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DECLARATION

I, **Md. Isa Bin Inam**, bearing student ID: **2019-3-66-029**, hereby declared that this paper titled **“Hawala and Terrorism Financing in Bangladesh: A Critical Study”** was entirely prepared by myself under the supervision of **Mohammed Shahjalal, Senior Lecturer, Department of Law, East West University** for the requirement of my graduation. The content and materials utilized for this dissertation are correctly acknowledged and mentioned in the references.

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ABSTRACT

Financing of terrorism remains a critical issue in the global fight against terrorism. Terrorists rely on financial networks to assist planning, acquire resources and sustain networks that allow the execution of terrorist activities. Without sufficient funds or financial resources, terrorists cannot sustain operations, train their personnel and expand their influences. One of the methods that gained attention as a significant channel for terrorism financing is- Hawala. Hawala is an informal value or money transfer system that operates outside formal banking system in many countries for illegal purposes. Unlike formal banking system, hawala operates unregulated which violates anti money laundering (AML) and countering financing of terrorism (CFT) measures both domestically and internationally. Following these issues, states in giving mutual legal assistance to each other, have led to the use of international treaties and adopted preventive measures in domestic laws to deal with terrorism financing. Despite those efforts, methods of terrorism financing continued to evolve, and its characteristics emerged new challenges to both national and international legislations. However, a thorough understanding of such nature and analyzing the gaps in legal mechanism with these evolving issues is essential for developing more strengthened preventive strategies against terrorism financing.

List of Abbreviation

ICSFT	International Convention for the Suppression of the Financing of Terrorism (1999).
AMLR	Anti Money Laundering Regulations
ATA	Anti- Terrorism (amended) Act, 2013
CT	Counter Terrorism
MLPA	Money Laundering Prevention Act, 2012
POCA	Proceeds of Criminal Acts, 2002
NCA	National Crime Agency
TF	Terrorism Financing
IVTS	Informal Value Transfer System.
GTI	Global Terrorism Index
MVTS	Money or Value Transfer System
CFT	Countering Financing of Terrorism
AML	Anti Money Laundering
ARS	Alternative Remittance System
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
BFIU	Bangladesh Financial Intelligence Unit
KYC	Know Your Customer
CDD	Customer Due Diligence
IMF	International Monetary Fund
FSPs	Financial Sector Assessment Programs
SAARC	South Asian Association for Regional Cooperation
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
CDD	Customer Due Diligence
STRs	Suspicious Transaction Reports

CHAPTER 1

Introduction

1.1 Background of the Research

Terrorism financing remains a critical issue in the global fight against terrorism. Primarily it involves providing, collecting of funds or use of financial resources to support terrorist acts of individuals or organizations. Terrorists require funds to assist planning, acquire resources, facilitate recruitment and sustain networks that allow the execution of terrorist activities. The rise of terrorist attacks has continued to grow faster and the correlation between those attacks and terrorism financing is quite significant. According to Global Terrorism Index, deaths from terrorism have increased significantly from the prior year.¹

In the present day its funding methods have become more complex by involving “Informal Value Transfer System” typologies, money laundering, cryptocurrencies, etc. Among various methods by which funds can be transferred, the hawala system has drawn growing attention. Hawala is an informal value transfer system which has been identified as a one of the funding methods for terrorism financing. Because hawala system can reduce transaction risks and allow placing the money in the desired destination while avoiding the reporting requirements of the formal bank. Hawala operates unregulated which violates “Anti-Money Laundering” (AML) and “Countering Financing of Terrorism” (CFT) measures both domestically and internationally. By using this network transaction of funds move quickly and anonymously across the borders. Bangladesh is plagued by illicit financial system. Militants regularly tap into illegal money flows to fund their operations. Studies say more than one billion in taxable goods is smuggled into the country from the neighboring country India and analysts identified that some of this money ends up in the hands

¹ Institute for Economics & Peace, “Measuring the impact of terrorism”, Global Terrorism Index,2024. < <https://www.visionofhumanity.org/resources/global-terrorism-index-2024/> > accessed 25 Oct 2024.

of terrorist organizations.² Around seven billion U.S dollar has entered in Bangladesh illegally through informal value transfer system.³ The growth of informal value transfer system has emerged in Bangladesh due to the need for efficient, cost-effective and accessible financial services in rural and underdeveloped areas where formal banking infrastructure is limited.⁴

Following those issues, states in giving mutual legal assistance to each other, has led to the use of international treaties to deal with terrorism financing. One of the major conventions related to terrorism financing, “International Convention for the Suppression of the Financing of Terrorism” criminalized financing of terrorism and urged state party to adopt preventive measures in their domestic laws, as set out in Article 18 of the convention. This convention provides a basis for nations to cooperate in preventing terrorist financing and carrying out joint law enforcement and intelligence efforts. In favor of this obligation to adopt preventive measures, Bangladesh introduced primary legislation called Anti- Terrorism (amended) Act, 2013 dealing with terrorism and its financing, stating in Section 7 to prohibits financing of terrorism. Since 2001, many countries across the world had ratified the convention to mitigate the risk of terrorism financing and adopted preventive measures to their legislations.

Despite those efforts, methods of terrorism financing continued to evolve, and its characteristics emerged new challenges to both national and international legislations. However, a thorough understanding of such nature and analyzing the gaps in legal mechanism with these evolving issues is essential for developing more strengthened preventive strategies against terrorism financing.

² Paul Cochrane, *The Funding Methods of Bangladeshi Terrorist Groups* (2009) vol 2, issues 5. < <https://etc.westpoint.edu/wp-content/uploads/2010/06/Vol2Iss5-Art6.pdf> > accessed 26 Oct 2024.

³ Cochrane (n 1)87.

⁴ Genesis J. Martis, “A guidance to understand hawala and to establish the nexus with Terrorist financing” [2018] CAMS-FCL, p 7. < <https://www.acams.org/aml-white-paper-understand-hawala-nexus-terrorist-financing/> > assessed 27 Nov 2024.

1.2 Justification of the Research

This study is justified due to the major concern to the inadequacies in existing legal frameworks in addressing the evolving issues regarding terrorism financing methods. While national and international initiatives have developed guidelines to curb terrorism financing, their effective implementation varies across jurisdictions, leaving loopholes for exploitation by perpetrators. Furthermore, the complexity of informal financial systems like hawala present significant regulatory challenges due to its anonymous nature and lack of formal documentation process.

This study situates itself within social and legal context, aiming to explore how hawala networks continue to challenge the fight against terrorism financing and what can be done to mitigate these challenges effectively.

The objectives of this research paper are:

- To analyze the various existing global and national legal frameworks regarding the offence related to terrorism financing.
- To assess the role of hawala networks in facilitating terrorism financing.
- To evaluate the effectiveness of legal and regulatory approaches in monitoring and controlling the hawala system.
- To identify the gaps in current strategies regarding anti-terrorism financing laws and regulation of Bangladesh.

1.3 Research Question

1. In what ways do current legal frameworks and regulatory measures tackle the challenges presented by the hawala system regarding terrorism financing?

1.4 Research Methodology

The research will be conducted by qualitative research methodology to achieve its purposes. This research is based on both primary and secondary sources. As primary sources, this research will rely on convention and both domestic and other countries laws. For secondary sources there will be relevant books, journals, articles, publications and other resources that are relevant for this research. As this is qualitative research, it will be based on collecting and analyzing the existing literature.

1.5 Literature Review

Peter Andreas, in article, "The Hawala System and Its Role in Terrorism Financing" explain that terrorism financing and its connection to informal value transfer system emphasizes the complexity of addressing the issues in both national and international context. Hawala operates outside the formal system which has drawn considerable attention due to its ability to facilitate anonymous and cross border transactions.⁵ According to Abishek Aggarwal and Dr. Suneel Kumar, hawala networks are often exploited by militants to fund their operations in South Asian countries.⁶ Financial Action Task Force highlighted in its report of 2022 that the nature of hawala transaction makes particularly vulnerable by abusing its use for terrorist financing and money laundering activities. Studies of Eric Bakker reveal that illicit money flows often find their way into terrorist networks through informal channels.⁷

Case studies, such as Operation Green Ice and Operation Rubdown demonstrate how hawala networks has been used by terrorist organization to launder billions of dollars while evading detection of the financial intelligence authority.⁸ These cases highlighted the transitional nature of such funding methods and the need for stronger cross-border collaboration among law enforcement agencies. International Convention for the Suppression of Terrorism Financing (1999) provides a legal foundation for criminalizing the offence related to terrorism financing. Later, legal measures on preventing terrorism financing have been adopted in domestic laws by many countries across the world. Bangladesh is one of those countries. Yet scholars admit that

⁵ Andreas, P. "The Hawala System and Its Role in Terrorism Financing," *International Security Journal*, 2005.

⁶ Bakker, E. "Hawala Networks and Terrorism Financing in South Asia," *South Asian Journal of Terrorism Studies*, 2006).

⁷ Bakker *Hawala Networks and Terrorism Financing in South Asia* (Bakker, 2006).

⁸ Abhishek Aggarwal, Dr. Suneel Kumar, *Understanding Hawala Based Money Laundering: Mechanisms, Challenges, and Strategies for Combat 2024*, Vol 05 < <https://ijrpr.com/uploads/V5ISSUE4/IJRPR25900.pdf> > assessed 16 Oct 2024.

global and national efforts to address methods of terrorism financing are undermined by inconsistent enforcement and lack of resources across the country's jurisdictions.⁹ So, addressing the evolving threats of terrorism financing methods requires a multidimensional approach including strengthening CFT/ AML measures, using advanced technologies for monitoring illicit transaction and global collaboration among law enforcement agencies to disrupt the channel effectively.

1.6 Scope and Limitation of the Research

This study explores the legal and regulatory frameworks addressing terrorism financing through Hawala system focusing on both international and national contexts. It examines the operational aspects of hawala networks, the role of hawala in facilitating terrorism financing and the effectiveness of existing international and domestic legal instruments. This study also highlights the challenges in monitoring and regulating such informal value transfer system of Bangladesh. However, this research has certain limitations. It relies on both limited primary and secondary data, which may restrict the depth of real time insights into current practices and enforcement challenges. Movement of quota reform of 2024 restricted the motion of the research by limiting access to key data and disrupting field work opportunities that might be helpful to collaborate with local authorities and organizations who focused on counter terrorism efforts. This study focused on national and international frameworks excluding detailed regional analyses of other South Asian countries and Middle East countries. Besides, non-availability of Bangladeshi case laws further limited the purpose of this study.

⁹ Zohar, T. "Hawala as a Transnational Financial System: Challenges in Counter-Terrorism Financing," *Global Counter-Terrorism Review*, 2019)

1.7 Chapter Outline

This thesis paper is organized into five chapters:

Chapter 1 provides an overview of Terrorism Financing and the Hawala system. It outlines the objectives, research questions and methodology used in this research paper.

Chapter 2 delves into definition, sources, and functionality of TF with a particular focus on the role of the hawala system in facilitating such illegal activity.

Chapter 3 examines international conventions and regulatory framework as well as analysis of legislative responses across different countries.

Chapter 4 critically evaluates Bangladesh's legal and regulatory framework regarding the prevention of terrorism financing and highlighted enforcement gaps and challenge in regulating informal system of transfer.

Chapter 5 covers the findings, recommendations and conclusion of this research paper.

CHAPTER 2

Terrorism Financing and Hawala Networks

2.1 Defining the Term “Terrorism Financing.”

The term “Terrorism Financing” refers to use of funds and other property made available for use by the terrorists.¹⁰ International Convention for Suppression of the Financing of Terrorism defined the offence of terrorism financing as- any person directly or indirectly collects or provide funds with the knowledge or intention that the funds will be used to carry out an offence which include serious injury or death to civilians and the purpose of such act is to intimidate any population or compel a government or international organization to do or refrain from doing any acts.¹¹ This fund is used in unlawful activities by a member of terrorist group to accomplish their communal agenda.

The FATF explains terrorist financing as the funding of terrorist act or of terrorists and terrorist organizations.¹² Bangladesh in this regard defined that - a financing of terrorism occurs when a person or entity knowingly receives, arrange, supply for the collection of money, services, material support, with reasonable grounds to believe that such resources in full or partially may be used for the benefit of a terrorist entity, terrorist group or an individual terrorist.¹³

2.2 Sources of Terrorism Financing

For a long period of time Terrorism has become a weapon of the weak against rulers and governments who are financially, politically, and even military stronger.¹⁴ The 11th to 13th century witnessed some form of contemporary terrorism where small groups of people waged a war and

¹⁰ Aishat Abdul-Qadir Zubair, Umar Aimhanosi Oseni and Norhashimah Mohd. Yasin, “ANTI-TERRORISM FINANCING LAWS IN MALAYSIA: CURRENT TRENDS AND DEVELOPMENTS” [2015] IIUMLJ, p 153. < <https://journals.iium.edu.my/iiumlj/index.php/iiumlj/article/view/163> > assessed 24 Oct 2024.

¹¹ International Convention for the Suppression of the Financing of Terrorism 1999, article 2 (1) (b) < <https://www.un.org/law/cod/finterr.htm> > accessed 2 Oct 2024.

¹² Financial Action Task Force, ‘Glossary of the FATF Recommendations’ (updated March 2023) < <https://www.fatf-gafi.org/en/glossary.html> > accessed 25 Nov 2024.

¹³ Anti-Terrorism (amended) Act 2013, section 7 (1).

¹⁴ Steinberg, A. (2011). A Review of “Terrorism and Counterterrorism: Understanding Threats and Responses in the Post 9/11 World”: Brigitte L. Nacos, (3rd ed., New York: Longman, 2009), 334 pp. Comparative Strategy, 30(1), 98–99. < <https://doi.org/10.1080/01495933.2011.545691> > assessed 27 Nov 2024.

more appropriately put, campaigns of terror against the government.¹⁵ Primarily, sources of terrorist financing can be divided into two categories, which are- Legitimate and Illicit. Legitimate sources can be demonstrated with examples of charities, businesses, fund raisers, contributions from individuals, financial assets, religious groups. On the other hand, illicit sources indicate direct criminal activity like human trafficking, extortion, tax evasion, smuggling of gold and other precious staffs, proceeds of oil and gas etc.¹⁶ Money laundering is one of the prime sources of terrorism in Bangladesh estimated to account for 12 to 13 percent of the country's GDP at 3.4 billion U.S dollar. The growth of Informal Value Transfer System has emerged in Bangladesh due to the need for efficient, cost-effective, and accessible financial services in rural and underdeveloped areas where formal banking infrastructure is limited.¹⁷ Remittances from expatriate of Bangladesh who is working in the Middle East, United Kingdom and other countries are a further area of concern.

2.3 Terrorism Financing and Money Laundering

There are significant differences between money laundering and terrorism financing. While both involve misuse of the financial system, they differ in their purpose, origin and methods. Money laundering focuses on disguising the origin of illicit funds that were obtained through criminal activities like tax evasion and drug trafficking. On the other hand, Terrorism financing aims to provide funds for terrorist activities. These funds can originate from both lawful and unlawful sources. The objective of ML is to obscure the origin of illicit money and further make it appear legal through formal sources. In Terrorism financing the focus is not obscuring the source or origin but on ensuring the funds to be reach to the intended terrorist group. Money laundering often involves sophisticated layers of financial transaction to hide the trail of illegal funds.

Terrorism financing may involve more direct methods like the use of IVTS (e.g., hawala) or through smuggling as the aim is to move funds securely to the recipients. There is significant overlap between money laundering and terrorism financing because terrorist group often engage in criminal activities to manage funds which are laundered to conceal the link to terrorism.

¹⁵ Zubair, Oseni and Yasin (n 1) 153.

¹⁶ Genesis J. Martis, "A guidance to understand hawala and to establish the nexus with Terrorist financing" [2018] CAMS-FCI, p 7. <<https://www.acams.org/aml-white-paper-understand-hawala-nexus-terrorist-financing/>> assessed 27 Nov 2024.

¹⁷ Martis (n 16) 7.

2.4 Funding Methods

Money is considered as the oxygen or lifeblood of terrorism.¹⁸ Former British Chancellor of the Exchequer Gordon Brown stated that, "If fanaticism is the heart of modern terrorism, finance is its lifeblood."¹⁹ Scholar like Loretta Napoleoni argued that without sufficient financial resources, terrorists cannot sustain operations, train personnels and expand their influences.²⁰ While the sources and uses of terrorist financing gained the most attention from scholars and policy makers, how that money is transferred from it sources to the terrorist groups is a critical intermediary step. Freeman and Rhuesen explained six primary methods by which terrorist organizations move funds- Informal Value Transfer System (IVTS), banks, money service business, cash couriers, false trade invoicing and high value commodities.²¹

2.5 The Concept of Hawala

The word "Hawala" comes from an Arabic term which means to transform or to change. It is known as Informal Value/Money or Value Transfer System (IVTS/MVTS) that has been used for centuries originating in South Asia and Middle East.²² It is often used for legitimate purposes which include personal and business financial transactions. Despite being used for legitimate purposes, some attributes of this system make it vulnerable to use by organized crime for the purpose of transferring illicit funds and values.

¹⁸ Salam El-Fatih A. Abdel, "War on Terror: Fantasy and Fiction Behind the Mythology of Terrorist Financing" *Intellectual Discourse*. (2009) 17(1), p 8 < https://www.researchgate.net/publication/277170308_War_on_Terror_Fantasy_and_Fiction_Behind_the_Mythology_of_Terrorist_Financing > assessed on 25 Oct 2024.

¹⁹ Abdel (n 8) 8.

²⁰ Napoleoni, L. *Terrorism and the economy: how the war on terror is bankrupting the world* / Loretta Napoleoni. (1st English-language ed.). Seven Stories Press (2010). < https://sfa-primos.hosted.exlibrisgroup.com/permalink/f/1ecgsju/01SFUL_ALMA21170452330003611 > assessed 28 Nov 2024.

²¹ Freeman, Michael, "The Sources of Terrorist Financing: Theory and Typology," *Studies in Conflict and Terrorism* Vol. 34, No. 6 (2011): 461-475 < <https://nps.edu/documents/110773470/121673378/FtM+Study+Guide.pdf> > assessed on 26 Oct 2024.

²² Genesis J. Martis, *A guidance to understand hawala and to establish the nexus with Terrorist financing 2024* < <https://www.acams.org/sites/default/files/2020-08/A%20Guidance%20to%20Understand%20Hawala%20and%20to%20Establish%20the%20Nexus%20with%20Terrorist%20Financing.pdf> > assessed 10 Dec 2024.

2.6 Functionality of Hawala System

Hawala networks operate in many ways. Primarily a hawala broker (Hawaladar) in one country accepts money from a client who wishes to send funds to someone else. Now this Hawaladar will communicate with another hawaladar at the desired destination who distributes the funds to the recipient.²³ The basic components of transaction are- Two hawaladar, sender, funds, transaction code and the receiver. Hawala networks are often based on trust. Close relationship between the networks eases the settlement process. Throughout the transaction they do not keep any detailed records or any required legal documents which complicate law enforcement agencies to trace the origins of the transfer.²⁴

2.7 Hawalas' Significant Role in Terrorism Financing

Hawala system has been linked to terrorist organizations and has been used for money laundering and terrorist financing with an estimated £258.9 billion every year²⁵. Terrorist financial networks rely on the global movement of inconspicuous amounts of cash. The methods of hawala ensure anonymity and effectiveness particularly in regions that lack a well-functioning banking system and other trackable currency systems. The Hawala system perceived legitimacy by countries across the Middle East and South Asia further complicates efforts to disrupt the networks. Financial crime investigations conducted a report that stated, Islamic State of Iraq and the Levant (ISIL) uses hawala networks in Iraq and Syria. It is also used in Europe to support terrorist groups. Hawala networks was used to fund the 2015 Paris attacks. This attack killed 130 people and injured 813 people²⁶. Hawala remittance systems may not be attractive only for legitimate users. After 9/11, there has been renewed interest for Hawala systems and growing concern about its potential role in facilitating serious crimes including money laundering and terrorism financing. It may serve legitimate purposes for migrant workers or poor people. But its specific characteristics make it vulnerable to those wanting to launder the proceeds of criminal activity.

²³ John Wilson (2002), Hawala and other Informal Payments Systems: An Economic Perspective. < <https://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/wilson.pdf> > assessed 10 Dec 2024.

²⁴ Wilson (n 17).

²⁵ Nikita Malik, "Does the hawala payment system still benefit terrorists?" (2019) Forbes. < <https://www.forbes.com/sites/forbes-personal-shopper/article/best-wireless-dog-fences/?> > assessed 30 Oct 2024.

²⁶ The Irish Times (2016), "Paris attacks: terrifyingly fatal layers of resources and tactics" < <https://www.irishtimes.com/news/world/europe/paris-attacks-terrifyingly-fatal-layers-of-resources-and-tactics-1.2580749> > assessed 30 Oct 2024.

In Bangladesh, around 1,8000,00 (BDT) considerably was transacted by illegal means through informal channel which supposedly had a connection with terrorist groups.²⁷ Because of the rapid and anonymous network of the hawala system, law enforcement agencies could not capture those groups.²⁸ Bangladesh Financial Intelligence Unit (BFIU) reported, about 15 to 20 percent of the hawala transaction is used for the purpose of terrorist activities or for intra-regional crimes.²⁹ Statement of a Prothom Alo reporter highlighted that around eighteen lacs- twenty lacs taka have been collected for neo- JMB organizations through hawala networks solely from India.³⁰ Informal money transactions are most common among the people who travel Saudi Arabia for yearly pilgrimage. It challenges to determine whether the money is being used for religious purposes or terrorist activities.³¹

2.8 Use of cryptocurrency in Hawala System

Cryptocurrencies are becoming a part of modern financial systems. In positive, it is offering diverse payment options to the consumer. In negative it challenges regulatory system regarding preventive measures that deal with unregulated hawala system. Around 103 countries across the world have implemented tax or AML/CFT laws for cryptocurrencies.³² Some nations have banned cryptocurrency entirely such as Bangladesh is one of them. Cryptocurrencies and hawala share common traits such as privacy and decentralization. In both systems we may not easily trace the sources of origin of transactions. According to a survey, most hawaladars did not use cryptocurrencies, but some of were aware of others who did use it.³³ Cryptocurrencies like “Bitcoin” and “Ethereum” are reportedly used by a group of hawaladars across several countries. Law enforcement agencies face critical challenges in regulating cryptocurrency related transactions particularly due to weak Anti- Money Laundering/Know Your Customer measures

²⁷ Nahian Reza Sabriet, 'Terrorist Financing in Bangladesh in the Post-9/11 Era: Methods and Responses' (2020) 41(2) BISS Journal 173-203, p 191. < https://www.academia.edu/78313471/TERRORIST_FINANCING_IN_BANGLADESH_IN_THE_POST_9_11_ERA_METHODS_AND_RESPONSES > assessed 7 Nov 2024.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² U.S. Library of Congress Report 2021.

³³ United Nations Office on Drugs and Crime, Hawala: A Digital Finance Primer (UNODC 2019) p 82 < https://www.unodc.org/documents/data-and-analysis/AOTP/Hawala_Digital.pdf > accessed 12 Nov 2024.

and its misuse to aid hawala networks. Such factors undermine international concerns about cryptocurrency's vulnerability to criminal exploitation.

2.9 Chapter Conclusion

Terrorism financing remains a global threat as it fuels illegal activities that destabilize societies as a whole. Terrorists get funds from various methods. One of such methods called "Hawala" has specific characteristics that made it even harder to combat against terrorism financing. In Bangladesh, the use of hawala system for illicit transactions indicates systematic vulnerabilities in country's financial monitoring system. Even though there are existing anti-money laundering and counter terrorism financing acts to fight against such issues, gaps in enforcement allow hawala networks to operate and facilitate terrorism related activities.

CHAPTER 3

International Legal & Regulatory Instruments regarding Prevention of Terrorism Financing

3.1 UN Convention

One of the important international conventions that have been introduced in order to prevent financing of terrorism is the **International Convention for the Suppression of the Financing of Terrorism**. Resolution 54/109 of the UN General Assembly enacted this Convention, which requires that member states take measures to protect financial system from being misused by persons who engaged with terrorist activities.

This Convention criminalized the financing of terrorism. It requires states to adopt measures that establish “financing or funding to terrorist activity” as criminal offence under its domestic law.³⁴ To constitute an offence, it is not necessary that the funds were used to commit offences which are defined in the convention. Intent or knowledge of how the funds might be used is sufficient to constitute an offence.³⁵ Participating as an accomplice in the commission of an offence and organizing or directing the commission of the offence are also criminalized in the same way as the offence itself.³⁶

This convention further provides for the identification, freezing and seizure of funds allocated for terrorist activities³⁷. The states party must give each other the greatest measure of assistance in connection with investigation or extradition proceedings mentioned in the convention³⁸.

This convention 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.³⁹

³⁴ International Convention of the Suppression of the Financing of Terrorism (1999), article 4 (a).

³⁵ Id. Article 2 (3).

³⁶ Id. Article 2 (5) (a), (b).

³⁷ Ibid. Article 8 (1).

³⁸ Id. Article. 12 (1).

³⁹ Md. Abdul Halim and Farhana Helal Mehtab, *Terrorism and Counter Terrorism- Legal Issues, Challenges and Responses* (1st edn, CCB Foundation 2015) 32.

3.2 UN General Assembly Resolution (Resolution 60/288)

The UN Global Counter-Terrorism Strategy 2006 is designed to accumulate international efforts to combat against terrorism. It consists of four pillars, which are: i) Addressing the conditions that facilitate the spread of terrorism by tackling the root causes of terrorism. This involves addressing issues such as poverty, inequality, and limited access to education. It suggests understanding diverse cultures and religions to counteract extremist narratives and engage with civil society and the media to challenge their ideologies, ii) Preventing terrorism by disrupting financial networks that support terrorist acts. This involves implementing international standards which are set by FATF, that include developing regulatory frameworks that criminalize terrorism financing and enhance transparency in financial transactions.

The UN provides training programs for law enforcement, regulators and intelligence agencies covering investigation techniques and legal frameworks, iii) Building states' capacity to prevent terrorism and strengthening the role of the UN system in this regard, iv) Securing respect for human rights and the rule of law in all counter-terrorism efforts. The strategy calls for ensuring counter-terrorism measures comply with international human rights standards. Member states are urged to ensure accountability for human rights abuses and promoting good governance to prevent terrorism.

3.3 Intergovernmental Organization

The Financial Action Task Force requires countries to implement preventive measures to protect their financial system.⁴⁰ FATF is an intergovernmental body that created international standards to combat money laundering and terrorism financing. Recommendation 6 calls for implementing targeted financial sanctions relating to terrorism and terrorism financing⁴¹. Recommendation 10 highlights the importance of CDD measures for verifying the identities of customers and beneficial owners.⁴² Recommendation 20 requires financial institutions to report any suspicious transactions related to terrorism financing to the states' Financial Intelligence Unit⁴³. States party must enact

⁴⁰ Financial Action Task Force, Rec 1. <

<https://www.elibrary.imf.org/downloadpdf/display/book/9781589063341/ch017.pdf> > assessed 26 Oct 2024.

⁴¹ FATF, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations (updated March 2022) Rec 6 < <https://www.fatf-gafi.org/recommendations.html> > accessed 27 November 2024.

⁴² Ibid Rec 10.

⁴³ Ibid. Rec 20.

certain requirements concerning the role of financial institutions for detection and reporting of evidence of financing of terrorist acts⁴⁴. Recommendation 26 calls for establishing FIUs and it shall be responsible for receiving, analyzing and disseminating financial information related to suspected terrorism financing. FATF requires MVTS provider to register with the financial institution and keep a proper license that ensures compliance with the AML and CFT measures.⁴⁵ FATF recommendations no. 14 and 26 particularly pertain to money or value Transfer System. The glossary of FATF also defines money or value transfer system. One survey that FATF provided of 33 high, middle and low-income countries that stated hawala was classed as illegal in eighteen unspecified countries. According to FATF hawala business activities remained challenged due to limited sources for supervision, lack of guidance, failures to report by hawaladars and due to the hidden nature of this system.

3.4 International Organizations

The International Monetary Fund and the World Bank support international financial stability and economic development. They focus on strengthening AML and CFT frameworks in member countries through technical assistance, assessments of financial systems and capacity building programs. Technical assistance and capacity-building efforts help countries improve compliance with international AML/CFT standards, enhancing the integrity and stability of the global financial system. Assessments are conducted through Financial Sector Assessment Programs (FSAPs), which include reviewing a country's AML/CFT measures.

The Egmont Group of FIUs is an international network established in 1995 to improve cooperation and support in the global fight against money laundering and terrorism financing. Comprising over 160 FIUs, it focuses on collaboration and improving the operational efficiency of its members. One of the primary functions is to facilitate the secure exchange of financial intelligence. These programs improve the skills and knowledge of FIU staff, helping them to keep up with the latest trends in financial crime. Operational support is another key activity of the Egmont Group. This support includes cooperation between FIUs and providing technical and analytical assistance to

⁴⁴ Glenn Gottselig and Paul Gleason ,International Monetary Fund, "Suppressing the financing of terrorism: a handbook for legislative drafting" [2003], p 5. < <https://doi.org/10.5089/9781589062252.069> > assessed 26 Oct 2024.

⁴⁵ FATF, Rec 16.

track and analyze suspicious financial activities. This assistance enhances FIUs' data analysis, intelligence gathering abilities and making them more effective in combating financial crimes.

Financial institutions and law enforcement are encouraged to make efforts to conduct proper KYC. Getting to understand how hawala operates is essential to distinguish between illicit and legitimate funds. The more knowledge is acquired, the easier it becomes to understand the ways to legitimize this system without affecting the legitimate users. If a country has a lenient regulatory system, the financial system and its products are prone to be exploited for terrorist financing.

3.5 Various National Legislative Enforcement

The legislative approaches of U.K, U.S.A to prevent financing of terrorism reveal a mix of similarities by each country's geopolitical and socio-economic context. In the UK, the Proceeds of Crime Act, 2002 established the backbone of legal measures against terrorism financing. It outlines offences related to concealing⁴⁶, transferring⁴⁷, and possessing criminal property⁴⁸, imposing strict penalties and fines for individuals and entities involved in such activities. Terrorism Act,2000 establishes the prohibition of fundraising, use of property for terrorism and arrangements which facilitate terrorism. Another regulation requires hawala operators to register with HM revenue and customs.⁴⁹ Hawala operators must follow AML and CDD measures which include recordkeeping and reporting. NCA works closely with financial institutions to address compliance with the standard measures and disrupt terrorism financing networks.⁵⁰ United States has USA Patriot Act, 2001 and Bank Secrecy Act, 1970 requiring hawaladar to register with FinCEN. IVTS providers are classified as money service business. So Hawala and similar IVTS systems are legal if it operates with registration and proper licensing requirements.⁵¹ In UAE, laws reflect its dual role as this place is known for a financial hub in the middle east and a region that has traditional or close ties with hawala system.⁵²

⁴⁶ Proceeds of Crime Act 2002, s 327 (1) (a).

⁴⁷ POCA 2002, s 327 (1) (d).

⁴⁸ POCA 2002, s 329 (2) (c).

⁴⁹ The Money Laundering, Terrorist Financing, and Transfer of Funds (Information on the Payer) Regulations 2017,

⁵⁰ Genesis J. Martis, "A guidance to understand hawala and to establish the nexus with Terrorist financing" [2018]

CAMS-FCL, p 18. < <https://www.acams.org/aml-white-paper-understand-hawala-nexus-terrorist-financing/> >

assessed 02 Nov 2025.

⁵¹ Ibid.

⁵² Ibid 19.

The European Union has developed a robust legal framework to combat terrorism financing. These instruments aim to ensure the necessary legal tools to prevent, detect, and penalize terrorism financing activities effectively.⁵³ Member states must implement effective, proportionate and dissuasive sanctions for convicted linked with money laundering and terrorism financing.⁵⁴ Funds Transfer Regulation⁵⁵ is a key legislative measure introduced by the EU to enhance the transparency and traceability of electronic funds transfers.⁵⁶ Its primary objective is that payment service providers (PSPs) must include specific information about the payer and the payee in every electronic fund transfer.⁵⁷ The regulation provides law enforcement and regulatory authorities with enhanced tools to detect, investigate and prosecute cases of money laundering and terrorism financing by accessing comprehensive transaction data. On payment services in the internal market, hawala system is required to apply for license from the relevant EU member states.⁵⁸ Anti-Money Laundering Regulation of the European union now covers the entire crypto sector, requiring entities to perform CDD for transactions over euro 1,000.⁵⁹ This involves verifying customer identities and assessing the risk of terrorist financing to prevent anonymity that could enable illegal activities. The Regulation also bans anonymous crypto asset wallets, requiring wallet providers to identify their customers.⁶⁰ This limit reduces anonymity in transactions and aims to deter large-scale money laundering and terrorism financing.

The EU faces challenges in harmonizing the implementation of AML and CTF directives across member states due to varying legal systems and enforcement capabilities. Countries have different resources and capabilities to enforce these regulations. Rapid advancements in financial technologies pose new challenges for AML/CTF efforts. Keeping regulations up to date with technological developments is essential to prevent terrorism financing and other illicit financial crimes.

⁵³ Rébé & Nathalie, " Counter-terrorism financing: international best practices and the law" < <https://brill.com/display/title/55779?language=en> > assessed 2 Dec 2024.

⁵⁴ Ibid.

⁵⁵ Fund Transfer Regulation no. 847/2015

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Directive 2015/2366 of the European Parliament and of the Council.

⁵⁹ Regulation (EU) 2015/ 847.

⁶⁰ Anti-Money Laundering Directive (EU) 2018/843.

3.6 Chapter Conclusion: This chapter explained and analyzed the international legal and regulatory instruments with the aspects of UN convention, security council resolution, FATF recommendations, IMF and world Bank and initiatives taken in various national legislations. These measures demonstrate the importance of financial transparency, cross border cooperation and targeted financial sanctions, and asset freezing or seizing in relation to terrorism financing. Countries like United Kingdom, U.S.A and European Union have implemented robust regulations. Improved regulatory systems and enhanced international coordination with state parties is essential to disrupt financial networks and by the time this cooperation between state parties and mutual legal assistance can mitigate the risk of emerging threats of terrorism financing effectively.

CHAPTER 4

Analysis of Legislative & Strategic Approaches against Terrorism Financing in Bangladesh

4.1 Legislative Approach

While Bangladesh has adopted laws such as- Anti Terrorism (amended) Act, 2013 (hereinafter mentioned as ATA,2013) and the Money Laundering Prevention Act,2012, but enforcement of such measures remains weak in this modern day. The United States become concerned about rising Islamic militancy in Bangladesh after 9/11. Under U.S pressure Bangladesh enacted the Money Laundering Prevention Act (MLPA), 2002. Those Acts are the primary legislation which address terrorism financing and money laundering. ATA criminalizes the act which relates to collect, receive or transfer of funds with the knowledge that such fund will be used in terrorist activities.⁶¹ It allows authority to freeze and seizure the assets which are suspected of engaging with terrorism.⁶² It obligates financial institutions to take preventive measures to detect and report any funds related to terrorism financing. This act also allows permanent forfeiture of funds or properties which are intended for use or which is actually used in terrorist activities.⁶³ This law also enables country to cooperate with other state and international organizations with information sharing, mutual legal assistance and investigations process.⁶⁴

Reporting organizations must verify the identity of customers with proper CFT and AML obligations before establishing business relationships.⁶⁵ BFIU is empowered to analyze Suspicious Transaction Reports and other financial information, share intelligence with international and domestic corporations, and issue guidelines relating AML and CFT to financial institutions and other reporting organizations.⁶⁶ Another provision of MLPA requires **money transfer service operator** not to deal without having proper license and registration.⁶⁷ All reporting organizations

⁶¹ Anti-Terrorism (amended) Act 2013, s (7).

⁶² ATA 2013, s (19).

⁶³ ATA 2013, s 20

⁶⁴ ATA 2013, s 23.

⁶⁵ MLPA 2012, s 16.

⁶⁶ MLPA 2012, S 23.

⁶⁷ MLPA 2012, s 23

(banks and other financial institutions) must submit STRs to the BFIU if any transactions seem suspicious or have the potential threat to link with TF and ML.

Hence, there is no single thematic legal framework regarding the hawala system. Rather laws relating to terrorism financing and money laundering provide general aspects of terrorism financing methods. As it is not explicitly targeted informal financial system such omission may hinder the ability to regulate funding these channels effectively by leaving vulnerable to misuse by terrorists. Therefore, the laws were not very effective in checking terror finance. The U.S kept pressuring Bangladesh to enact an improved law in line with strategy to combat global terrorist activities.⁶⁸ There is an absence of dedicated rules and regulations in Bangladesh regarding the misuse of technologies in facilitating terrorism financing. As digital platforms and the use of cryptocurrencies have grown, the offender will use those platforms and digital currencies which may further complicate the regulatory efforts.

4.2 International Approach

Convention mentioned in chapter 3 encourage states to implement preventive measures leading international standards which are framed in nine recommendations⁶⁹ on terrorist financing. Bangladesh is now party to twelve UN conventions and protocols on terrorism. Bangladesh is seeking to strengthen the monitoring of bank accounts and financial transactions to detect terrorism financing effectively. It helps to prevent illegal money transfers through the banking channels and other illegal channels. The international establishment like FATF and Asia Pacific Group has been pressing the government to incorporate offences such as financial crimes into the extradition.⁷⁰ Similar suggestion was made by the justice department of the US government and the ex-finance ministry of Bangladesh.⁷¹

There are several issues concerning why this global system management does not work sufficiently in this country. This is happening because exchange of information is happening in a linear way

⁶⁸ Halim A and Mehtab F, *Terrorism and Counter Terrorism (Legal Issues, Challenges and responses)* 1st edn, CCB Foundation.

⁶⁹ FATF Recommendation.

⁷⁰ Ibid.

⁷¹ Ibid.

where the international bodies are less concerned about the necessary appeals formulated by domestic bodies. Rather they are pushing their own agendas globally.⁷² The policies adopted by the global authorities rely on stereotypical ideas on the financing of terrorism presenting mostly the demands of the western world.⁷³ The responsiveness of the international authorities also depends on the global stature of a country where Bangladesh fails to get considerable attention.⁷⁴

The most concerning fact of this context is that there is no single global legal framework for the hawala system. According to FATF, hawala business activities remained challenged due to limited sources for supervision, lack of guidance, failures to report by hawaladars and due to the hidden nature of this system. The government tried to examine further areas for legislative improvements to the anti-terrorism act that reflects Bangladesh's receptivity to international peer review mechanisms and the FATF international cooperation review group process. The government formed National Coordination Committee dealing with countering terrorist finance issue to provide operational level coordination and develop a national strategy.⁷⁵

Thus, the available international mechanism does not turn out to be fruitful enough to ensure necessary prevention of regulations to national and local divisions. Undoubtedly an international coordinating means is a very significant necessity, considering how terrorist financing is transcending the conventional borders every day.

4.3 Regional Approach

The most significant supervisory body in the question of terrorist financing is the Asia Pacific Group. Compliance report regarding the regulatory means of Bangladesh is not satisfactory. According to a report Bangladesh has been found to be low compliant to twenty-seven of the forty regulations.⁷⁶ It suggests not only supervisory and regulative amendments but also judiciary actions to be developed concerning in both regional and global context.

⁷² Nahian Reza Sabriet, TERRORIST FINANCING IN BANGLADESH IN THE POST-9/11 ERA: METHODS AND RESPONSES, p 17 < <https://www.doi.org/10.56888/BIJSSj2020v41n2a3> > assessed 4 Jan 2025

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Nahian Reza Sabriet, TERRORIST FINANCING IN BANGLADESH IN THE POST-9/11 ERA: METHODS AND RESPONSES, p 17 < <https://www.doi.org/10.56888/BIJSSj2020v41n2a3> > assessed 5 Jan 2025

⁷⁶ Ibid 17.

A reason behind the dissatisfactory situation has been pointed out to be the lack of coordination between the cross-border counterterrorism units. SAARC has failed to prove its implication in the regional context. Organization tends to avoid the discussion on cross border terrorism considering the cut-throat relation between India and Pakistan.⁷⁷ This association fails to organize practical manifestation even though coming with a promise to help the member states take collective and individual attempts to deal with terrorism financing.⁷⁸ This kind of issue is not only missing the opportunity that could utilize as a regional organization but also restricting the counterterrorism efforts of the concerning states.

Among other regional arrangements, BIMSTEC's working on counterterrorism and as well as the subgroup on preventing terrorism funding are must to be noted. Meetings held in 2015 of the members had focused on various important issues regarding terrorism and have given effort to bring some standard requirement of CFT and AML for broader regional aspects.⁷⁹ Bangladesh Financial Intelligence Unit is responsible for analyzing, collecting and disseminating of information on terrorist financing from the Suspicious Transaction Reports.

BFIU operates as a bridge between the banks, financial or monetary organizations and the law enforcement agencies from where that bulk of information is collected, analyzed and disseminated. It also has the responsibility to supervise the implementation of MLPA,2002 and ATA,2013 within their national border. The BFIU became a part of the Egmont group, and it expanded the global partnership for the organization. Although there is no definite way to measure how much impact the authorities are having upon countering the sources of terrorist financing in Bangladesh.

4.4 Chapter Conclusion:

Bangladesh adopted laws such as Anti-Terrorism (as amended) Act 2013 and Money Laundering Prevention Act 2012, but enforcement remains inconsistent, particularly in regulating informal financial systems (Hawala). While Bangladesh has aligned itself with international conventions and other regulations, the absence of a thematic legal framework and emerging threats of hawala networks such as- cryptocurrency-based hawala type transactions questions its ability to combat financing of terrorism.

⁷⁷ Ibid.

⁷⁸ Ibid 20.

⁷⁹ Ibid.

At the international level, FATF provides guidelines, but limited global influence and the stereotypical approaches of international authorities decrease the effectiveness of these mechanisms. Regionally, poor coordination among counterterrorism units, and the inability to address cross-border terrorism financing further complicates the issue. Addressing terrorism financing in Bangladesh requires a stronger focus on integrating laws with international standards and developing regional cooperations. Without these reforms, vulnerabilities in the financial system will continue to affect the Bangladesh's security efforts.

CHAPTER 5

Findings and Recommendations

5.1 Findings:

The study provides an analysis of funding methods regarding terrorism financing and its regulatory framework and its impact on both national and international level. By analyzing primary and secondary sources, the following key findings have emerged:

Terrorism financing can be derived from both legitimate and illegitimate sources. Regardless of sources, funding methods like hawala operate outside of formal financial system that provide anonymity, cost-effective and speedy transactions. These characteristics often attract to those who wants to transfer funds to the terrorists.

Bangladesh is a part to various international conventions regarding prevention of terrorism financing. However, there are flaws in aligning domestic laws with international best practices. For example, FATF highlights the importance of regulating informal financial systems, but measures taken by the country are not well enough to deal with the full scope of the hawala system.

The Hawala system makes it difficult to monitor and regulate. Neither the ATA nor the MLPA provides clear mechanisms to oversee and control these systems. This omission allows hawala operators to operate without sufficient oversight and creating vulnerabilities for misusing the funds into terrorist activities.

Bangladesh's geographical standing with conflict-prone regions like Myanmar and India makes it a potential threat for financing terrorism in the South Asian region. Hawala networks in Bangladesh are used to support groups involved in regional conflicts and transnational crimes. The lack of transparency and accountability in cross-border financial transactions further complicates the challenges of monitoring and disrupting these financial flows of funding.

As technology evolves, hawala networks may become even more complex and harder to track. Cryptocurrency and blockchain-based platforms could integrate with hawala to create hybrid networks that are even more challenging for regulators. This would further complicate efforts to disrupt illegal financial flows and combat terrorism financing.

As Bangladesh continues to engage more deeply with the global economy, there is a risk that transnational criminal organizations may exploit the country's hawala networks. Organized crime groups may use hawala to move profits from illegal activities into Bangladesh, further destabilizing the local economy and increasing corruption within law enforcement agencies and financial institutions.

5.2 Recommendations:

A thematic legal framework for regulating hawala system should be adopted because such system holds a significant threat to the financing of terrorism in Bangladesh.

Such framework may enable better oversight, monitoring and enforcement system and may reduce the opportunities to abuse such network by terrorist groups. Moreover, it would facilitate international cooperation in identifying and blocking cross-border financing that is linked to informal money transfer systems. It may also include more rigorous inspections of financial institutions and informal money transfer systems and require great accountability for those who fail to report on suspicious transactions.

Regional organizations (SAARC, BIMSTEC) shall extend their cooperation with other global entities. It must include measures like real-time information-sharing platforms between financial intelligence units.

Country should work on improving international relationships, particularly with the FATF and the Egmont Group, to strengthen intelligence sharing and cooperation. This could create greater participation in international level and proactive engagement with global counter-terrorism efforts.

BIMSTEC should be empowered to take more concrete actions against financing of terrorism. Country should take the lead in advocating for stronger regional cooperation by sharing intelligence, joint investigations, mutual legal assistance and coordinated policies.

Bangladesh must strengthen its collaboration with countries that have large Bangladeshi migrant workers, such as Saudi Arabia and the UAE. Bilateral agreements on information-sharing and joint law enforcement efforts will be the most efficient tools in disrupting terrorism financing and hawala networks.

The current framework of Bangladesh is to some extent effective but needs modification to include digital financial transactions system requirement and advanced systems regarding cryptocurrency-based hawala networks. Amending those laws which will include stricter penalties for hawaladars and expanding their scope to cover newer forms of informal money transfer system would deter the risk of terrorism financing and money laundering.

Every organization related to financial institution must adopt advanced technologies, such as AI and blockchain that could help the government to better monitoring ability of the large financial transactions and detect suspicious activities. These technologies can be used to analyze transaction data and utilize patterns that suggest hawala type activity.

Bangladesh must continue to promote formal banking services in rural areas where hawala is most prevalent. Taking initiative for the people of Bangladesh such as mobile banking programs, should be scaled up to make convenient and affordable alternatives to hawala system.

5.3 Conclusion

Terrorism financing constitutes threats to global peace and security. As explored in this paper, one of the funding methods Hawala represents a unique challenge to domestic and international legal and regulatory frameworks.

From the definitions and origins in chapter one to the detailed evaluation of international conventions, various financial organization and national efforts in chapter three and four, this study effectively emphasizes the persistent gaps in combating the financing of terrorism. Funding methods, Hawala operate anonymously, cost effectively, and cross border efficiency particularly make it attractive for illegal activities relating to terrorism financing.

Despite its traditional role, it is misused by terrorist groups in Bangladesh where informal financial system is prevalent. UN conventions such as the International Convention for the Suppression of

the Financing of Terrorism and regulatory bodies like the Financial Action task force have set international standards to prevent these threats. However, the country's legal and enforcement mechanisms that align with international standards require further reformation to address evolving threats of the hawala system.

While significant progress has been made on the international and national level, the fight against terrorism financing remains much work to mitigate the risk of informal methods in facilitating those illegal activities. A thematic legal approach for regulating the hawala system in every potential aspect, legislative reforms, technological integration, regional cooperation is essential to mitigate the risk of such threats.

A widespread awareness campaign, targeting both rural and urban areas should be rolled out to educate the people on the legal risks of using the hawala system. The government should encourage the use of formal banking systems for remittances or other financial transfers by highlighting their security and reliability.

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