, *The Starfish and the Spider: The Unstoppable Power of Leaderless Organisations*, Portfolio Trade, New York, 2008.

Trends suggest that *hawala* is likely to remain the most common method of transferring value and state sponsorship is likely to continue in the future as well. However, the ingenious use of organised transfer systems like banks, Money Transfer Service Scheme (MTSS), cards could also witness continued exploitation.

Insurgent groups in north-east India primarily use cash couriers to transfer funds. However, a large number of cases have come to light, wherein, past limitations of laws facilitated the use of banking channels with impunity. There is however, a likelihood of this practice receding, with stricter laws like the Unlawful Activities (Prevention) Act, 1967, as amended thereafter, being put in place. A large percentage of funding for these groups is based on extortion and this is likely to remain so in the future as well, unless counter terrorism laws are enforced in the region.

Naxal areas have a pattern similar to the north-east groups. The difference lies in their avoidance of formal transfer systems. There is inadequate evidence to prove with any degree of certainty, that such transfer mechanisms have been exploited by the Naxals.

Terrorism in the hinterland has been spearheaded by the Lashkar-e-Taiba (LeT) and the Indian Mujahideen (IM). LeT being a proxy for the ISI, has received state sponsorship. Its funding for operations in India has followed the *hawala* route in most cases, though formal transfer channels have also been used in the past. The use of fake Indian currency notes is also seen, as is local criminal activity to raise funding. Indigenous groups like the IM, receive most of their financial support from Pakistan. However, trends indicate a local sourcing pattern and perceptible diversification. This includes criminal activity and fund collection through charities and front organisations.⁵ This diversification makes identification and tracking of sources much more difficult. The employment of legit front organisations further diffuses sources of funds, until direct linkages are established and action initiated. This trend is likely to continue given the large number of options available to terrorists for exploitation of external and internal sources.

In future, *hawala* will continue to remain the primary channel for transferring funds, however, there is likely to be simultaneous pressure to raise terrorism finance locally as well.

⁵ Maloy Krishna Dhar, "SIMI: The Open and Hidden Faces of Indian Jihad", September 25, 2008, <http://maloykrishnadhar.com/simi-the-open-and-hidden-faces-of-indian-jihad/> (accessed April 19, 2012).

Table 10: Source and Transfer of Funds

Beneficiary	Unorganised Transfer Systems		Organised Transfer Systems				External Sources					Internal Sources				
	Hawala	Cash Courier	Banks	MTSS	Cards	TBML	State Funding	Donation/Charity	Narco	FICN	NGOs	Extortion	Crime	DNFBPs	NGOs	Narco
Kashmiri Terrorists	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes [%] (Limited)	?	?	?	?
Kashmiri Separatists	Yes	Yes	Yes	?	?	?	Yes	Yes	?	?	?	No	No	?	?	?
Radicalism	Yes	?	Yes	?	No	No	Yes	Yes	?	Yes	?	?	No	?	?	No
NE Insurgents	?	Yes	Yes	?	?	?	?	?	Yes [@]	?	?	Yes	Yes [@]	Yes	?	?
LWE	?	Yes	?	No	No	No	?	?	No	?	No	Yes	Yes	?	Yes	Yes ^{\$}
Terrorism Hinterland (LeT/IM)	Yes	?	Yes	?	?	?	Yes	Yes	?	Yes	Yes	?	Yes	?	?	?
RWT	?	Yes	?	?	?	?	No	?	No	No	?	?	?	No	Yes	No
Pro Khalistan Terrorists	Yes	Yes	Yes	Yes	?	?	Yes	Yes	Yes	Yes	Yes	No	?	?	?	?

@ Other than crimes like kidnapping, groups in the Northeast involved in making money through trafficking of arms and narcotics.

\$ Other than crimes like looting, Maoist groups charge a percentage on cannabis cultivation in the area.

% This also includes the money given to terrorists as "protection" of trade interests. The same in case of apple traders has been reported in the past.

? Not confirmed.

RWT – Right Wing Terrorism

LWE – Left Wing Extremism

Right wing terrorism (RWT) and pro-Khalistan movements have not been covered in detail as part of the analysis. However, the Malegaon blasts indicate that despite RWT being in a nascent form, it could cause deaths of innocent people. This highlights the nature of threats emanating from such ideologies. In case of RWT groups, local donations remain the primary sources of income. Given the increased scrutiny since its discovery, cash transfers could remain the choice for movement of funds.

Even though pro-Khalistan terrorism has been defeated, however, funding for the cause in different manifestations including support for widows as well as funding for renewing terrorism continues. There is also an attempt at propping pro-Khalistan militancy and radicalism. Funding for terrorist activities comes from state support in Pakistan through *hawala*, drugs, FICN and cash transfers. NGOs have also been active in collecting funds for supporting radical ideology and target groups both inside and outside India.

NARCO TERRORISM

Narco terrorism also provides distinct trends in the Indian context. This form of terrorism finance operates at three distinct levels. *First*, taxation of drugs yielding crops like opium. *Second*, based on money earned from protection and trafficking through areas controlled by terrorist groups. *Third*, as a result of direct involvement of terrorists in cultivation and control of the drug trade.

In case of countries like Afghanistan, all three levels of operations are functional and capable of supporting terrorism. This makes it the primary source for terrorism finance for the Taliban and ISI and for supporting it beyond the country as well. According to a 2010 report presented to the US Senate Caucus on International Narcotics Control, "Taliban has evolved into a narco-cartel that operates heroin processing labs and provides protection to traffickers. The vast amount of drug money has trumped ideology as the Taliban cashes in on heroin sales. The Drug Enforcement Administration (DEA) estimates the Taliban's 'take' to be several hundred million dollars a year, enough to fund the insurgency and expand their drug empire."⁶ Narco

⁶ Senator Dianne Feinstein et al., US Counter Narcotics Strategy in Afghanistan, *A Report to the Senate Caucus on International Narcotics Control*, July 2010, Washington D.C., http://www.fas.org/irp/congress/2010_rpt/counternarc.pdf (accessed April 19, 2012), p. 2.

terrorism has been a major source of funding for international terrorist groups. According to Jonas Hartelius, 12 of the 28 groups listed as terrorist organisations by the US, were involved in illegal drug trade.⁷ A report submitted to the United Nations Office on Drugs and Crime (UNODC) indicated that 14 of the 36 groups designated as terrorist groups were involved in drug trafficking. As part of the same report, a questionnaire sent to 38 countries revealed that 19 had observed linkages between terrorism and illicit drugs and this included India.⁸

According to a senior Narcotics Control Bureau (NCB) officer, and based on inputs available in the open domain, the involvement of Indian terrorist groups is evident in the first two categories, even as it remains suspect as part of the third.⁹ This limits their capability to raise narco finance, unlike groups like the Taliban. This is especially relevant, as comparatively limited areas are presently under poppy and opium cultivation, given the existing levels of control of law enforcement agencies. However, since drugs remain a high value product, it continues to have the potential for exponential financial gains. In 2011, 318.89 kg of *hashish*, suspected to be sourced from J&K, was recovered from Delhi, Mumbai and Ahmedabad, with potential for high returns.¹⁰

On the other hand, Pakistan has exploited the potential in all three categories and is financing a substantial proportion of terrorist activities through proceeds gained from it. An estimate by the NCB Zonal Director, J&K, indicates that “more than 25 per cent of the money spent on terrorist activities in India by the ISI comes from the narcotics drug trade.”¹¹

⁷ Jonas Hartelius, “Narcoterrorism”, Policy Paper 3/2008, *East West Institute and the Swedish Carnegie Institute*, February 2008, p. 5, mercury.ethz.ch/serviceengine/.../2008-02-20_Narcoterrorism.pdf (accessed April 18, 2012).

⁸ Yvon Dandurand, and Vivienne, Chin, “Link Between Terrorism and Other Forms of Crime”, *Foreign Affairs Canada and United Nations Office on Drugs and Crime*, April 2004, http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/LinksBetweenTerrorismLatest_updated.pdf (accessed April 18, 2012), p. 9.

⁹ Based on a personal interaction on April 17, 2012.

¹⁰ Details obtained during personal interaction in Narcotics Control Bureau on April 17, 2012.

¹¹ “ISI using ‘narco-money’ to fund terrorism in India”, *The Indian Express*, September 12, 2008, <http://www.indianexpress.com/news/isi-using-narcomoney-to-fund-terrorism-in/360540/> (accessed April 18, 2012).

TRANS BORDER MOBILITY

Most developed countries have well-established borders and despite seamless movement across them, procedures are in place to ensure the rule of law. Despite these systems, the Counter Terrorism Implementation Task Force finds prevalence of movement of cash through couriers. It also indicates the absence of necessary tools, powers and training to disrupt this movement.¹² The US, despite its stringent procedures witnessed an increase in cash smuggling from US \$7.3 million and 48 resultant arrests in 2005, to US \$150 million and 428 arrests in 2011.¹³

The threat to India is far greater in relative terms. Unlike most developed nations, India is faced with the challenge of both unresolved and porous borders. This is a facilitator for terrorism finance through sources like drug trafficking, counterfeiting, illegal smuggling, gun running, bulk cash smuggling and human trafficking.¹⁴ The trend indicates exploitation of countries like Nepal, Bangladesh, Myanmar and Pakistan for the purpose of raising money for crime in general and terrorism finance in particular. Pushpita Das, in her paper, highlights the traditional routes and existing limitations related to border management, with specific reference to drug trafficking.¹⁵ This is further accentuated due to the limitations of border management, training of personnel specifically for terrorism finance and a substantial flow of illegal migration from Bangladesh. Cases of complicity of forces has also led to a degree of impunity, with which crimes are conducted by criminals and terrorists.¹⁶ This ongoing border exploitation tends to contextualise the entire cross border human movement in terms of migration alone, at times shifting the focus away from terrorism finance.

¹² "Tackling the Financing of Terrorism", United Nations Counter-Terrorism Implementation Task Force, United Nations, New York, 2009, http://www.un.org/en/terrorism/ctitf/pdfs/ctitf_financing_eng_final.pdf (accessed April 24, 2012), p. 12.

¹³ Eric Tucker, "Cash Smuggling trend a challenge for US", *USA Today*, February 12, 2012, http://www.usatoday.com/USCP/PNI/Nation/World/2012-02-12-BCUSBulk-Cash-Smuggling2nd-LdWritethru_ST_U.htm (accessed April 24, 2012).

¹⁴ Pushpita Das, "India-Bangladesh Border Management: A Review of Government's Response", *Strategic Analysis*, vol. 32, no. 3, May 2008, p. 372.

¹⁵ Pushpita Das, "Drug Trafficking in India: A Case for Border Security", *IDS Occasional Papers*, <http://www.idsa.in/occasionalpapers/DrugTraffickinginIndia> (accessed May 07, 2012).

¹⁶ Pushpita Das, op. cit.

COUNTERFEITING

Counterfeiting is an international trend. As per estimates of Chad Wasilenkoff, the CEO of banknote-maker Fortress paper, the global estimate is 100 counterfeits per one million.¹⁷ This is essentially a criminal activity done for financial gain. However, in case of India, counterfeiting is part of the proxy war by Pakistan. A major proportion of counterfeit currency is used for terrorism finance. There are also indications of it being part of a larger plan to weaken the economy of India.

With improvement in detection and reporting procedures, there has been a spurt in figures reported by various agencies (see Table 1). The reporting of counterfeiting transactions increased by approximately 200 per cent from 2008-09 to 2009-10 and till March 2012, there were 7,50,921 detection reports amounting to over 60 crore rupees.¹⁸ As per the Financial Intelligence Unit annual report for 2010-11, 500 rupee notes constituted 60.74 per cent of counterfeits and there was a substantial increase in 1,000 rupee denomination as well.¹⁹ Crime records for 2010 reveal that despite high reports of cheating and criminal breach of trust, for 2010, the charge sheeting rate is close to 70 per cent and the conviction rate approximately 30 per cent. However, in case of counterfeiting, though the charge sheet rate is a little over 42 per cent, the conviction rate is almost 38 per cent.²⁰ Since counterfeiting figures amongst the most important financial support mechanisms for financing terrorism, any increase in detection and reporting is likely to improve upon the present rates, thereby assisting in reducing this trend.

As discussed earlier, porous borders pose a serious threat to cross border movement of contraband goods. Counterfeit currency is a critical component of terrorism finance amongst these. Pakistan, which has been

¹⁷ Joan Goodchild, "Counterfeit Money: Still Going Strong", Interview with Chad Wasilenkoff, *Physical Security*, November 04, 2009, <http://www.csoonline.com/article/506573/counterfeit-money-still-going-strong> (accessed April 29, 2012).

¹⁸ Annual Report Financial Intelligence Unit 2011-12, *Ministry of Finance*, <http://fiuindia.gov.in/downloads/Annual%20Report%202011-12.pdf> (accessed 20 August 2013), p 25.

¹⁹ Annual Report Financial Intelligence Unit 2010-11, *Ministry of Finance*, <http://fiuindia.gov.in/downloads/Annual%20Report2010-11.pdf> (accessed 20 August 2013), p. 24.

²⁰ "Crime in India, 2010 Compendium", *National Crime Records Bureau*, Ministry of Home Affairs, New Delhi, <http://ncrb.nic.in/CII2010/Compendium2010.pdf> (accessed April 25, 2012), p. iii.

controlling and coordinating the movement of counterfeit currency, seeing the tightening of controls across the India-Pakistan border, has shifted a considerable part of its operations to Bangladesh.²¹

CONCLUSION

Finance is a dynamic facet of terrorism, which has evolved with speed and flexibility. While it has been impacted, as a result of the world-wide campaign, however, it continues to sustain violence perpetuated by local non - state actors and state sponsored groups.

India has faced indigenous movements, as witnessed in the north east and Naxal areas. The Naga insurgency has been prevalent in various iterations for over five decades. Though, for relatively shorter durations, violent movements in Manipur and Assam, have also been entrenched for protracted periods of time. LWE came to the fore in 1967 and has since emerged in different forms. Despite internal funding of the movements and arguably lower support base over a period of time, these organisations have evolved a viable funding pattern. Their protracted duration proves that funding has proliferated, diversified and exploited existing financial conduits to sustain the flow of funds. This has been amongst the key factors for the sustenance of terrorism.

The proxy war in J&K, has been waged for over two decades. While being region specific, it has witnessed limited local funding and is primarily characterised by a proxy element for its financial support.

In both cases, prevailing international trends of receding local funding and state funding of terrorism being replaced by independent funding, as witnessed with the *Al Qaeda*, are negated.

The section also reinforces certain international trends and simultaneously, negates others. As an example, counterfeiting is more in the nature of Pakistan's proxy war, rather than a mere profit making venture. Similarly, terrorism is indirectly funded by drugs in India, rather than direct funding, with exceptions of very limited quantity cultivated in the Naxal affected areas and smuggling of composite loads across Punjab and Rajasthan. This

²¹ Vicky Nanjappa, "Beware counterfeiters, Fake money crimes to face harsher laws!", *rediff.com*, December 30, 2011, <http://www.rediff.com/news/report/beware-counterfeiters-fake-money-crimes-to-face-harsher-laws/20111230.htm> (accessed April 25, 2012).

indirect funding is based on generation of money in the AfPak region, which is subsequently used to fund terrorism by the ISI. The role of NGOs has been under scrutiny globally. Pakistan continues to allow charities and NGOs to collect funds for spreading terrorism in India. However, even as some Indian NGOs support radical ideas, their direct involvement in terrorism finance remains very limited. This indicates higher support for radicalism through NGOs, rather than terrorism. Groups in north-east India exploit criminal activities like weapons and drug trafficking in order to raise funds. They generate funds by allowing territory controlled by them to be used for movement of such illegal, but high value contraband.

These region specific conflicts present the possibility of resolution, based on political settlements, as was witnessed in Mizoram, thereby simultaneously addressing the issue of terrorism finance. However, a relatively more recent phenomena of terrorism in the hinterland perpetuated by groups like IM, supported by Pakistan, or its instruments of terrorism, present a greater challenge. These groups are neither region specific, nor do they seek a political resolution to their demands. Their modular organisation, mix of state and local finance and diffused structural base, makes it difficult to penetrate the outer tiers. While it is critical to address alienation and thereby the root cause, which led to the emergence of such estranged sections within society, however, existing elements that have taken to terrorism can only be neutralised by eliminating the sources of funds, which helps run the organisational structure of these groups.

SECTION II
INTERNATIONAL GUIDELINES
AND CASE STUDIES



6

International Guidelines for Countering the Financing of Terrorism

Fundamental international Countering the Financing of Terrorism (CFT) guidelines have been provided by the United Nations (UN) and Financial Action Task Force (FATF), through a number of resolutions passed over the years. Though each country faces peculiar circumstances, which lead to the fine tuning of their respective policy, however, given the international character of terrorism finance, the UN and FATF guidelines remain the basis for an Indian approach towards it.

UN GUIDELINES

A formalised fight against terrorism at the global level began in 1934. The League of Nations discussed a draft convention for the prevention and punishment of terrorism. Despite adopting it in 1937, the convention never came into force. Since 1963, fourteen universal legal instruments and four amendments have been adopted internationally.¹ Amongst these, the 1999 *International Convention for the Suppression of the Financing of Terrorism* was the first specific attempt to target terrorism finance. This included the following key provisions:²

- “Requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, through groups claiming to have charitable, social or cultural goals, or which also engage in illicit activities such as drug trafficking or gun running;
- Commits States to hold those who finance terrorism criminally, civilly or administratively liable for such acts; and

¹ UN Action to Counter Terrorism, <http://www.un.org/en/terrorism/> (accessed December 26, 2015).

² Ibid. For a complete text of the convention see “International Convention for the Suppression of the Financing of Terrorism” <http://treaties.un.org/doc/db/Terrorism/english-18-11.pdf> (accessed October 18, 2012).

- Provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other States on a case-by-case basis. Bank secrecy is no longer adequate justification for refusing to cooperate.”

This was followed by a number of United Nations Security Council (UNSC) resolutions in the fight against terrorism, with references to CFT as well. Para 4 of UNSC resolution 1267 targeted the Taliban in Afghanistan and mandated the need to “freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban, or by any undertaking owned or controlled by the Taliban.”³ While this resolution was region specific, a more comprehensive direction was given by the UNSC through Resolution 1373 on September 28, 2001. It enlarged the scope and permitted international scrutiny, to deal with all facets of terrorism. The resolution specifically highlighted the requirements of both preventing and suppressing the financing of terrorism. It emphasised on three key aspects of terrorism finance:⁴

- Criminalisation of the willful provision or collection of funds.
- Freezing of funds and financial assets of persons involved in terrorism.
- Prohibition of any person or entity to make funds or economic resources available for terrorism in any form.

As part of its initiatives, the UN General Assembly adopted the global counter terrorism strategy on September 08, 2006.⁵ The strategy was in the form of a resolution, which briefly sketched out the key thrust areas. However, the Plan of Action (A/RES/60/228) gave requirements for member nations. While this initiative addressed the strategy against terrorism, there was specific reference to terrorism finance in the action plan. As part of the Plan of Action, para II(1) required member states to refrain from

³ United Nations Security Council Resolution Number 1267, October 15, 1999, [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267\(1999\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267(1999)) (accessed October 19, 2012).

⁴ United Nations Security Council Resolution Number 1373, 28 September 2001, http://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf (accessed October 19, 2012).

⁵ See UN Action to Counter Terrorism, “United Nations General Assembly Adopts Global Counter-Terrorism Strategy”, <http://www.un.org/en/terrorism/strategy-counter-terrorism.shtml> (accessed December 26, 2014).

financing terrorist activities. Para II(10) asked states to implement the FATF recommendations. Para III(1) asked nations to contribute towards projects to enhance the knowledge on different sources of funding.

FINANCIAL ACTION TASK FORCE

The international initiative to curb money laundering and terrorism finance was spearheaded by the FATF and the Financial Intelligence Unit (FIU). The FATF was established in 1989, as an inter-governmental body, with the aim of implementing “legal, regulatory and operational measures for combating money laundering, terrorist finance and other related threats to the integrity of the international financial system.”⁶ It, became the fountainhead of global guidelines in the fight against money laundering/terrorism finance. This commenced with the release of 40 recommendations by a task force established by the FATF in April 1990, to combat money laundering. It was only in 2001 that the FATF mandate was enlarged to include terrorism finance. This led to the release of eight special recommendations in October 2001. Amendments were made to its recommendations in 1996 and 2003 and a ninth special recommendation was added in October 2004. Finally, in February 2012, a combined list of 40 recommendations was released, which was a combination of the 40+9 (List attached at Annexure 4).⁷ The FATF recommendations have since long been the guiding principles for CFT strategies of various countries. India has also incorporated these recommendations in its fight against terrorism finance. Since these are fundamental to India’s efforts against terrorism finance, a brief assessment of some of the more relevant recommendations is discussed as follows:

- The first guideline of the recommendations suggests a risk based approach to money laundering and terrorism finance. This simply implies that the means applied to counter the threats should be based

⁶ *FATF*, “Who we are”, <http://www.fatf-gafi.org/pages/aboutus/> (accessed October 22, 2012).

⁷ For a detailed assessment of the historical record of FATF recommendations evolution see, *FATF*, “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation”, *The FATF Recommendations*, February 2012, <http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardscombatingmoneylaundryingandthefinancingofterrorismproliferation-thefatfrecommendations.html> (accessed October 22, 2012).

on the degree of risk involved.⁸ A more probable threat should therefore receive more resources and attention.

- The second critical guideline recommends close cooperation both at the domestic and international levels, even as countries base their policies on the risks identified.⁹
- The third and fourth recommendations suggest suitable measures to not only criminalise money laundering but also apply legislative powers to confiscate property and proceeds associated with money laundering.¹⁰
- Recommendations five to eight have been inserted after amalgamation of the special recommendations in 2012.¹¹ These form the basis for international CFT focus and provides the guidelines for domestic actions as well. Much like money laundering, it deals with criminalisation of terrorism finance as well as application of tough sanctions to force adherence to international norms and conventions. Given the emerging threat from proliferation, recommendation seven specifically addresses financial sanctions to curb its adverse impact. The eighth recommendation deals with non-profit organizations (NPOs) or non-governmental organizations (NGOs) as discussed in the previous chapter. The role of NPOs in financing terrorism is well documented, both internationally and in India.¹² The recommendation aims at stopping their misuse. This has been done in the past by remaining under the legal scanner, given the sensitivity associated with religious and charitable activities, and by exploiting this immunity to misuse funds transfer mechanisms and collecting and distributing resources for terrorism.

⁸ Ibid., [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%20\(approved%20February%202012\)%20reprint%20May%202012%20web%20version.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%20(approved%20February%202012)%20reprint%20May%202012%20web%20version.pdf) (accessed November 01, 2012).

⁹ Ibid.

¹⁰ Ibid., p. 12.

¹¹ Ibid., p. 13.

¹² See Maroussia Klep, "Counter-terrorist financing measures: what impact for European humanitarian NPOs?", November 2010, http://www.culturaldiplomacy.org/cde/content/articles/conference/participant-papers/Counter-terrorist_measures_-_impacts_for_European_humanitarian_NGOs.pdf (accessed on 03 January 2013) and Y. Srinivas, "NGOs and Foreign Contributions", *The Chartered Accountant*, June 2006, <http://www.sreeneevaas.com/Brochure/articles/5%20NGOs%20and%20Foreign%20Contributions.pdf> (accessed January 03, 2013).

- Recommendations 9 to 23 deal with preventive measures.¹³ This includes the role and responsibility of financial institutions, specific measures required to be taken to ensure additional and more stringent procedures in respect of individuals, groups and countries. Some of these need emphasis as they directly relate to terrorism finance. Recommendation 10 deals with customer due diligence. This requires procedural actions which ensure legal and legitimate banking accounts, monitoring of transactions in line with known patterns by the user, and ownership patterns in order to understand financial beneficiaries. The increasing use of risk-based approach is also applicable while assessing individuals and businesses as part of this recommendation. Recommendation 12 further reinforces the need to closely monitor individuals who are politically exposed.¹⁴ This includes identification of such persons, approval for association, establishing sources of wealth and monitoring the relationship. Recommendation 13 establishes norms for financial institutions associating themselves with foreign correspondent banks.¹⁵ These are similar to the nature of scrutiny carried out for individuals. However, in this case it is based more on the assessment of financial institutions. The recent cases of poor and insufficient assessment of these norms came up in the case of Hongkong and Shanghai Banking Corporation (HSBC) bank, which associated itself with branches located in vulnerable areas, despite clear indicators of the involvement of these countries and branches in money laundering and terror related

¹³ *FATF*, op. cit., pp. 14–21.

¹⁴ The Reserve Bank of India (RBI) defines politically exposed persons as, “Politically exposed persons are individuals who are or have been entrusted with prominent public functions in a foreign country, e.g., Heads of States or of Governments, senior politicians, senior government/judicial/military officers, senior executives of state-owned corporations, important political party officials, etc”. See RBI circular number RBI-2004-05/37,1DNBS(PD). CC 48 /10.42/2004-05 dated February 21, 2005, http://www.rbi.org.in/scripts/BS_NBFCNotificationView.aspx?Id=2136#1 (accessed January 02, 2013).

¹⁵ Correspondent banking is described by the RBI as, “Correspondent banking is the provision of banking services by one bank (the ‘correspondent bank’) to another bank (the ‘respondent bank’). These services may include cash/funds management, international wire transfers, drawing arrangements for demand drafts and mail transfers, payable-through-accounts, cheques clearing, etc.” See RBI circular number RBI-2004-05/37,1DNBS(PD). CC 48 /10.42/2004-05 dated February 21, 2005, http://www.rbi.org.in/scripts/BS_NBFCNotificationView.aspx?Id=2136#1 (accessed January 02, 2013).

activities.¹⁶ Recommendation 14 addresses the issue of value or money transfers. While banking institutions receive considerable attention, given their scale of business and role in the financial system, however, a large number of money transfer agencies remain outside the regulatory mechanisms. It increases the chances of abuse by these agencies. This has since led to stringent anti-money laundering (AML)/CFT controls over such agencies. Wire transfers are a common and convenient tool for transferring funds across geographical regions. Given the speed and convenience of the system, as also the scale, unless the originator, recipient and beneficiary details are monitored, the possibility of system abuse remains distinct. This is addressed as part of Recommendation 16. Recommendation 18 and 19 deal with issues which were evident as limitations in the HSBC investigations.¹⁷ While banks might ensure compliance of branches on the mainland, at times similar stringent mechanisms are not applied to branches and subsidiaries in other countries. Similarly, adequate diligence is not applied to countries which are considered high risk. This could be relevant while dealing with financial institutions or individuals. Regulation, monitoring and application of AML/CFT measures in such cases becomes critical. One of the most wide ranging and significant initiatives of the FATF was the recommendation to monitor and report suspicious transactions. Recommendation 20 lays down this requirement and has led to establishment of Financial Intelligence Units (FIUs) in a number of countries. Initially, regulation and monitoring remained restricted to traditional financial institutions like banks. However, it was soon realised that a number of Designated Non Financial Businesses and Professions (DNFBP) could also contribute to money laundering or terrorism finance if inadequately regulated. This was recognised by the FATF and led to Recommendation 22 highlighting the need for establishments like casinos, real estate agencies, trade in precious metals, lawyers and notaries involved in large scale money transfer transactions, to be regulated and brought under scrutiny.

- Over a period of time, it was realised that regulations, powers and

¹⁶ Dominic Rushe, "HSBC 'sorry' for aiding Mexican drugs lords, rogue states and terrorists", *The Guardian*, July 17, 2012, <http://www.guardian.co.uk/business/2012/jul/17/hsbc-executive-resigns-senate> (accessed November 03, 2012).

¹⁷ "HSBC money laundering report: Key findings" *BBC*, December 11, 2012, <http://www.bbc.co.uk/news/business-18880269> (accessed August 20, 2013).

laws had not kept pace with the nature of offenses. Loopholes allowed exploitation of the system, even as law enforcement could not bring the offenders to justice. This realisation led to the establishment of regulatory mechanisms, delegation of suitable powers and supervisory controls to prevent money laundering/terrorism finance. As part of this requirement, Recommendations 26–28 deal with regulation and supervision.¹⁸

- Recommendations 29–34¹⁹ provide guidelines on operational and law enforcement aspects related to money laundering/terrorism finance. While Recommendation 20 lays down the need for reporting suspicious transactions, Recommendation 29, specifically mandates the need to establish FIUs. Recommendation 30 requires specific law enforcement agencies to be designated for the purpose of AML/CFT responsibilities. This entails a focused approach to these two areas of investigation to enable more deliberate efforts, including cases which need efforts to go beyond prescribed jurisdiction through domestic and international cooperation. Recommendation 31 focuses on providing requisite powers to agencies to give them the ability to obtain information, documents for prosecution, monitoring of communications, computer systems and attaching property and assets. Movement of cash couriers has emerged as a serious threat to further money laundering and terrorism. Recommendation 32 addresses the need to ensure measures to detect physical movement of couriers across borders.
- Recommendations 36–40²⁰ address the need to enhance and develop international cooperation. Recommendation 36 outlines the contours of this cooperation through a number of conventions that have been endorsed by most countries. These include, the Vienna Convention, 1988; Palermo Convention, 2000; United Nations Convention against Corruption (UNCAC), 2003; and the Terrorist Financing Convention, 1999, amongst others. Recommendations 37 and 38 mandate the need to provide mutual legal assistance, including freezing and confiscation of property and assets on the request of a country. Extradition is highlighted as a means of fighting money laundering/terrorism finance. This can be expedited through making money laundering/terrorism finance as part of extraditable offenses, streamlining procedures associated with it,

¹⁸ *FATF*, op. cit., pp. 23–24.

¹⁹ *FATF*, op. cit., pp. 24–36.

²⁰ *FATF*, op. cit., pp. 27–30.

cooperating with countries making such requests and making domestic laws expedient for such cases.

These recommendations were supplemented by a number of important policy guidelines issued by the FATF and the Asia Policy Group (APG). Amongst the important FATF publications is the June 2008 document on *Money Laundering & Terrorist Financing Risk Assessment Strategies*.²¹ The importance of the document is based on the premise that a “national money laundering/terrorist financing risk assessment should be considered the foundation for setting AML/CFT policy priorities and resource allocation.”²² Based on this foundation, two key outputs of the risk assessment process are:

- The *nature and scale* of money laundering/terrorism finance and related predicate crimes, and
- *Weakness* of the AML/CFT systems and controls.

While the first output highlights the *threat* faced by a country, the second indicates its *vulnerability*.

The FATF also came up with a consolidated report on terrorism finance, which dealt with the means for using, raising, moving funds and the global response to the same.²³ The report provided a detailed assessment of these issues and became an appropriate starting point for country specific assessments.

The FATF report on *Money Laundering & Terrorist Financing Typologies*, throws light on critical areas of Alternate Remittance Systems (ARS), the insurance sector and money laundering, and association of money laundering with the insurance sector and illegal migration, and finally trends and indicators of money laundering and terrorism finance.²⁴

²¹ “Money Laundering & Terrorist Financing Risk Assessment Strategies” *FATF*, June 18, 2008, <http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20Risk%20Assessment%20Strategies.pdf> (accessed February 13, 2013).

²² *Ibid.*, p. 2.

²³ “Terrorist Financing”, *FATF*, February 29, 2008, <http://www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Terrorist%20Financing%20Typologies%20Report.pdf> (accessed February 13, 2013).

²⁴ “Money Laundering & Terrorist Financing Typologies – 2004-2005”, *FATF*, June 10, 2005, http://www.fatf-gafi.org/media/fatf/documents/reports/2004_2005_ML_Typologies_ENG.pdf (accessed February 13, 2013).

Reports on specific areas of concern were released to provide focused assessment. The *Best Practices Paper on Trade Based Money Laundering*, was one such initiative.²⁵ The paper provided inputs for utilising trade data to detect and investigate money laundering and terrorism finance.

The APG has also generated reports, which have provided useful policy guidelines. The recent APG *Typology Report on Trade Based Money Laundering* compiles trade based money laundering cases and analyses the same. It also assesses the inherent linkages of money laundering with terrorism finance.²⁶

Understanding and dissemination of typology analysis is one of the important focus areas for international bodies to enhance understanding and awareness levels. APG has evolved a yearly system for disseminating information in this regard. The APG *Annual Typology Report 2013*, provides trends of AML/CFT and gives relevant case studies as well.²⁷

There has been a long-standing debate on bringing into the legal fold, existing informal or alternative remittance systems extensively used across the world. The Asia Policy Group places on its website one such study done under the aegis of the IMF, titled, *Approaches to a Regulatory Framework Formal and Informal Remittance Systems: Experiences and Lessons*.²⁸ The report highlights the risks of alternative remittance systems and the experiences of some countries in regulating this informal system, thereby bringing a degree of control. Based on these experiences, lessons have been drawn, which can provide useful pointers for countries like India, where the hawala system continues to function below the legal scanner.

The FATF recommendations, UNSC Resolutions and APG guidelines,

²⁵ “Best Practices on Trade Based Money Laundering”, *FATF*, June 20, 2008, <http://www.fatf-gafi.org/media/fatf/documents/recommendations/BPP%20Trade%20Based%20Money%20Laundering%202012%20COVER.pdf> (accessed February 13, 2013).

²⁶ “APG Typology Report on Trade Based Money Laundering”, *Asia/Pacific Group on Money Laundering*, July 20, 2012, http://www.fatf-gafi.org/media/fatf/documents/reports/Trade_Based_ML_APGReport.pdf (accessed December 26, 2014).

²⁷ “APG Yearly Typologies Report 2013”, *APG*, July 20, 2012, <http://www.apgml.org/includes/handlers/get-document.ashx?d=e92a27b8-42d8-4f8e-bea0-6289dcb30b9b> (accessed on December 26, 2014).

²⁸ “Approaches to a Regulatory Framework for Formal and Informal Remittance Systems: Experiences and Lessons”, *International Monetary Fund*, February 17, 2005, <https://www.imf.org/external/np/pp/eng/2005/021705.htm> (accessed on December 26, 2014).

thus became the basis for nations to establish their national regulatory mechanisms. Keeping in view local peculiarities, these guidelines assisted in framing laws, international interaction and operationalising the implementation of AML/CFT measures. The references are a sampling of the reports and policy guidelines issued by international bodies to counter terrorism finance. The reports reflect an evolutionary trend in terrorism finance and are useful pointers for any CFT strategy, given the experience of a number of countries and organisations over a period of time.

Assessment of the US and EU CFT Initiatives

It is evident from the period of adoption of some of the conventions and recommendations that these emerged in the immediate aftermath of 9/11.¹ The early adoption of the United Nations (UN) resolutions and Financial Action Task Force (FATF) recommendations along with the experience of 9/11, led the US and the European Union (EU) to almost immediately outline their respective countering the financing of terrorism (CFT) strategies. It also resulted in a paradigm shift in their focus on terrorism finance. The decade following 9/11 has proved that many of the initiatives undertaken both by the US and EU have largely proved to be successful.

Prior to analysing India's CFT strategy, a brief assessment of the US and EU models will be carried out, to enable a comparative perspective and draw lessons which can be learnt by India while formulating its strategy.

US STRATEGY

The seemingly impregnable US counter terrorism systems were shaken after the 9/11 terrorist attacks. The shock of the events was compounded by the ease with which terrorists were able to organise the attacks, and the impunity with which finances were coordinated. The realities which emerged after 9/11 highlighted inadequacies in the system. These essentially were:²

- There are linkages between money laundering, crime and the funding of terrorists.

¹ United Nations Security Council Resolution Number 1373, which laid down the guidelines for terrorism in general and CFT became effective on 28 September 2001. The eight special recommendations dealing with terrorism finance were added to the 40 FATF recommendations in October 2001.

² See Title III – International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Section 302, USA Patriot Act of 2001.

- Money laundering is capable of subverting legal financial institutions.
- Offshore banking facilities coupled with weak regulatory mechanisms fuel terrorism finance.
- Correspondent banking can be manipulated by foreign banks by hiding the real identity of owners.
- US anti-money laundering (AML) mechanisms were “outmoded”, and
- An effective AML mechanism needs national as well as international focus.

Given the basic findings of law makers, the US CFT strategy was based on three pillars. These were identified as: “(1) intelligence and domestic legal and regulatory efforts; (2) technical assistance to provide capacity-building programmes for US allies; and (3) global efforts to create international norms and guidelines.”³ The US, given its international influence and role, was faced not only with the challenge of recalibrating its own efforts to counter terrorism finance, but was also required to ensure that international norms and regulations were changed to suit the emerging realities in general, and the specific challenge after 9/11 in particular. It is for this reason that two of the three priority areas identified, dealt with actions beyond US shores.

ORGANISATIONAL RESTRUCTURING

The limitations of the US CFT organisations and their effectiveness came to the fore after the 9/11 attacks. Central Intelligence Agency’s (CIA’s) Bin Laden unit chief did not feel that the money trail could lead to terrorist plans or intentions. Thus the CIA did not give adequate attention to terrorism finance.⁴ Similarly, the attempt of the National Security Council to push for an “all source terrorist-financing intelligence analysis center” was not provided adequate funds by either the Treasury Secretary, or the CIA.⁵ This led to large-scale restructuring of the counter terrorism organisational setup in the US. The most prominent change was the establishment of the Department of Homeland Security (DHS), which had the all encompassing role of protecting the US from the threats that it faces, a task performed by

³ Martin A. Weiss, “Terrorist Financing: U.S. Agency Efforts and Inter-Agency Coordination”, *CRC Report for Congress*, August 03, 2012, p. 2.

⁴ The 9/11 Commission Report, govinfo.library.unt.edu/911/report/911Report.pdf, p. 185.

⁵ *Ibid.*, p. 186.

over 2,40,000 employees.⁶ DHS achieved substantial synergy by bringing the complete homeland security architecture, including intelligence and executive authorities under one umbrella. The transformation also affected the Treasury Department. Amongst the offices, which were reorganised after 9/11, was the Terrorism and Financial Intelligence Office. According to the Deputy Secretary of State, David S. Cohen, the office was responsible for domestic AML efforts through the Financial Crimes Enforcement Network (FinCEN), and implementing sanctions through the Office of the Foreign Assets Control (OFAC). The reorganisation saw the office stripped of its executive powers exercised through the Secret Service and Customs and instead, it was given a policy office responsible for combating illicit finance and an intelligence office.⁷

LEGISLATION

Money laundering had been identified as a criminal offence in the US, which led to the passage of The Bank Secrecy Act of 1970. This was augmented for the purpose of money laundering by the Currency and Foreign Transaction Reporting Act (CFTRA). Both these acts provided a tentative beginning in the fight against money laundering. The AML laws were strengthened in later years through the Money Laundering Control Act in 1986, Annunzio-Wylie Anti Money Laundering Act in 1992, The Money Laundering Suppression Act in 1994 and The Money Laundering and Financial Crimes Strategy Act of 1998. Despite repeated changes in AML provisions, the emphasis of US agencies remained on money laundering *as a crime*. It did not cater to the threat that could emerge from the use of perfectly legal monetary resources for terrorism. This threat became a reality with 9/11, and finally led to the enactment of the Patriot Act. Title III of the Act deals primarily with terrorism finance. This gives powers to US agencies to undertake “special measures” to include information on “beneficial ownership of accounts,” identity of customers using a payable through account and restrict operations

⁶ *Homeland Security*, About DHS, <http://www.dhs.gov/about-dhs> (accessed November 12, 2012).

⁷ *Centre for Strategic and International Studies*, Discussion on Treasury’s Role in National Security, David S. Cohen, Undersecretary for Terrorism and Financial Intelligence, Washington D.C, May 10, 2012, http://csis.org/files/attachments/051412_TreasuryRoleInNatSec_Transcript.pdf (accessed November 12, 2012).

of such accounts.⁸ Section 313 of the act, also prohibited the establishment of correspondent accounts with shell banks.⁹ Having realised the existing limitations of sharing information, Section 314, mandated the adoption of regulations for streamlining the process between financial institutions, regulatory authorities, and law enforcement agencies.¹⁰ Section 317, gave jurisdiction to the US authorities over foreign money launderers, if financial transactions had occurred in part or completely in the US, involving property in which the US has ownership interest, or a bank account was maintained in the country.¹¹ Section 319, further, gave authority to seize funds deposited in US inter bank accounts.¹² The legislation regarding the Bank Secrecy Act (BSA) amendment, involved establishing AML programmes by each institution under Section 363 of the Patriot Act. Section 356, mandated brokers and dealers with Securities and Exchange Commission (SEC) to submit suspicious activity reports.¹³ Keeping in view the need for swift and secure exchange of information, Section 362, mandated the establishment of a highly secure network.¹⁴ The importance of enhancing deterrence was ensured through Section 363, which increased the penalty for money laundering to twice the amount of the transaction, though not more than US\$ 1,000,000.¹⁵

BULK CASH TRANSFER

The threat from bulk cash transfers and past limitations in curtailing flow was identified as a potent threat from money laundering and terrorism finance. This led to the enhancement of imprisonment in such cases of carriage of

⁸ See Title III – International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Section 311, USA Patriot Act of 2001, p. 115 STAT 300-305.

⁹ Shell banks according to the FATF glossary “means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision.” *FATF*, <http://www.fatf-gafi.org/pages/glossary/s-t/> (accessed October 03, 2012).

¹⁰ See Title III – International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Section 314, USA Patriot Act of 2001, p. 115 STAT 307.

¹¹ *Ibid.*, Section 317, USA Patriot Act of 2001, p. 115 STAT 310.

¹² *Ibid.*, Section 319, USA Patriot Act of 2001, p. 115 STAT 311.

¹³ *Ibid.*, Section 356, USA Patriot Act of 2001, p. 115 STAT 324.

¹⁴ *Ibid.*, Section 362, USA Patriot Act of 2001, p. 115 STAT 332.

¹⁵ *Ibid.*, Section 363, USA Patriot Act of 2001, p. 115 STAT 332.

cash, or other monetary instruments over US\$ 10,000. Sub Chapter II of Chapter 53 of title 31 of the United States Code (U.S.C) was amended to make provision for imprisonment up to five years.¹⁶

UNLICENSED MONEY TRANSFER SYSTEM

The impact of money transfer through the unlicensed money transfer system was recognised and declared a felony under state law, as indicated in Section 373 of the Patriot Act.¹⁷

COUNTERFEITING

Counterfeiting of currency was already an offence, which invited strict punishment in the US. However, the scope of the offence was enlarged by adding extrajudicial jurisdiction, if the act involved linkages with the US through sections 374 to 377 of the Patriot Act.¹⁸

BORDER MANAGEMENT

The aspect of physical protection of borders also received attention of lawmakers, given the threat emerging from the US land borders. Section 402, mandated tripling of funds allocated for border patrol personnel along the Northern US borders and US\$ 50,000,000 for Immigration and Naturalisation Services.¹⁹ This was augmented by orders to create technology standards, which could enhance the capability of the systems in place to verify the identity of personnel entering the US. This system was recommended, for establishing on a sharing basis between the visa issuing authority, federal inspection agents on the borders and law enforcement and intelligence officers involved with investigation and identification of aliens. Section 417, reinforced immigration checks by strengthening the process of machine readable passports.²⁰

¹⁶ Ibid., § 5332, USA Patriot Act of 2001, p. 115 STAT 337-338.

¹⁷ Ibid., Section 373, § 1968, USA Patriot Act of 2001, p. 115 STAT 339-340.

¹⁸ Ibid., Section 374-377, USA Patriot Act of 2001, p. 115 STAT 340-342.

¹⁹ See Title IV – International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Section 401, USA Patriot Act of 2001, p. 115 STAT 342.

²⁰ Ibid., Section 417, USA Patriot Act of 2001, p. 115 STAT 355.

IMMIGRATION

In addition to the established checks, categories of people were clearly defined in Section 411 for inadmissibility of immigration.²¹ This not only included members of terrorist organisations, but also members of groups who publicly endorsed such acts.

INTERNATIONAL COOPERATION AND SHARING OF INTELLIGENCE

The US Congress encouraged greater cooperation with foreign governments and institutions to enhance the strength of investigations against money laundering, terrorism finance and financial crimes.²² Effort at multilateral cooperation against terrorists was enhanced through sharing of US held databases with foreign governments on a case to case basis.

EUROPEAN UNION STRATEGY

The EU CFT strategy was also outlined on similar lines, though with minor differences. The basic EU strategy emanates from the overall counter terrorism strategy, which is based on four fundamental pillars²³:

- *Prevention*, which “aims to combat radicalisation and recruitment of terrorists.”
- *Protection* that “aims to reduce the vulnerability of targets to attacks.”
- *Pursuit* with a dual aim to “pursue terrorists across borders” and “put an end to sources of terrorist financing”, and
- *Response* to a terrorist strike.

The EU strategy, much like that of the US was reinvigorated after 9/11. While legislative action was implemented expeditiously after the attacks, it was the non-legislative implementation across the spectrum of activities that took more time and efforts. However, substantial progress has since been made, given the realisation that any counter terrorism

²¹ Ibid., Section 411, USA Patriot Act of 2001, p. 115 STAT 345-350.

²² Ibid., Section 330, USA Patriot Act of 2001, p. 115 STAT 3020.

²³ Counter-terrorism strategy, http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_terrorism/l33275_en.htm, based on the 30 November 2005 legislation on “The European Union Counter-Terrorism Strategy” (accessed November 06, 2012).

investigation must be accompanied by a CFT investigation as well to achieve success.²⁴

The EU member states follow the guidelines of the UN, FATF and EU, in addition to their respective directives, which may be peculiar to each country. However, it is the EU, which provides an overarching CFT strategy. The fundamental guidelines for the same have been issued over a period of time. Collectively, these provide a clear understanding of the strategy in its entirety.

Directive 2005/60/EC, provides the overall framework for the AML/CFT policy.²⁵ This is based on the 2003 FATF guidelines along with the Special Recommendations (SR), prior to their being amalgamated in 2012. Given the nature and scope of the directive, it essentially addresses most areas of the FATF recommendations, thereby providing the fundamental document for all EU members, both for AML and CFT. An analysis of the directive indicates that its scope covers three of the four pillars of the overall counter terrorist strategy, with the exception of response. This is achieved through emphasis on subjects to include customer due diligence, reporting obligations and detailed enforcement measures. As part of customer due diligence, there is greater emphasis on applying a risk-based approach, simplification of systems and enhancing processes to make them more effective. Reporting obligations mandate the EU member states to establish financial intelligence units (FIUs) with access to financial, administrative and law enforcement information. There is specific stress on both record keeping and maintenance of statistics to facilitate investigations and analysis. As part of the enforcement measures, registration and monitoring of money exchange operators, trusts, casinos, money transmission and remittance offices is emphasised. Internal procedures include cooperation and exchange of information amongst FIUs of different countries. The directive further requires “effective, proportionate and dissuasive” penalties to be applied in case of infringements to ensure compliance.

²⁴ “Revised Strategy on Terrorist Financing”, *Council of the European Union*, Brussels, July 17, 2008, <http://register.consilium.europa.eu/pdf/en/08/st11/st11778-re01-en08.pdf> (accessed November 06, 2012), p. 11.

²⁵ Directive 2005/60/EC, *European Parliament and of the Council*, October 26, 2005, Official Journal of the European Union, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:0036:en:PDF> (accessed November 06, 2012).

The EC Regulation No 1781/2006, aims to facilitate compliance with the Special Recommendations in general and Special Recommendation VII in particular, which deals with information of the payer accompanying transfer of funds.²⁶ This ensures that every linking payment service provider in the chain of payment is aware of, and transmits the details of the payer. It enables monitoring authorities to ensure transparency of monetary transactions, thereby reducing the possibility of both money laundering/terrorism finance. The regulation also requires a risk based approach with regard to payer details. Cases of funds transfer within the EU are likely to receive lesser scrutiny as compared to flow of funds from outside. The aspect of record keeping remains equally valid since money laundering/terrorism finance investigations tend to take place well after the reporting of incidents.

Movement of cash is highlighted as one of the serious money laundering/terrorism finance threats in Directive 2005/60/EC. Given the nature of the threats, Regulation Number 1889/2005 elaborates upon this critical area.²⁷ The regulation specifically addresses Special Recommendation IX, which requires measures to be instituted to detect movement of cash and introduce declaratory procedures. Given the nature of the movement of cash across EU member states, efforts have been made to coordinate and create common procedures for providing information requested by countries or specific organisations within them. The regulation gives adequate powers to check individuals, baggage and vehicles. It also gives powers to detain individuals if suspicion persists. And finally, a system of penalties has been put in place to curb and dissuade illegal movement of cash.

The vulnerability of payment services in terms of money laundering/terrorism finance has been emphasised as part of the FATF guidelines. In order to strengthen procedures, directive 2007/64/EC has been issued.²⁸ It meets requirements of Special Recommendation VI on alternative remittance methods. This lays down guidelines, procedures and directives

²⁶ Regulation (EC) No 1781/2006, *European Parliament and the Council*, November 15, 2006, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:345:0001:0001:EN:PDF> (accessed November 05, 2012).

²⁷ Regulation (EC) No 1889/2005, *European Parliament and the Council*, October 26, 2012, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0009:0012:EN:PDF> (accessed November 07, 2012).

²⁸ Directive 2007/64/EC, *European Parliament and the Council*, November 13, 2007, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:319:0001:0036:EN:PDF> (accessed November 07, 2012).

for member states for compliance. Some of the important guidelines include provision of identity details of persons providing remittances, safeguarding requirements, provisions for granting authorisation to operate and its withdrawal, registration, accounting and audit, liabilities, record keeping, supervision and exchange of information amongst others.

One of the important CFT initiatives was the freezing of funds of terrorist organisations. Regulation (EC) 881/2002, came up in the immediate aftermath of 9/11 and in pursuance of SR III aimed to freeze funds of Al Qaeda and Taliban.²⁹ The resolution imposed “certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, the Al-Qaeda network and the Taliban, and repealing Council Regulation (EC) No 467/2001, prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending freezing of funds and other financial resources in respect of the Taliban of Afghanistan.”³⁰ The regulation goes on to identify groups and organisations associated with terrorism, and ordered freezing of their assets with the proviso of amending and updating the list over a period of time.

ASSESSMENT OF US THE AND EUROPEAN UNION MODELS

The first aspect that stands out in both models is the attempt at transparency and visibility of policy guidelines. It was a concerted endeavour to ensure that every guideline, directive and procedure adopted is made public. This not only encourages greater participative cooperation with the people at large, but also allows debate on critical issues, thereby assisting in generating valuable feedback on policies.

It is evident in both cases that even as AML/CFT initiatives were in existence earlier, these were perceptibly upgraded after 26/11. The events associated with the terrorist strike not only led to a number of initiatives at the international level, but also brought about collective understanding of the nature of the threat posed by terrorism and terrorism finance.

Both the US and the EU have been influential in providing international policy directions. Therefore, it is not surprising that the United Nations

²⁹ Council Regulation (EC) Number 881/2002, *Official Journal of the European Communities*, May 27, 2002, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:139:0009:0022:EN:PDF> (accessed November 07, 2012).

³⁰ *Ibid.*

Security Council (UNSC) resolutions related with terrorism and terrorism finance as well as FATF recommendations form the basis of the strategy adopted by both countries.

There is a clear intent to address threats emerging from money laundering and terrorism finance simultaneously, given the linkage between the two. It is for this reason that all guidelines address both these issues. This has further been reaffirmed by the FATF through its action of merging the 40 recommendations and 9 SRs in 2012.

Even as the fundamental guidelines outlined remain similar in both cases, subtle differences in the approach are evident. The US model envisages a three pronged approach to include: (1) intelligence and domestic legal and regulatory efforts; (2) technical assistance for capacity-building of the U.S., and (3) global efforts to create international norms and guidelines. On the other hand, the EU model is derived from its counter terror strategy, which suggests a four-pillar approach aimed at prevention, protection, pursuit and response. An assessment of the detailed response under each head indicates that both the US and the EU undertook a hard and sustained assessment of their pre-9/11 setup, and candidly accepted the inadequacies of the system. These were addressed as part of the intelligence, legal and regulatory initiatives in case of the US and prevention, protection and pursuit mechanisms of the EU. The difference however subtle, does indicate a more stringent mechanism in the case of the US, at the cost of being more intrusive, obvious and invasive. However, the success of the system adopted does justify the sharp departures from past policies and guidelines.

Irrespective of these subtle differences, there are certain key features which define the strategies adopted in both cases:

- There has been a deliberate and conscious attempt on the part of both the US and EU to limit the financial muscle of terrorist organisations by freezing their assets and of groups functioning as their front organisations. While this is an ongoing process, it has limited the economic muscle of groups like the Al Qaeda. This has helped place constraints on the organisational functioning of terrorist groups, which in turn curbs their ability to carry out terrorist strikes. Though limited funds are required specifically for terrorist strikes, limitations placed on the organisational setup of a terrorist group due to paucity of funds, can have an overall detrimental effect on its efficacy to spread terror.

- There has been a perceptible upgrade of the intelligence architecture and its capability. This has been evident through a number of cases where financial intelligence has assisted in piecing together the larger jigsaw puzzle and assisted in solving cases. It has also provided a deeper understanding of the nature of funding, sources, transmission mechanisms involved, interplay of terrorism finance with crime and money laundering and groups involved in such activities. This intelligence architecture has also benefitted from improving and increasing intelligence sharing within the country and beyond with partner nations.
- Strong legislation has been a common and consistent factor in both the cases. The US Patriot Act and its follow-up legislations, as also the EU laws, regulations and guidelines have all focused on improving legal provisions targeting both money laundering/terrorism finance. While some provisions have courted debate and controversy, however, there is strong bipartisan support in the countries concerned, to ensure that a threat as potent and lethal as terrorism, must be fought unitedly. Over a period of time, these laws have also kept up with the evolving nature of the threat, which is evident from amendments in domestic laws incorporating successive FATF guidelines and strategic recalibration based on emerging threats.
- The US witnessed a major upgradation of the organisational setup, numbers, fund allocations and capacities to deal with the threats. This was done based on the quantum shift in threat perception post 9/11. Commencing with the establishment of the DHS, to the treasury raising the profile of their establishment, the system underwent a major upheaval to counter the threat posed by transnational terrorism and terrorism finance.
- It is evident that both the US and EU attempted to raise the capability and capacity of partner countries. However, the efforts of the EU were focused more towards its member countries, while those of the US placed greater emphasis on revitalising international efforts as well. This was possibly a result of the overall strategy, which recognised the trans-border character of the threats and the need to address them as an international coalition. It is for this reason that both the second and third priority of the US CFT strategy focused on this vital issue.
- Amongst the specific initiatives undertaken in both cases, attempts to regulate flow of cash, border management and alternate means of

money transfer were dealt with in detail. This was accompanied by a deliberate attempt at identifying payers, payees and transferring agencies through clearer protocols and tools. While this may not have completely removed the possibility of money laundering/terrorism finance through these channels, the probability was reduced to a great extent.

The US and the EU were faced by serious threats from transnational terrorism and its allied acts like terrorism finance. This became apparent after 9/11. While the attack in itself was a failure of US intelligence and regulations, however, the response to the same brought forward bipartisan and multinational action. This resultant action was neither constrained by funding, nor by subsequent deputation of manpower. It also goes to the credit of the two systems that thousands of men and women were trained in a colossal capacity building exercise. It was also realised in both cases that terrorism finance cannot be seen in isolation. It therefore not only became an important constituent of the overall counter terrorism strategy, but also found resonance with crime and money laundering, which were found to be intertwined with terrorism finance.

Both case studies provide useful lessons for countries like India, despite the nature of threats and patterns being a little different as seen in the first section. The similarities flow from the procedures adopted and measures put in place to curb terrorism finance, which essentially remain the same. This is reinforced by the fact that FATF guidelines have become universally accepted and adopted norms across the world. There has been similar incorporation of UN resolutions dealing with both terrorism and terrorism finance.

Probably, the most important takeaway from the two case studies is the efficiency and commitment in implementing laws, regulations and guidelines. This is an underlying facet of US and EU success in dealing with terrorism finance and given its limited visibility, it is often neglected as a factor responsible in the fight against terrorism finance. Therefore, implementation remains the most important lesson that countries like India, which are in the process of establishing their own mechanisms, must draw from successful CFT models.

SECTION III
STRATEGY FOR COUNTERING THE
FINANCING OF TERRORISM



8

Existing Countering the Financing of Terrorism Framework and Purpose of a Strategy

Terrorism finance has been acknowledged as the essential element for sustaining terrorism. George Bush in the immediate aftermath of 9/11 said, “Money is the lifeblood of terrorist operations.”¹ The sentiment was echoed by Gordon Brown, when he said, “The ready supply of finance is the lifeblood of modern terrorism.”²

However, despite this realisation, the formulation of a strategy for countering the financing of terrorism (CFT) has posed unique challenges. The *first*, relates to defining the framework for terrorism finance. Even if the scope of any strategy is national, its affect is transnational, given the globalised nature of terrorism finance. This requires close cooperation with other countries and international agencies. *Second*, terrorism finance remains in a state of evolution, with the understanding of the subject maturing with increasing domestic and international focus. This affects the ability of governments to evaluate the threat it poses, and develop capabilities and capacities to deal with it in a holistic manner. *Third*, CFT efforts by the very nature of their scope, entail a broad-based action plan, which involves an all of government approach. This in turn requires close cooperation, integration and sharing of the designated work space. For departments, which have functioned in their respective domains, to reconfigure their work space creates a natural resistance to change. The formulation and adoption of a seamless strategy is therefore

¹ George W. Bush, “Remarks on United States Financial Sanctions Against Terrorists and their Supporters and an Exchange with Reporters”, *The American Presidency Project*, September 24, 2001, <http://www.presidency.ucsb.edu/ws/?pid=64040> (accessed March 25, 2013).

² Gordon Brown, “Brown: More Terrorist Assets to be Frozen”, *HM Treasury*, November 08, 2001, http://archive.treasury.gov.uk/press/2001/p122_01.html (accessed March 25, 2013).

a difficult challenge. *Fourth*, this resistance to change is further amplified when the nature of challenge demands establishing new organisations, realignment of jurisdictional spaces and roles. CFT is particularly affected by this, given the wide range of ministries and departments which will need to realign their focus to deal with the challenge. The reported opposition of the Intelligence Bureau (IB), to the placement of the proposed National Counter Terrorism Centre (NCTC) directly under the Home Secretary, instead of the IB is a case in point.³

The challenges faced by India are neither new nor unique. These have in the past had an impact on the efforts of evolved CFT systems in the US as well. In a candid admission of inadequacies before 9/11, a national commission on the 9/11 attacks said:

Terrorist financing was not a priority for either domestic or foreign intelligence collection. As a result, intelligence reporting on the issue was episodic, insufficient, and often inaccurate. Although, the National Security Council (NSC) considered terrorist financing important in its campaign to disrupt Al Qaeda, other agencies failed to participate to the NSC's satisfaction, and there was little interagency strategic planning or coordination. Without an effective interagency mechanism, responsibility for the problem was dispersed among a myriad of agencies, each working independently.⁴

The existing focus on terrorism finance suffers from similar challenges in the Indian context as well. While there has been positive movement to reduce existing limitations after 26/11, there continue to exist serious challenges, as have been outlined in the previous section.

EXISTING FRAMEWORK

The available inputs in the public domain, provides inadequate information on an *all encompassing strategy* against terrorism finance. While it may be

³ Bharti Jain, "IB sulks over govt bid to place NCTC outside its ambit", *The Times of India*, February 27, 2013, http://articles.timesofindia.indiatimes.com/2013-02-27/india/37330051_1_nctc-national-counter-terrorism-centre-counter-terror (accessed March 13, 2013).

⁴ John Roth, Douglas Greenburg and Serena Wille, "Monograph on Terrorist Financing", *National Commission on Terrorist Attacks Upon the United States*, http://counterterrorismblog.org/upload/2008/09/911_TerrFin_Monograph.pdf (accessed March 05, 2013), p. 4.

inappropriate to say that there is no government strategy, however, the adequacy of the existing approach remains questionable. A close examination of publicly available policies indicates the absence of a single document, which outlines the three critical constituents, i.e. ends, means and ways for tackling CFT (details are addressed in the next chapter). Over a period of time, different arms, organs and constituents of the government have outlined their individual departmental or charter specific approach to terrorism finance. Amongst the few consolidated approaches of the government that are available, are the Mutual Evaluation Report of India, conducted under the aegis of the Financial Action Task Force (FATF), which provides a brief overview. It highlights the following aspects of the existing Indian strategy against terrorism finance:⁵

- ensure effective supervision of financial institutions operating in India;
- ensure compliance of reporting entities with requirements of the Prevention of Money Laundering Act (PMLA);
- establish an effective law enforcement system which acts as a deterrent;
- strengthen organisational capacity of law enforcement/intelligence agencies;
- establish an effective co-ordination mechanism between agencies;
- support international anti money laundering/countering the financing of terrorism (AML/CFT) efforts and co-operation;
- review and strengthen the legal and regulatory framework, and
- implement international AML/CFT standards, particularly the FATF 40+9 recommendations.⁶

While these pointers indicate governmental focus, it however does not provide an adequate understanding of the follow-up action based on an overall approach. The overview is at best a statement of intent, which is not accompanied by the ways and means required to achieve the goals. As an example, while aiming to achieve better compliance of reporting agencies as suggested in the second bullet, it is also critical to understand the existing

⁵ Mutual Evaluation Report, "Anti Money Laundering and Combating the Financing of Terrorism", *FATF*, June 25, 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed December 20, 2012), p. 25.

⁶ These recommendations have since been amalgamated and renamed as *The FATF Recommendations*, February 2012. See http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf (accessed May 14, 2013).

limitations in the reporting system. It is important to analyse the absence of key agencies from the reporting chain. To illustrate the point, compliance of post offices and cooperatives remains inadequate on the existing laid down criteria for AML/CFT guidelines of the FATF. Similarly, Designated Non Financial Businesses and Professions (DNFBP), which include property dealers and precious stone merchants, did not come under the reporting chain for suspicious actions until recently. Therefore, while a guideline is desirable, however, the absence of its follow-up assessment in terms of evaluation of existing weaknesses and lacunae in the system, severely limits the ability to bring about the desired change.

The existing approach is adversely impacted by three serious limitations.⁷ These are, *first*, an adhoc approach to CFT. This leads to a situation based reactive response, which is the result of a sudden crisis. As a consequence, the approach lacks cohesiveness. *Second*, the response is localised. This isolates it to specific branches and organisations, thereby limiting the impact of actions initiated. *Third*, the reaction is characterised by a short term orientation to overcome a crisis situation. However, it lacks follow-up, which can facilitate a long term solution to the problem. While a strategy is not a solution to challenges faced as a result of CFT, however, it can certainly provide the necessary direction and guidelines for follow-up action. It can also facilitate bridging gaps between different departments by providing a unified approach to terrorism finance.

The existing guideline does not adequately establish and explore the linkages between terrorism finance, crime, money laundering as well as corruption in society. An approach merely focused towards the narrow confines of a singular threat, cannot address larger concerns, which are closely associated with the continuation of terrorism finance, despite the best attempts of the government. It is well documented that kidnapping, gun, human and drug trafficking, as well as localised petty crimes like robberies can feed terrorism.⁸ Similarly, a corrupt society provides an ideal breeding ground

⁷ Based on the interpretation by a senior government official who wishes to remain unnamed.

⁸ In addition to cases of gun running by the NSCN, kidnappings by the ULFA and extortion rackets by most groups in Northeast India and the Maoist belt, the phenomenon is a well established trend worldwide. See "Europe's Crime-Terror Nexus: Links between terrorists and organised crime groups in the European Union", *European Parliament*, 2012, <http://www.europarl.europa.eu/document/activities/cont/201211/20121127ATT56707/20121127ATT56707EN.pdf> (accessed May 07, 2013).

for terrorism finance to exploit weaknesses of the financial and enforcement system to subsist and thrive on its limitations.

The existing thought process based on a brief outline, also fails to include both the public and private sectors within its ambit, which are considered important constituents of any strategy for CFT.⁹ There has been an explosive growth in the number and nature of institutions dealing with financial transactions. This especially includes the digital format, where multiple agencies and countries are involved. Charge cards hold monetary value in a manner not thought of in the past. Similarly, systems like PayPal have transformed the international payment process. On the one hand, these multiple agencies have made monetary transactions simpler, on the other, they make monitoring and regulation very difficult. A strategy must therefore look beyond government controlled traditional financial institutions like public sector banks, if the threat of terrorism finance is required to be addressed in a holistic manner.

The emergence of ingenious methods like trade-based money laundering/terrorism finance, have enlarged the means that presently exist for transferring money for terrorism. Given the emergence of this relatively new method employed by terrorists, any strategy that is formulated must not only cater for such innovations, but also remain flexible and nimble to adapt to emerging trends.

Amongst the major constituents of the government involved in CFT, individual approaches have been outlined by some of them. As an example, the Reserve Bank of India (RBI) has issued a number of circulars, which provide guidelines and standards to be met by banks, which includes the master circular of *Know Your Customer/Anti-Money Laundering/Countering the Finance of Terrorism Obligations*. A similar guideline refers to the *Detection and Impounding of Counterfeit Currency*. Similarly, the Securities and Exchange Board of India (SEBI), lists out guidelines for CFT in a master circular on AML and CFT obligations of intermediaries under the PMLA. While these documents provide sharp focus on specific subjects of CFT, yet, they do not seamlessly combine as part of an overall approach or

⁹ The FATF hold regular interactions with representatives of the private sector to get their inputs on policies and recommendations for better implementation. See “Dialogue with the private sector”, April 25-26, 2013, <http://www.fatf-gafi.org/documents/documents/dialoguewiththeprivatesector.html> (accessed May 14, 2013).

strategy. As a result, the existing outlook remains fragmented and confined to narrow silos.

PURPOSE OF STRATEGY

The purpose of a CFT strategy is to highlight the ends, means and ways for countering terrorism finance in India and simultaneously to facilitate global efforts to build an effective mechanism against terrorism. Since terrorism finance has been identified as an essential prerequisite for sustaining terrorism, an effective CFT strategy can become a part of the overall counter terrorism approach of the government.¹⁰

The proposed CFT strategy along with more elaborate in-house government efforts to build upon and implement it in the future can assist in validating existing thinking on the subject. The steps outlined suggest additional ways of addressing challenges, which can help in creating policy alternatives. However, the success of any strategy is the culmination of an overall government approach. In the case of CFT, it also includes to a large extent efforts of international bodies and a host of countries, which are indirectly linked to the successful execution of the process.

The experience of fast maturing counter terrorism and CFT architectures in the US indicate that both formulation of a strategy and course corrections are important components of national efforts. In the US, much like the *Quadrennial Defense Review (QDR)*, a similar assessment has been institutionalised for Homeland Security.¹¹ This is further augmented by specific governmental and non-governmental assessments of ongoing CFT efforts.¹²

¹⁰ See The United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288) “highlighted the importance of addressing the financing of terrorism and the need for Member States to implement comprehensive measures that meet all international standards”. See “Tackling the Financing of Terrorism”, *CTITF Working Group Report*, World Bank, UNODC and IMF, 2009, http://www.un.org/en/terrorism/ctitf/pdfs/ctitf_financing_eng_final.pdf (accessed December 26, 2014).

¹¹ See “Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland”, *Homeland Security*, February 2010, http://www.dhs.gov/xlibrary/assets/qhsr_report.pdf (accessed March 05, 2013).

¹² John Roth, Douglas Greenburg and Serena Wille, “Monograph on Terrorist Financing”, *National Commission on Terrorist Attacks Upon the United States*, http://counterterrorismblog.org/upload/2008/09/911_TerrFin_Monograph.pdf (accessed March 05, 2013), p. 4.

LONG TERM VISION

An effective CFT strategy can limit the availability of finances to terrorist organisations in India, thereby assisting in neutralising the threat of terrorism. This has been briefly highlighted in the Mutual Evaluation Report, as indicated in the previous chapter. However, its scope is more in the form of a vision, rather than a strategy. Therefore, the same has been further elaborated to suggest a long term CFT vision as follows:¹³

- Increase awareness within the country, to limit the influence of terrorism and terrorism finance amongst the population.
- Create a holistic understanding of the threat of terrorism finance, to include its linkages with crime, money laundering and corruption, to enable a broad-based understanding of its modus operandi and affects.
- Establish a lead government agency for counter terrorism, which includes terrorism finance as its subsidiary function.
- Eliminate gaps between government agencies to establish a seamless CFT structure.
- Enhance the impact of CFT legislation to ensure effective laws.
- Improve implementation of laws, rules and procedures to enhance the effectiveness of CFT enforcement agencies. In doing so, limit adhocism in policy implementation and replace it by established operating procedures.
- Spread awareness and understanding of terrorism finance to enhance the implementation capability of government and non-government agencies, to include private bodies like non-governmental organisations (NGOs) and DNFBPs, which have been identified as possible targets of terrorism finance.
- Improve intelligence for CFT and ensure its integration, analysis and timely dissemination to agencies responsible for enforcement.
- Build capacities in CFT agencies and provide them with the requisite capability for carrying out their mandate.
- Improve foreign cooperation and implementation of international guidelines on terrorism finance.
- Establish a mechanism to continuously assist the existing CFT system to evolve, based on threats emerging from international and domestic trends related to terrorism finance.

¹³ For the key elements of India's multi-pronged approach, which is the basis of the long term vision see, Mutual Evaluation Report, op. cit.

9

Strategy for Countering the Financing of Terrorism

Terrorism finance challenges and the suggested countering the financing of terrorism (CFT) strategy have been based on a Strength, Weakness, Opportunity and Threat analysis (see Annexure 1).¹ This analysis was attempted to initially identify the weaknesses and limitations of the existing systems. As a follow-up of these weaknesses, the analysis specifically suggests means to overcome such shortcomings.

The concept of strategy came from the military lexicon. It was adopted by business corporations and is finally finding its way into the practice of national governance. A strategy, in any domain or field of work, from the military to business, assists in outlining plans to achieve the desired objectives. From the perspective of a national endeavour, a strategy, “Is the art and science of developing and employing the instruments of national power (including the armed forces) in a synchronized and and comprehensive fashion to secure national objectives.”² The Department of Defense (DOD), *Dictionary of Military Terms* defines strategy as: “A prudent idea or set of ideas for employing the instruments of national power in a synchronized and integrated fashion to achieve theatre, national, and/or multinational

¹ This concept was initially introduced as a business tool. Though there are different views on its history and attribution, however, there is little difference of opinion on its importance as a research tool. See “History of SWOT Analysis”, <http://www.marketingteacher.com/swot/history-of-swot.html#>, accessed on December 07, 2012. Defence forces across the world have employed this tool to evaluate the effectiveness of an organisation. It is used as an analytical tool in some armies, and is increasingly being employed for scientific assessment in the modernizing process. See “The U.S. Army and its Use of Business Management Theory”, Nathan Bigler, *Utah Valley State College*, <https://www.uvu.edu/is/pdfs/armybusiness.pdf> (accessed December 26, 2014). SWOT analysis is an integral part of assessments in the Indian Army commencing from battalion level and going right upto the Army.

² See “Canadian Military Doctrine”, *National Defence and the Canadian Forces*, <http://www.cfd-cdf.forces.gc.ca/sites/page-eng.asp?page=10789> (accessed March 05, 2013).

objectives.”³ The Indian Army Doctrine defines strategy as: “The art and science of developing and using elements of national power including political, economic, psychological, technological capabilities and military forces, as necessary, during peace and war to achieve national objectives.”⁴ The definitions indicate three components of a strategy as, ends, means and ways. This in simple terms defines the requirements of strategic planning. A strategy must therefore indicate the end state that is desired to be achieved. It must also outline the means available to achieve this end state. Finally, it should highlight the ways for achieving the objectives.

The adoption of a strategic outlook is leading to the growing reliance on strategic management as a tool for achieving national objectives. This is best exemplified by the release of guidelines by the Cabinet Secretariat: *How to Prepare Strategy and Strategic Plans: Guidelines and Checklist for Practitioners*.⁵ The document states that a strategy is about creating “clarity of purpose”, which in turn helps improve performance. It underscores the pitfalls of poor or absence of strategic planning which can result in most “government agencies around the world have multiple goals, some of which even conflict with each other”.

Despite acknowledging the importance of strategic planning, India has seen few attempts at formulating formal strategies, especially in the public domain, for existing or approaching challenges.⁶ This includes securing the country against terrorism finance.

³ “DOD Dictionary of Military Terms”, *US Department of Defense*, http://www.dtic.mil/doctrine/dod_dictionary/data/s/7303.html (accessed March 05, 2013).

⁴ “Indian Army Doctrine”, October 2004, http://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDEQFjAA&url=http%3A%2F%2Fids.nic.in%2FIndian%2520Army%2520Doctrine%2FIndianarmydoctrine_1.doc&ei=2WU1UeGQN4uhiAfa0oGgDg&usq=AFQjCNFcC3v6UCVnE4HebJGJ5ph3d2Liyg&bvm=bv.43148975,d.aGc (accessed March 05, 2013), p. 5.

⁵ See “How to Prepare Strategy and Strategic Plans: Guidelines and Checklist for Practitioners”, *Cabinet Secretariat*, January 15, 2010, <http://ruraldiksha.nic.in/data/ppts/Project%20planning%20for%20practitioners.pdf> (accessed February 27, 2013).

⁶ While it is not possible to access classified doctrines or strategies within government, however, there are few strategies in the public domain which provide comprehensive direction for issues of national importance. This is unlike the culture in countries like the US and even UK, where strategic documents are placed in public domain, thereby calling for a larger debate on issues of national importance. In the case of the US, its national security strategy, homeland quadrennial review, defense strategy, quadrennial defense review are just a few examples.

The benefit of hindsight indicates that lapses of the kind witnessed in the US before 9/11 and in India, both before and after 26/11, can prove costly by way of loss of lives.⁷ This does not lead to the conclusion that putting in place a strategy can obviate the challenges posed by terrorism, however, it does suggest that a comprehensive strategy can assist in streamlining functioning as part of the overall counter terrorism efforts of the government.

The sources, methods of money transfer and contributing factors have been outlined in the preceding section to highlight the challenges of terrorism finance. The threats emanating as a result have the potential to unravel the CFT efforts of the country. Therefore, a strategy must cater to these threats as part of the overall approach.

Terrorist methods to generate, move and hide funds evolve over a period of time. Very often, short term measures and individual targeting of terrorists, tends to give a visible sense of achievement. This may be successful in the short term to target specific terrorist cells. However, in the long term, it is the ability to block funding, through well planned and established procedures, which can assist in defeating terrorism. Therefore, a CFT strategy must aim to facilitate establishing such procedures, capacities and organisational strength.

Countering the financing of terrorism measures are not independent, nor can they be implemented in isolation. These have to be integrated as part of the larger counter terrorism strategy. Given the linkages of terrorism finance, crime and money laundering, some initiatives will also need to be co-opted as part of an unified national security strategy. This reinforces the need for an overall government approach to CFT as part of a national framework.

The strategy should follow a risk-based approach.⁸ The aim of such an approach is to identify the nature of threats related to terrorism finance,

⁷ The positive impact of a holistic Homeland Security Strategy in the US can be judged by the successful foiling of 54 attacks since 9/11 by agencies. Jessica Zuckerman, "54th Terror Plot Against the U.S.: Qazi Brothers' Plot to Attack New York", *The Heritage Foundation*, January 03, 2013, <http://www.heritage.org/research/reports/2013/01/54th-terror-plot-against-the-us-qazi-brothers-plot> (accessed March 05, 2013).

⁸ For a detailed analysis see "Money Laundering and Terrorist Financing Risk Assessment Strategies", *FATF*, June 18, 2008, <http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20Risk%20Assessment%20Strategies.pdf> (accessed December 20, 2012).

its predicate crimes and assess the vulnerabilities of the system in which such crimes are committed. Thereafter, the threats and vulnerabilities are prioritised and finally resources allocated accordingly. On the basis of this prioritisation, two essential factors have an impact on the ability to achieve the desired results. *First*, the adequacy of existing laws to bring the guilty to justice, and *second*, the capacity of the enforcement agencies to apply existing laws to ensure conviction. This broad approach to terrorism finance should be further refined at different levels and in varied jurisdictional zones to suit local realities. At the international level, the general understanding of threats and vulnerabilities can be different from those in individual countries. Similarly, in a country like India, these can again vary in different states and regions. At the national level, the major threats identified by the government have also been listed in the mutual evaluation report of India, conducted by the Financial Action Task Force (FATF) in 2010.⁹

The need to outline a robust strategy backed by strong legal measures aims at preserving law and order. However, there is a need to strike the right balance between laws and respect for human rights. Some counter terrorism laws like the Prevention of Terrorism Act (POTA), in the past proved to be counter productive, and may well have aggravated the internal security situation rather than improving it.¹⁰ Therefore, any strategy that is formulated must ensure that the long term interests of the country should not be sacrificed for short term gains. The CFT strategy must aim to be corrective and not coercive in its intent and execution.

Just like international guidelines take into account regional realities and peculiarities while recommending international CFT measures¹¹, similarly, the Indian strategy must also be formulated and subsequently evolve taking into account distinct regional trends. This is borne out by the fact that the nature of terrorism finance indicators witnessed in the north east are very

⁹ See Mutual Evaluation Report, “Anti Money Laundering and Combating the Financing of Terrorism”, *FATF*, June 25, 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed December 20, 2012).

¹⁰ Rajiv Dhawan, “Sugarcoating POTA”, *The Hindu*, October 31, 2003, <http://www.hindu.com/2003/10/31/stories/2003103100841000.htm> (accessory May 15, 2013).

¹¹ See “Tackling the Financing of Terrorism”, *CTITF Working Group Report*, World Bank, UNODC and IMF, 2009, http://www.un.org/en/terrorism/ctitf/pdfs/ctitf_financing_eng_final.pdf (accessed December 26, 2014), p. 4.

different from those in the Jammu and Kashmir (J&K) and Naxal areas. A strategy must therefore provide broad guidelines, even as specific execution parameters are fine tuned according to regional peculiarities.

India faces a number of politically charged violent movements. Given the fact that some of these movements have subsequently morphed back into the national mainstream, tends to grant them a degree of acceptability. This possibility at times goes to the extent of condoning violence, since it is seen as an expression against state persecution and violence.¹² However, even as political negotiations remain a tool for bringing closure to armed conflicts, terrorism and terrorism finance must be treated as crimes to bring down the incentive for taking up arms to achieve political goals.

Countering the finance of terrorism strategy can be viewed as part a three-stage endeavour. This includes the process of prevention, protection and pursuit. The European Union (EU) also pursues a strategy of prevention, protection and pursuit. However, this emanates from its counter terrorism policy. It, therefore, has a different connotation about these terms. In the Indian context, these are best correlated with CFT and its implications identify different stages of processes associated with it.

Prevention includes all measures which can successfully stop, pre-empt, desist or discourage individuals, groups or countries from financing terrorism. It includes actions taken by a country, an international body or a group of countries before the actual commencement of the process associated with terrorism finance.

Protection closely integrates with prevention. All actions associated with protection start with attempts to provide financial support for terrorism. It includes all measures undertaken by a country or a coalition of partner nations to stop the process of terrorism finance. This can take place during collection, transfer, storage or distribution of funds in all its manifestations, to include cash, goods or electronic transfers.

Pursuit is the process of follow-up starting with prosecution, before or after a terrorist act takes place. It involves following a money trail, and building a strong case to enable conviction. Pursuit does not merely unravel a particular

¹² Stephen Moss, "Arundhati Roy: 'They are trying to keep me destabilised. Anybody who says anything is in danger'", *The Guardian*, June 05, 2011, <http://www.guardian.co.uk/books/2011/jun/05/arundhati-roy-keep-destabilised-danger> (accessed January 07, 2013).

terrorist incident, but aims to neutralise the financial network which supports terrorism, thereby making it untenable.

Prevention, protection and pursuit might seem distinct and sequential stages as part of an overall CFT strategy. However, in effect, these are closely interlinked. The success of each stage has a direct impact on others. As an example, legislation of a strong law is an ideal preventive step. Simultaneously, effective protection leads to application of the law through enforcement and can stall the flow of funds before an attack. Similarly, as part of pursuit, the law can be applied to ensure speedy prosecution and conviction. This makes each of the factors complementary. A strong law will be a deterrent for the act of financing terrorism, just like effective protection is in itself a preventive measure. Similarly, a high rate of conviction and as a result, the neutralisation of a terrorist network, ensures that protection and prevention receive a fillip.

Prevention will therefore include legislation of effective laws, equipping and training suitable forces for CFT, ensuring cooperation and cohesion of different domestic and international organisations, putting in place rules and procedures which facilitate efficiency and effectiveness of functioning, identifying threats and judiciously allocating resources, facilitating a responsive judicial system, coordinating diplomatic measures against external threats and countries and finally, responding to the evolving nature of threats.

An ideal strategy should have a very effective preventive component. This would ensure that the deterrence value of systems in place is strong enough to limit attempts to finance terrorism. The protective and pursuit components of the strategy flow from the strength of the preventive mechanism. Therefore, while the preventive mechanism provides capability to a system, protection and pursuit employ it to stop and rollback terrorism finance as a follow-up action.

This can be achieved through a three pronged strategy. The first involves identifying the sources of terrorism finance and the methods used for transferring funds. The second includes putting in place a robust system, as identified in the previous paragraph, to ensure that the effectiveness of the system in place deters terrorists and their supporters. Finally, a feedback system should provide constant information on existing weaknesses of the system, which thereafter becomes the basis for inputs and improvements. This would ensure that measures are *ex-ante*, rather than resulting in actions

being *ex-post*, which is generally the case under present circumstances. This leads to adhoc and knee jerk reactions to circumstances, resulting in the initiative remaining with terrorist groups.

It was briefly outlined in the introductory chapter that the challenges emanating from different sources of terrorism finance, as well as the CFT strategy have been outlined under similar heads. These include external factors and its fund transferring mechanisms, internal sources and their transfer systems and finally the contributing factors. The succeeding chapters follow this very sequence. It is also intended that the resultant linkages will facilitate better correlation to the challenges.

10

External Sources

Funding from external sources has emerged as the principle financing mechanism for the proxy war by Pakistan in Jammu and Kashmir (J&K). This sourcing not only aims to achieve the objectives of propagating terrorism through a steady flow of funds, but also has an adverse impact on the economy of the country. Amongst the different sources for funding, this chapter will suggest measures to counter counterfeit currency, drug trafficking, non-governmental organizations (NGOs)/charities involved in terrorism finance and state funding by Pakistan.

COUNTERFEIT CURRENCY

Counterfeiting of currency has been identified as one of the most serious threats fuelling terrorism finance. It also affects the economy adversely, by reducing faith in the legitimacy of currency notes and flooding the market with more liquidity than desirable, thereby affecting financial equilibrium. The threat has been identified at three levels to include production in Pakistan,¹ transfer into the Indian and international markets and detection and limiting it. Therefore, the strategy must aim at having an impact on all three aspects.

PRODUCTION OF COUNTERFEIT CURRENCY

- The incentive to counterfeit currency notes should be restrained by greater international pressure on Pakistan through international regulations on terrorism and terrorism finance like United Nations (UN) Resolution 1,373. These need to be invoked based on available intelligence inputs. The FICN case study in Chapter 2 and the associated judgement must

¹ See “Pakistan is source of fake Indian currency notes, says government”, *NDTV*, March 12, 2013, <http://www.ndtv.com/article/india/pakistan-is-source-of-fake-indian-currency-notes-says-government-341506> (accessed March 25, 2013).

be used to reinforce Pakistan's direct involvement in counterfeiting Indian currency.

- There should be constant improvement in the security features of currency notes to make counterfeiting difficult. The US system provides a viable model. As part of its strategy, the agencies track and modify security features in notes after detection of each case of counterfeiting.² This has made it successively more difficult to counterfeit US currency.

TRANSFER OF COUNTERFEIT CURRENCY

- The routes of induction of counterfeit currency are similar to trans border crime corridors, which includes drug trafficking, gun running, human trafficking and smuggling.³ Therefore, synergy should be created between anti-smuggling operations on the borders, action against criminal gangs and blocking movement of counterfeit currency by terrorist groups and their agents. As part of this endeavour, coordinated action by border forces could improve cohesion, through sharing of best practices and intelligence.
- The advances made in technology should be better utilised for improving detection capability, flow of intelligence amongst enforcement agencies, customs and border guarding forces.
- There is urgent need to augment the manpower available for border guarding to cater for deficiencies, improve awareness and training for identification of counterfeits and build capacities for electronic detection.
- In addition to border guarding agencies, there is need for closer coordination with intelligence agencies like the Intelligence Bureau (IB), Directorate of Revenue Intelligence (DRI) and local police in border areas.

DETECTION

- The process of detection is multi-pronged and starts from the border or coastal areas and continues into the hinterland. Given the large-scale

² Manan Kumar, "DNA Special: India seeks US tech to curb fake currency", *DNA*, November 03, 2012, http://www.dnaindia.com/india/report_dna-special-india-seeks-us-tech-to-curb-fake-currency_1759578 (accessed March 08, 2013).

³ See Pushpita Das, "Drug Trafficking in India: A Case for Border Security", *IDSA*, http://www.idsa.in/system/files/OP_DrugTraffickinginIndia.pdf (accessed March 25, 2013).

incidents of counterfeiting, there is far greater awareness of the threat, as compared to the past, which is the first step towards countering the threat.

- There is need to increase the availability of scanners for detecting counterfeits. The low levels of reporting from public sector banks indicates inadequate facilities for the nature of challenge at hand.
- The Reserve Bank of India (RBI) guidelines require banks, which detect up to four counterfeit notes in a single transaction, to send a consolidated report to police authorities at the end of the month. However, in case the number is more than four, a First Information Report (FIR) is required to be lodged at the nodal police station. Given the existing workload of banks, these procedures can act as disincentives for branches, with the possibility of counterfeits being returned to customers.⁴ There is need for simpler procedures and incentives to detect and report counterfeits to improve efficiency.
- Detection of counterfeit currency is not enough unless, technology and international cooperation are co-opted, to remain a step ahead of the terrorists. The US method of documenting each counterfeit currency note with details of its origination, route of induction and people involved needs to be employed by India as well.⁵ This will improve the security features of currency notes and reduce the incidence of counterfeits.

DRUG TRAFFICKING

Drug trafficking is an international concern. There has been steady growth in production and trafficking in the past few years. While there are limitations in relation to the ability of the international community to limit drug production in a direct role, provision of alternative employment through developmental support is a long term measure with which India can be associated. This endeavour can be strengthened through the application of UN endeavours undertaken by the Office on Drugs and Crime (UNODC), which includes the global programme against money laundering, proceeds of

⁴ See, Annual Report 2011-12, *Reserve Bank of India*, <http://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/01ANR230812FL.pdf> (accessed March 15, 2013).

⁵ "India to seek American technology to check fake currency note circulation", *The Hindu Business Line*, June 03, 2012, <http://www.thehindubusinessline.com/industry-and-economy/economy/article3486195.ece> (accessed March 09, 2013).

crime and terrorism finance,⁶ amongst others, to build pressure on countries like Pakistan.⁷

Second, the initiatives aimed at limiting Afghan opiate trafficking and consumption should be strengthened in partnership with other countries. India, is recognised as one of the trafficking corridors, serving as a link between the “Golden Crescent” and “Golden Triangle.” The scale of drug trafficking and transfer of funds raised through sale of drugs can only be controlled by establishing improved border controls. This reinforces the need to enhance the strength of border forces, at least to their authorised levels. Where ever, these are inadequate, additional numbers need to be deputed. The deployment of technology centric equipment like scanners should be enhanced to empower border forces.

In India, some of the border states have suffered from the ills of drug abuse, including Punjab, Rajasthan and Manipur. There is need to strengthen public awareness programs to rid the affected people of this evil. The services of NGOs and use of new age media should be encouraged, along with government initiatives.

The case for a more effective border guarding force will help in reducing drug trafficking through greater synergy and better command, control and coordination. It will also streamline procedures and compatibility of the equipment profile.

Legislative action should be initiated to make laws more stringent. Simultaneously, time bound investigations and prosecution will assist in dissuading drug trafficking.

NON-GOVERNMENTAL ORGANIZATIONS/CHARITIES

The first stage of terrorism finance as far as charities and NGOs are concerned, relates to collection of funds. In the immediate aftermath of 9/11, initiatives were taken by the US and European Union (UN) to bring greater accountability of funding, transparency in financial transactions of

⁶ “UNODC on money laundering and countering the financing of terrorism”, *UNODC*, <http://www.unodc.org/unodc/en/money-laundering/index.html?ref=menuaside> (accessed March 28, 2013).

⁷ UN Resolution 1373, calls for denial of all forms of financial support to terrorists and 1617 calls for freezing of the assets and funds of individuals, groups, undertakings and entities of terrorist groups.

NGOs and charities and freezing of a large number of accounts.⁸ While India may not be able to undertake similar action, however, given the convergence of aims, there can be concerted attempts through international efforts to bring about a similar impact on Pakistan and West Asia. Besides NGOs, money being raised through charities in countries like Pakistan can only be curtailed through sustained international pressure. Unless the cost of fund raising for terrorism finance is not made greater than that of its tacit acceptance, front organisations will continue to operate and fund terrorism.

Intelligence sharing can become a useful tool for monitoring NGOs, charities and groups, which are the focus of terrorism finance. Monetary transactions from these groups to NGOs and charities in India will help establish surveillance on the money trails and subsequent expenditures. The identification of suspected NGOs can also help establish trails to *hawala* dealers, who are involved in transferring funds into the country.

Given the large number of NGOs worldwide, unless a risk-based approach is followed on the basis of vulnerable countries, existence of known terrorist groups and a history of exploitation of charities and NGOs, it will be difficult to monitor the trail of funds from all of them. However, given the disparity in different sectors, under which the NGOs operate, the Financial Action Task Force (FATF) and the Asia Policy Group (APG) suggest a sector based approach to information and risk assessment, to achieve more focused scrutiny of vulnerable areas.⁹

The FATF has clearly laid down the standards required to be achieved in this regard in its 40 recommendations. The NGO/non-profit organization (NPO) sector is one of the major constituents of this initiative. India, as part of the FATF, should encourage vulnerable countries to implement the guidelines of the FATF in this regard.

⁸ See “Commission Regulation (EC) No 76/2006”, *Official Journal of the European Union*, January 17, 2006, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_012/l_01220060118en00070016.pdf (accessed March 28, 2013) and Azam Khan, “Interior ministry report: Up to 43 groups banned for terror links”, *The Express Tribune*, September 09, 2012, <http://tribune.com.pk/story/433782/interior-ministry-report-up-to-43-groups-banned-for-terror-links/> (accessed March 28, 2013).

⁹ See “NPO Sector Vulnerabilities: Typologies Report”, *Asia/Pacific Group on Money Laundering*, July 22, 2011, <http://www.apgml.org/includes/handlers/get-document.ashx?d=b80c8fa2-41f0-455c-91d3-7ac28b5e3d4b> (accessed December 26, 2014), pp. 23-24.

The actions required for Indian NGOs and charities will be covered as part of internal sources.

STATE FUNDING

State funding emerges as a primary source of terrorism finance in the case of India. Pakistan, despite the negative domestic affect of supporting terrorism as a state policy, continues to fund terrorism in India.

In this regard, it is important to continue building pressure on Pakistan through the international community, which is equally affected by the threat of terrorism finance. The UN has passed a number of resolutions, which aim at strengthening the international mandate against terrorism finance. These include United Nations Security Council (UNSC) Resolutions 1267, 1373, 1540, 1566, 1617 and 1624.¹⁰ These should be augmented by regional and bilateral endeavours to increase pressure on Pakistan to stop state sponsorship of terrorism and terrorism finance.

Over time, there has been increasing intelligence in India and its partner countries, linking Pakistan with terrorism finance. The recent endeavours to share this information should be built upon to not only confront Pakistan, but also follow financial linkages emanating from across the border to detect its corresponding links in India. This includes *hawala* dealers, bank accounts used for transmitting funds, traders involved in acting as fronts for terrorism finance and smugglers of cash and counterfeit.

MEANS OF TRANSFER

HAWALA

The *hawala* system has two distinct groups of beneficiaries. The first comprises genuine users, who transfer money through a cheap and easily accessible system. It is the second segment which exploits this monetary channel to support crime and fund terrorism. This links *hawala* to crime as also to terrorism finance. This linkage requires countering the finance of Terrorism (CFT) initiatives to view illegal value transfer methods like these more seriously than normal criminal offences. *Hawala* creates a channel, which can subsequently be exploited for any purpose, with the added advantage of not leaving electronic trails.

¹⁰ See United Nations Office on Drugs and Crime, *UNODC*, <http://www.unodc.org/documents/money-laundering/GPML-Mandate.pdf> (accessed March 28, 2013).

The FATF as part of recommendation 14, requires that “countries should take measures to ensure that natural or legal persons that provide money or value transfer services are licensed or registered, and subject to effective systems for monitoring and ensuring compliance with the relevant measures called for in the FATF recommendations.”¹¹ There is a need to balance between ease in transfer of funds and stopping exploitation of the value transfer system. *Hawala* is used extensively as it is cheap, convenient and reliable. Unless the government in conjunction with partner nations can provide an alternate system which is equally efficient and affordable, stopping *hawala* transactions will remain a challenge.

The use of *hawala* has also seen state support in some cases. The Afghanistan government has proposed distribution of funds through *hawala* agents given the limitations of official channels and reliability of *hawala* channels in contrast.¹² While this reflects the severe weaknesses of official systems in Afghanistan, in a country like India, which has well-established financial systems, an effective, reliable and cheap method must be put in place which eliminates the attraction and importance of *hawala* for legal money transfer. This will help focus enforcement efforts against value transfer of illegal wealth.

Hawala is used for transferring value in relation to crime, money laundering and terrorism finance. Different laws can be applied for different offences for *hawala* usage. To curb *hawala*, if circumstances present an opportunity of applying more than one law, it is important to deal with *hawala* operators under the strictest laws to enhance the deterrence value of legal action.

Given the continued exploitation of *hawala*, a concerted strategy must aim at combining the focus of targeting it in the sphere of crime, tax avoidance and money laundering crimes as well as terrorism finance to achieve success.

LEGAL FINANCIAL CHANNELS

It is critical to link the legal financial history of every individual with two

¹¹ International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, *The FATF Recommendations*, February 2012. See http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf (accessed May 14, 2013), p. 17.

¹² Swaminathan S. Ankaleshwar Aiyar, “The virtues of hawala”, *swaminomics*, <http://swaminomics.org/?p=689> (accessed March 11, 2013).

key pieces of information. The first involves identifying every citizen with a unique ID. The second should ensure that every financial transaction is linked to this identity through stringent Know Your Customer (KYC) guidelines. While KYC has been introduced, its implementation remains uneven across the country, which leaves scope for exploitation. The ongoing initiative to create a uniform KYC system will also help strengthen CFT initiatives.¹³

One of the reasons for inadequate implementation of regulations is the weak penal system that exists concerning financial institutions. An illustration of the KYC fines has already been discussed earlier (Table 4). The scale of penal action internationally can be judged by the US \$1.9 billion fine imposed on Hong Kong and Shanghai Banking Corporation (HSBC) bank on charges of money laundering in 2012 in the US.¹⁴ The RBI should substantially enhance its penal action against public and private financial institutions to ensure better compliance. There is also the case for relating penal action to percentage of profits for greater effectiveness.

As part of an objective assessment of financial institutions, an elaborate risk assessment procedure should be put in place to facilitate identification of existing weaknesses in the system. The risk assessment function, procedural guidelines and regulation all emanate from the RBI.¹⁵ There is need to strengthen this architecture and capacity, which presently remains inadequate, as highlighted in the mutual evaluation report of 2010, even though, there has been substantial improvement as indicated by the June 2012 Compliance Report. There is also need to communicate emerging typologies and case studies to financial institutions to improve awareness and incorporate security measures against identified threats.

The emergence of Non-traditional Payment Methods (NPMs) is a double-

¹³ Mahua Venkatesh, "Single-point 'know your customer' to ease form filling headaches", *The Hindustan Times*, March 19, 2012, <http://www.hindustantimes.com/business-news/UtilityBytes/Single-point-know-your-customer-to-ease-form-filling-headaches/Article1-827845.aspx> (accessed March 11, 2013).

¹⁴ "HSBC to pay record \$1.9B fine in money laundering case", *Chicago Tribune*, December 01, 2012, http://articles.chicagotribune.com/2012-12-11/business/chi-hsbc-fine-20121211_1_hsbc-holdings-plc-chief-executive-stuart-gulliver-bulk-cash-transactions (accessed March 15, 2013).

¹⁵ See "Master Circular – Know Your Customer (KYC) norms/Anti Money Laundering (AML) standards, Combating of Financing of Terrorism (CFT)/Obligation of Banks under PMLA, 2002", *Reserve Bank of India*, July 01, 2011, http://rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?Id=6520&Mode=0 (accessed March 15, 2013).

edged sword in the financial world. If inadequately supervised and regulated, it opens up yet another method for money laundering/terrorism finance. However, it is been found that if NPMs are well regulated and controlled, they provide an efficient, easy and effective method for transferring money. It can also become one of the solutions for limiting the use of alternate methods like *hawala*.¹⁶

As part of the international footprint of Indian financial institutions, as well as their subsidiaries, business is transacted with a number of countries. While the security norms of developed banking systems are robust, however, vulnerabilities come to the fore in case of high risk regions. This includes countries with a weak financial regulation implementation record and those where terrorists have penetrated the government and financial organisations. There is need to exercise requisite caution in such cases through greater scrutiny of pre-transaction verifications and subsequent business dealings.

Red flag indicators will have to be created and enlarged, with the aim of focusing intelligence efforts on transactions, which indicate the possibility of illegal activities, especially terrorism finance. While this is a nascent field in the Indian context, however, experience of advanced financial intelligence systems can be utilised to strengthen existing procedures.

While banking channels have strengthened their systems, alternative financial avenues like money transfer agencies, prepaid cards, traveler cheques and PayPal amongst other means can be exploited if KYC norms are weak for issuance and registration procedures. These should be addressed as part of the overall KYC guidelines.

CASH TRANSFERS

The move from a cash intensive to e-transaction economy can be the basis for a long term solution to defeat the abuse of cash transfers both for crime and terrorism finance. The low penetration of e-banking, mobile-banking and e-commerce allows for enhancing initiatives which can improve reliance on electronic methods for transfer of funds.

There has been a telecom revolution in the country. Despite over 900 million mobile phone users, only 13 million users across 49 banks used

¹⁶ “Money Laundering Using New Payment Methods”, *FATF*, October 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/ml%20using%20new%20payment%20methods.pdf> (accessed on December 26, 2014), p. 20.

mobile services to make 25.6 million transactions worth Rs 1,820 crore in fiscal year 2012.¹⁷ The government should provide incentives for transition to e-banking and mobile payments, as part of the initiative to bring greater transparency.

The initiative to make purchase of stamp papers an electronic exercise should be extended to all money intensive transactions to reduce the abuse of the cash economy.

There is need for increasing physical security at domestic and international transit points, with simultaneous incorporation of electronic surveillance equipment, which can help in the detection of cash smuggling.

Enhancement in the capability of passenger profile databases and sharing of information with partner countries will further help build information on suspects.

Psychological profiling is an effective method of detecting behavioural patterns of passengers. The process of recognition of facial patterns and changes in the emotional parameters, can be employed for improving detection capabilities.

The cash carriage limits should be reduced to the minimum. Passengers should be encouraged to adopt plastic money usage, which will help in creating an electronic trail of every transaction by an individual.

TRADE BASED MONEY LAUNDERING/TERRORISM FINANCE

India is emerging as a large economy. International trade is increasingly becoming a major contributor in this phenomenon. However, foreign trade volumes are being exploited by terrorists in an environment of limited regulation and control. Since, trade is a two-way process, it is equally important to incorporate procedures, which are internationally compatible and take into account abuse by terrorist organisations. Considering vulnerabilities identified in existing trade practices, the following is suggested as part of the CFT strategy:¹⁸

¹⁷ "Way to beat a cash economy", *Live Mint and the Wall Street Journal*, September 25, 2012, <http://www.livemint.com/Opinion/jK7VAgdyZ8zdMQOvG2ueWI/Way-to-beat-a-cash-economy.html> (accessed March 22, 2013).

¹⁸ See APG Typology Report on Trade Based Money Laundering, Asia Pacific Group, July 20, 2012, http://www.fatf-gafi.org/media/fatf/documents/reports/Trade-Based_ML_APGReport.pdf (accessed December 26, 2014), pp. 6-7.

- Efforts should be made to educate concerned government agencies, trade councils and enforcement agencies regarding the threat and typologies related to trade based money laundering/terrorism finance.
- The liberalisation of any trade or financial system is usually accompanied by a period of flux, opening additional vulnerabilities. This can be exploited by money launderers and terrorists. It requires domestic regulations and laws to be strict to overcome the resultant threats.
- Need for greater inter-agency and international cooperation.
- Recording and maintaining trade-based statistics help in identifying trade-based money laundering/terrorism finance trends. However, this can only be done if common formatting standards are mandated.
- A pool of experts from different agencies should form a task force focusing on trade based money laundering/terrorism finance.
- Bilateral and multilateral agreements and interaction between Trade Transparency Units (TTUs) should be strengthened.
- Training for anti trade-based money laundering/terrorism finance crimes should receive greater emphasis.
- The exploitation of tax evasion and customs offences should be seen as predicates for both money laundering and terrorism finance. It is only through a more focused approach that the two seemingly separate issues of trade and terrorism finance can be linked.

Internal Sources

The actions initiated to fight terrorism finance tend to focus more on external threats and sources. While this has enhanced the ability of the state to deal with terrorism finance emanating from outside the country, internal sourcing continues unabated with little adverse impact over the years. It needs to be emphasised that there is a direct linkage between external and internal sources and unless countering the financing of terrorism (CFT) measures address both in equal measure, terrorist organisations will continue to fund their operations with impunity.

EXTORTION

Extortion and illegal taxation is a major source for funding terrorism from internal sources. The first step towards curtailing this source of funding is the enunciation and implementation of a zero tolerance policy towards extortion. The need to emphasise this aspect stems from decades of extortion by various groups in north-east India, who virtually run a parallel taxation system. The mere fact that local funding supports groups like National Socialist Council of Nagaland (NSCN) which is in peace talks with the government, cannot become the basis for dilution of state authority.

This policy should be accompanied by prosecution of all actions associated with the collection, transfer, storage and facilitation of extortion under Unlawful Activities Prevention Act (UAPA). Attempts to launder money should be charged under the Prevention of Money Laundering Act (PMLA). Extortion on behalf of, or by terrorist groups, should not be treated and prosecuted as a common crime, since this dilutes actions that can be initiated against terrorist groups.

The common people both in north-east India and the Maoist affected regions have been forced to support terrorist fund collection efforts. This shows the failure of enforcement agencies to provide protection and an effective redressal mechanism against the forced taxation system. Resistance

to extortion can only become a reality if basic policing at the grassroots level can stand up to the parallel taxation system. Similarly, information about terrorism finance will only flow if the people are confident about their safety and security. Thus, in case of both these regions, the fundamental role of policing and enforcement action should be strengthened. Technology, organisational restructuring and funding can only supplement this basic requirement, which remains the weakest link while implementing CFT measures.

The focus on counter terrorism operations should be supported by similar efforts aimed at establishing both background information of terrorism finance typologies and more actionable intelligence on individuals, groups, channels and front organisations, which are involved in such activities.

The linkage of terrorism finance with regional political activists and leaders, as also enforcement agencies should be exposed and must culminate in prosecution and conviction, since the symbiotic association of these players blunts all efforts aimed at limiting the adverse affects.

The close linkages between extortion and crime amplifies the negative affect and simultaneously reinforces terrorism finance. Unless there is a joint approach against crime and terrorism finance, the impact of efforts in isolation will remain limited. This is critical, since the channels of fund collection, its movement and the players involved tend to overlap, and can feed into the benefits accruing from their respective domains.

The weakness regarding intelligence about networks employed by terrorists and their supporters for storage of funds and their expenditure should be addressed expeditiously. Similarly, there is little information on the conduits employed for transferring funds from the source to terrorist groups. In some cases, where funds have been moved outside the country, the means employed and destinations are also areas where more inputs are needed. This will enable domestic as well as international action against terrorism finance sourced from within the country.

CHARITIES AND NON-GOVERNMENTAL ORGANIZATIONS

The role of non-governmental organizations (NGOs) in supporting government initiatives in general, and countering the finance of terrorism in particular, can go a long way in curbing terrorism finance. NGOs like any other group or entity can become facilitators through acts of omission

or commission, unless they are observed and regulated. There is a thin line between regulation and independence to conduct welfare activities. There is a need to strike a balance between both these facets to ensure that NGOs are able to carry out their mandate, even as their functioning remains within permissible limits.

The Financial Action Task Force (FATF) has suggested some generic measures, which are also applicable in the Indian environment:

Table 11: Nine Strategic Gaps and Phases of Action

<i>Strategic Gap</i>	<i>Description</i>	<i>Action</i>
Information Gap	A lack of knowledge concerning the characteristics and vulnerabilities of the Non-Profit Organisation (NPO) sector	Knowing the risks <ul style="list-style-type: none"> • Conduct an NPO sector review and subsequent risk analysis to determine where the vulnerabilities are. The most accurate information may require consulting and coordinating with all stakeholders.
Effectiveness Gap	Lack of knowledge regarding the effectiveness of current laws and regulations	Assessing current tools <ul style="list-style-type: none"> • Once the risk assessment of the NPO sector is completed, conduct a review of existing laws and regulations to determine inconsistencies with actual risks. This phase is required by Special Recommendation (SR) VIII, and should ensure that classes of NPOs previously overlooked will be incorporated under the new regulatory system.
Framework Gap	A lack of consensus as to what strategic framework of regulation would be best suited to a sector (e.g. tax regulation, internal security, law enforcement, self-regulation, etc.). Without clear consensus, legislation/regulations cannot clearly identify the appropriate lead regulatory authority.	Defining concepts and strategies <ul style="list-style-type: none"> • Determine the strategic framework best suited to regulate a sector (tax regulation, internal security, law enforcement, etc.).

<i>Strategic Gap</i>	<i>Description</i>	<i>Action</i>
Legal Gap	The absence of appropriate legislation regarding regulation of NPOs, or the ineffectiveness of present statutory measures in relation to actual risks.	Drafting and implementing legislation <ul style="list-style-type: none"> • Design legislation around the primary method of regulation, ensuring it addresses actual risks and give adequate authority to the body involved • Being mindful of the directives provided by SR VIII with regard to supervision, monitoring, and investigation, will the method of regulation be passive (a registration and reporting regime), active (intelligence and auditing), or a mixture of both?
Structural Gap	The failure to designate a lead organisation with sufficient legal authority and resources to regulate the NPO sector, is necessary in order to centralise the information. Also, the failure to define the mandates or extent of authority of other stakeholders.	Putting necessary structures in place <ul style="list-style-type: none"> • Designate a lead organisation that fits the initial chosen method of regulation. For example, if regulation is to be tackled through tax enforcement, the lead agency should be a taxation body. • Begin to define mandates or the extent of authority of other stakeholders. • Plan for the operational implementation of regulation.
Resource Gap	Although a lead organisation is designated, it does not have the necessary funding, personnel, data/records systems, or analytic systems in place to perform essential tasks. These tasks include sectoral analysis, risk identification, and secure data management.	Ensuring the lead organisation has the necessary people and systems <ul style="list-style-type: none"> • If possible, systems for automated analysis, databases, reporting, etc. • Training of staff for analysis, the use of systems, etc. • Implement the operational aspects of regulation.
Cooperation Gap	The cooperation gap is divided into two sub-sections: <ul style="list-style-type: none"> • <i>Internal</i>: Where there are insufficient measures 	Ensuring internal and external cooperation <ul style="list-style-type: none"> • Put in place mechanisms to ensure cooperation between

<i>Strategic Gap</i>	<i>Description</i>	<i>Action</i>
	<p>in place for cooperation. The body responsible for NPO regulation is unable to maintain liaison and cooperation with other stakeholders, including (but not limited to) financial intelligence units, law enforcement, security services, and immigration authorities.</p> <ul style="list-style-type: none"> • <i>External:</i> Where there are insufficient measures in place for cooperation with other governments, multilateral bodies, or self-regulatory bodies. 	<p>the lead organisation and other government stakeholders (e.g. information-sharing laws, memoranda of understanding, invitations to working groups/ inter-agency committees etc.).</p> <ul style="list-style-type: none"> • Ensure bilateral and multilateral engagement with lead organisations in other jurisdictions on information-sharing, strategic planning, risk management, etc.
Outreach Gap	<p>Efforts to educate NPOs regarding risks posed to the sector by terrorists and the need to conduct due diligence are insufficient.</p>	<p>Planning and implementing outreach programmes in consultation with the NPO sector</p> <ul style="list-style-type: none"> • Inform the NPO sector about the risks of abuse from terrorists. • Maintain donor confidence in the NPO sector through outreach programmes. • Ensure due diligence procedures to form part of outreach programmes.
Participation Gap	<p>The failure to include the NPO sector throughout all stages of enhancing regulation.</p>	<p>Integrating/consulting the NPO sector</p> <ul style="list-style-type: none"> • Ensure the NPO sector is included in discussions/decision making during each phase of this framework. Experience has shown that best results are achieved when the NPO sector is continually involved and consulted.

Authority: Derived from APG Typology Report on Non Profit Sector Vulnerabilities, <http://www.apgml.org/includes/handlers/get-document.ashx?d=b80c8fa2-41f0-455c-91d3-7ac28b5e3d4b>, accessed on December 26, 2014.

In addition, some specific measures are recommended to be incorporated as part of the countering the finance of terrorism strategy to further regulate NGOs:

- The Foreign Contribution Regulation Act, 2011, lays down the guidelines in detail for adhering to the act.¹ Its provisions should be implemented by NGOs in the country.
- There should be efforts to increase awareness about exploitation of NGOs by extremist and terrorist organisations. This will assist NGOs in taking requisite defensive measures against the threat.
- NGOs have been exploited for terrorism finance in the past; however, given their reach, influence and faith of the people in their charitable causes, they can be equally instrumental in fighting terrorism finance. It is therefore important to include them in spreading awareness about terrorism finance amongst targeted sections of the population in conjunction with government agencies. While every NGO will not have the capability to undertake this task, however, specially trained groups can be created to educate other NGOs involved in welfare activities.
- A risk-based approach should also be applied to regulation of NGOs, based on their geographical area of operations, nature of role performed and source of funding. This should dictate additional monitoring parameters and regulatory mechanisms required to be put in place. These mechanisms must monitor details of funding and expenditure, list of beneficiaries, changes in management of NGOs and periodic audit reports.
- Collection of funds by NGOs should be conducted through electronic transfers to facilitate tracing and tracking of sources.
- Organisations found to be involved in activities under the purview of Foreign Contribution Regulation Act, 2011, Unlawful Activities Prevention Act (UAPA) and PMLA should be prosecuted to ensure implementation of laid down laws, irrespective of ownership and affiliation.

CRIME

The challenge of multiple agencies dealing with different types of crimes, as flagged by Chidambaram, reinforces the need for single agency coordination

¹ See <http://www.mha.nic.in/pdfs/Draft-FC-rules-2011.pdf> (accessed January 03, 2013).

of counter terrorism and CFT operations. Even as these agencies continue to function under their respective ministries, coordination by a single agency is important. This should be supported by an intelligence and enforcement network, which improves sharing of information and execution of operations.

The threat from border areas and their exploitation for criminal activities and terrorism finance are closely linked. A joint policy for enhancing capacities in these areas in view of the challenge posed can bring the necessary focus on existing limitations.

There are a number of crimes, which are the predicate offences for money laundering. These should be included under the ambit of the PMLA.

Crime is used by terrorist groups to raise money for their acts of violence. Since the aim of terrorism finance is to raise money through ingenious ways, crimes which have widespread linkages with the population at large, like software and music piracy, sale of smuggled goods and drugs can lead to common people looking for cheaper options, which indirectly feeds terrorism finance. This awareness should therefore spread to the people, who must recognise that petty crime and corruption are contributory aspects of terrorism finance. The importance of community policing and public participation is therefore an imperative for successful CFT efforts.

DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS

Designated Non Financial Businesses and Professions (DNFBP) include businesses like the real estate sector, precious stones trade, casinos and professions like provision of legal services amongst others. Some of these non-financial sectors involve large scale transactions. The existing lack of transparency arose since these professions do not come under the purview of PMLA, except for casinos.² While limitations are imposed by inadequate infrastructure and trained personnel, however, the 2012 amendment to the PMLA has now brought the sector under PMLA.

Designated Non Financial Businesses and Professions have limited regulation, especially from the perspective of money laundering and terrorism finance. As a result, the sector remains inadequately organised and controlled. This anomaly can be corrected by making it compulsory for all professions like property dealers to register themselves as a first step towards regulation and

² "Mutual Evaluations", *FATF*, <http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationofindia.html> (accessed March 17, 2013).

functioning under a license. There is also a need for businesses to create self-regulatory bodies, as in the case of the medical profession, to bring in greater transparency of functioning as well as accountability.

Since DNFBPs can be used for terrorism finance, besides licensing, it is critical that ownership of businesses is clearly established at the time of commencement of operations and subsequently, every time there is a change. This will ensure that both criminals and suspected terrorists or their supporters are not able to abuse the businesses.

These professions must also be registered with the Financial Intelligence Unit (FIU). This in conjunction with the PMLA will ensure that reporting of suspicious transactions and cash transactions is followed by businesses. In addition, guidelines regarding maintenance of documentation must be ensured for laid down periodicities to ensure that assistance if any required for investigation, can be facilitated.

Just like other sources, a risk assessment of such professions is also critical. This assessment has to go beyond the businesses and establish patterns based on the countries with which dealings take place. It can also include regional patterns within the country.

The globalised world increasingly demands established norms, procedures and financial standards for carrying out business. A mechanism to judge these professions based on their compliance under internationally accepted norms, should be established as an indicator of their professionalism and financial integrity. Since this will have an impact on their business, it is likely to encourage self-regulation with the aim to strive for internationally accepted standards. This rating system can only be executed by a regulatory authority, which sets standards required to be met. It is therefore recommended that a regulatory body on the lines of Securities and Exchange Board of India (SEBI) or the Insurance Regulatory and Development Authority should be setup to regulate and rate these professions.

MEANS OF TRANSFER

The challenge of curbing the means of transfer of terror funds varies in the case of internal sources, when compared with the external. While the singular aim in case of external sources is to bring funds into India to fund terrorism, internal sources have the option of using funds for organisational and operational reasons, or moving them outside the country for future use or investment in businesses.

This starts with collection of funds. As part of the fund collection efforts, extortion and crime involve illegal means and thus come under the purview of criminal and counter terrorist operations. However, it is important to establish the linkage between terrorist groups and fund collection to ensure that the act of terrorism finance can be linked with stringent laws like UAPA. Since a crime can also initially become the focus of a criminal investigation, close coordination and sharing of information between the local police and counter terrorism investigators becomes important.

The second stage witnesses the movement of funds to caches within the country, or destinations outside. If funds are stashed in the country, their recovery can become a part of investigations following the arrest of terrorist cadres. However, in case of funds being moved outside the country, it follows a reverse process when compared to external funding. This involves detection by enforcement agencies in the hinterland and on the border, with the aim of stopping and arresting the flight of terrorism finance outside the country. Unless border guarding forces are aware of this reverse movement, terror funds can easily be moved across borders.

Besides physical movement of terrorism finance, legal actions against the use of *hawala* should remain the same as applicable for external sources, for international and interagency cooperation and application of anti-terror laws.

Since the use of trade for outward transfer of funds is also equally applicable, a risk-based assessment of different forms of trading goods and the destination countries should become the basis for scrutiny. There is also need for regulation of foreign and barter trade in all sectors to ensure greater transparency of beneficiaries and recipients.

The employment of legal financial channels for the outward movement of funds is feasible; however, it becomes more difficult to exploit it, given the illegal source of finances. In such cases, the possibility of money laundering as a preceding stage can thus become a facilitating process. It is therefore important that cases of money laundering are also scrutinised for linkage with terrorism finance.

Terror funds invested in businesses by Indian terrorist groups and their affiliates outside the country can be frozen, if the country concerned is willing to cooperate as part of a mutual legal assistance agreement and its international commitments. However, the basis of both actions is the creation of a strong case with evidence that can be proved in a court of law.

12

Contributing Factors

IDENTIFICATION AND EVALUATION OF THREAT

The initiation of action against terrorism finance commences with the identification of symptoms of threats and their timely diagnosis. While it is increasingly being recognised that terrorism finance is a serious national security threat, however, this realisation and awareness needs to percolate down to the last individual in the intelligence and enforcement chain. Besides awareness about terrorism finance, countering the financing of terrorism (CFT) can only be successful if awareness is accompanied by the requisite tools to identify threats. This can be achieved through dissemination of red flag indicators, which facilitate the functioning of enforcement and intelligence agencies.

The absence of a single point of coordination, responsible for internal security, of which terrorism finance is an important component, has led to diffusion of focus. The Ministry of Home Affairs (MHA) should be responsible for counter terrorism and CFT. The staffing and reorganisation of the ministry should be carried out to ensure that each department is an integral part for this responsibility.

The concept of a risk-based approach has been one of the fundamental pillars of functioning of Financial Action Task Force (FATF), since 2005. The guidance released in 2007 by FATF on the subject, highlights the importance of a risk-based approach:

By adopting a risk based approach, competent authorities and financial institutions are able to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate to the risks identified. This will allow resources to be allocated in the most efficient way.¹

¹ “Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing: High Level Principles and Procedures”, *FATF*, June 2007, <http://www.fatf-gafi.org/media/fatf/documents/reports/high%20level%20principles%20and%20procedures.pdf> (accessed on December 26, 2014).

A detailed risk assessment exercise at the national, state and departmental level should be carried out to facilitate allocation of resources according to the nature of the threat that is visualised. Based on this assessment, terrorism finance should be included both in the charter and legal mandate of government organisations to improve awareness and implementation of policies and guidelines.

A similar threat assessment should be carried out for the public and private sectors, which are vulnerable to terrorism finance threats. Any effective CFT strategy includes a number of links in its chain, outside the government. Suspicious transaction reports that are processed by the Financial Intelligence Unit (FIU), are raised by financial institutions which are not government departments.² Unless, institutions like banks understand, realise and act upon information available with them, the banking system will remain vulnerable and open to exploitation for terrorism finance.

The importance of community policing and public participation is therefore an imperative for successful CFT efforts. The most useful means of spreading this message is social media, given that consumers of such content are mostly the younger generation.³

CORRUPTION

Given the enormity of the issue of corruption and its impact on terrorism finance, it is merely aimed to underline the importance of corruption as a factor in CFT, rather than analysing the approach to eliminate it. Terrorism finance can only be addressed if the contagion of corruption can be limited in society. No law can be implemented, nor can a regulatory body ensure requisite standards, unless corruption can first be tackled purposefully. Therefore, the fight against terrorism finance must simultaneously attempt to bring transparency in the system, ensure accountability amongst institutions and improve delivery mechanisms. Amongst the measures

² For an analysis of the responsibility of the private sector see Robert Werner, "U.S. efforts against terrorism financing: A view from the Private Sector", *The Washington Institute*, June 26, 2007, <http://www.washingtoninstitute.org/policy-analysis/view/u.s.-efforts-against-terrorism-financing-a-view-from-the-private-sector> (accessed December 13, 2012).

³ In the past campaigns like Kony 2012 have spread awareness about issues, influencing young minds and their thought process for ever. See <https://www.youtube.com/watch?v=Y4MnpzG5Sqc> for a moving commentary on Kony 2012.

that have already been initiated, the initiative to automate systems, make organisations accountable through information sharing, bring procedures in line with international norms and standards, and put in place stringent laws are some of the steps that will facilitate achieving the aims against terrorism finance and corruption.

NEED FOR A UNIFIED MECHANISM

It was evident from the US decision to establish the Department of Homeland Security (DHS) after 9/11 that despite individually well-established and efficient organisations, the absence of a unified and focused headquarters led to dissipation of expertise. It also resulted in exploitation of organisational seams by terrorist groups.

In the Indian context, the existing setup, functions under different ministries with varying mandates and results. This reality was best captured by Chidambaram in a speech where he said:

The present architecture consists of political, administrative, intelligence and enforcement elements. At the political level, there is the Cabinet Committee on Security. The administrative element is the Ministry of Home Affairs, the Prime Minister's office and the Cabinet Secretariat. The intelligence elements are spread over different ministries: there is the Intelligence Bureau (IB) which reports to the Home Minister; there is the Research and Analysis Wing (RAW) which falls under the Cabinet Secretariat and, hence, reports to the Prime Minister; there are organisations such as Joint Intelligence Committee (JIC), National Technical Research Organisation (NTRO) and Aviation Research Centre (ARC) which report to the National Security Advisor (NSA), and there is the National Security Council Secretariat (NSCS) under the NSA which serves the National Security Council (NSC). The armed forces have their own intelligence agencies, one each under the Army, Navy and Air Force and an umbrella body called the Defence Intelligence Agency (DIA). There are other agencies which specialise in financial intelligence. These are the Directorates in the Income Tax, Customs and Central Excise departments, the FIU, and the Enforcement Directorate (ED). The enforcement element of this architecture consists of the central para-military forces such as CRPF, BSF, CISF, ITBP, Assam Rifles, SSB and the NSG. What

will strike any observer is that there is no single authority to which these organisations report and there is no single or unified command which can issue directions to these agencies and bodies.⁴

Each of the policy, enforcement and intelligence agencies mentioned has a specific primary role and expertise linked with it. The need for a unified mechanism gives the option of a colossus, like the DHS or a more focussed approach specifically for CFT within the existing organisation with some modifications. The DHS was setup to counter terrorism and also includes under its ambit, disaster management as a responsibility. It would possibly be the easiest option to mirror DHS as an option, however, the challenges posed and the nature of transformation required, is likely to make this an exercise in futility in the Indian context. It could also lead to over centralisation of responsibility and powers, which can have a destabilising impact. The move would also require personnel from different departments to sidestep to the DHS, thereby limiting their exposure only to counter terrorism and CFT. This would affect their ability to remain updated with all the advancements in their core area of expertise, thereby making them redundant over a period of time.

While the details of the suggested organisational change will be dealt with in the last chapter, however it needs to be emphasised that rather than undertaking large-scale organisational upheavals like the establishment of a DHS, it would be more prudent to establish a more focused and effective body within the Ministry of Home Affairs, which can provide policy guidelines and coordination at the national level. This option will ensure retention of existing ministries in their current form, and will further help in building expertise of enforcement and intelligence agencies in their area of work.

It needs to be reinforced that unless a degree of cooperation and coordination is institutionalised, this option will remain an exercise only on paper and will not yield the desired results.

COORDINATION

There has been improvement in the coordination of intelligence and

⁴ P. Chidambaram, "Home minister proposes radical restructuring of security architecture", December 23, 2009, <http://pib.nic.in/newsite/erelease.aspx?relid=56395> (accessed December 10, 2012).

enforcement agencies in the recent past. However, this is constrained by two factors. *First*, the lack of an effective network for information exchange and coordination of operations, results in organisations and their sub units to work in isolation. *Second*, the varying focus and mandate of ministries as well as intelligence and enforcement organisations, which report to their respective departmental heads, thereby narrowing the focus of work into stove piped confines. The process of establishing the National Intelligence Grid (NATGRID), which aims at linking 21 intelligence agencies is a step in the right direction. The announcement of the pilot for the Crime and Criminal Tracking Network and Systems (CCTNS) is yet another initiative which will help achieve synergy in countering terrorism and terrorism finance. The system will:⁵

- Interconnect 2,000 police stations and higher offices as part of the pilot, followed by more than 21,000 after completion.
- It will facilitate role-based training for police personnel
- The system will facilitate data sharing for crime and criminals
- Provision of an interface with external and internal departments and agencies, and
- It will facilitate crime analysis.

Similarly, the decision to establish the Mission Mode Project (MMP) for tracking foreigners will be able to assist in tracking suspects better. However, coordination can best be achieved through a single agency control, which is presently lacking.

The perceptible variation in the priority of departments looking at terrorism-related investigation and economic crimes should be bridged through greater periodic interaction, sharing of intelligence and functioning in task forces, which brings expertise of different departments to focus on specific investigations.

Even with the establishment of a single coordinating body for internal security, it is possible that sections within a department do not interact with each other seamlessly. This can only be overcome through well-established and clearly defined protocols, which lay down guidelines for inter-section cooperation. This must also be accompanied by mechanisms, which secure

⁵ *Times of India*, January 04, 2013, <http://epaper.timesofindia.com/Default/Client.asp?Daily=CAP&showST=true&login=default&pub=TOI&Enter=true&Skin=TOINEW> (accessed January 04, 2013).

the identity and sources of information to build confidence and encourage its sharing.

International research reveals that countries which have a central coordinating mechanism have been more successful in coordinating their domestic and international efforts against terrorism finance.⁶

LEGISLATIVE SUPPORT

Experience has shown that financial crimes have a poor record of conviction. While a number of factors like poor case preparation and limited witness protection programmes are amongst some of the reasons for the same, a major factor is the inadequacy of existing laws to achieve conviction. However, even as laws evolve, a balance must be struck between effective legal provisions and support for liberty of individuals.

The recently completed process of amending the Unlawful Activities (Prevention) Act (UAPA) 1967, as amended in 2008, as well as the Prevention of Money Laundering Act (PMLA), 2002, is likely to strengthen existing laws. Both these laws will include necessary amendments to incorporate FATF guidelines and recommendations. The laws will also address existing limitations and will go a long way in widening the legal net and closing loopholes, which have been exploited in the past, to improve conviction rates.

It is recognised that CFT efforts can only be successful if predicate offences can simultaneously be tackled. Therefore, while FATF requirements and increasing stress on counter terrorism led to successive amendments and improvements of counter terrorism/CFT laws, similar steps need to be initiated for laws, which specifically deal with each predicate offence.

INTERNATIONAL CO-OPERATION

The global nature of terrorism and terrorism finance requires internationally coordinated counter measures. This has led to initiation of guidelines at the apex level with the United Nations (UN) taking the lead. Security Council resolutions like 1373, and CFT guidelines by the FATF have given international efforts a common framework. Amongst these, the Counter-Terrorism Implementation Task Force's (CTITF) report on Tackling the

⁶ "Tackling the Financing of Terrorism", *CTITF Working Group Report*, World Bank, UNODC and IMF, 2009, http://www.un.org/en/terrorism/ctitf/pdfs/ctitf_financing_eng_final.pdf (accessed December 26, 2014), p. 8.

Financing of Terrorism provides guidelines for international cooperation, amongst other aspects.⁷

India, which has since long been a victim of terrorism, has not only joined in international efforts, but also became instrumental in deciding on the direction of initiatives and implementation procedures. The membership of FATF, signing of memorandums of understanding (MoUs) with partners for legal assistance, extradition and intelligence sharing agreements, have all contributed to the ongoing CFT strategy. These efforts can further be strengthened through the following suggested measures:

- Streamlining of domestic procedures along international guidelines, will facilitate smoother interaction.
- Intelligence sharing and cooperation amongst enforcement agencies was witnessed during the extradition of Abu Jundal from Saudi Arabia. However, existing procedures need further refinement to achieve greater synergy with partner countries.
- Agreements should be signed with countries, which have traditionally been exploited by terrorists in the past to seek refuge, exploit liberal financial regulatory procedures and employ the existing terrorist network of an inimical power like Pakistan. India should streamline and structure its financial dealings with countries according to their implementation of FATF guidelines. This will safeguard against the threat of terrorism finance and simultaneously encourage countries to adopt internationally accepted guidelines. Over time, it will assist in bringing uniformity in laws, procedures and greater accountability of agencies and organisations.
- The UN CTITF, should coordinate guidelines for the UN to provide a common platform for mutual legal assistance treaties and extradition treaties amongst countries, especially related to terrorism and terrorism finance.
- There should be an increase in periodic engagements between countries in the region and globally, to streamline cooperation.
- There has been a trend of sharing typologies internationally under the guidance of FATF. However, similar endeavours have not taken place in South Asia. Given the close linkages of terrorist groups in the region, this could help in learning lessons form experiences of individual countries in the region.

⁷ Ibid.

BORDER MANAGEMENT

India has over 15,000 km. of land borders and more than 7,500 km. of coastline. This presents an enormous challenge for effectively guarding the borders and coastal areas. In the past, vulnerabilities have repeatedly been exposed along this stretch, as witnessed during the 26/11 Mumbai attack. The fencing of borders, establishment of a security system, enhancing the technical threshold of forces have all gone a long way in improving existing mechanisms. The India-Nepal border is widely considered to be the most vulnerable for smuggling of counterfeit coming from Pakistan. Measures initiated to enhance the numbers manning borders as well as providing technology based aids have already been initiated. The SSB has deployed 8,000 additional forces along the 1,751 km Nepal and 699 km Bhutan borders.⁸ This has further been augmented through fielding three advanced internet protocol cameras, though the existing numbers will need to be augmented to achieve effectiveness.⁹ There is a proposal to start joint patrolling along the India-Myanmar border, which will help in checking gun running, drug trafficking and smuggling, which have become facilitators for terrorism and terrorism finance.¹⁰ A similar initiative is underway to ensure that the vulnerabilities along the coast can be reduced. Some of the initiatives undertaken along the coastal areas are:¹¹

- The Indian Navy has been entrusted with the overall responsibility of coastal and maritime security; the Coast Guard has been given the additional responsibility of patrolling territorial waters.
- The Navy and Coast Guard are being provided with additional manpower as well as suitable assets for coastal security.
- Seventy-three coastal police stations have been established under Coastal

⁸ "India to deploy additional troops along Nepal, Bhutan borders", *The Indian Express*, June 28, 2012, <http://www.indianexpress.com/news/india-to-deploy-additional-troops-along-nepal-bhutan-borders/967854/0> (accessed December 18, 2012).

⁹ Manan Kumar, "Delhi gets digital eye on Nepal border to check terrorism", *The Indian Express*, December 04, 2012, <http://www.indianexpress.com/news/india-to-deploy-additional-troops-along-nepal-bhutan-borders/967854/0> (accessed December 18, 2012).

¹⁰ "Myanmar not to allow anti India groups on its soil", *The Sangai Express*, January 04, 2013, <http://www.thesangaiexpress.com/tseitm-22476-myanmar-not-to-allow-antiindia-groups-on-its-soil/> (accessed January 04, 2013).

¹¹ Pushpita Das, *IDSAs*, <http://idsa.in/askanexpert/HowsafeistheIndiancoastline> (accessed December 18, 2012).

Security Scheme Phase I; additional 131 coastal police stations will be set up under Phase II.

- Coastal police stations have been provided with trained manpower and interceptor boats to patrol coastal waters.
- Four Joint Operation Centres (JOCs) have been set up for coordination and intelligence sharing among various agencies involved in coastal security.
- Forty-six static radars are in the process of being installed to provide complete coverage of the entire coast of the mainland and island territories.
- All vessels (merchant ships and fishing boats) above 20 metres are required to install Automatic Identification System (AIS) devices, and to track and monitor these vessels 84 AIS stations are being set up along the coastline.
- All fishing boats are being registered under a uniform registration system, and
- All coastal villagers are being provided with identity cards.

The technological initiatives are being augmented with a two-fold increase in manpower of the Navy and Coast Guard by the end of the 13th Plan (2022).¹² This will enable real time analysis of inputs on the borders at a central hub and passing of requisite instructions. These initiatives need to be taken to their logical conclusion to ensure that existing vulnerabilities can be limited.¹³ Some initiatives in this regard could include:

- There are a number of different agencies which man the border areas in the country. This includes the BSF, SSB and ITBP. It is felt that greater cohesion can be achieved through establishment of a coordinating mechanism thereby creating synergy. This will ensure retention of institutional knowledge of respective services and sharing experience related to CFT.
- The Coast Guards are functioning with critical deficiencies. There is

¹² "Defence Minister Reviews Coastal Security: Sets Deadline for Radar Installation", *DefenceNow*, October 9, 2012, <http://www.defencenow.com/news/959/defence-minister-reviews-coastal-security-sets-deadline-for-radar-installation.html> (accessed December 18, 2012).

¹³ For a detailed assessment of new initiatives and existing vulnerabilities see, Pushpita Das, "Four Years Hence: A Review of the Coastal Security Mechanism", *IDSA*, November 26, 2012, http://idsa.in/idsacomments/AReviewoftheCoastalSecurityMechanism_pdas_261112 (accessed December 18, 2012).

a need for reduction and subsequently removal of these deficiencies in manpower and equipment with coastal forces.

- Enhance induction of technological equipment like vehicle scanners to facilitate detection of lucrative smuggling items like counterfeit currency and drugs.
- Greater cooperation should be institutionalised between border guarding forces on both sides of the border, including a network of communication and real time sharing of intelligence.
- Laws are in place to deal with drug trafficking to include: Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (NDPS) of 1988 and NDPS, 1985. However, despite the stringent punishment awarded in certain cases, including death penalty, there has been an increase in cases of drug trafficking. It is feasible that the risk of arrest and conviction is outweighed by the benefits of drug trafficking. Therefore, unless the rate of both arrest and conviction is enhanced, the dissuasive power of tough laws will remain inadequate.
- It is critical to establish the linkages between drug trafficking on the borders and terrorism finance. Much like other crimes, this too feeds into terrorist activity, especially given the market value associated with it. Therefore, importance of this linkage should be reinforced and measures should be instituted to interlink CFT agencies and border forces which deal with crimes feeding into terrorism finance.
- There should be an integrated data and communication network between Indian border agencies to enable free flow of information, intelligence sharing and coordination of operations. This can augment the implementation of joint operations and joint patrolling which has been carried out with countries like Bhutan and Myanmar.

Even as manpower is enhanced, there is simultaneously a need for applying a risk-based approach to border management as well. This will help in prioritising the threats and applying resources accordingly.

BUILDING STRENGTH OF FORCES

The US experience in the immediate aftermath of 9/11, indicates that building numbers and capacities are amongst the foremost initiatives needed to fight terrorism and terrorism finance. The challenges posed since policing is a state subject, requires innovative measures to overcome existing problems.

- Employment of community policing models like Janamaitriyi Suraksha Project (JSEP) in Kerala and Delhi's 'Eyes and Ears' have proved to be successful models, even as *Salwa Judum* remains mired in controversies. The successful models can be replicated with suitable modifications for local regions.¹⁴ This can be especially effective in border areas.
- Common policing standards need to be established for training on specialised issues like terrorism finance across states.
- Deficiencies in the police force should be made up on priority. Since funding for raising additional forces and their training is provided by the states, supplementary grants by the centre specifically for the purpose can assist in supporting states in raising the requisite forces.
- The network linking police stations in the country should be established at the earliest to enable sharing of intelligence and facilitate enforcement.
- Raising additional police forces is also linked to existing capacities to train policemen. Therefore, any additional plans of recruitment have to simultaneously be supported by additional training infrastructure.

FREEZING FINANCIAL ASSETS

One of the most important international initiatives taken to cripple terrorist networks has been freezing of assets. While this has not stopped the flow of finances for terrorist acts, which need limited funds, however, it has substantially stopped funding for day to day functioning of terrorist groups. This was achieved with reasonable success against the Liberation Tigers of Tamil Eelam (LTTE) and subsequently the Al Qaeda. However, there is little evidence to suggest similar success against terrorist groups operating against India.¹⁵

The focus of these efforts cannot merely remain on foreign sponsored groups like Lashkar-e-Taiba (LeT) and must include domestic insurgent groups like National Socialist Council of Nagaland (NSCN) and Communist Party of India (Maoist), which are openly extorting money in the name of taxation.

¹⁴ See "We must marry technology and police to tackle crime: Chidambaram", *The Indian Express*, November 03, 2010, <http://www.indianexpress.com/news/we-must-marry-technology-and-police-to-tackle-crime-chidambaram/706539/0> (accessed December 19, 2012).

¹⁵ Groups like NSCN and CPI(Maoist) run a parallel taxation system. The case of terrorist groups in the north-east is especially a case in point, wherein the inability to freeze funds has been evident.

Until now, the ability of the state to freeze their funding both within the country and abroad had been limited. The strengthening of UAPA after the 2012 amendment should be followed up by stepping up efforts to freeze financial assets of both domestic and international groups.

PRIVATE SECTOR

There is the mistaken impression that CFT is the sole responsibility of the government and its agencies. While the overall responsibility for it will ultimately rest with the government of the day, however, the very character of funding includes within its purview, both the public and private sectors. Just like public sector banks are required to raise suspicious transaction reports, similarly, private banks are also mandated to do the same. This interlinkage between government, public sector and private entities should ultimately become seamless, if CFT efforts have to achieve the desired level of effectiveness. As part of the requirement the following is recommended:

- There should be a concerted attempt at spreading awareness in the private sector about terrorism finance and money laundering.
- Government provisions and regulations must be made after taking into account the problem areas of the public and private sector.
- Frequent interactions between representatives should be held to update procedures based on lessons and limitations exposed.
- A communication channel between financial institutions of all types is critical for ensuring that transmission of data, information and orders is urgently addressed.
- Information sharing protocols should be devised to ensure safety and security along with transparency.
- A similar system should progressively be created with international institutions.
- There should be stringent penalties for institutions failing to comply with laid down regulations, and
- Specialists from the private sector can be incorporated into investigative roles on a case to case basis to best employ their expertise.

CAPACITY BUILDING AND TRAINING

Capacity building is a long term process. The results of such endeavours are slow in coming and can result in being given low priority. However,

even as large organisational structures assist in better utilisation of resources and improving coordination, it is requisite capacities and high standards of training which indicate the effectiveness of any system. Given the need for an all of government approach to CFT, it is important that capacities and training standards are established for both central and state agencies. Not only should enforcement and intelligence agencies receive standardised training, they should also be put through regular assessment procedures, which ensure optimum levels of professionalism. It is also worth examining if psychological testing needs to be made mandatory for recruitment to sensitive enforcement organisations.¹⁶

Countering the financing of terrorism is a specialised field and demands personnel who are trained in a variety of areas of expertise. While equal levels of training cannot be imparted to all enforcement personnel, however, basic knowledge of terrorism finance needs to be incorporated as part of the training curriculum at all levels. Starting with pre-induction training for all enforcement staff, more specialised training can be designed for specialists in every field dealing with CFT. While an enforcement operative would need specialised training in forensics, a computer engineer can be hired for analysing electronic trails in a financial network. Similarly, a chemical engineer would have to be trained for understanding the application of chemicals in counterfeiting, thereby identifying countries of origin and suppliers of chemical agents. Besides one time training measures, periodic training assignments are critical to keep the staff abreast with the latest information and knowledge in their fields of work. The FATF suggests certain areas of expertise based on experience:

The training structure should follow operational needs. Formal selection of staff should be followed by formal instruction in the three primary disciplines: financial intelligence, intelligence gathering, and asset tracing/freezing. Further training should be given on money laundering investigation, enhanced financial intelligence, criminal confiscation and non-conviction based confiscation. Where possible, training should be aligned with training for line managers and specialist prosecutors. Moreover, the judiciary should

¹⁶ See “Rebuild India’s police forces”, *The Hindu*, <http://www.thehindu.com/opinion/editorial/rebuild-indias-police-forces/article2439809.ece> (accessed May 10, 2013).

be trained on appropriate laws and how to adjudicate on financial investigative matters.¹⁷

In the recent past, there have been endeavours to increase interaction of investigative agencies with advanced international policing organisations.¹⁸ As part of this endeavour, interacting on counter terrorism issues also includes specialised training in forensics.¹⁹ International exposure is particularly useful in case of CFT investigations, which are still in the nascent stages of evolution in the country and require specialised handling of cases. The FATF suggests employment of multi-disciplinary groups for conducting financial investigations.²⁰ This can include forensic accountants and forensic computer specialists amongst others.

The training and capacity-building processes cannot merely be limited to intelligence and security agencies. The complete banking and financial industry, despite a strong foundation of rule- and procedure-based approach needs to incorporate anti money laundering (AML) and CFT guidelines. Training of staff following by implementation has to be ensured to ensure that the banking system does not remain vulnerable to exploitation by terrorists.

PROSECUTION AND SPEED OF TRAIL

The quality of prosecution can improve by enhancing skills related to all stages of the crime cycle. This includes improvement in investigative skills, which will help build a strong case against the accused. The technique of case

¹⁷ “Operational Issues Financial Investigation Guidance”, *FATF*, June 2012, http://www.fatf-gafi.org/media/fatf/documents/reports/Operational%20Issues_Financial%20investigations%20Guidance.pdf (accessed December 26, 2014), p. 29.

¹⁸ See “Interpol training in India aims to combat the criminal networks behind illicit trade”, *Interpol*, November 29, 2012, <http://www.interpol.int/News-and-media/News-media-releases/2012/N20121129>, accessed on March 13, 2013, Vishwa Mohan, “US offers to train 24 Indian police officers in counter-terrorism operation”, *The Times of India*, http://articles.timesofindia.indiatimes.com/2012-06-13/india/32214535_1_training-programme-home-ministry-police-officers (accessed March 13, 2013).

¹⁹ Sumegha Gulati, “US helps MHA impart anti-terror training”, January 17, 2013, *The Indian Express*, <http://www.indianexpress.com/news/us-helps-mha-impart-antiterror-training/1060359> (accessed March 13, 2013).

²⁰ “Operational Issues Financial Investigation Guidance”, *op. cit.*, p. 10.

preparation itself needs to improve, both from the perspective of technical expertise and use of evidence, to enable cases to stand scrutiny in court. The establishment of special courts, increasing the number of judges, improving witness protection provisions and closing loopholes in existing laws are some of the ways of improving conviction in terrorism finance cases.

CONCLUSION

A CFT strategy rather than being the end of the long-drawn fight against terrorism finance, is merely the beginning. As work in this field progresses, there will be the need to incorporate a strategy as part of the larger efforts to evolve and outline a comprehensive counter terrorism strategy.

Even after strategies are adopted successfully, as is evident from the fact that the US has successfully averted 54 terror plots since 9/11, there is continuous need to upgrade them.²¹ Recalibration efforts in the case of the US have been witnessed from within government agencies as well as from private think tanks.²² These efforts indicate the complexity of formulating a strategy. In the Indian context, with specific reference to CFT, the challenges are even greater.

This draft strategy does not culminate with specific timelines for executing recommendations. It is felt that this endeavour is best attempted in-house based on the resources available and the risk assessment carried out for each type of threat.

While strategies do have a place in the overall efforts to streamline national efforts, however, unless implementation at the grassroots level improves and capacities are built to successfully conduct basic policing effectively and efficiently, these efforts will remain merely another exercise of academic interest.

²¹ Jessica Zuckerman, "54th Terror Plot Against the U.S.: Qazi Brothers' Plot to Attack New York", *The Heritage Foundation*, January 03, 2013, <http://www.heritage.org/research/reports/2013/01/54th-terror-plot-against-the-us-qazi-brothers-plot> (accessed March 05, 2013).

²² Reviews and appraisals have also been conducted by think tanks like the Heritage Foundation amongst others.

Countering the Financing of Terrorism Organisation: Assessment and Options

There is often a tendency to mistake elaborate organisational networks as a substitute for effective enforcement, despite there being inadequate capacities. Most corrective measures tend to focus on existing limitations of organisations by replacing them or adding layers in an attempt to revitalise their inefficiency.

This chapter therefore attempts to suggest practical incremental changes, which are considered implementable and have the potential to add value to the existing setup.

The challenge that confronts countering the financing of terrorism (CFT) managers with regard to an organisational structure, relates to its ever expanding scope. Much like the concept of security, which over a period of time has gained a much wider connotation, than merely matters military, the CFT organisational structure also needs to be viewed not merely as an all of government approach, but as a national effort, which includes the public and private sectors as well as common people at large. The CFT strategy identifies the need for a broad-based understanding, though, accompanied by a risk based approach. However, for the purposes of this assessment, the focus will remain on agencies, which facilitate policy, coordination, criminal justice, operational and regulatory functions in pursuance of the CFT strategy.

COUNTERING THE FINANCING OF TERRORISM AGENCIES

This assessment is constrained by the absence of publicly available government documents which give details of the existing CFT architecture. However, India's Mutual Evaluation Report of June 2010 and some of the departmental websites do indicate the role and charter of agencies, which form the institutionalised mechanisms against money laundering

and terrorism finance. In order to understand the role of these agencies, a brief overview of each will follow in the succeeding paragraphs. Given the backdrop of the Strength, Weakness, Opportunity and Threat (SWOT) analysis and the recommended strategy, this assessment will serve as the basis for suggested changes to the existing CFT structure.

The CFT architecture has been divided into three levels. These are policy, criminal justice and operational agencies, and finally the financial sector agencies.

POLICY AGENCIES

- Economic Intelligence Council (EIC).
- Inter-Ministerial Co-ordination Committee on Combating Financing of Terrorism and Prevention of Money Laundering (IMCC).
- Ministry of Finance (MoF).
- Ministry of Home Affairs (MHA).
- Ministry of External Affairs (MEA).
- Ministry of Law and Justice (MoLJ).
- Ministry of Corporate Affairs (MCA).

CRIMINAL JUSTICE AND OPERATIONAL AGENCIES

- Enforcement Directorate (ED).
- Financial Intelligence Unit (FIU).
- Central Economic Intelligence Bureau (CEIB).
- National Investigation Agency (NIA).
- Central Bureau of Investigation (CBI).
- Narcotics Control Bureau (NCB).
- Central Bureau of Narcotics (CBN).
- Bureau of Immigration (BI).
- Serious Frauds Investigation Office (SFIO).
- Central Board of Direct Taxes (CBDT).
- Central Board of Excise and Customs (CBEC).
- National Crime Records Bureau (NCRB).
- State police and its agencies.

FINANCIAL SECTOR AGENCIES

- Reserve Bank of India (RBI).

- Securities and Exchange Board of India (SEBI).
- Insurance Regulatory and Development Authority (IRDA).
- National Housing Bank (NHB).

POLICY AGENCIES

ECONOMIC INTELLIGENCE COUNCIL

The Economic Intelligence Council (EIC), was established in 2003. It was created to “facilitate coordination amongst the enforcement agencies dealing with economic offences and ensure operational coordination amongst them.”¹ The council, besides improving coordination between different agencies, also provides a platform for creation of strategies against terrorism finance. The EIC meets under the chairmanship of the Finance Minister and its composition is as follows:²

- Governor RBI.
- Secretary (Finance).
- Secretary (Revenue).
- Secretary (Company Affairs).
- Chairman, SEBI
- Special Secretary cum Director General (CEIB).
- Chairman, CBEC.
- Chairman, CBDT.
- Additional Secretary (Banking).
- Member (Anti Smuggling), CBEC.
- Member (Excise), CBEC.
- Member (Customs), CBEC.
- Member (Investigation), CBDT.
- Director General, NCB.
- Director General, DRI.
- Director General, Directorate General of Anti Evasion.
- Director, ED.
- Director, CBI.
- Director, IB.
- Director General, Foreign Trade.

¹ “Economic Intelligence Council and Regional Economic Intelligence Committees”, <http://www.ceib.nic.in/eic.htm> (accessed February 20, 2013).

² Ibid.

- Deputy Director General, CEIB.

The mandated functions of the EIC are:³

- Assess means to fight economic offences and coordinate strategy amongst enforcement agencies
- Discuss important cases with an inter-agency mandate.
- Undertake steps to enhance functioning of the enforcement agencies.
- Analyse trends of economic offences and recommend steps to deal with them.
- Provide advice on new or amendment of laws and procedures related to economic offences and offenders.
- Platform for sharing of intelligence.
- Formulate strategy against money laundering, black money and tax evasion.

Besides the EIC, there are 22 Regional Economic Intelligence Committees (REIC), which fulfil a similar agenda at the regional level as the EIC does at the centre.⁴

INTER MINISTERIAL COORDINATING COMMITTEE ON COMBATING FINANCING OF TERRORISM AND PREVENTION OF MONEY LAUNDERING

The IMCC on CFT and PML, setup in 2002, is a committee headed by an Additional Secretary from the Department of Economic Affairs (DEA) in the MoF. The committee has 14 members and aims at effective coordination and implementation of both AML and terrorism finance guidelines.⁵

DIRECTORATE OF REVENUE INTELLIGENCE

The DRI is a key agency, which contributes in the fight against money laundering and terrorism finance. Its focus area remains smuggling related activities. Since smuggling as a crime, contributes to the process of terrorism finance, it becomes a very important component of the overall CFT architecture. Besides being the nodal agency for smuggling related activities, given the external linkages with smuggling, DRI is also responsible for

³ Ibid.

⁴ See http://www.ceib.nic.in/toc_1.htm (accessed February 21, 2013).

⁵ See “Black Money: White Paper”, *Ministry of Finance*, May 2012, http://www.thehindubusinessline.com/multimedia/archive/01091/WhitePaper_BackMon_1091518a.pdf (accessed February 21, 2013), p. 25.

coordinating with foreign agencies and locally with instruments of the state which are responsible for enforcement. Some of its specific functions are:⁶

- Collection of intelligence in India and abroad related to smuggling of contraband items.
- Assessment and dissemination of intelligence to field agencies.
- Monitoring of important seizures and cases.
- Guiding or undertaking direct investigations in important cases.
- Coordination and liaison for sharing of information amongst the Economic and Social Commission for the Asia and Pacific (ESCAP) countries on issues related to smuggling.
- Maintain liaison with foreign countries, missions and international enforcement agencies on anti-smuggling.
- Coordination with CBI and INTERPOL (through CBI).

MINISTRY OF FINANCE

The MoF, is the nodal ministry for policy formulation, supervision, regulatory functions and coordination of economic offences. It has under its control, a number of departments and agencies, which execute policies and the mandate of the ministry. The MoF has three major departments under it to include DEA, Revenue and Financial Services. It also has departments like CBN, CBEC, CBDT, ED and CEIB reporting to it.⁷

MINISTRY OF HOME AFFAIRS

The MHA is the nodal ministry for counter terrorism in the country. It has agencies like the NIA, IB and NCB reporting to it. Among the responsibilities of the MHA, some of the important ones which directly or indirectly impact countering terrorism and terrorism finance are:⁸

- Elimination of threats to internal security.
- Preserve, protect and promote social harmony.
- Enforce the rule of law and provide timely justice.

⁶ “Charter of the Organisation”, *Directorate of Revenue Intelligence*, <http://dri.nic.in/home/charter> (accessed December 26, 2014).

⁷ “Mutual Evaluation Report: Anti Money Laundering and Combating Financing of Terrorism”, *FATF*, June 25, 2010, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf> (accessed February 22, 2013). pp. 25-26.

⁸ Ministry of Home Affairs, “Vision Statement”, http://www.mha.nic.in/uniquepage.asp?Id_Pk=488 (accessed February 23, 2013).

- Provide society an environment free from crime.
- Uphold the principles of human rights.

Among the departments of MHA, those dealing with border management, internal security, home and Jammu and Kashmir (J&K) affairs provide both policy and coordination support in CFT endeavours.

MINISTRY OF EXTERNAL AFFAIRS

The MEA, is responsible India's interactions with other countries. As part of this responsibility, it undertakes the following:⁹

- Issues related to foreign consular and diplomatic offices.
- Extradition of criminals.
- Repatriation of Indian nationals from abroad and vice-a-versa.
- Negotiate treaties and agreements with international organisations and countries.

MINISTRY OF LAW AND JUSTICE

The ministry in its earlier avatar, is the oldest limb of the Government of India, on the basis of the Charter Act of 1833, enacted by the British Parliament. It has three important departments, through which it provides policy guidelines. The Department of Legal Affairs, interprets the Constitution and laws, conducts cases in the High Court and Supreme Court on behalf of the government, negotiates treaties and agreements with foreign countries on behalf of the government and is the appellate tribunal for foreign exchange amongst other duties. The Legislative Department is responsible for drafting bills along with a number of other responsibilities. Finally, the Department of Justice deals with the appointment of judges, creation of All Indian Judicial Service (AIJS) and constitution of high courts and courts of judicial commissioners.¹⁰ "It also provides legal advice to government departments and law enforcement agencies on the interpretation of AML/CFT laws and issues; legal policies on civil and criminal justice; and alternative dispute resolution."¹¹ The ministry is therefore responsible for ensuring that effective

⁹ "Mutual Evaluation Report: Anti Money Laundering and Combating Financing of Terrorism", op. cit., pp. 26-27.

¹⁰ See Ministry of Corporate Affairs, http://www.mca.gov.in/MinistryV2/about_mca.html (accessed December 26, 2014).

¹¹ "Mutual Evaluation Report: Anti Money Laundering and Combating Financing of Terrorism", op. cit., p. 27.

laws are drafted that can deliver the desired effect to ensure that the ends of justice are achieved.

MINISTRY OF CORPORATE AFFAIRS

The MCA is responsible for regulating the corporate sector. It does so on the basis of the Companies Act, 1956 and Companies Act, 2013.¹² Since both money laundering and terrorism finance have in the past also been associated with exploitation of companies, trade based value and money transfer, policy, guidelines and coordination by the ministry gains importance.

CRIMINAL JUSTICE AND OPERATIONAL AGENCIES

ENFORCEMENT DIRECTORATE

The ED, functions under the Department of Revenue of the MoF. It is the principle agency responsible for administering PMLA, 2012 and the FEMA, 1999. The role of the directorate has become increasingly more important after amendments to the PMLA, which gave the law greater powers and clarity to act against both money laundering and terrorism finance. The ED carries out the following major functions:¹³

- Investigation of cases dealing with foreign exchange management.
- Investigation of money laundering cases, including attachment and confiscation of property.
- Sponsor cases under Conservation of Foreign Exchange and Prevention of Smuggling Act (COFEPOSA), in cases of contravention of FEMA.
- Cooperation with foreign countries regarding money laundering and terrorism finance.

FINANCIAL INTELLIGENCE UNIT

The FIU was setup by the government in 2004, with the aim of “receiving, processing, analysing and disseminating information relating to suspect financial transactions.”¹⁴ It performs the following functions:¹⁵

¹² “Ministry of Corporate Affairs”, Government of India, <http://www.mca.gov.in/MinistryV2/companiesact.html> (accessed December 26, 2014).

¹³ Functions of Enforcement Directorate, <http://enforcementdirectorate.gov.in/functions.html> (accessed February 23, 2013).

¹⁴ Financial Intelligence Unit, *Ministry of Finance*, <http://fiuindia.gov.in/about-overview.htm> (accessed December 26, 2014).

¹⁵ Ibid.

- Receives cash and suspicious transaction reports from reporting organisations.
- Carries out analysis of information received to establish patterns and gain information about criminal networks.
- Shares information with agencies involved in regulation, coordination and enforcement tasks.
- Maintains a database of cash and suspicious transaction reports.
- Acts as a coordinating body for sharing information at the national, regional and global levels.
- Establish typologies and trends based on information available and disseminate the same.

CENTRAL ECONOMIC INTELLIGENCE BUREAU

The CEIB was established to coordinate the functioning of all bodies involved in countering economic crimes. Its primary functions are:¹⁶

- Collection of information on black money.
- Collection and dissemination of information on economic crimes.
- Assess the nature of economic offences and evaluate the emergence of new ones.
- Nodal agency for coordination with international bodies for economic crimes.
- Coordinate implementation of Conservation of Foreign Exchange and Prevention of Smuggling Activities Acts.
- Function as the secretariat of EIC.

NATIONAL INVESTIGATION AGENCY

The NIA was setup at the central level to investigate and prosecute terror related crimes. The agency was established on the basis of the NIA Act of 2008.¹⁷ The agency comes into effect based on a request by a state government, or directly by the central government. The act also allows the constitution of special courts for trial into investigations carried out by the NIA.

¹⁶ See Central Economic Intelligence Bureau, <http://www.ceib.nic.in/ceib.htm> (accessed February 23, 2013).

¹⁷ National Investigation Agency Act 2008, http://nia.gov.in/acts/The_National_Investigation_Agency_Act_2008.pdf (accessed February 23, 2013).

CENTRAL BUREAU OF INVESTIGATION

The CBI is the principal investigative agency in the country. Having been established as the Special Police Establishment (SPE) in 1941, the CBI has evolved since. It has two departments, and divisions which deal with anti-corruption and special crimes. The latter can be entrusted with crimes to include economic offences and terrorism finance related activities.¹⁸

NARCOTICS CONTROL BUREAU

The NCB functions under the MHA. It was established in 1986 and performs the following functions:¹⁹

- Prevention of illicit drug trafficking and its abuse.
- Coordinate actions of ministries related to enforcement and drug abuse.
- Ensure national implementation of international conventions and protocols.
- Function in coordination with foreign governments and agencies.
- Act as repository and reference point for data, issues and benchmarks related to drug law enforcement.
- Assess and analyse emerging challenges and trends and make interventions and provide advice.
- Build capacity and conduct training for assigned roles.

CENTRAL BUREAU OF NARCOTICS

The CBN is the controller and licensing authority for legal cultivation of drug-yielding plants. It issues licences for manufacture of drugs and coordinates and sanctions the import/export of legitimate drug-yielding materials. The CBN also interacts with international agencies to coordinate national efforts in concert with international norms.²⁰

DIRECTORATE OF REVENUE INTELLIGENCE

The DRI is directly linked with customs. Its primary role involves curbing smuggling of goods, which is not only a loss to the national exchequer, but also a threat since criminals have exploited it to facilitate terrorism

¹⁸ The Central Bureau of Investigation, <http://www.cbi.gov.in/history.php> (accessed February 23, 2013).

¹⁹ *Narcontrol*, A Journal of Narcotics Control Bureau, vol. I, no. II, p. 3.

²⁰ See Central Bureau of Narcotics, <http://www.cbn.nic.in/html/aboutcbn.htm> (accessed February 23, 2013).

finance. The DRI was initially established in 1953 as the Central Revenue Intelligence Bureau. However, given the increasing importance of the role of the department, it was converted to DRI in 1957. The DRI is not only the pivotal agency for countering smuggling, it is also involved in anti-narcotics, since a large majority of narcotics are smuggled into the country. The department, given its mandate, is responsible for collection, collation, analysis and dissemination of intelligence. Given its role, it works in close association with agencies like ED, Coast Guard, CBI, BSF, NCB, CEIB and Customs. The charter of the DRI is as follows:²¹

- Collection of intelligence about smuggling of contraband goods, narcotics, under-invoicing etc. through sources of India and abroad, including secret sources.
- Analysis and dissemination of intelligence
- Taking over or guide investigations/prosecution
- Provide liaison for combating international smuggling and customs frauds through Indian missions, agencies and with foreign partners
- Assess trends in smuggling and suggest measures against it, including limitations of existing laws and procedures

BUREAU OF IMMIGRATION

The BI is responsible for checking the inward and outward flow of Indian and foreign passengers. This is done through 78 Immigration Check Posts (ICPs) in the country including 26 at airports, 20 at seaports and 32 for land-based movement.²²

SERIOUS FRAUDS INVESTIGATION OFFICE

The SFIO is mandated to investigate serious financial frauds. It is manned by “experts from the financial sector, capital markets, accountancy, forensic audit, information technology, company law, customs and investigation.”²³ The office was established in 2003 and functions under the Ministry of

²¹ See Directorate of Revenue Intelligence, “Charter of Organisation”, <http://dri.nic.in/home/charter> (accessed December 26, 2014).

²² “Mutual Evaluation Report: Anti Money Laundering and Combating Financing of Terrorism”, op. cit., p. 29.

²³ Serious Frauds Investigation Office, <http://www.sfo.nic.in/websitenew/main2.asp> (accessed February 26, 2013).

Corporate Affairs.²⁴ The office came into existence, given the nature of financial crimes. These could be inter-departmental, multi-disciplinary and international in their scope. Since these crimes can lead to improvement of existing procedures, rules and laws, the availability of experts is a useful characteristic of the organisation. It also facilitates crimes like terrorism finance, which could be cross-platform and transnational in character.

CENTRAL BOARD OF DIRECT TAXES

The CBDT, functions under the Department of Revenue (DOR) of the Ministry of Finance. It provides policy guidelines and planning parameters for direct taxes in the country. The board is also responsible for administration of direct taxes through the Income Tax Department.²⁵

CENTRAL BOARD OF EXCISE AND CUSTOMS

The CBEC functions under the DOR, Ministry of Finance.²⁶ It is responsible for formulation of policy as well as levy and collection of customs and excise duty. Given the role of the organisation, it functions in close liaison with the NCB, BSF and CISF. Its responsibility brings into focus issues of smuggling and movement of currency notes, which in the past have been major sources of terrorism finance and money laundering.

NATIONAL CRIME RECORDS BUREAU

The NCRB is the repository of crime-related data. This empowers police forces through provision of criminal intelligence. The crime database of the country is maintained by the NCRB, which is accessed by police in the course of their investigations.²⁷

STATE POLICE AND ITS AGENCIES

Law and order is a state subject according to the division of responsibility between the centre and states. Therefore, any law and order activity,

²⁴ See Gazette of India, *Ministry of Company Affairs*, September 17, 2005, http://www.sfo.nic.in/websitenew/gaz_notification.pdf (accessed February 26, 2013).

²⁵ For details of functioning see, *Central Board of Direct Taxes*, see <http://www.incometaxindia.gov.in/Pages/about-us/central-board-of-direct-taxation.aspx> (accessed December 26, 2014).

²⁶ See *Central Bureau of Excise and Customs*, <http://www.cbec.gov.in/cae1-english.htm>, (accessed February 26, 2013).

²⁷ See <http://www.ncrb.gov.in>

including aspects related to money laundering and terrorism finance, involve the state police and its agencies. It has already been seen that money laundering has a number of predicate offences. A number of these can take place in different states. The state police is therefore, both directly and indirectly linked with the terrorism finance architecture in the country.

Financial regulation is carried out by a third set of agencies in the country. These include the Reserve Bank, which is an autonomous body and responsible for banking regulation and supervision. The SEBI, regulates and supervises the securities market. The IRDA is the regulator for the insurance sector and the NHB supervises housing finance companies.

EVALUATION OF ORGANISATIONAL STRUCTURE

An evaluation of the organisations involved in CFT efforts of the country is revealing in many ways. The *first* concern relates to the manner in which such a large number of organisations interact with each other, share information and execute operational directives. At the policy level, the EIC chaired by the Finance Minister, with CEIB as its secretariat, coordinates policy matters and the functioning of all bodies involved in countering economic crimes. This also includes money laundering and terrorism finance. Yet another policy level body is the IMCC on CFT and PML, which coordinates inter-ministerial actions for implementation of AML and CFT guidelines. At the time of the evaluation of AML and CFT organisational setup by the Financial Action Task Force (FATF) in June 2010, these were the major coordinating bodies. It is evident from their structure that these were initially established for combating economic crimes to include money laundering. They brought all agencies involved in this process on a common platform. Subsequently, as terrorism finance became an increasing concern, these bodies became responsible for CFT as well.

The association between money laundering and terrorism finance has been discussed in previous chapters. Given this correlation, the need to closely monitor the possibility of terrorism finance linkages in money laundering cases remains relevant. To that extent, various bodies in the MoF monitoring terrorism finance is an inescapable requirement. Similarly, the requirement to restructure financial policies and the legal framework falling under the domain of MoF is also best coordinated by them. However, terrorism finance is essentially a subset of terrorism and therefore must fall

under the policy, intelligence and enforcement ambit of the agency which directs counter terrorism policy in the country. It is possibly with this aim in mind that a CFT cell was created in the MHA and a Terror Funding and Fake Currency Cell (TFFCC) in the NIA. While the former assists in coordination and execution of policy matters, the latter focuses specifically on fighting counterfeit currency. The government has clearly highlighted the responsibility of these two cells in this regard. An unstarred question number 1221, was asked regarding the need to set up a separate cell for dealing with cases of funding of terrorism and money laundering. The former Minister of State for Home Affairs, R.P.N. Singh, answering the question on March 05, 2013, said, "The Government of India has constituted a Separate Cell, i.e. Cell for CFT Cell in the MHA. Further, MHA has also constituted a TFFC cell in the NIA to focus on TFFC cases."²⁸

To this end, while coordination between agencies dealing with money laundering and terrorism finance is important, however, their being clubbed together may not necessarily produce the best results. As an example, the IMCC on CFT and PML set up in 2002, deals with issues related to money laundering/terrorism finance. The tendency to look at terrorism finance purely from the prism of economic crimes or money laundering can limit the nature and degree of focus required on terrorism finance. This highlights the need to coordinate actions which interlink money laundering and terrorism finance. However, it is equally important to look at CFT as a distinct threat under the ambit of the ministry responsible for counter terrorism policy making, and coordinating enforcement and intelligence for the same.

In addition to coordination at the central government level, there is an equally important requirement of bringing about coordination at the state levels as well. This is necessitated not only by a large number of organisations operating in the states, but also by the need to streamline and support the role of central agencies as and when they are called upon to undertake intelligence and enforcement actions.

Second, the absence of agencies like the IB for internal intelligence responsibilities as well as external intelligence agencies, leaves a void in the existing setup. However, there is little doubt that both the organisations do play a critical role in CFT efforts of the country and should be an integral part of any organisation.

²⁸ See *Ministry of Home Affairs*, <http://mha.nic.in/par2013/par2013-pdfs/l5-050313/LSQ.1221.Eng.pdf> (accessed July 30, 2013).

Third, organisations like the NIA, which are specifically focussed towards counter terrorism and CFT efforts have a sharper focus towards preventing terrorism finance. However, the same is not the case with the others, as terrorism finance is one amongst the many responsibilities they have. CFT is often their secondary responsibility. Since it came up as a threat well after organisations like the SEBI, RBI, EIC and CEIB were established their focus remains essentially on their primary responsibility. This creates challenges in ensuring undiluted focus on CFT efforts in the country. It should therefore be made an essential aspect of the charter of all agencies which are part of the larger organisation of network.

Fourth, states play a critical role in implementing policy directives, intelligence gathering and enforcement action. While the evolution of systems in respect of economic crimes has taken place, wherein, the regional economic intelligence councils have been established, however, similar initiatives are yet to be taken in the fight against terrorism finance. It is imperative that an organisation for coordination of CFT efforts should be setup to fill the existing void.

Fifth, it has been established that methods of funding terrorism evolve with each passing day. It has also been reinforced that available expertise with government agencies and departments could prove inadequate in certain areas like cyber space or financial forensics. This highlights the need for flexibility in the CFT organisation structure to enable either hiring of specialists or seeking their assistance on a case by case basis.

Sixth, any organisation that is required to deal with the threat of terrorism finance, would need the inclusion of representatives from every government agency involved in CFT. The absence of border guarding agencies in the existing setup creates a lacunae, which can result in coordination challenges. The inclusion of agencies should be based on visualisation of threats and their manifestation. This should also be a result of successive risk assessments as well as SWOT analysis of the existing structures and procedures. The present system does not institutionalise this requirement, though there have been instances of private companies and specialists being employed by the government in the past.

Seventh, as per the Mutual Evaluation Report of 2010, the MoF is responsible for the policy framework of CFT in India.²⁹ However, it

²⁹ "Mutual Evaluation Report: Anti Money Laundering and Combating Financing of Terrorism", op. cit., pp. 25-26.

further adds that the MHA is the nodal agency for counter terrorism in all its manifestations. The MHA administers the UAPA, which is the principle CFT act as well as the NIA. There seems to be a contradiction in this division of responsibility between the two ministries, which could lead to differences on aspects related to policy formulation and its implementation. All aspects of counter terrorism and CFT should therefore be coordinated and controlled by the MHA, with simultaneous provision for lateral coordination with the MoF and MEA, amongst other ministries.

Eighth, the existing organisational structure, especially at the policy and coordination levels, does not facilitate long term planning and a focused approach to CFT, leading to a reactive rather than proactive approach. The organisation does not have a centralised database of incidents related to terrorism finance in the country, with scope for trend analysis, dissemination of case studies and typology reports, which can help improve the existing mechanisms.

RECOMMENDATIONS

Given the limitations of the existing organisation and suggestions as discussed earlier, the following criteria must be met to ensure that the CFT strategy can be executed effectively.

- MHA should be the apex policy making and coordination agency for CFT.
- The principle enforcement agency should be the NIA.
- While intelligence will continue to flow from all central and state agencies, coordination, collation and analysis of intelligence specifically related to CFT should be handled by the NIA. The NIA will remain in close coordination with the IB and the MAC to begin with and subsequently the National Counter Terrorism Centre (NCTC), as and when established to take on leads that may be provided for further action.
- Each agency identified as part of the SWOT analysis and thereafter the CFT strategy should have a coordinating and representative presence at the policy making and enforcement level. Some of these agencies given their intimate involvement in CFT, like the NIA, IB, CBI, ED, NCB amongst others will form the core, while the others can be invited for coordination based on requirements.

- The central structure should function at four distinct levels. At the apex level, the IMCC will lay down policy guidelines and coordinate CFT efforts. This committee will meet at least twice a year. In addition meetings can be called as and when required. The meetings will be chaired by the Home Minister.
- At the second tier, a High Powered Coordinating Committee (HPCC) will be headed by the Home Secretary and include members of all ministries and agencies involved in CFT. Each representative must be the head of the establishment. The HPCC should meet once a month to take stock of important cases and assist in ironing out any issues related to coordination and implementation of policy guidelines.
- The third tier should be the Monitoring and Coordination Committee (MCC). This will be responsible for monitoring of CFT cases being handled and ironing out inter agency issues. They will meet on a weekly basis to ensure timely resolution of cases. The committee will be headed by the Joint Secretary in MHA and will include representatives from each agency involved in CFT coordination, enforcement and intelligence.
- The fourth tier will comprise of task forces, specifically formed according to the requirements and distinct character of each case under investigation. Establishment of task forces will provide the necessary flexibility to pick members according to the nature of the terrorism finance case being handled. As an example, if the case involves smuggling of counterfeit currency from a particular border area, with the aim of funding terrorism, then representatives of the DRI, border guarding force, local police agency, IB and NIA can be included. In addition, assistance of any specialised nature from forensic experts can be added. The nature of crime can also dictate the act under which the case needs to be booked. The NIA can be the lead agency in such a case. However, if the proceeds used for terrorism finance have a money laundering element, then ED can be employed as the lead agency of the task force established for the case. This system will retain the expertise of each agency and facilitate the honing of skills given the fast evolving methods adopted by terrorists. Simultaneously, representatives of respective agencies will be available for cases based on the nature of crime involved.
- In order to encourage better coordination and inter-agency support, the annual report of each agency should indicate the number of cases taken up as a joint task force. This should also become an element of annual

assessment of senior officials to ensure ironing out of initial teething problems.

- Capacity building is a critical component of any organisation building exercise. This issue should form an agenda point for the meetings of each of these echelons. Annual fixtures involving inter-agency, inter-ministry and international training programmes should be created to ensure improved efficiency and updation of skills.
- States are a critical constituent of national CFT efforts. It is felt that the setup at the central level should be mirrored in all states, though in a graduated manner, based on the success of the national model. This will enable incorporation of suitable changes based on the benefit of experience.
- The mandate, role and responsibility of the NIA should be enlarged to include coordination of enforcement and intelligence actions related to CFT. The NIA will also need to build a database of all CFT cases, carry out analysis, create periodic typologies in conjunction with agencies like the ED, FIU, NCB for dissemination.
- The scope of CFT efforts includes a number of agencies outside the governmental framework. Public sector institutions, private companies, NGOs and even commercial ventures as part of Designated Non Financial Businesses and Professions (DNFBPs). In order to create seamless systems of communication with these bodies, existing regulatory agencies like RBI, SEBI, etc., should be included as part of the organisational setup. Their presence can be included at a time and level felt appropriate, based on the coordination required. Where ever regulatory bodies do not exist for specific business interests, as in the case of DNFBPs, it should be setup to ensure seamless communication and monitoring of regulations and policy.

Annexures

ANNEXURE I: SWOT ANALYSIS

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Sources - External Counterfeit currency	<ul style="list-style-type: none"> • Customs • Border forces • State police • Int agencies • NCB • NIA • CBI 	<ul style="list-style-type: none"> • Growing awareness and detection • Improving technology for incorporating security measures 	<ul style="list-style-type: none"> • Comparative ease for counterfeiting Indian currency • Porous borders with Nepal • Inadequate strength of border forces • Criminal gangs act as conduits for smuggling currency • Inadequate availability of technical equipment to evaluate counterfeits • Inadequate incentives to detect counterfeit at banks • Laborious procedures to followup counterfeit in banks 	<ul style="list-style-type: none"> • Improved border management and technical sophistication can reduce counterfeit threat • Move from cash to cashless economy • Linkage of transactions with a unique citizen number • Improvements in technology can assist in making currency more difficult to counterfeit • Invoke international provisions to build pressure on Pakistan • Cases of counterfeit should be dealt under provisions of UAPA 	<ul style="list-style-type: none"> • Porous border will continue to pose threat of smuggling • Movement in small amounts through legal channels like physical carriage by air • Corruption on borders • Negative impact on national economy and financial credibility of country

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Drug Trafficking	<ul style="list-style-type: none"> • NCB • CBN • Border forces • Int agencies • NIA • State police 	<ul style="list-style-type: none"> • Improving border controls on trans mobility • Strict laws 	<ul style="list-style-type: none"> • Large porous borders • Inadequate number of border forces • Different forces guarding border impacts cohesive functioning • Inadequate scanning and surveillance equipment • Poor rate of conviction and long drawn trials 	<ul style="list-style-type: none"> • Strong international guidelines and resolutions can help isolate countries like Pakistan • Increased awareness of impact of drugs in society • A stronger border guarding force under a better coordinated control agency 	<ul style="list-style-type: none"> • Crime-money laundering-terrorism finance nexus can enhance the challenge • Pakistan will exploit it to generate funds for terrorism • Increase in domestic production in terrorism prone areas could finance terror • Vulnerability of border areas of Punjab and Rajasthan in addition to Bangladesh and Nepal border
NGOs, Charities and Donations	<ul style="list-style-type: none"> • MHA • MEA • Int agencies • State police 	<ul style="list-style-type: none"> • Contribute to the socio-economic growth of country • International regulations and guidelines becoming more stringent 	<ul style="list-style-type: none"> • Inadequate information on transfer of money and its usage • Inadequate regulation of charities and NGOs • Limited control on collection of money 	<ul style="list-style-type: none"> • Charity and donations can be employed to contribute to remote areas and support governmental measures • Work with like minded countries to bring in regulation 	<ul style="list-style-type: none"> • Inadequate regulation can lead to funding of terrorist groups • Political and social sensitivities can be exploited to stall enforcement

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
State sponsored	<ul style="list-style-type: none"> • MHA • MEA • Int agencies • MoF • Border agencies • Customs 	<ul style="list-style-type: none"> • Increasing awareness and control over funding from abroad 	<ul style="list-style-type: none"> • Building legally sustainable cases a challenge • There are multiple channels to move funds 	<ul style="list-style-type: none"> • Enhance intelligence sharing and mutual legal assistance agreements • Educate Indian diaspora and tourists about risk of donations to questionable organisations • Strict regulation of receipt of funds from abroad • Risk based approach to NGOs should be applied given large numbers 	<ul style="list-style-type: none"> • Indian workers abroad can be influenced and recruited by NGOs and charities for terrorism finance activities • Charities in Pakistan defy international regulation, despite being complicit in terrorism finance • Indian enforcement agencies have limited influence abroad
		<ul style="list-style-type: none"> • Pakistan discredited internationally • Increasing pressure from international community • Domestic fallout of terrorism on Pakistan 	<ul style="list-style-type: none"> • Direct involvement of Pakistan and its agencies 	<ul style="list-style-type: none"> • Build pressure on Pakistan through international provisions and bilateral dialogue with partner countries • Int sharing with like minded countries 	<ul style="list-style-type: none"> • Negative impact of state sponsorship influencing terrorism finance • Exploitation of volatile situation on LoC

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
		<ul style="list-style-type: none"> Favourable response by Bangladesh, Nepal and Myanmar to stop use of their territory 			
Method of Fund Transfer					
Hawala	<ul style="list-style-type: none"> ED Int agencies State police 	<ul style="list-style-type: none"> Recent amendments in counter terrorism and CFT laws 	<ul style="list-style-type: none"> Hawala transfer system continues to flourish despite it being illegal 	<ul style="list-style-type: none"> Curbs on the system must be accompanied by easier and cheaper remittance methods Cooperation with countries which have reciprocal hawala systems will be beneficial Timely and stringent punishments for hawala dealers Alternate methods should be made more efficient, widespread and economical Strong laws will ensure improved prosecution 	<ul style="list-style-type: none"> Remains a major source of terrorism finance coming into India Corruption and petty crime facilitate hawala dealers to survive despite local knowledge of their presence

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Trade Based Money Laundering/ Terrorism Finance	<ul style="list-style-type: none"> • Border agencies • Customs • State police • Int agencies • ED 		<ul style="list-style-type: none"> • Inadequate understanding of threat from trading • Inadequate expertise of trade based terrorism finance • Limited domestic and international coord 	<ul style="list-style-type: none"> • Typologies of past cases should be shared with all agencies involved • Training for trade based terrorism finance to be enhanced • Enhance domestic and international cooperation 	<ul style="list-style-type: none"> • Inadequate supervision could be exploited by terrorists in this nascent field • The threat to trade competitiveness could lead nations to protective regimes circumventing international recommendations • Tax evasion and customs violations predicate offences
Exploitation of legal financial channels	<ul style="list-style-type: none"> • MoF • RBI • Banks • FIU 	<ul style="list-style-type: none"> • Well-established financial framework, systems and procedures • Progress in incorporation of modern technologies and safeguards 	<ul style="list-style-type: none"> • Inadequate risk assessment • Inadequate composite guidelines on terrorism finance • Inadequate transmission of typologies of terrorism finance/money laundering • Cooperatives function under strong influence of local agencies and leaders 	<ul style="list-style-type: none"> • Strong accountability in foreign branches and subsidiaries • Electronic trails increasingly linking transactions • Regulation will bring a large section of the less regulated financial sector under scrutiny • Greater accountability and efficiency will limit chances of terrorism finance 	<ul style="list-style-type: none"> • Legal money can continue to be exploited for terrorism finance • Risk from vulnerable countries, where institutions may be exploited by terrorists • Use of plastic money for international transactions • Post offices not inspected by MoF

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Cash transfers	<ul style="list-style-type: none"> • Customs • Border forces • State police • Int agencies 		<ul style="list-style-type: none"> • Post offices have not evolved their systems as banks have • Uneven regulation across financial sector • RBI not imposing punitive fines for transgressions 	<ul style="list-style-type: none"> • Strengthening border and coastal areas can assist in cash smuggling • Electronic surveillance measures can help detect carriage of cash in large amounts 	<ul style="list-style-type: none"> • KYC requirements continue to remain limited • Vulnerability of stock markets can have serious consequences • Terror funds in the country can be moved abroad to safe havens • Storage of funds in currency notes and gold can sever money trail • Cash transfers do not leave electronic trails • Small amounts can be brought legally • While detection at airports is strong, transfer points on coastal and land transport sections pose a threat

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Sources - Internal Extortion and Taxation	<ul style="list-style-type: none"> • Border agencies • Local police • Int agencies • State govt • MHA 	<ul style="list-style-type: none"> • Locals have started resisting extortion 	<ul style="list-style-type: none"> • Tacit acceptance of extortion is a reality in some regions • Complicity of state agencies and terrorist groups • Establishment of a parallel economy as a result of extortion • Inadequate intelligence on storage and movement of funds • Weak laws do not treat extortion as terrorism 	<ul style="list-style-type: none"> • Employ laws like UAPA to achieve better conviction rates • Use support of people tired of extortion • Zero tolerance policy for prosecution of influential members of society • Share typologies and int with all agencies • Need for joint approach to crime and extortion • Development of intelligence network 	<ul style="list-style-type: none"> • Weak enforcement will lead to continued extortion and support for terrorism • Complicity of political leaders will make execution of laws difficult
NGOs	<ul style="list-style-type: none"> • MHA • MoF • ED • CBDT • State police 	<ul style="list-style-type: none"> • NGOs operating at grass root level function as tentacles to forewarn govt on indicators of terrorism finance 	<ul style="list-style-type: none"> • A large number of NGOs are unregistered • Risk assessment of NGOs remains limited 	<ul style="list-style-type: none"> • Incorporate NGOs in spreading awareness and support • The new Foreign Contribution Regulation Act and Rules should be implemented 	<ul style="list-style-type: none"> • Unregistered NGOs will limit their accountability • Exploited as front by terrorist groups for funding. • Facilitate movement of funds from abroad

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Crime	<ul style="list-style-type: none"> • Border agencies • State police • Int agencies 	<ul style="list-style-type: none"> • Strong Foreign Contribution Regulatory Act 	<ul style="list-style-type: none"> • Information on control and funding of NGOs is inadequate • Little or no government oversight • Inadequate resources to ensure regulation • Inadequate database on NGOs 	<ul style="list-style-type: none"> • Training on provisions of new law should be done • Weak implementation of existing laws • Database of NGOs should be updated • Strengthen force levels to monitor NGOs 	<ul style="list-style-type: none"> • Pressure from international donors and domestic NGOs to relax functional environment could lead to tardy implementation of laws • NGOs pose as legitimate entities to fund terrorism • Crime, money laundering, and terrorism finance nexus • Political nexus with criminals indirectly feed into the terrorism finance network • Corruption on borders • Crime used to fund terrorism
			<ul style="list-style-type: none"> • Inadequate police force to fight crime • Int agencies unable to completely link crime and terrorism finance • Porous borders lead to flourishing of trans border crime syndicate • Different forces guarding border impacts cohesive functioning • Coordination and evaluation of intelligence 	<ul style="list-style-type: none"> • The decision to interlink police station, intelligence agencies and enforcement organisations will go a long way in fighting crime • Increase in courts and stronger laws will act as deterrents against crime • Enhance strength and technological threshold of border forces • International coop in forensics and int sharing 	

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Designated Non Financial Businesses and Professions	<ul style="list-style-type: none"> • SEBI • MoF • MoCA • IRDA • Int Agencies • ED • State police • CBDT • CBEC • FIU 		<ul style="list-style-type: none"> • Channels of crime exploited for funding terrorism • Multiple organisations dealing with different crimes, leading to gaps in coordination • Inadequate regulation of industries like real estate, legal support, insurance, jewelry and precious stones and casinos • Red flag transactions not being sent to FIU for evaluation • Inadequate numbers and trained staff for increasing scope of terrorism finance • Charter of regulatory and policy organisations inadequately focussed to terrorism finance 	<ul style="list-style-type: none"> • Extradition and mutual legal assistance agreements • A better coordinated border guarding force • Intelligence and enforcement networks • Regulatory mechanisms can help reduce threat of money laundering/terrorism finance • Enforcement and legislation can help increase transparency • Increased emphasis on electronic money trails can help regulate these professions • Amendment in existing laws like PMLA and UAPA • International cooperation in intelligence and capacity building can improve capabilities 	<ul style="list-style-type: none"> • Alternate means of funneling funds with limited scrutiny can prove to be a threat to existing CFT efforts • An increase in scrutiny of identified financial sectors is likely to shift focus of terror groups on these professions. • Existing law inadequately focussed on exploitation of these professions for terrorism finance

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
			<ul style="list-style-type: none"> • Large scale of financial handling opens organisations to exploitation 		<ul style="list-style-type: none"> • Inadequate capacities including trained staff will render initiatives redundant
Contributing Factors					
Identification	<ul style="list-style-type: none"> • NSCS • MHA • MoF 	<ul style="list-style-type: none"> • Macro identification completed 	<ul style="list-style-type: none"> • Identification of terrorism finance as serious threat is yet to percolate down to all intelligence and enforcement agencies • Scientific threat analysis inadequate 	<ul style="list-style-type: none"> • Awareness campaigns to spread information on terrorism finance within government agencies and public as well as private sector institutions • Smaller financial institutions like post offices and cooperative banks should be made equally efficient in countering threat of money laundering/terrorism finance • Application of a risk based approach not only for government bodies but also for public and private sectors 	<ul style="list-style-type: none"> • Manifestation of terrorism finance in collusion with crime could diffuse focus on its implications • Diffused focus can leave organisations vulnerable to terrorism finance threat • Lack of coordinated action between public and private sector can leave lacunae for exploitation • Absence of single point of coordination will lead to stove piped approach to terrorism finance

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Evaluation of Threat	<ul style="list-style-type: none"> • NSCS • MHA • MoF 	<ul style="list-style-type: none"> • Increasing awareness of risk based assessment 	<ul style="list-style-type: none"> • Risk profiling of financial establishments not complete 	<ul style="list-style-type: none"> • Internal and external assessment of financial institutions can improve resource allocation and AML/CFT results • An effective implementation monitoring mechanism critical to success 	<ul style="list-style-type: none"> • Inadequate capacities will impact implementation of risk based approach • Lack of a nodal autonomous body will adversely impact realistic assessment
Corruption	<ul style="list-style-type: none"> • CBI • Int agencies • Border forces • State police 		<ul style="list-style-type: none"> • Corruption deep rooted in Indian society • Inadequate capacities of enforcement agencies 	<ul style="list-style-type: none"> • Growing awareness of negative impact of corruption • Automation and interlinking of individual identity with financial transactions will improve accountability 	<ul style="list-style-type: none"> • Corruption will indirectly feed money laundering and terrorism finance • Systemic failure will continue to allow exploitation of institutions and laws • Inadequate numbers and training can impact prosecution capability and effectiveness
Unified Mechanism	<ul style="list-style-type: none"> • MHA • MoF • MEA 	<ul style="list-style-type: none"> • MHA is the lead ministry for CT and CFT 	<ul style="list-style-type: none"> • Unlike CT, coord of CFT efforts, despite a subset of CT inadequate 	<ul style="list-style-type: none"> • Single apex authority will bring cohesion and plug existing loop holes 	<ul style="list-style-type: none"> • Opposition to idea from political parties, ministries and agencies

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
	<ul style="list-style-type: none"> • Border agencies • Int agencies • State police 		<ul style="list-style-type: none"> • Different ministries deal with specific aspects of CFT • Proposed organisations like NCTC and NATGRID yet to be operational 		<ul style="list-style-type: none"> • Misuse of powers as a result of centrality
Coordination	<ul style="list-style-type: none"> • Int agencies • State police • CBI • NIA • ED • NCB • CBN • Border forces • MHA • MoF 	<ul style="list-style-type: none"> • Establishment of specialist agencies like NIA and ATS 	<ul style="list-style-type: none"> • Limited coordination between a number of agencies involved in investigations • Absence of effective network for exchange of information • Core area related focus of agencies rather than CFT. E.g., NCB to counter drug trafficking etc. 	<ul style="list-style-type: none"> • A coordinating body for intelligence, investigation and enforcement will assist in better implementation of mandate • Establishment of an information grid for sharing of information and coordinating operations 	<ul style="list-style-type: none"> • Political considerations can derail efforts to establish a robust mechanism • Local interests could supersede larger interests of CT/CFT
Legislative Support	<ul style="list-style-type: none"> • MHA • MoF • MoLJ 	<ul style="list-style-type: none"> • Firm stand on need for effective CT/CFT law 	<ul style="list-style-type: none"> • Investigation and enforcement proved inadequate to implement existing laws 	<ul style="list-style-type: none"> • Improve prosecution percentage through an effective law • Amendments in existing laws to assist in prosecution 	<ul style="list-style-type: none"> • Political differences • Inadequate implementation • Delayed judicial processes

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
International Cooperation	<ul style="list-style-type: none"> • MEA • MHA • MoF • CBI • Int agencies • ED • NCB 	<ul style="list-style-type: none"> • Increasing cooperation with countries • More stringent guidelines from UN, FATF 	<ul style="list-style-type: none"> • Some limitations in enactment of laws remain • Procedural delays continue to hamper cooperation • Individual interests of countries override cooperation objectives 	<ul style="list-style-type: none"> • Freezing of assets of domestic and foreign terrorist groups and their supporters should be pursued with greater effectiveness • Streamline domestic procedures to improve coordination • Mutual legal assistance agreements to improve cooperation • Time limits to answer queries received • Language experts for translation of queries and documents in foreign languages • Training with countries with advanced forensic and investigative skills • Financial dealings should follow FATF guidelines • Sharing of typologies can improve understanding 	<ul style="list-style-type: none"> • A large number of countries continue as safe havens for criminals and terrorists • Lack of consensus to take punitive measures against defaulter countries can limit pressure that can be applied • UN Counter Terrorism Task Force can be a useful body for coordinating action

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Border Management	<ul style="list-style-type: none"> • Border agencies • Customs • State police • Int agencies • ED • NCB • MHA 	<ul style="list-style-type: none"> • Improvement in infrastructure of border forces • Some increase in numbers has taken place 	<ul style="list-style-type: none"> • Limited numbers • Difficult working conditions • Inhospitable terrain • Constant threats from across border in areas bordering Pakistan 	<ul style="list-style-type: none"> • Build morale of forces to enable better results • Incentives for successes in stopping counterfeit currency, drug trafficking and smuggling • Greater coordination between local police, civilians in border areas and intelligence agencies • Introduction of modern technology for improved surveillance and tracking • Deployment of scanners on all major routes of ingress into country 	<ul style="list-style-type: none"> • Weak morale could be exploited by forces from across border • Corruption on borders • Limited numbers increase vulnerability on borders
Build Strength of Forces	<ul style="list-style-type: none"> • Border agencies • Int agencies • Police • ED • NCB 	<ul style="list-style-type: none"> • Process for increasing strength has begun 	<ul style="list-style-type: none"> • Inadequate funding by state governments • Large scale deficiencies in strength of forces 	<ul style="list-style-type: none"> • Common policing standards should be laid down • Additional funding by central government 	<ul style="list-style-type: none"> • Inadequate numbers will open vulnerabilities on borders and in hinterland

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
Private Sector	<ul style="list-style-type: none"> • MHA • MoF 	<ul style="list-style-type: none"> • Vibrant and efficient private sector 	<ul style="list-style-type: none"> • Inadequate training institutions to cater for increasing numbers • Norms of CFT not applied adequately to private sector • Regulation of sector poor • Inadequate guidelines and typologies circulated 	<ul style="list-style-type: none"> • Early establishment of network linking police stations • Additional training institutions to train large intake of forces • Employ community policing especially in border areas • Spread awareness on CFT to private sector • Govt regulation and norms to take into account private sector realities • Increase interaction between representatives of private sector • Sharing of information should be streamlined 	<ul style="list-style-type: none"> • Private sector unless regulated can become conduit for money laundering and terrorism finance • Unless government reaches out to private sector, efforts to curb CFT will remain isolated
Capacity building and training	<ul style="list-style-type: none"> • MHA • MoF • MEA • Border agencies 	<ul style="list-style-type: none"> • International cooperation for training increasing 	<ul style="list-style-type: none"> • Inadequate capacities to conduct broad based training • Inadequate capability to provide specialist training 	<ul style="list-style-type: none"> • Establish CT and CFT training institutions • Incorporate technology based approach to hasten learning curve 	<ul style="list-style-type: none"> • Inadequate awareness could lead to poor implementation of CFT measures

<i>Factor</i>	<i>Agency</i>	<i>Strength</i>	<i>Weakness</i>	<i>Opportunity</i>	<i>Threat</i>
	<ul style="list-style-type: none"> • Int agencies • State police • Banks and financial institutions 	<ul style="list-style-type: none"> • Well established banking and financial system 	<ul style="list-style-type: none"> • Inadequate AML/CFT procedures in place 	<ul style="list-style-type: none"> • Increase number of institutions based on intake • Collaborate with advanced foreign establishments to setup specialist training facilities • Employ experts from outside government agencies for advanced training in specialised areas • Establishment of AML/CFT bureaus 	<ul style="list-style-type: none"> • Poor capacities will not be able to control flow of terror funds • Indifferent implementation across institutions will leave voids • Small scale establishments like Cooperative Banks • Non banking financial transfer agencies could be exploited as a result of inadequate AML/CFT procedures
Prosecution	<ul style="list-style-type: none"> • NIA • CBI • ATS • State police 		<ul style="list-style-type: none"> • Levels of prosecution leave a lot to be desired with low percentages failing to act as deterrents 	<ul style="list-style-type: none"> • Enlarge and strengthen laws to enable speedy and effective prosecution • Techniques of case building improvement through greater specialisation in CFT 	<ul style="list-style-type: none"> • Low rates will encourage terrorism • Deterrence value of the prosecution system adversely impacted
Speed of Trail	<ul style="list-style-type: none"> • MoJ • MHA 		<ul style="list-style-type: none"> • A long and slow prosecution process counter productive to effective CFT strategy 	<ul style="list-style-type: none"> • Special courts should be created for handling all such cases • Ambiguities in law should be removed 	<ul style="list-style-type: none"> • Prolonged procedures and delays can embolden crime and terrorist groups

ANNEXURE 2: STATEMENT OF MANJUNATH J.

Substrate is the material on which inks are applied and it is made of cotton. The security features in the Indian currency notes comprise of the paper itself, water mark, florescent fiber magnetic thread. Apart from this there is one Central Bank feature known as M.feature. M.feature is rare earth iced at the time of manufacture of papers.

Security thread is demetalised foil which has a letter in capital 'RBI' in the forward and in the mirror image also.

Multicolour fibers are hair like structures, which are about 5 mm. in length and have multiple colours. These are all paper-based features. Water mark is also a paper based feature, in the sense that the image of Mahatma Gandhi appears in the paper with light and shade, i.e. various thicknesses in the paper. There are also vertically placed letters in the form of RBI.

The paper for currency notes in the denomination of Rs 10 and Rs 20 is manufactured in Hoshangabad District, Madhya Pradesh. The papers for printing the currency notes in the denomination of Rs 50, Rs 100, Rs 500 and Rs 1,000 are imported from various countries based on global tenders. We import such papers from the U.K., Germany, Italy and the Netherlands. We measure density of the papers as gms./sq. meter. For a layman it is known as the measure of thickness of the paper.

Usually there are three coloured fibers in currency notes. The colours are visible only under ultraviolet rays. Multicolour fibers are also known as planchettes.

M.features in the currency notes are detected by a machine. It emanates light below the frequency of visible light. If there is reflection, it means there is a presence of M.feature. M.feature for Indian currency notes is known as M262G. It is a patented item of G & D, Germany. The machine is also patented with G & D, Germany. These machines are not sold in the general market. The machines are marketed only to governments/ central banks of the country.

The distinguishing water mark in Indian currency notes is in the form of an image of Mahatma Gandhi. Near the neck of Mahatma Gandhi's image there is a feature of denomination, which is known as an electrolyte mark. The electrolyte water mark is made on the cylinder mould and then it goes to paper manufacture.

Security thread is a continuous film which is fed along with the pulp and is embedded at the time of formation of paper. The portion visible on the security thread is known as windows.

Micro lettering is in two places, one is in the demetalised thread and also in the intaglio printing. Security thread is patented.

The printing processes are generally in three stages. The *first stage* is simultan offset printing. The *second* is intaglio printing and third is letter press printing. Simultan printing provides printing on the front face with fluorescent colour and the rear face with solid colours and fluorescent colours. In the centre there is a design which is fluorescent.

Dot-based printing is a combination of four colours namely cyan, magenta, yellow and black. In currency notes we use line based printing. It is known as Guilloche design. Guilloche is a French word. We use Guilloche design in India. We have bought the software from "Jura" Hungary. The Guilloche is a software which requires a license. Its key is kept with the head of the design centre.

Rainbow print means gradual transition from one colour to another colour by means of mixing colours, i.e. Blue + Yellow = Green.

See through registration means a portion of the image is printed on the front page and the remaining portion is printed on the rear side.

Simultan Dry Offset Press is a patented machine and sold only to government and government authorised central banks of the country, i.e. only to the Reserve Bank of India. India has procured this press from KBAGIORI of Switzerland for the presses at Nasik, Dewas and Mysore. For Salboni (West Bengal) we procured the machine from Komori of Japan.

Intaglio printing is a process where raised lettering and impressions are produced. The inking process is to apply the ink on an engraved nickel plate where the engraving depth is maximum 130 microns. After application of ink, the paper is pressed against the plates with very high pressure. When the paper is removed, it sucks out the ink from the grooves and thereby creates an impression on paper. The intaglio prints on the currency notes are the extreme left figure of the currency notes, the letters Bhartiya Reserve Bank in English and Hindi, the entire image of Mahatma Gandhi, the micro printing behind the image of Mahatma Gandhi's head, The Ashoka Pillar, the blind mark on the extreme left middle in the form of a black spot,

the Reserve Bank logo in the right hand corner below, the latent image on the right hand side on the panel when viewed at grazing incidents. Intaglio machines are sold only to the government.

The next process is letter/number press. In this process the numbers on the currency notes are printed by using fluorescent ink on the letter/numbers and the letters/numbers are then impressed on paper. For Rs 1,000 we use two colours, i.e. red and blue. The top right hand letter/number would be blue and the left hand bottom number would be red. The numbering boxes are procured from Leibinger in Germany or Atlantic Zeiser, Switzerland. These number fonts are specific to India and will not be sold to any other country.

The overt features are the features which are seen with the naked eye. Covert features are those which require an instrument to see such features.

There is a feature known as “Omron” which is anti-scanning/copying feature. In dry offset we use fluorescent inks and solid colours to produce complete images on the rear face and part images on the front face. Intaglio inks are generally used on the front face only. Optical variability inks (OVIs) are used only on Rs 500 and Rs 1,000 denomination currency notes. India manufactures offset inks at Dewas. India manufactures intaglio inks also at Dewas but the capacity is low. The balance quantity is imported from Sicpa, Switzerland which has a processing plant in the State of Sikkim. OVI is manufactured only by Sicpa in Switzerland. It's an air consignment which comes to Delhi. OVI is country specific, and the manufacturer is obliged not to sell it to any other country. OVI is also patented. These inks are not commercially available anywhere. The Government of India restricts supply of India's specific papers and ink to any other country. The other sovereign governments may procure the machinery but not the paper.

ANNEXURE 3: SEIZURES MADE BY DRI

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
SEIZURES MADE BY DRI DURING 2004-05						
1	79,000	500 × 158	13.04.04	Kajidahar trijunction (Bualijur) on NH34	2	The smuggling was through passenger mode and the FICN originated from Bangladesh.
2	45,98,000	500 × 9196	20.12.04	Delhi	4	The smuggling was through passenger mode and the FICN was smuggled by two Bangladeshi nationals from Bangladesh into India.
3	45,000	500 × 77 100 × 65	08.02.05	Silchar, Assam	1	The FICN was believed to have been smuggled in from Bangladesh.
	47,22,000	500 × 9431 100 × 65			7	
SEIZURES MADE BY DRI DURING 2005-06						
Nil						
SEIZURES MADE BY DRI DURING 2006-07						
1	24,80,500	500 × 4003 1000 × 479	01.05.06	Bangalore International Airport	1	The smuggling was through passenger mode and the pax and the FICN originated from Dubai.
2	61,100	500 × 111 100 × 56	23.07.06 25.07.06	Behrampore	3	Smuggled from Bangladesh

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
3	48,350	500 × 96 100 × 3 50 × 1	07.09.06	Motigunj, Bongaon	2	Smuggled from Bangladesh.
4	29,00,000	1000 × 1200 500 × 3400	17.09.06	Mumbai City	2	The passenger had arrived from Dubai by Kuwait Airways. The FICN smuggled by him was found to be concealed in toys, food packets brought by him in his baggage on the instructions of Puthu based in Dubai.
5	4,00,000	1000 × 100 500 × 600	29.09.06	Panvel, Navi Mumbai *	2	Intelligence developed about delivery of FICN at Panvel, Navi Mumbai was passed on to Navi Mumbai Police. Working on the intelligence they arrested a couple at Panvel railway station who had received delivery of FICN.
6	7,00,000	1000 × 700	17.10.06	Ghaziabad, Uttar Pradesh *	1	Smuggled from Pakistan through <i>Samjhauta Express</i> . Information was passed to the U.P. Police who seized the contraband.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
7	40,15,000	500 × 3010 1000 × 2510	27.10.06	Chennai International Airport and Chennai City	3	The smuggling was through passenger mode. As per intelligence, the currencies were originally from Dubai to Sri Lanka and then to India. On follow-up action two premises were searched and recovery was made. These currencies were brought earlier through passenger mode from Dubai to Chennai.
8	7,00,300	500 × 800 1000 × 300 100 × 3	31.10.06	Bangalore (Town)	1	The FICN was smuggled through Chennai ACC by unaccompanied baggage and later transported to Bangalore.
9	19,99,000	500 × 3998	07.11.06	Ajmeri Gate, Delhi	1	Smuggled from Pakistan through Samjhauta Express.
10	25,00,000	1000 × 2000 500 × 1000	04.01.07	Mumbai International Airport	3	The passenger had arrived from Dubai by an Indian airlines flight. The FICN smuggled by him was found to be concealed in a double walled cardboard carton containing personal items brought by him in his baggage. Two persons who had come to receive the FICN were also apprehended.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
11	10,00,000	500 × 2000	28.02.07	IGI Airport, New Delhi.	2	A lady passenger had arrived from Lahore (Pakistan) to New Delhi by air and the FICN was found concealed in her baggage. The intended recipient was also arrested.
	Total : 1,68,04,250	1000 × 7289 500 × 19018 100 × 62 50 × 1			21	
<i>Note: *Refers to seizures made by Police authorities on intelligence of DRI.</i>						
SEIZURES MADE BY DRI DURING 2007-08						
1	9,93,000	1000 × 993	21.04.07	Ludhiana, Punjab	1	The FICN had been smuggled across IndoPak Border alongwith 7.92 Kgs. of Heroin, one pistol and two empty magazines, Indian currency of Rs. 1 lakh and three mobile SIM cards.
2	20,00,000	500 × 2400 1000 × 800	28.04.07	Calicut	1	The FICN had been smuggled by a passenger in his baggage who had travelled by an Air India flight from Dubai to Calicut airport.
3	7,99,000	500 × 998 1000 × 300	14.05.07	Pathankot , Punjab	1	The FICN had been smuggled across IndoPak border along with 14.03 kgs. of Heroin.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
4	2,64,000	500 × 528	21.05.07	Siliguri	3	The FICN had been smuggled in from Bangladesh through Kaliachak for delivery at Siliguri.
5	14,99,000	500 × 1998 1000 × 500	19.06.07	Calicut	3	The FICN had been smuggled in by a passenger concealed in a carton who had travelled from Dubai to Calicut by an Indian Airlines flight.
6	4,60,000	500 × 158 1000 × 381	28/29.06 .07	Delhi	1	The FICN had been smuggled across Indo-Pak border through R.S. Pura sector alongwith 20,050 kgs. of Heroin and was meant to be delivered at Delhi.
7	25,00,500	500 × 2001 1000 × 1500	13.11.07	Howrah Rly. Station	1	FICN smuggling from Bangladesh was concealed in a pigeon cage containing live pigeons.
8	19,93,000	500 × 2790 1000 × 598	15.11.07	Mumbai Int. Airport	1	The FICN had been smuggled by a passenger in his baggage who had travelled by an Indian flight No IC-684 from Dubai to Mumbai airport.
9	19,54,000	500 × 2914 1000 × 497	18.11.07	Jodhpur Rly. Station	2	FICN was smuggled from Pakistan by Thar Express and then brought to Jodhpur by Munnabao-Jodhpur link rail. FICN was concealed in the slippers.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
10	10,00,000	1000 × 1000	04.12.07	Kolkata	1	FICN was smuggled from Bangladesh through Petrapole Land Border and was to be delivered in Kolkata.
11	10,00,000	1000 × 1000	05.12.07	Kolkata	1	FICN was smuggled from Bangladesh through Petrapole Land Border and was to be delivered in Kolkata.
12	14,97,000	500 × 1798 1000 × 598	01.02.08	Mangalore Air port	1	The FICN had been smuggled in by brother of Puthu concealed in a carton who had traveled from Dubai to Mangalore by Air India flight.
13	2,00,000	500 × 340 1000 × 30	18.03.08	Manglore	2	The FICN was concealed in courier parcels.
14	13,36,500	500 × 2673	25.03.08	Delhi	1	FICN was smuggled through Indo-Pak border and was to be delivered at Shamli in Uttar Pradesh.
	Total: 1,74,96,000	1000 × 8197 500 × 18598			20	
SEIZURES MADE BY DRI DURING 2008-09						
1	22,84,500	500 × 4569	06.04.08	Amritsar	1	FICN was smuggled through Indo-Pak border and was to be delivered at Shamli in Uttar Pradesh.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
2	19,99,500	500 × 3999	03.05.08	Cochin	2	FICN was found in the baggage of a Dubai based Indian who arrived at the Cochin International Airport from Colombo. The intended recipient was also arrested.
3	38,38,500	500 × 2703 1000 × 2487	10.06.08	Kolkata	2	FICN was smuggled from Bangladesh through Petrapole Land Border and was to be delivered in Kolkata.
4	7,60,000	500 × 1280 1000 × 120	06/07/08	Railway Station Howrah, Kolkata	3	FICN was smuggled from Bangladesh and all the three persons were about to board a train to Bangalore along with FICN.
5	72,50,000	500 × 10,100 1000 × 2200	16.08.08	Karipur International Airport, Calicut	6	The FICN had been smuggled by a passenger in his baggage who had traveled by an RAK Airways flight from Ras Al Khaimah (UAE) to Calicut airport.
6	14,97,000	500 × 998 1000 × 998	30.08.08	Delhi	1	FICN had been smuggled from Nepal via Bihar.
7	1,50,000	500 × 100 1000 × 100	27.09.08	Kolkata	2	FICN was smuggled from Bangladesh.
8	11,00,000	500 × 2200	12.10.08	Amritsar	1	FICN was smuggled from Pakistan along with 5 pistols and 5 spare magazines.

S. No.	Face Value of Fake Indian Currency Notes (FICN) Seized (in Rs.)	Denomination × Numbers of FICN Seized	Date of Seizure	Place of Seizure	No. of Persons Arrested	Remarks (indicating source of smuggling)
9	19,80,000	500 × 3960	02.02.09	Kurla Terminus, Mumbai	3	FICN was smuggled from Nepal via Gorakhpur.
	Total: 2,08,59,500	1000 × 5905 500 × 29909			21	
SEIZURES MADE BY DRI DURING 2009-10						
1	4,50,000	500 × 900	02.05.09	Muzaffarpur	1	FICN was smuggled through Indo-Nepal border from Birgunj in Nepal.
2	2,00,000	500 × 400	11.09.09	Sahbajpur near Farakka, WB	2	
3	4,99,500		26.10.09	Farakka Rly. Station, District Murshidabad, West Bengal	1	FICN was smuggled through Indo-Bangladesh border.
4	18,00,000	500 × 3600	23.12.09	Andheri Rly. Station, Mumbai	3	FICN was smuggled from Karachi to Dubai and then to Mumbai.
5	1,20,000		26.02.10	Farakka Rly. Station by DRI, Siliguri/Berhampore	1	
6	24,18,000	500 × 994 1000 × 1921	11.03.10	Cochin Int. Airport by DRI, Cochin	1	FICN was smuggled from Dubai to Cochin.
	Total: 54,87,500				9	

Authority: The Court of Special Judge Constituted Under the National Investigation Agency Act 2008, for Gr. Mumbai Sessions Case No. 674 of 2009 (NIA).

ANNEXURE 4: THE FATF RECOMMENDATIONS: FEBRUARY 2012

<i>Number</i>	<i>Old Number</i>	<i>FATF Recommendation</i>
<i>A – AML/CFT POLICIES AND COORDINATION</i>		
1	–	Assessing risks & applying a risk-based approach
2	R.31	National cooperation and coordination
<i>B – MONEY LAUNDERING AND CONFISCATION</i>		
3	R.1 & R.2	Money laundering offence
4	R.3	Confiscation and provisional measures
<i>C – TERRORIST FINANCING AND FINANCING OF PROLIFERATION</i>		
5	SR II	Terrorist financing offence
6	SR III	Targeted financial sanctions related to terrorism & terrorist financing
7		Targeted financial sanctions related to proliferation
8	SR VIII	Non-profit organisations
<i>D – PREVENTIVE MEASURES</i>		
9	R.4	Financial institution secrecy
<i>Customer due diligence and record keeping</i>		
10	R.5	Customer due diligence
11	R.10	Record keeping
<i>Additional measures for specific customers and activities</i>		
12	R.6	Politically exposed persons
13	R.7	Correspondent banking
14	SR VI	Wire transfers
15	R.8	New technologies
16	SR VII	Wire transfers
<i>Reliance, Controls and Financial Groups</i>		
17	R.9	Reliance on third parties
18	R.15 & R.22	Internal controls and foreign branches and subsidiaries
19	R.21	Higher-risk countries
<i>Reporting of suspicious transactions</i>		
20	R.13 & SR IV	Reporting of suspicious transactions
21	R.14	Tipping-off and confidentiality
<i>Designated non-financial Businesses and Professions (DNFBPs)</i>		
22	R.12	DNFBPs: Customer due diligence
23	R.16	DNFBPs: Other measures

<i>Number</i>	<i>Old Number</i>	<i>FATF Recommendation</i>
E – TRANSPARENCY AND BENEFICIAL OWNERS OF LEGAL POWERS AND ARRANGEMENTS		
24	R.33	Transparency and beneficial ownership of legal persons
25	R.34	Transparency and beneficial ownership of legal arrangements
F – POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES		
<i>Regulation and Supervision</i>		
26	R.23	Regulation and supervision of financial institutions
27	R.29	Powers of supervisors
28	R.24	Regulation and supervision of DNFBPs
<i>Operational and Law Enforcement</i>		
29	R.26	Financial Intelligence units
30	R.27	Responsibilities of law enforcement and investigative authorities
31	R.28	Powers of law enforcement and investigative authorities
32	SR IX	Cash couriers
<i>General Requirements</i>		
33	R.32	Statistics
34	R.25	Guidance and feedback
<i>Sanctions</i>		
35	R.17	Sanctions
G – INTERNATIONAL COOPERATION		
36	R.35 & SR I	International instruments
37	R.36 & SR V	Mutual legal assistance
38	R.38	Mutual legal assistance: freezing and confiscation
39	R.39	Extradition
40	R.40	Other forms of international cooperation

Source: FATF, [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%20\(approved%20February%202012\)%20reprint%20May%202012%20web%20version.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%20(approved%20February%202012)%20reprint%20May%202012%20web%20version.pdf) accessed on October 31, 2012.

The 'old number' column refers to the corresponding 2003 FATF Recommendation. Detailed explanations of specific recommendations are given in the document referred to.



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