



## Cooperation among Governments to Fight against International Terrorism by Combating the Financing of Terrorism (CFT) Convention

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### ABSTRACT

*As a criminal act, terrorism is the most fundamental problem of the world society that abuses human rights and it is categorized as the most dangerous threat against the rights of nations and stability at the international level. Since the occurrence of such actions is very high in the world, terrorism is essential to fight. Terrorism financing is the act of providing financial, war, logistics, and any other kind of facilities for terrorist activity. We witness its increase instead of decrease. However, its galloping increase can be stopped if the governments cooperate and create international rules. One way for this purpose is combating the financing of terrorism. For this reason, governments have taken measures to prevent the financing of terrorism either with the help of the United Nations and cooperation with other governments or directly by themselves. CFT Convention is an international convention to combat the financing of terrorism signed by the United Nations. Financing is one of the acts necessary for terrorism so terrorist groups can not realize their goals if they are not supported financially. This issue is important to the extent that terrorist groups do their utmost to fund their actions. The criminal activities that provide funding for terrorism are occupied territories, illicit trade, and committing organized crimes. In other words, it can be noted that today, the world is facing the economy of terrorism, an issue that all of us should try to fight.*

**Keywords:** Terrorism, Human rights, Financing terrorism, International rules, United Nations, CFT convention

### INTRODUCTION

Nowadays, terrorism is too worldwide to be referred to as a mere violation against the security of a society, a country, or a government. Despite legal and political efforts, no coherent response in international law has been given to fight against terrorism. In fact, the legal arrangements have increased terrorist acts instead of its decrease. One of the main reasons why terrorism is not stopping is the lack of guarantee of adequate sanctions and appropriate mechanisms. Financial sources boost terrorism. However, the global alliance of big governments and creative solutions can reduce the aggression of terrorism and its financial sources because, as it was said earlier, financial sources are the main pillar of terrorism. Various international rules and regulations should be adopted by governments to combat the financing of terrorism. Such international rules are of a wide range like resolutions of the UN Security Council and international conventions including jus cogens. Some of these rules are mandatory and some others are arbitrary. After the September 11, 2001, terrorist attacks, the US has always considered the control of terrorist financial resources as a strategy. In this approach, the

governments have attempted to cooperate to remove or limit the financing of terrorism. In most international documents, financing of terrorism and money laundering are raised together. It indicates that the assistance of governments and various methods of money laundering can fund terrorism. In this century, financial characteristics are among the influential factors in terrorism. The United Nations Convention on Combating the Financing of Terrorism (1999) has been signed for this aim. Here comes this question: What are the duties of governments to prevent terrorism? In the present article, we investigate the CFT convention and address effective measures for combating the financing of terrorism using descriptive-analytical and library methods.

### **Definition of terrorism**

- 1) one of the most well-known concepts is illegitimate and conspiratorial action for killing one or more than one individual with political or nonpolitical intent like achieving certain political goals
- 2) Farhang Moein (2006): one who tries to assassinate or kill someone
- 3) general definition: terrorism is a political security phenomenon accompanied by violence, trying to create fear and panic in society to achieve its ends (banayi & rasayi 17:0041)
- 4) United States Department of Defense (1990): The calculated use of unlawful violence or threat of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological
- 5) Encyclopedia Britannica: Systematic use of violence to create a general climate of fear in a population and thereby bring about a particular political objective <sup>1</sup>
- 6) international documents: as stipulated in rows A and B of paragraph 1 of Article 22 of the Convention, criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitutes offenses within the scope of and as defined in the international conventions<sup>2</sup>

1. Encyclopedia Britannica, Micropaedia

2. Tabibi Fard, Amir Hossein (2014). Combating Financing of Terrorism in International Documents. Legal Journal, published by International Law Services Office of the Islamic Republic of Iran, Number 32

### **Definition of financing of terrorism <sup>1</sup>**

Financing terrorism was first used after the September 11, 2001, terrorist attacks. In a simple definition, it means providing terrorist groups with financial sources. According to article 3 of the CFT Convention, it means providing or collecting funds by any means directly or indirectly against the law for terrorist acts.

1. Shams Natri, Mohammad Ibrahim and Eslami, Dawood (2014). Criminal Nature of Financing of Terrorism. No. 4, 5

### **Measures were taken by UNGA**

There is consensus on the fact that acts of international organizations can form judicial precedents among jurists. The main argument is that since international organizations have an

objective legitimate entity, they are considered active independent subordinates of the international law system, which can play their roles in creating rights and rules in the international community besides governments. For the first time in September 1972, UNGA heeded terrorism as an independent issue following the initiative of the Secretary-General. During 13 years, UNGA has enacted 13 anti-terrorism conventions where definition, criminalization, and examples of terrorism have been stipulated. The only convention, which has provided the most inclusive definition of terrorism, is CFT (1999). However, other conventions have provided some examples and convicted terrorism severely. In all introductions of such conventions, international terrorism has been mentioned as a violation disrupting international peace and security and a threat against humanity. CFT convention has directly referred to combating the financing of terrorism. Some important points in this relation have been stipulated two of which are directly related to the financing of terrorism. First, the financing of terrorism is an important issue for the international community. Second, the quantity and intensity of international terrorism have a direct relationship with the amount of the funds in hands of terrorist groups. It has been emphasized in the introduction that the role of financial facilities in supporting terrorism has been ignored thus this role has to be readdressed in an international document. CFT Convention has considered three main commitments for the member states which are (1) Criminalization of financing of terrorism in criminal laws (2) Extensive cooperation with other member states and providing judicial assistance related to the Convention (3) establishing rules and requirements related to the role of financial institutions in discovering and reporting cases of financing of terrorism.

The results and research carried out on the September 11, 2001, terrorist attacks: (1) extraterrestrial processes (2) public-private cooperation (3) free access to information (4) reverse process of economic freedom

1. Extraterrestrial processes: This process is associated with the inclusion of legitimate and judicial jurisdiction in the territorial borders of the country. As the USA PATRIOT act put it, it includes a wide range of authorities to the American organizations against natural and legitimate persons and it has not considered holding an account by a foreign person as sufficient for applying territorial jurisdiction.
2. Public-private cooperation: cooperation between different parts of private and public sectors in monitoring ways of international financing is one of the fundamental features of the anti-money laundering laws. In fact, the tasks are fairly assigned between both sectors, and active cooperation between these two sectors is of great importance for controlling and monitoring financial transfers.
3. Free access to information: more free flow of information between the department of the police force and financial institutions has been emphasized as a necessity. Observing legitimate technicalities rising from keeping secrets and the privacy of individuals is regarded as a marginal issue.
4. The reverse process of economic freedom: Since the free flow of capital is of great importance for realizing freedom of economy, which is welcomed by the countries, such measures can be a reverse movement against such freedom and cause fundamental damages (Mirfakhrayi 332:2831)

#### **Existential philosophy of the CFT Convention**



After the September 11, 2001, terrorist attacks, the issue of financing terrorism arose for the first time by the UN and it was assigned to this organization. In 2008, proliferation financing and weapons of mass destruction were included in FATF as missions of the terrorist groups. The new recommendations of this mandate are providing some standards for combating money laundering and financing of terrorism (40 recommendations for combating money laundering and 9 ones for combating the financing of terrorism) which are accepted at the global level. Such rules are applied by nearly all states.

#### **Why is CFT Convention important?**

Individuals and organizations enjoying financial sources for terrorist acts hide information about how to use money and where the money is obtained. Financial sources for terrorist acts can be divided into two groups: (1) Religious, cultural, and legitimate organizations and (2) illegitimate sources such as drug trafficking and political corruption. Money laundering is the process of making large amounts of money generated by criminal activity. It is used for financing terrorism. If law enforcement agencies activities identify and prevent activities related to money laundering, this money is not used for terrorist acts. Therefore, CFT Convention has paid great attention to combating money laundry. Charitable organizations supply a little amount of money used for financing terrorism and underground banking systems supply the most amount of money. In general, a large amount of money laundering generated by business activities is cash. Some of the politically facilitating countries are its members but are not committed to it practically. They provoke tensions and conflicts by using political financial support and weapons.

#### **Financial sources and costs of terrorist acts**

Terrorist groups need money to sustain themselves and to carry out terrorist acts. They use various methods to finance and purchase means necessary including guns, explosives, communication equipment, etc. For this purpose, they do illegitimate and even legitimate activities. In fact, for formation, membership, base building, and terrorist acts, a terrorist group needs many financial sources. Reducing financing of terrorism can pave the way for combating terrorism because it has a key role in terrorist acts. At times, a government uses terrorism as a tool to weaken its enemies by destabilizing economic and political conditions. When a government has common interests with terrorist groups, it supports them. Terrorists do their utmost not to depend on the government's financial support. Thus, they do legitimate or illegitimate activities.

In many situations, terrorists legitimately collect funds from people who help them by their own choice but in other situations, they do ordinary businesses as ordinary people. Taking legitimate acts for the financing of terrorism leads to legitimate prosecution. Thus, terrorist groups can both obtain financial sources and achieve their goals without any problem. Terrorist groups obtain funds raised from legitimate sources such as personal donations and profits from businesses and charitable organizations as well as from criminal sources such as drug trafficking, fraud, and smuggling of weapons, which has a key role in increasing the destructive power of these groups and other goods, kidnapping, and extortion. Funds raised from oil and gas through legitimate sources. The increase in the smuggling of weapons can provoke all sorts of crimes that endanger civil society. Diamond smuggling as another important source of



financing terrorism has some advantages for terrorist groups. For example, the small size of the diamond and their high value have led to stealing them, especially the ancient works.

### **Strategies to prevent financing of terrorism <sup>1</sup>**

Since terrorist attacks impose significant costs on societies, a lot of efforts have been made to prevent them. Some have suggested criminal solutions to be effective and prosecuted and punished terrorist attacks like other crimes. Some others have chosen military solutions; however, such solutions are not always adequate. In this regard, one of the most important pillars of terrorism, which necessities taking preventive measures is the financing of terrorism. Here come banks and non-bank financial institutions. Thus, strategies can be divided into two groups: bank and nonbank.

#### **Nonbank strategies (sabouripour & alipour 931:7931)**

1) Implementing financial penalties

2) Sanctioning countries that support terrorism

3) Preventing money laundering

1) Implementing financial penalties: One of the effective methods to eradicate terrorism is imposing financial penalties by governments. According to the general principles of criminal law, the governments can seize legitimate or illegitimate income obtained from committing crimes or even means used for this end as a punishment, instead of deprivation of liberty. Financial penalties are among the best method for punishing. In par. 3 article 5, financial penalties are among the effective penalties imposed on legal entities funding terrorism.

2) Sanctioning countries that support terrorism: Many countries cut ties with countries that support terrorism. It is one of the very important measures for combating terrorism because a terrorist country has no income to do terrorist acts if it is not supported by other countries financially and commercially. In fact, it experiences some kind of sanction and is not able to fund terrorism. An element of punishment can be seen in sanctions, which is rational.

3) Preventing money laundering: money laundering hides illegal income and the way the money is transferred so that financial sources are difficult to track. Thus, we can combat the financing of terrorism by preventing money laundering. In evaluating the role of money laundering in financing terrorism, the role of financial and banking institutions should be considered as well. Such institutions prevent the disclosure of information by emphasizing banking secrecy and even facilitate the occurrence of this crime. To solve this problem, those financial instruments that lead to anonymity, such as partnership bonds in the name of banks, should be removed from banking cycles.

#### **Bank strategies**

Bank institutions play a prominent role in money transfers. Since a large number of financial sources of terrorists come from such transfers, these institutions can have a key role in combating the financing of terrorism and preventing the occurrence of money laundering. CFT Convention has stipulated requirements, which should be put on the agenda of each government's financial and banking institutions. One of these requirements is identifying customers. Banks and financial institutions shall first identify and verify the client's identity and only in this condition, the clients can open their accounts. In cases where the client's identity is not identified and verified, opening an account is not allowed. Another requirement is reporting transactions suspected of financing terrorism by established institutions, which play a key role in combating terrorism. In this case, the institutions should report any suspicious activity to the competent



authorities. Routinely, such deposits face no obstacle. Here, they can be prevented by making obstacles so that combating terrorism will be possible. In this way, the ceiling will limit the ease of financial transfer of terrorism. Although it may be against the freedom of individuals, it can be logical because it establishes peace and security.

1. Sabouripour, Mehdi and Alipour, Shima (2017). Preventing terrorism through combating financing. Volume 24, Number 84

### **Conclusion**

Terrorists need to be supported financially to take action. Thus, preventing the financing of terrorism is one of the main measures taken by the international community. In fact, international law has concluded that terrorism will continue if it is supported by financial sources. One of the important methods to trace terrorism is to trace its financial accounts and there should be a monitoring system for this aim. To monitor financial and non-financial institutions, the competent authorities should use a specific risk-oriented method. For this purpose, the cooperation of governments is necessary to prevent the financing of terrorism. Regarding the cooperation of governments to combat terrorism, each government should have access to basic information and knowledge to prove the crime of money laundering following the standards stipulated in the convention, which can be applied in practice. Desirable conditions for this end should be provided and excessive restrictions or impossible regulations should be avoided because they can lead to circumventing rules and corruption. All governments should be transparent in this regard. One more point is that governments should not reject the request for international cooperation in the field of financial issues. Financial institutions should verify the client's identity according to the basic principles before and during the period of building business relationships and transactions. Nascent technology is one of the new threats used for money laundering. Financial institutions should pay special attention to it and take the necessary measures to secure such technologies. Countries should be sure that there are enough proper, effective, and preventive penalties for punishing criminal, civil, and administrative actions to deal with natural or legal individuals who are not abiding by anti-money laundering requirements. Financial information should be easily available to observers so that suspicious transaction reports can be analyzed correctly and easily. In addition, they should take measures to disclose anonymous means of transferring funds and cross-border physical transportation of currency, such as using a notification system or other tools and arrangements for disclosing.

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