A Stalled War On Terror Finance

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Only two weeks after the attacks of September 11th, President George W. Bush addressed the media in the White House Rose Garden and declared "war" on terrorism financing. "Money is the lifeblood of terrorist operations," he told reporters.[1] "Today, we are asking the world to stop payment." A few weeks later, the Treasury Department—the agency that would become the weapon of choice of the White House in this new economic conflict—boasted in a press release, "The same talent pool and expertise that brought down Al Capone will now be dedicated to investigating Usama bin Laden and his terrorist network."[2]

Unfortunately, more than a decade after these pronouncements, it is obvious that the war on terror financing and money laundering has stalled. This is clear even through the lens of the government’s own bottom-line metrics: assets seized and forfeited, successful investigations and prosecutions, and effective sanctions. In fact, the situation has gotten considerably worse of late, as political considerations have progressively displaced or rolled back serious work that has been done to date on draining the financial "swamp" in which terrorists and terror-supporting regimes operate.

Borderless banking and blood money

Money laundering and terrorism financing are global scourges. Those who engage in them constantly adapt their techniques, while law enforcement and intelligence agencies try to catch up. Combating these two species of crime is a complex challenge, due largely to the diversity of methods used.

Both techniques exploit vulnerabilities in the financial system to disguise the movement of funds. Money launderers make their money illegally and try to "clean" it to conceal its origins. Terror financiers make their money legally or illegally and attempt to conceal both its origin and its intended use. In essence, money launderers convert dirty money into clean money, while terror financiers take clean money and make it dirty by funding violent acts.

Only in recent years has the international community begun to realize the enormity of the problem, and to call for establishment of comprehensive AML/CFT regimes (anti-money-laundering/combating the financing of terrorism). At the center of these efforts lie three goals: (1) protecting the integrity of the international financial system; (2) identifying, disrupting and dismantling the financial networks that underpin international criminal and terrorist organizations, and; (3) making it more difficult for criminals and terrorists to profit from their crimes.

It is an axiom within the U.S. law enforcement and intelligence communities that the key to disrupting and dismantling criminal organizations is to "follow the money." The same is true with terrorism. After the September 11th attacks, officials in the United States and elsewhere came to realize that effectively fighting terrorism financing and money laundering might be one of the best ways to prevent future catastrophic incidents. Unfortunately, many governments have had a difficult time converting this understanding into action.

This is not to say that no progress has been made. Over the past 15 years, a few nations have banded together to create a blueprint for fighting the phenomenon, but many jurisdictions—particularly in the Middle East—refuse to implement it. As a result, they lack the basic controls to ensure that the international financial sector is not exploited by criminals, terrorists and their support networks.

Just as the financial system has become global, so too has the threat posed by tainted money. In confronting this threat, the system is only as strong as its weakest link—or as U.S. Treasury official Daniel Glaser has put it, "laxity in just a few jurisdictions undermines the efforts made by the rest."[3] Yet most Middle Eastern countries have still not taken even the most basic steps: criminalizing money laundering and terrorism financing, instituting controls in their formal and informal financial sectors, curbing the smuggling of cash, preventing abuse in the trade sector and safeguarding the charitable sector.

The time-tested ways of moving money and disguising its origin are still effective, though each method has vulnerabilities. Criminals and terrorists conduct billions of dollars in transactions each year through four principal means: the formal financial sector (e.g., banks), the informal financial sector (e.g., hawala, a simple broker system based on trust), the trade system (e.g., commodities) and cash smuggling. In recent years, terrorists and their supporters have also perfected the abuse of charities using all of these methods.

The International Monetary Fund has estimated that money laundering accounts for 3–5 percent of the world's gross domestic product (GDP). According to the World Bank, global GDP was approximately $72.3 trillion in 2007, which would place international money laundering somewhere between $2.17 and $3.61 trillion per year—in other words, potentially larger than the U.S. budget![4] Similarly, the amount of money available to terrorists, while impossible to calculate precisely, is clearly in the billions, if not trillions.

As a new generation of public servants develop the skills necessary to contribute to the war on terrorism financing, the proven tactic of following the money will become more central than ever. At the same time, this task is also becoming increasingly complex due to the skill and ability of adversaries to avoid traditional financial countermeasures. Law enforcement and intelligence officials must learn to understand the sometimes-obscure methodologies employed by terrorist organizations to raise, transfer, and store money—whether these activities stem from al-Qaeda, rogue regimes such as Iran and North Korea, or members of Hezbollah, Hamas or a host of other like-minded organizations.

Building a response

The governments that are most serious about cracking down on illicit actors who hide the movement of their money have taken the lead, creating international organizations whose sole mandate is to combat money laundering and terrorism financing. The most important of these organizations is the Financial Action Task Force (FATF), established by members of the G-7 in 1989. Over the years, FATF has issued a set of standards on effective AML/CFT efforts and created a framework to assess the compliance of individual countries. Although the organization has limited membership and no enforcement capabilities, it has been surprisingly effective on certain fronts.

FATF's principal contribution has been its often-updated "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation," also known as the "40 Recommendations." Typically called "the international standard" for AML/CFT efforts, these recommendations were issued to serve as a comprehensive framework for preventing the movement of illicit money. The standard rests on three principles. First, countries must improve their national infrastructure to combat money laundering and terrorism financing. Next, each country's banking and other institutions must set up procedures to identify clients, detect suspicious transactions and develop secure and modern transaction protocols. Finally, countries must strive to improve international cooperation by collecting, analyzing and sharing AML/CFT information at the administrative and judicial levels. This includes sharing information on international currency flows and developing mutual judicial-assistance programs in order to investigate, freeze and confiscate illicit funds.

FATF's official policy is to blacklist countries that fail to comply with the international standard or refuse to have their financial system evaluated. This blacklist is published on the organization's website, and FATF urges member states to send the list to their financial institutions and law enforcement agencies so they can take appropriate action. Although there is no enforcement mechanism for the blacklist, it has been remarkably effective in changing the behavior of designated countries. For example, many financial institutions and other good corporate citizens are reluctant to do business with or in countries that are shunned by FATF. Moreover, blacklisted countries that refuse to take remedial action have at times lost significant international investment as a result. In fact, the International Monetary Fund and World Bank have sometimes chosen to downgrade a blacklisted country's credit rating—a significant punishment in today's interconnected financial world.

For its part, the United States has done a relatively good job on the AML/CFT front—but not perfect by any means. The U.S. was one of the first countries to criminalize money laundering and terrorism financing, and it has lodged a high number of prosecutions and successful convictions. In addition, it has taken steps to inform the private sector about designated terrorist organizations and rogue regimes. Persons found to be doing business with such entities face heavy fines and jail time.

The United States does lead the pack when it comes to its sanctions regime. It has the most robust targeted economic sanctions programs in the world. Since shortly after the September 11 attacks, the Treasury Department has maintained a blacklist of suspected terrorism financiers. As of January 2009, the U.S. government had used Executive Order 13224 to designate 518 individuals and entities for activities related to terrorism and terror financing. The designees include members of al-Qaeda, the Taliban, Hezbollah, and other terrorist organizations.

Still, inaction by some on remedial steps—from criminalizing money laundering to instituting controls in their formal and informal financial sectors—continues to threaten the security of all nations. Perhaps even more pernicious, however, is the fact that, all too often, politics has the effect of driving policy. The war on terror finance is no exception, and over time political priorities have diluted the effectiveness of America's effort to drain the financial "swamp" in which terrorists operated. Here, changing Western policy toward Iran is perhaps the clearest case in point.

Ceding the advantage with Iran

Iran has consistently failed to declare sensitive uranium enrichment and reprocessing activities to the International Atomic Energy Agency (IAEA). Until Iran and the United States began direct diplomatic negotiations in November 2013, policymakers on both sides of the Atlantic viewed sanctions as the last peaceful means by which to bring the Iranian government's nuclear effort into conformance with international demands.

According to the White House briefing on the agreement reached that month, Iran will be offered about $7 billion in sanctions relief, including access to $4.2 billion in frozen oil revenue.[5] But while most policymakers have focused on the relatively small amount of money this supposedly represents, it is actually the renewed banking and business infrastructure that requires attention. It took years to implement an effective sanctions regime against the Islamic Republic—and that effort is now eroding quickly, despite U.S. claims to the contrary.[6] Should Iran decide to drag out the negotiations or leave them altogether, reinstituting sanctions would be extremely challenging.

That Iran came to the nuclear negotiating table at all is a testament to the success of multilateral sanctions. Over the course of the last decade, an increasingly robust international sanctions regime has targeted the Islamic Republic's oil exports and banking operations. All told, over 80 financial institutions around the world, including major international banks, cut off ties or significantly reduced their relationship with it, which greatly curtailed Iran's ability to transact global business. This ultimately led to a devalued rial, major disruptions in foreign trade and deepening inflation within the Islamic Republic. Just as significantly, sanctions applied by the U.S. and its allies forced Iran into deepening international isolation, both economically and diplomatically. Many attribute the ascendency of current Iranian President Hassan Rouhani, who campaigned on a platform that promised improved economic conditions, to these efforts.

This effectiveness was the result, in large measure, of extensive targeting of Iran's banking system by Western nations —chief among them the United States. On September 8, 2006, the U.S. Department of the Treasury designated Bank Saderat, one of the largest Iranian-owned banks, for "facilitating Iran's transfer of hundreds of millions of dollars to Hizballah and other terrorist organizations each year."[7] The Treasury alleged that from 2001 to 2006, Saderat transferred $50 million to Hezbollah alone, which was then funneled to other terrorist organizations throughout the region.[8]

Beginning on December 23, 2006, with the adoption of United Nations Security Council Resolution 1737, which imposed sanctions on Iran, the UN ordered member states to cease all business dealings with a major state-owned Iranian institution, Bank Sepah, and its affiliates. It also urged governments to "exercise vigilance" in relation to two other Iranian financial institutions, Bank Melli and Bank Saderat. All three financial institutions have now been formally designated by the U.S. government, which prohibits U.S. banks from doing business with them.

Bank Sepah was designated by the U.S. Treasury on January 9, 2007, for providing financial services to companies involved in Iranian nuclear and ballistic missile activities. The UN and the U.S. government claim that the companies in question—the Shahid Hemmat Industries Group (SHIG) and the Shahid Bakeri Industries Group (SBIG) —are key players in Iran's ballistic missile program. Sepah also provided services to the Aerospace Industries Organization (AIO), the parent company of these two entities. All three companies were designated by the U.S. government on June 29, 2005, for their support for Iran's missile program. According to the Treasury, Bank Sepah processed and arranged financing for dozens of multimillion-dollar deals and used a range of deceptive practices to avoid detection, such as asking other institutions to remove its name from transactions.

In October 2007, the U.S. Treasury Department also designated Bank Melli, Iran's largest bank, for providing services to other banks and firms involved in the country's nuclear and ballistic missile programs, including UN-designated entities such as Bank Sepah and its missile clients. According to Treasury, after Sepah's designation under UN Security Council Resolution 1747 (which was adopted on March 24, 2007, and extended existing sanctions on Iran), Melli took special measures to avoid being identified in transactions. Treasury has also disclosed that Melli facilitated the purchase of sensitive materials for Iran's nuclear and missile programs by "opening letters of credit and maintaining accounts."[9]

In addition, according to the Treasury, from 2002 to 2006 the Iranian government used Bank Melli to send at least $100 million to Iran's Islamic Revolutionary Guard Corps–Qods Force (IRGC-QF), a special unit of Iran's IRGC whose mission is to organize, train, equip and finance Islamist movements around the globe. "When handling transactions on behalf of the IRGC, Melli employed deceptive banking practices to obscure its involvement from the international banking system," the Treasury noted, including requesting that its name be removed from financial transactions.[10]

In total, the U.S. government has designated twenty of Iran's thirty banks for their role in proliferating weapons of mass destruction or facilitating terrorism, according to the Specially Designated Nationals List of the Treasury Department's Office of Foreign Assets Control.[11] Treasury's Financial Crime Enforcement Network has blacklisted all thirty Iranian banks for engaging in money laundering and abusing the international financial sector.

The sanctions regime instituted against Iran by the international community over the course of the last decade, while not perfect, was comprehensive and punishing. Since 2005, the United States in particular instituted over a dozen pieces of legislation meant to hamper Iran's ability to march towards nuclearization.[12] Measures included: shutting the Islamic Republic out of the global financial sector—including banks and international financial organizations such as SWIFT; constraining their ability to tap the international energy sector; circumscribe movement of humans rights violators and members of the Iranian Revolutionary Guard Corp (IRGC), and; sectioning entities that provide goods and services to Iran's energy, shipbuilding, shipping, metal and port sectors.

But the sanctions regime against Iran is now in danger of unraveling. By rolling back sanctions as a result of the November 2013 interim deal (formally known as the Joint Plan of Action), Tehran has been given an opportunity to reinvigorate its economic and diplomatic ties with the rest of the world, and Western countries have eagerly exploited the opening to do business with Iran. Re-legitimizing business as usual before Iran makes any significant concessions on its nuclear program not only sends the wrong message, but impairs the West's ability to negotiate effectively.

The politicization of CTF/AML

To be sure, eradicating illicit finance and associated criminal activity completely is impossible. What is not, however, is improving the ability of the law enforcement and intelligence communities to follow the money. This effort, more than perhaps any other, is instrumental to victory in the struggle against contemporary terrorism, for a very simple reason: cutting off illicit finance deprives terrorist organizations of their lifeblood.

America's experiences since September 11th should hammer home the point that there are no easy fixes to terror financing. Quite simply, terrorists and criminals use a variety of methodologies, often commingling their illicit money with legitimate funds. The efforts expended by the United States and its partners have not been as smart or efficient as they need to be to keep up with the shifting patterns of illicit finance.

Today, however, the United States gives little indication that it understands this reality. To the contrary, over the past year, the Obama administration has unwittingly rolled back almost a decade's worth of financial measures intended to curb state sponsors of terrorism such as Iran. In return for the Islamic Republic's agreement to limit certain aspects of its nuclear activities to gain "modest" relief from crippling international sanctions, the United States is enabling Tehran to reestablish broken diplomatic ties and reinvigorate a stagnant economy. Iran, for its part, has been making a full-court press in the banking and energy sectors, conducting business in Europe, Asia and its seven direct neighbors (Afghanistan, Armenia, Azerbaijan, Iraq, Pakistan, Turkey and Turkmenistan).

Worse still, Iran's rehabilitation has bred no small measure of contagion. Today, "frenemy" countries have become increasingly emboldened to test the appetite of the United States and its allies to fight rogue finance.

One such state is Turkey. Although itself no stranger to terrorist attacks, the government of Prime Minister Recep Tayyip Edogan has become a notable supporter of terrorism financiers. One prominent example is Saudi businessman Yasin al-Qadi, who has been designated an al-Qaeda financier on the UN's 1267 list, the U.S. Treasury Department's Specially Designated Global Terrorist list and the European Union's "Consolidated list of persons, groups, and entities subject to EU financial sanctions." Mr. Erdogan has publicly defended Qadi[13]--demonstrating a disturbing laissez faire attitude toward support for radical causes that has continued to this day. (More recently, Ankara has similarly problematic attitude toward radical elements taking part in the fighting against the Assad government in neighboring Syria as well; according to an October 2013 Human Rights Watch report, "Many foreign fighters operating in northern Syria gain access to Syria via Turkey, from which they also smuggle their weapons, obtain money and other supplies, and sometimes retreat to for medical treatment."[14]) Largely as a result of these deformities, the FATF has placed Turkey on its list of jurisdictions of concern—a designation that speaks volumes about how Turkey, which has worked diligently to be seen as both a global power and a model of emulation in the Middle East, is anything but when it comes to terrorism financing.

Another bad actor is the Gulf state of Qatar. Four years ago, the U.S. State Department called Qatar's counter-terrorism regime one of the worst in the region.[15] In addition, the Treasury Department has blacklisted several Qatari nationals for their links to al-Qaeda. Most recently, Abd al-Rahman bin 'Umayr Nu'aymi, described by the Treasury Department as "a Qatar-based terrorist financier and facilitator," was designated for his role as a financier who "provided money and material support and conveyed communications to al Qaeda and its affiliates in Syria, Iraq, Somalia and Yemen."[16] Qatar also remains one of the last key patrons of Hamas, the terrorist organization that rules in the Gaza Strip, and it has provided the group with aid to the tune of about $100 million annually. Additionally, Qatar has hosted Hamas leader Khaled Mishaal for the better part of the last 15 years.

For these countries, and others, the stalling of America's war on terror finance has allowed them to skirt the fundamental choice outlined by President Bush back in 2001: to decide, in both political and economic terms, whether they are with us or with the terrorists. That this situation prevails more than a dozen years after the attacks of September 11th demonstrates just how far we have yet to go in combatting the practices that serve as the lifeblood of contemporary terrorism.

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