

## Anti-money laundering mechanisms in the Anti-Money Laundering Law and its executive regulations

### Abstract

Money laundering is one of the most important ways of financing terrorists. Attracting financial resources to commit terrorist acts is done in different ways, and money laundering is the most common and important way of attracting financial resources. As we have discussed in detail in previous articles, money laundering is always used in conjunction with the financing of terrorism, given that money laundering is always used through the financial and banking systems of countries and away from the control of corporate agents. Therefore, international measures to combat money laundering, which is the fight against financing, have gone more towards the control and supervision of banking systems and have set specific rules and regulations in this regard at the level of International Since the late 1980s, when there was a need for more joint efforts between countries to control and combat money laundering and terrorist financing, several treaties and conventions were gradually drafted and ratified. In this regard, the Financial Action Task Force and the Wolfsburg Banking Group have been established as the most important international mechanisms in the fight against money laundering and terrorist financing, which we will cover in the next article.

**Keywords:** Money Laundering, Criminology, International Criminal Law, Anti-Money Laundering Law, Iranian Criminal Law

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### Introduction

The Islamic Republic of Iran, with a slight delay, inspired by international measures and the obligation of the international community to combat money laundering, 2007 adopted a law entitled Anti-Money Laundering Law, which after the adoption of the Anti-Terrorism Financing Law. Feeling the need of the government that the anti-money laundering mechanisms should be the same and coordinate with the anti-terrorist financing mechanisms, it amended the law on 11/3/2019, and its provisions and regulations to some extent Terrorist Financing Coordinated Article 14 of the said law obliges the Supreme Council for Combating Money Laundering and Terrorist Financing to prepare the executive by-law of this law within three months from the effective date, which is also on / 21/7 / It was approved by the Cabinet in 2009.

The Anti-Money Laundering Law with the amendments made in 2019, along with its executive regulations, contains mechanisms and assignment of duties and responsibilities to various individuals and institutions, which we will suffice to discuss in the present article.

As we have said, criminalization and punishment of perpetrators are the main tools of criminal policymakers. In its amended Article 10 of the Anti-Money Laundering Law, it amended the former Article 9 and increased the punishment for money laundering. This article states: "The principal property, income and proceeds of crime of origin and money laundering (and if it is not available, like or its price) the perpetrators of money laundering will be confiscated and also as the total property and income up to 10 billion "Rials shall be sentenced to fifth-degree imprisonment and more than that to fourth-

degree imprisonment, and in both cases, in addition to the previous punishment, they shall be sentenced to a fine equal to the funds or financial value of the money laundered." According to Note 4 of the same article, if the commission is organized, it will increase the punishment by one degree.

Note 2: Article 2 of the said law, to oblige the submission of positive documents to have the property subject to this law, does not provide positive documents that can be verified, subject to a fine of one-quarter of the value of that property. Article if there is a suspicion close to knowing that the property was acquired through illegitimate means, it is considered illegitimate property and the perpetrator will be sentenced to 6th-degree imprisonment if he is not subject to more severe punishment. In this case, the said property will be confiscated unless proven. It has been legitimate to study.

Regarding other strategies to combat money laundering and terrorist financing in this law, it should be mentioned that in Article 4 of the Anti-Money Laundering Amendment Law to coordinate policies and executive measures to combat both crimes, the Anti-Terrorist Financing Council The letter merged the law with the Anti-Money Laundering Council and stipulated that: The Council is abbreviated as the Minister of Economic Affairs and Finance and is composed of the Ministers of Industry, Mines and Trade, Information, Interior, Justice and Foreign Affairs, the representative of the Chief of the Judiciary, the Attorney General or his representative, the Director-General of the Inspectorate or a representative. **He, the head of the IRGC Intelligence Organization, the governor of the Central Bank of the Islamic Republic of Iran, and three members of the Islamic Consultative Assembly are appointed to oversee the proposal of the**

**economic commissions, councils, and internal affairs of the country and the judiciary and law and approval of the Assembly:**

-Determining strategies and planning for law enforcement.

-Preparing and proposing the necessary by-laws regarding the implementation of the law for approval by the Cabinet.

-Coordinating the sub-agencies of the government in collecting, processing, and analyzing the news, documents, documents, information, and reports received, providing intelligent systems and identifying suspicious transactions, and reporting to the relevant authorities to take the necessary measures.

Note 1- The Secretariat of the Council will be in the Ministry of Economic Affairs and Finance.

Note 2: The structure and executive structure of the Council following its legal duties will be approved by the Cabinet upon the proposal of the Council.

Note 3: All executive by-laws of the above-mentioned council, after the approval of the Cabinet, shall be binding on all relevant natural and legal persons, in compliance with Article (14) of this law. "The violator will be sentenced to two to five years of dismissal from the relevant service or deprivation of the same job, as the case may be, at the discretion of the administrative and judicial authorities".

Article 5 Amending the law to prevent money laundering and terrorist financing and coordination and performance of duties by all-natural and legal persons, oblige them to implement the executive regulations of the Cabinet about this law and the law on combating security Mali Terrorism has stated that this article, in the position of assigning duties to all persons, states: "All owners of non-financial businesses and non-profit institutions, as well as natural and legal persons, including the Central Bank of the Islamic Republic of Iran, banks, financial and credit institutions, insurance companies, central insurance, good loan funds, foundations, foundations, foundations, institutions Pensions, public non-governmental organizations, credit unions, exchange offices, capital markets (stock exchanges) and other stock exchanges, brokerage firms, funds, and investment companies, as well as institutions whose inclusion is required by law. Such as the National Iranian Oil Company, the Organization for Development and Renovation of Iran, and others, are obliged to implement the executive regulations of the Council of Ministers concerning this law and the law on combating the financing of terrorism.

Article 6 of this law also obliges all persons mentioned in Article 5 above to provide the information required for the implementation of the provisions of this law following the approvals of the Council of Ministers at the request of the Council or the Financial Information Center. Also, all persons, institutions, and agencies subject to the Anti-Money Laundering Law, according to their type of activity and

organizational structure, are obliged to observe the following duties:

A- Authentication and identification of clients, real owners, and in case of action by the representative or lawyer, verification of the position and identity of the representative, lawyer, and original.

Note - The provisions of this clause do not negate the need for authentication under other laws and regulations.

B- Submitting the necessary information, reports, and documents to the Financial Information Center within the framework of the law and regulations approved by the Cabinet.

C- Submitting a report of transactions or operations or starting operations above the amount approved by the council or suspicious transactions and operations of banking, registration, investment, exchange, brokerage, and the like to the Financial Information Center.

Repeated Article 7 of this law, to implement the policies and regulations of the Anti-Money Laundering Law and the Anti-Terrorist Financing Law, and the policies and decisions of the Supreme Council for Combating Money Laundering and Terrorist Financing, provides that a center called the Financial Information Center in the Ministry of Affairs Economic and financial to be formed and the council to supervise it and the duties and powers of this center are as follows:

A) Receiving, collecting, maintaining, analyzing, and evaluating information and investigating transactions and operations suspected of money laundering and financing of terrorism, tracking the flow of funds and transferring property in compliance with legal regulations, and reporting transactions and operations suspected of suspicious money.

B- Ministry of Intelligence, Law Enforcement of the Islamic Republic of Iran, Customs of the Islamic Republic of Iran, Central Bank of the Islamic Republic of Iran, Banks, Civil Registration Organization, Central Insurance of Iran, Tax Affairs Organization, Documents, and Property Registration Organization, Audit Organization, Stock Exchange Organization Securities, the Central Headquarters for Combating Commodity and Currency Smuggling, the Anti-Narcotics Headquarters, and the Government Penitentiary Organization are required to send answers to the Center's inquiries about additional information related to transactions and financial transactions suspected of money laundering online. Show. Also, the information subject to this article following the provisions of Article (117) of the Sixth Five-Year Plan for Economic, Social and Cultural Development of the Islamic Republic of Iran, approved on 12/14/1695, will be provided to the Judiciary.

Note - The assignment of classified security information will be provided after the information processing process.

C- Examining and evaluating the manner of acquisition and legitimacy of the assets and suspicious operations of the persons in the received reports and sending them to the competent judicial authorities to investigate the causes that are most likely to be true or probable.

D- Preventing the transfer of funds or property suspected of money laundering and financing of terrorism and informing the competent judicial authority for investigation following the provisions of Note (1) of this Article.

E- Providing advice to persons involved in the fight against money laundering and terrorist financing in the form of communicating guiding principles.

C- Codifying by-laws related to the methods and examples of reporting suspicious financial transactions and applying the subject of this law and the law on combating terrorist financing for approval by the Cabinet and then referring to the relevant authorities.

G- Preparing educational programs in the field of harmful effects of money laundering and terrorist financing, common methods in committing the mentioned crimes, and effective means of preventing it, through the High Council for Crime Prevention.

H- Cooperating with individuals, organizations, and institutions or government agencies and non-governmental organizations that work in the field of combating money laundering and terrorist financing.

G- Preparing and sending regular reports on the measures taken and submitting proposals related to the Council and the High Council for Crime Prevention.

D) Cooperation and exchange of information with similar centers in other countries, organizations, regional, international, and international forums following laws and regulations.

The rules and manner of cooperation and exchange of information as well as the manner of selection of the parties to the exchange shall be following the by-laws prepared by the Council and approved by the High Council of National Security.

E- Performing other duties assigned by the council within the framework of the provisions of this law.

Note 1- Seizure and prevention of the transfer of funds or property suspected of money laundering and terrorist financing crimes or conducting any investigation are subject to obtaining permission from the competent judicial authorities; Except in urgent cases where there is no access to a judicial authority, in which case the Financial Information Center can issue an order to seize and prevent the transfer of suspicious funds and property for a maximum of twenty-four hours and immediately report the matter to the judicial authority. And act according to his order. If the judicial authorities do not issue a permit after twenty-four hours, the detention will be lifted.

Note 2: The Financial Information Center is a government institution subordinated to the Ministry of Economic Affairs and Finance. The center consists of a chair and the required number of deputies and expert groups such as the Judicial Legal Working Group, the follow-up, supervision, analysis, and review of financial information. The head of the center is appointed from among people with at least ten years of relevant managerial or judicial experience and with the following conditions by the vote of at least two-thirds of the members of the council and by the order of the chairman of the council. The term of office is four years and its renewal is allowed once. The organization of this center within the framework of this law is based on the by-laws that are compiled by the council and approved by the cabinet.

In addition to complying with general laws and regulations, the head and staff of the center must meet the following conditions:

Trustworthiness and good reputation

Ability to perform tasks

Not having any criminal record

49. Financial, moral, and Security

-Commitment to Islam, revolution, Islamic system and constitution, and religious and practical commitment to Velayat-e-Faqih

The conditions stipulated in paragraphs (1), (4), and (5) are inquired from the Ministry of Intelligence and the IRGC Intelligence Organization, and only after fulfilling all the above conditions and also after receiving the agreement of these two institutions regarding the mentioned paragraphs, the head of the center Following the above regulations and other staff of the center, are appointed by the head of the center. All executive bodies of the three forces and the military and law enforcement forces are obliged to cooperate at the request of the Financial Information Center and with the approval of the council to provide the staff of the center who are selected from experienced and experienced people of that institution. The cooperation of military and law enforcement forces is based on the relevant rules of the General Command.

Note 3: In addition to the general officers, the Ministry of Intelligence and the IRGC are the officers of the judiciary in the crimes of this law and the law on combating the financing of terrorism.

Note 4: The manner and level of access to financial and administrative information related to money laundering offenses and terrorist financing, as well as the definition of safe online are following the instructions prepared by the Council and approved by the Supreme National Security Council.

The executive by-law of Article 14 of the amendment to the Anti-Money Laundering Law also states how to implement policies and regulations to combat the two crimes of money laundering and terrorist financing in the form of 15 chapters

and 158 articles. The first chapter of this regulation explains the structures of how to assess risk (risk) and the need to adopt risk-based approaches (risk) with the focus on creating the work of the National Risk Assessment Group. The next chapters on the necessity and how and mechanisms of coordination and national cooperation at the level of ministries and organizations, structure and procedures for monitoring the implementation of these regulations, mechanisms for providing services to clients by service providers, regulations on how to transfer funds electronically And monitoring banking brokerages, services related to the transfer of funds or currency, mechanisms for the seizure of funds and interim measures regarding suspicious or sanctioned cases, the manner of reporting transactions and operations suspected of money laundering and terrorist financing, the need to maintain records and information. For 10 years, contrary to the regulations of the Anti-Terrorism Financing Law, in which individuals were required to maintain records and information of transactions and operations for at least 5 years, the necessary guidelines and training for persons under the supervision of responsible agencies, monitoring jobs and professions Non-financial organizations of non-profit organizations and charities and take necessary measures to prevent the abuse of these organizations.

In short, according to this regulation, the formation of a national working group for risk assessment is the responsibility of the council, and after the formation of this working group, specialized working groups are required, including working groups for threat assessment, national vulnerability, banking sector, the vulnerability of securities sector, vulnerability. The insurance sector, the vulnerability of other financial and credit institutions, and the vulnerability of the non-financial sector to assess the risk of money laundering and terrorist financing. The working group is also obliged to provide the necessary recommendations on the implementation of a risk-based approach in the fight against money laundering and terrorist financing and to inform the relevant agencies.

According to this regulation, all executive agencies such as the Ministry of Interior, Ministry of Industry, Mines and Trade, Ministry of Foreign Affairs, Ministry of Justice, law enforcement of the Islamic Republic of Iran, Customs of the Islamic Republic of Iran, Central Bank of the Islamic Republic of Iran and security and intelligence agencies are required. Provide the financial information center with access to the required information.

**According to this regulation, the Financial Information Center is obliged to collect the names of high-risk areas according to indicators such as the following indicators and notify the following persons after the approval of the council:**

-Areas such as customs, free zones, and some border areas that are at risk of money laundering or terrorist financing.

-Countries that do not have adequate anti-money laundering systems.

-Countries with high levels of corruption or criminal activity.

-Countries or regions where they are identified as sponsors or sponsors of terrorist acts or countries in which terrorist organizations operate.

Also, the National Registration Organization is obliged to organize the integrated identity information database of Iranian natural persons within six months after the approval of this regulation in such a way that it is always possible to inquire online and without limitation of the latest basic identity information and their related persons.

The Ministry of Communications and Information Technology is obliged, in cooperation with the Ministry of Interior, within one year after the approval of this regulation, to launch a dedicated location-based address system for individuals and legal entities in a way that standardizes addresses, allows inquiries and displays location. Provide a geographical map for those involved in enforcing anti-money laundering and anti-terrorist financing regulations.

The State Registration Organization and the State Property and Deeds Registration Organization are obliged to provide the Ministry of Communications and Information Technology online with the national number of natural persons and the national ID of legal entities attached to each postal code, as well as the map of the country's property.

The Ministry of Industry, Mines, and Trade, in cooperation with the Central Bank of the Islamic Republic of Iran, is obliged, within one year after the approval of this regulation, to register (systemic) systems for trading gold, metals, precious stones and antiques through the system. Provide comprehensive trade.

This ministry is also obliged, in cooperation with the Ministry of Interior, the Customs of the Islamic Republic of Iran, and the Iranian Chamber of Trades, within one year after the approval of this regulation, to register a system of car transactions and expensive carpets through the system. After establishing the possibility of registering systems (systems) in the system subject to this article, the allocation or replacement of license plates by the police of the Islamic Republic of Iran will take place only after inquiring about this system and if the card transaction is registered in it. Took.

The Customs of the Islamic Republic of Iran and all domestic manufacturers of expensive cars and carpets are obliged to provide all information related to cars as well as expensive carpets, whether imported or domestically produced, following the requirements of the Ministry of Industry, Mines and Trade. The comprehensive trading system should be set up in such a way that the car transfer chain and its transaction details,

including the amount and the parties to the transaction, are registered in this system, and all persons can register their transactions in this system.

Within one year after the approval of this regulation, the Ministry of Communications and Information Technology is obliged to launch the national mobile phone number system, to provide the necessary platform for assigning a mobile phone number to any natural or legal person, whether Iranian or foreign and Provide online and unrestricted inquiries to eligible persons. Eligible persons are required to use the registered mobile phone number to identify the client and also to communicate with persons (natural or legal / Iranian or foreign).

The Ministry of Industry, Mines, and Trade, in cooperation with the State Property and Deeds Registration Organization, is obliged to implement the real estate registration system of the country in a way that is suitable for all-natural and legal persons within six months after the approval of this regulation. It is possible to register transactions related to real estate, whether it has an official or unofficial document.

The State Property and Deeds Registration Organization is obliged to organize the integrated database of official power of attorney letters within one year in such a way that it is always possible for the involved persons to inquire about its status online. The status of the power of attorney refers to the basic information items of the identity of the lawyer and the client, the type of power of attorney, and its validity period.

After the launch of this database, the provision of any new attorney services and the continuation of the provision of previous services to the client by the persons involved will be subject to the registration of the power of attorney in the said database.

The State Property and Deeds Registration Organization is obliged to provide the list of those power of attorneys that have been canceled or suspended for reasons other than the expiration date, along with the date and reason, to the eligible persons daily.

Financial and credit institutions and exchange offices are required to organize appropriate client identification processes, procedures, and procedures (including simple, routine, and double identification) in such a way that while obtaining sufficient information at the beginning of the business interaction (also during Work interaction), the possibility of assessing the risk (risk) of establishing work interaction with the client and adopting appropriate identification procedures.

Required information should include at least items such as type of person (natural or legal), client's nationality, geographical area of legal residence, expected origin and destination of client transactions and operations, occupation and type of activity, income and property resources, The services requested or provided by the client, the purpose of

opening an account or creating a business interaction, the direct or indirect use of the services received and the use or receipt of services in absentia that the nature, purpose, and risk (risk) of business interaction Determine with the client.

It seems that with the approval of this regulation, a comprehensive regulation on how to implement policies in The fight against terrorist financing and money laundering, and the structures provided for in the Anti-Terrorism Financing Law are more comprehensive and coordinated in the present regulation, so this regulation is a comprehensive executive document regarding Preventing and combating the financing of terrorism and money laundering It is possible to prevent the criminal acts of money laundering and financing of terrorism more than before by the accurate and coordinated implementation of these policies and continuous monitoring.

### **Existing mechanisms and standards in the fight against terrorist financing**

In the following discussion, we will focus on the most important existing international documents that address the issue of combating the financing of terrorism and provide solutions to combat it at the international level. These documents are in order of priority: a) International anti-terrorism conventions b) United Nations resolutions on combating the financing of terrorism c) Recommendations of the Financial Action Task Force.

### **International anti-terrorism conventions**

Due to the lack of a comprehensive international document on countering the phenomenon of terrorism, the measures taken have been very selective and minor. However, in the light of the UN action to eradicate international terrorism, it became clear that the issue of international terrorism must be considered in all its aspects and with all its features and characteristics, and requires a comprehensive legal framework for the fight against terrorism. Terrorism is in all its aspects and countering its financing is its fundamental and primary step (Hosseini, 2019: 118).

The UN General Assembly began defining terrorism in the late 1960s when the world suddenly became aware of vulnerabilities in international aviation and maritime safety following the famous Lore hostage-taking incident, but the General Assembly first met in September. 1972 focuses on terrorism as an independent subject at the initiative of then-Secretary General Kurt Waldheim, following the events at Lad Airport in Israel and the hostage-taking of Israeli athletes at the 1972 Munich Summer Olympics).

Since the beginning of the 1960s, the United Nations has ratified 13 counterterrorism conventions, which are as follows:

- The 1963 Convention on Offenses and Other Offenses Committed on Aircraft
- On the suppression of illegal seizure of aircraft approved in 1970
- The convention on the Suppression of Unlawful Acts against Civil Aviation, adopted in 1971
- The convention on the Prevention and Punishment of the Crime against Internationally Protected Persons, including Diplomatic Representatives, adopted in 1973
- The convention for the Physical Protection of Nuclear Material, adopted in 1970
- Anti-Hostage Convention approved in 1979
- Protocol for Suppression of Illegal Violence at Airports in the Service of International Civil Aviation, approved in 1988
- Convention on the Marking of Plastic Explosives for Subsequent Tracking, adopted in 1991
- Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted in 1988
- Protocol for Suppression of Illegal Operations and Safety of Fixed Platforms based on the Continental Shelf, approved in 1988.
- Convention for the Suppression of the Financing of Terrorism, 1999
- Convention on the Suppression of Terrorist Bombings
- The convention for the Suppression of Nuclear Terrorism, adopted in 2005

Of the 13 conventions mentioned, only three, the Convention for the Suppression of the Financing of Terrorism, the Convention for the Suppression of International Terrorist Bombings, and the Convention for the Suppression of Nuclear Terrorism, address the issue of terrorism, but this does not mean that other conventions are not counter-terrorism. Rather, given that the important subjects of these conventions are clear examples of international terrorism, these conventions gradually became known as international anti-terrorism conventions by the international community. "Of these conventions, only the Convention for the Suppression of the Financing of Terrorism, adopted in 1999, is of particular importance in the fight against the financing of terrorism, and other conventions do not address the issue of the financing of terrorism." It is designed to eradicate (rather than prevent) the roots of the crime of terrorism; It should be noted, however, that the above-mentioned conventions generally lack executive mechanisms and institutions to monitor their implementation. The only notable exception, in this case, is the Convention on the Physical Protection of Nuclear Material, which provides for the establishment of a regulatory body" (Hosseini, 2019: 117).

The text of the International Convention for the Suppression of the Financing of Terrorism was adopted by the UN General Assembly on December 9, 1999, was signed by 132 countries

as of April 30, 2003, and entered into force by 80 countries on April 10, 2002. Under Article 26 of the Convention, thirty days after the deposit of the twenty-second instrument of acceptance of ratification by the Secretary-General of the United Nations, the Convention shall enter into force. In this case, the withdrawal will take effect one year after the receipt of the written notification by the Secretary-General of the United Nations (Taybi Fard, 2005: 271). The member states of the Convention, following the purposes and principles of the United Nations Charter on the maintenance of international peace and security, and the promotion of good neighborliness and friendly relations and cooperation between nations, expressed concern over the increase in terrorist acts in all its forms and manifestations around the world. Recalling the Declaration of the Fiftieth Anniversary of the Establishment of the United Nations as set out in General Assembly Resolution 506 of 4 October 1995, Adoption of all General Assembly resolutions on the subject, including Resolution 4960 of 9 December 1994 and its annexes on measures to combat international terrorism in which the United Nations member states have been formally and reaffirmed. The use of terrorist methods and activities as punishable and unjustifiable acts wherever and by whomever, they are committed, including acts that endanger friendly relations between countries and nations, and territorial integrity and Threaten the security of these countries and immediately condemns them (Al-Asadi and Sheikh, 2009: 105-104).

The convention imposes three major obligations on member states:

- Criminalization of financing terrorist acts in criminal law
- Extensive cooperation with other member states and providing judicial assistance in matters related to the Convention
- Establishing regulations and requirements related to the role of financial institutions in detecting and reporting cases of financing terrorist acts

Thus, the Convention provides for extensive provisions to prevent and combat the financing of terrorism, which unfortunately were not accepted before 9/11, but after the incident, the need to deal with such crimes was felt internationally. And only two years after these events, the number of signatory countries to this convention exceeded 132.

Considering the requirement that Security Council Resolution 1994 requires all countries to accede to relevant international conventions and related protocols governing terrorism as soon as possible, including the International Convention for the Suppression of the Financing of Terrorism, it can be concluded that Accession to the Convention and even other related conventions is required by the Security Council Resolution 1994 based on Chapter 7 of the Charter, and failure to do so

can lead to the implementation of guarantees for the implementation of the Charter (Taybifard, 2006: 274-273).

### **UN resolutions in the fight against the financing of terrorism**

The performance of the United Nations over the past few years has shown that it has made a significant contribution to building global consensus and equipping global action against terrorism, and has expanded the activities of terrorist groups and their sphere of influence to include several international meetings and conferences on combating terrorism. Counter-terrorism, such as the specialized conference on terrorism held in Lima and the European Union Foreign Ministers' Conference in Paris in the aftermath of 9/11, the UN Security Council took the initiative to prosecute and punish terrorist acts and adopted several resolutions. Approved (Hosseini, 2019: 119). Resolutions 1889 and 1955 on the freezing of funds and other financial resources of the Taliban al-Qaeda and Osama bin Laden are among the most important anti-terrorism resolutions of the Security Council before 9/11, which address the issue of combating the financing of terrorism a few days later. Since 9/11, UN Security Council Resolution 1994 has declared the terrorist operation a threat to international peace and security, and with the formation of the Counter-Terrorism Committee, it has imposed new obligations on governments to counter-terrorism and terrorist financing (Al-Hawi and Family of Jalali pilgrims, 2019: 735). The council acted as an international legislature in the resolution, imposing significant tasks on governments without defining terrorism and without regard to the fundamental principle of the free will of nations to accept international obligations under international law. At that time, they were never of customary origin (Hosseini, 2019: 119).

#### **Among the obligations imposed on governments by the Security Council in Resolution 1994 under Chapter VII of the Charter are the following: States are required to:**

- Prevent the financing of terrorist acts and stop it.
  - Consider criminalizing the voluntary provision or collection of financial aid in any way by their citizens or in their territory for use in terrorist acts.
  - Freeze the financial and economic resources and other assets of those who commit, intend to commit, or facilitate or facilitate terrorist acts.
  - Immediately freeze financial resources or economic facilities and other assets that directly or indirectly belong to or are at their disposal.
  - . Immediately freeze the financial, economic resources, and assets of persons and institutions acting on behalf of or behalf of such persons and institutions
- Financial Action Task Force (FATF) Recommendations

Following the consensus that financial institutions are the main means of money laundering, the G7 Summit in Paris in 1989 decided to establish a Financial Action Task Force and block the use of financial institutions. It is an intergovernmental body established to develop anti-money laundering policies, issuing forty recommendations in 1990 and revising them in 1996 and 2003, following the 9/11 attacks. The group's emergency was completed in Washington on October 29 and 30, 2001, and it was decided that the group's authority would include fighting or financing terrorism. Accordingly, the group adopted eight recommendations for combating the financing of terrorism. These forty recommendations have also been amended in the light of recent developments so that in addition to money laundering, those recommendations also include the financing of terrorism. In 2004, a recommendation was added to the former Eight Recommendations on Combating the Financing of Terrorism. Thus, the number of recommendations of the Financial Action Task Force became known as 49 recommendations. Over time, the group's activities expanded, and as a result, in 2012, countering the financing of dissemination activities was added to the group's mission. In the same year, it published its latest version of its recommendations for combating financial crime (terrorist financing, financing of dissemination activities, money laundering, etc.). The letter is entitled "International Standards for Combating Money Laundering and Financing of Terrorism and Dissemination".

The most important action and initiative of the Financial Action Task Force are to formulate and present 49 recommendations in the field of combating money laundering and terrorist financing. These recommendations are a set of comprehensive mechanisms that member states must follow to combat money laundering and terrorist financing. These recommendations are purely advisory and have no guarantee of implementation. However, due to their special importance in countries and international organizations, they have maintained their prestige and position.

The purpose of this institution, in which the borders of the country are members directly or through regional groups or have implemented its recommendations, is to develop standards and improve the effective method of legal, regulatory, and operational measures in cases related to the fight against money laundering. Mali is terrorism and other threats that threaten the credibility of the international system. And member countries of the Persian Gulf. It can also be said that this institution also has supervisory members. The International Monetary Fund, the United Nations and six specialized groups, and the World Bank are among the supervisory organizations. The Financial Action Task Force obliges countries to consider the most important of which is identifying risks, formulating policies and coordinating at the

national level, prosecuting terrorism financing and money laundering offenses, and financing arms proliferation. Mass murder, taking preventive measures for the financial sector and giving responsibilities and powers to the competent authorities (Sheikh and Al-Asadi, 2019: 109-108).

In the end, it will not be useless to mention that, as we have detailed in the previous articles, Iran has not yet acceded to the Convention for the Suppression of the Financing of Terrorism and has not dealt with terrorism as an independent crime. This approach does not seem to be in line with the international community's approach to combating the financing of terrorism, which it considers a transnational and global phenomenon. Combating this phenomenon with the mechanisms presented in the existing domestic documents that have been addressed, without accepting international documents and not acceding to them will not be enough. Counter-terrorism requires the adoption of methods and approaches beyond the defined structures to combat its financing, and by designing an effective counter-terrorism system and implementing anti-money laundering and anti-terrorist financing strategies, we must also consider the strategies for combating organized crime. This efficient system must be based on international approaches and in terms of domestic demands and related issues to confront the sinister phenomenon of terrorism.

## **Conclusion**

Terrorism is one of the most obscure words in the international arena. This nascent term has not yet been able to achieve a single semantic order due to the different perceptions that each state or thought has of the concept of terrorism. This has led to a fragmentation of multilateral international instruments in the definition of terrorism.

Terrorism has seen various forms in the course of history for a long time. "Traditional terrorism" as the first face of terrorism has been associated with power and government. This type of terrorism took place with the formation of "sovereignty" in past social systems to oust those in power from political rivals. "Modern terrorism" was also formed after traditional terrorism, under the influence of the characteristics of modernity and globalization, and with the involvement of the people in power. "Postmodern terrorism" is also a period of transition from

modern terrorism. In this type of violence, terrorism has changed in terms of instances, motives, goals, organizational structure, tools, and geography of action. Suicide operations, the uncertainty of targets, the use of new technologies, and the occupation of part of a country's territory are the main features of postmodern terrorism. The events of September 11, 2001, are the beginning of this type of terrorism.

Terrorism was based on conventional or unconventional means of committing it is also divided into other types based on its goals and perpetrators.

"Money laundering" and "organized crime" are linked to terrorism and its financing. Money laundering is the predominant way of financing terrorism. Organized crime is also linked to terrorism and its financing because of the transnational and violent nature of their actions. Because of these similarities, the proposed solutions of international instruments for combating organized crime in the fight against terrorism and its financing should also be used.

The issue of criminalizing terrorism in Iran, following the events of 9/11 and the requirements that the United Nations emphasized in Resolution No. 1994, was raised by the rest of the world. It underwent several examinations, but for some reason was not approved. For this reason, the issue of terrorism in the Iranian penal system has not been independently criminalized so far and is dealt with under traditional criminal headings. The issue of criminalization of terrorist financing, following monetary and banking sanctions by international institutions and following the requirements of joining the International Convention against Terrorism, inevitably became the subject of Iran's criminal law in February 2015 due to The objections raised by some international forums and jurists were corrected and reviewed on 31/4/2019. In Article 1, this law enumerates the cases of financing and the cases of terrorist behaviors, and in Article 2, it also determines the punishment. Examining Article 1, it was found that the physical conduct of the offense involved various offenses, such as the preparation or collection of funds or property, the use of all or part of the resulting financial resources, such as currency smuggling, donations, financial and monetary assistance, buying and selling. Includes securities, direct or indirect account opening, etc.

The material behavior of the crime of financing terrorism, like most crimes, is committed positively and cannot be achieved by abandoning the act. This material behavior can be done immediately or continuously, depending on which of the non-exclusive instances of Article 1 of the said law is committed.

The purpose of financing this law is "to provide financial support" and other protections such as moral support, counseling, security, etc. to terrorists are not covered by this criminal title. Also, this crime is an absolute crime and there is no need for a special result of the crime. In addition, to realize

the material element of this crime, the legislator has considered the conditions necessary for "the necessity of committing the physical behaviors mentioned in Article 1 of a law to commit terrorist acts or to provide terrorists with financial support and the unconditional means of committing a crime." It is one of the necessary conditions.

The spiritual element of the crime of financing terrorism, due to its absolute nature, consists of only a part of general malice, but unlike many other crimes, it requires criminal motives. The motive that is essential to the spiritual element of this crime is "the motive for committing terrorist acts, by oneself or the motive of providing funds or financial resources to terrorists". Slowly

The crime of financing terrorism because of the facilitation of terrorist behavior is inherently aiding and abetting, but the legislature has independently criminalized it because of its special significance.

This crime also has features; Being a criminal, not being political or financial, not being among the crimes against the internal and external security of the country, not being forgivable and its international description are characteristics of this crime.

This crime is also punished in Article 2 of the Law on Combating the Financing of Terrorism. The punishment for this crime, from the punishment of moharebeh and corruption on earth to the confiscation of funds and property, includes 2 to 5 years of imprisonment and a fine equal to 2 to 5 times the financial resources provided. Article 6 of that law has been assigned. There are objections to the punishments of this law, such as 1- It is not possible to finance terrorism in the form of ((**moharebeh**)). Therefore, it will not be possible to determine a fine for such a perpetrator.

In the discussion about the multiplicity and repetition of the crime, this crime follows its general rules, and in the discussion about mitigation of punishment, in addition to the general rules of mitigation of punishment, also excuses for acquittal (excuse of cooperation) in case of effective cooperation before prosecution. Enjoys.

Competent authority to investigate all crimes subject to the Anti-Terrorism Financing Law, including "Terrorist Financing", "Failure to notify terrorist authorities of terrorist financing crimes" and "Failure to report suspected cases of terrorist financing to the Supreme Council for Combating Terrorism" Money laundering is the criminal court of a provincial center where this crime took place.

Terrorist financing has changed internationally. The former model of terrorist financing was based on government grants, the rich, and the charitable, which usually reached the terrorists through money laundering, but the terrorists' financing in the new model was through occupation and looting, drug trafficking and Human beings, kidnappings, exploitation of

new technologies and cyberspace, etc. are provided. Accordingly, the United Nations has given priority to fighting these groups in accessing banks and financial institutions in the fight against terrorism.

Combating this ominous phenomenon at the international and domestic levels requires preconditions without which the desired result will not be achieved. These prerequisites, which are referred to as the requirements of the struggle, include criminalization of domestic law, the exercise of jurisdiction, seizure, and confiscation of criminals' property, cooperation in extradition proceedings, judicial assistance, and exchange of information.

Iran's criminal law also accedes to six international conventions on the fight against terrorism, criminalizing the financing of terrorism and exercising its jurisdiction, and setting rules and regulations regarding the seizure and confiscation of criminals' property by providing detailed mechanisms in amending the law. The fight against money laundering and its regulations, as well as the regulations of the Anti-Terrorism Financing Law, which deals with financial and banking prevention, have turned to the war on terrorism and its financing.

At the international level, detailed measures have been taken to combat the financing of terrorism. Numerous combat mechanisms have been established and designed by the international community, especially the United Nations, which would not be effective without the cooperation of all countries and the lack of a common understanding of the concept of terrorism. The provisions of the International Convention against Terrorism, adopted in 1999, the resolutions adopted by the United Nations, in particular Resolution 1994, as well as the 49 recommendations made by the Financial Action Task Force (FATF) on combating money laundering and financing Terrorism, is one of the most important strategies available at the international level.

But the important conclusion to be drawn from this research is that; first, the Anti-Terrorism Financing Law, in addition to the above-mentioned disadvantages and drawbacks, has an important weakness in that it has been drafted without defining the concept of terrorism and without its specific criminalization. If this were to happen, it could be a turning point in Iran's criminal law on the subject of terrorism. Secondly, unilateral and cross-cutting measures are not enough to fight terrorism and finance it. Combating this phenomenon requires a global consensus and must be accepted and acceded to by existing international instruments by all countries, with structures beyond the mechanisms provided in domestic law and by designing an efficient system of struggle in which all The solutions and cooperation ahead are possible and acted following the existing rules in the fight against organized crime and money laundering. The fight against the financing of

terrorism will not have the desired result without being aware of the political geographical position and the weaknesses in the Iranian legal system. They have achieved their political ambitions, but this will not be possible. Third, the Anti-Terrorism Financing Law has advantages and strengths, despite the aforementioned drawbacks; Such as legislative efforts to explain the causes of terrorism, criminalizing the lack of information about the crime of financing terrorism, and emphasizing the rights of individuals, nations, groups or liberation organizations to combat foreign domination and occupation and colonialism and racism.

Finally, to strengthen the fight against the terrorist system and any related terrorist acts and related crimes and to eliminate the shortcomings in the relevant laws, it is suggested that the legislature as soon as possible based on the findings and ideas of law professors. International Law, Criminal Law, and Political Science amend the current law on combating the financing of terrorism, and while providing a definition of a terrorist crime and correcting the shortcomings and ambiguities in the law that were addressed in this study, the rules of confrontation and struggle To regulate and map this area following the existing approaches in the face of organized and transnational crimes.

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