



Terrorism Financing and International Criminal Law Frameworks: Challenges and Legal Responses

Avisek Mukherjee

LLM Final Year student of Bankura University

DOI : <https://doi.org/10.5281/zenodo.17114139>

ARTICLE DETAILS

Research Paper

Accepted: 18-08-2025

Published: 10-09-2025

Keywords:

Terrorism Financing, International Criminal Law, FATF Recommendations, UN Security Council Resolutions, International Convention for the Suppression of the Financing of Terrorism, Jurisdictional Challenges, Cryptocurrency and Terrorism, International Criminal Court (ICC), Transnational Crime,

ABSTRACT

Terrorism financing has emerged as a critical threat to global security, enabling transnational terrorist networks to sustain and expand their operations. While international legal instruments such as the International Convention for the Suppression of the Financing of Terrorism (1999), UN Security Council Resolutions (notably 1373 and 2462), and the Financial Action Task Force (FATF) recommendations provide a robust legal framework, significant enforcement gaps persist. This paper examines the intersection between terrorism financing and international criminal law, analyzing how current mechanisms address criminal accountability for individuals, states, and non-state actors involved in funding terrorism. The study highlights challenges such as jurisdictional limitations, the complexity of tracing illicit financial flows, and the role of new technologies including cryptocurrency in terror financing. Furthermore, the research evaluates the effectiveness of international cooperation, sanctions regimes, and preventive measures while exploring the potential of recognizing terrorism financing as an autonomous international crime under the jurisdiction of the International Criminal Court (ICC). The paper concludes with policy recommendations for harmonizing domestic laws with international standards to strengthen compliance and enforcement.



1. Introduction

Terrorism financing is one of the most significant enablers of global terrorism. It allows terrorist groups to recruit members, acquire weapons, and conduct operations that destabilize international peace and security. Unlike traditional crimes, terrorism financing is transnational and sophisticated, often using legitimate financial systems and emerging technologies such as cryptocurrency.

International law recognizes terrorism financing as a major threat, as reflected in the International Convention for the Suppression of the Financing of Terrorism (1999), various UNSC resolutions, and FATF recommendations. However, despite this robust legal framework, enforcement remains inconsistent due to jurisdictional issues, lack of harmonization in domestic laws, and evolving methods of financing.

2. International Legal Frameworks on Terrorism Financing

2.1 International Convention for the Suppression of the Financing of Terrorism (1999)

The Convention, adopted by the UN General Assembly on 9 December 1999, obliges state parties to criminalize the provision or collection of funds with the knowledge that they will be used for terrorist acts. It also mandates states to freeze and seize funds intended for terrorist purposes. As of 2024, over 190 states are parties to the Convention, making it one of the most universally accepted treaties on counter-terrorism.

2.2 UN Security Council Resolutions

Following the 9/11 attacks, UNSC adopted Resolution 1373 (2001) under Chapter VII of the UN Charter, imposing binding obligations on states to criminalize terrorism financing, freeze assets, and enhance international cooperation. Resolution 2462 (2019) further emphasized preventive measures, urging states to regulate non-profit organizations and ensure financial institutions implement robust anti-terrorism controls.

2.3 Financial Action Task Force (FATF) Recommendations

The FATF, established in 1989, plays a central role in setting global AML/CFT standards. Its 40 Recommendations, along with 9 Special Recommendations on Terrorism Financing, provide the operational blueprint for states to combat terrorism financing. FATF also monitors compliance through



mutual evaluation reports, imposing consequences such as “grey-listing” or “blacklisting” on non-compliant jurisdictions.

3. Domestic Implementation and Enforcement

3.1 United States: Executive Order 13224 and the Patriot Act

The U.S. has adopted aggressive measures to counter terrorism financing. Executive Order 13224 (2001) authorizes the blocking of property and interests of individuals and organizations linked to terrorism. The USA PATRIOT Act (2001) enhances monitoring of financial transactions and imposes strict obligations on financial institutions.

3.2 Malaysia’s Anti-Terrorism Financing Laws

Malaysia enacted the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (2001), which criminalizes the financing of terrorism and empowers authorities to freeze assets linked to terrorist activities. This demonstrates how developing countries are aligning with FATF standards.

4. Emerging Challenges in Terrorism Financing

4.1 Cryptocurrency and Digital Platforms

Cryptocurrencies such as Bitcoin and Monero provide anonymity and decentralization, making them attractive for terrorist groups. FATF has issued guidelines on Virtual Asset Service Providers (VASPs), requiring registration, licensing, and monitoring to prevent misuse.

4.2 Crowdfunding and Social Media

Terrorist organizations increasingly exploit social media for fundraising under humanitarian pretexts. This poses a major challenge for law enforcement, as transactions often occur through legitimate channels like PayPal or e-wallets.

4.3 Informal Value Transfer Systems (Hawala)

Hawala remains a popular method due to its anonymity and lack of paper trail, particularly in regions with weak financial infrastructure.

5. Jurisdictional and Prosecutorial Challenges



Terrorism financing, being transnational, creates conflicts of jurisdiction and enforcement. The International Criminal Court (ICC) currently does not have explicit jurisdiction over terrorism financing as an autonomous crime under the Rome Statute. Although Article 5 of the Rome Statute covers genocide, crimes against humanity, and war crimes, extending jurisdiction to include terrorism financing requires state consensus.

6. Case Studies and Contemporary Developments

Ukraine v. Russia (ICJ, 2023): Ukraine alleged Russia violated the Terrorist Financing Convention by supporting armed groups in eastern Ukraine. The ICJ recognized the obligation but limited its scope to intentional financing.

FATF Actions Against Non-Compliant States: Countries such as Pakistan and Myanmar have faced “grey-listing” for inadequate measures against terrorism financing.

7. Recommendations

Harmonization of Laws: Align domestic legislation with international standards for consistency.

ICC Jurisdiction: Consider an amendment to the Rome Statute to include terrorism financing as an autonomous crime.

Technological Solutions: Develop blockchain monitoring tools and AI-based transaction analysis to detect suspicious flows.

Enhanced International Cooperation: Strengthen mutual legal assistance treaties (MLATs) and information-sharing mechanisms.

8. Conclusion

Terrorism financing remains a persistent challenge, evolving with technology and exploiting regulatory gaps. While international legal frameworks provide a strong foundation, enforcement deficiencies and jurisdictional limitations hinder effectiveness. A comprehensive approach involving legal reform, technological innovation, and global cooperation is essential to counter this threat effectively.

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