



Banking Governance and its Role in Limiting the Financing of Terrorism

Sabreen Adnan Wali

Al-Qasim Green University

Introduction :

The Iraqi legislator has criminalized the financing of terrorism, in response to the national and international will to dry up the sources of financing terrorism and confront terrorist attempts by fighting it economically and by all means, whether direct or indirect, and from its various legitimate and illegitimate sources for the purpose of stopping the financial supply of terrorism from the various means that fund it. And because terrorist groups depend on money to carry out most of their criminal operations, it was necessary to cut off the main artery that provides them with money, and therefore it is necessary to work on the governance of financial banks and companies specialized in remittances to reduce the phenomenon of money laundering and its employment by financing terrorist groups, and this requires a great effort at the local and international levels.

Keywords: Banking Governance, Terrorism, ISIS

Research importance:

Finding banks based on governed accounting systems (evidence, lists, statements) would enhance the important means used in disclosing the financial position of banks in a highly accurate manner, which is reflected in banking performance in terms of enhancing accuracy and confidence.

Search goal:

The research aims to find a banking system based on accuracy and transparency in the disclosure of accounting information and the ease of monitoring it, especially with regard to the process of exploiting it in supporting and financing terrorist organizations, which provides an easy environment for the





relevant authorities to monitor the performance of banks and their suitability with the laws and legislation in force.

Research problem:

The problem of the research is represented in the following main question (Can the governance of banks and their subjection to a unified, clear and accurate electronic system reduce the risk of employing banks in supporting terrorist groups and organizations?)

Research hypothesis:

The research stems from the hypothesis that the process of banking governance and subjecting it to a clear digital banking system would contribute to the process of controlling accounting information and controlling its tracks and the possibility of tracking bank funds and their movements, and this would prevent negative employment of funds and their transfers in support of terrorist operations within countries.

Bank governance objectives⁽¹⁾:

1. Reducing the phenomenon of financial and administrative corruption by supporting the element of transparency in all banking transactions and operations, accounting and financial auditing departments.
2. Avoiding the occurrence of financial crises due to their impact on the national economy.
3. Monitoring and following up on the operational and strategic performance of banks, improving their efficiency and effectiveness, and ensuring growth and continuity.
4. Determine the responsibilities of each of the owners, senior management and employees of the bank, and ensure the implementation of the tasks assigned to them.
5. Avoid improper utilization of bank resources, as the governance system provides disclosure of financial objectives and a statement of return on equity and





economic value-added rates for a specific period of time⁽²⁾.

6. Describe it as a good tool that enables society to ensure that banks are managed in a scientific and practical manner that leads to the protection of shareholders' funds and the provision of fair and transparent financial information to all relevant parties and bank owners, and this comes from the accuracy and truthfulness of the information provided by the system to stakeholders⁽³⁾.

Stages of the terrorist financing process and its requirements

1. (Collecting - Earning): Funds can be collected and collected for the purpose of financing terrorism from legitimate sources or illegal sources. As for the money collected from legitimate sources, it is by collecting donations for charitable causes, and it cannot be linked to terrorism, unless there are clues and evidence, or at least suspicions about the relevant parties; This is because the basis of financing is what gives legitimacy to such activities and sources.
2. (Transferring- Moving): The money collected is transferred from one place to another and across international borders with many available means. One of those means is to carry cash as cash packages, and this is risky. Therefore, terrorists and terrorist organizations resort to transferring money in the form of small amounts, under the ceiling of the upper limits permitted by national laws, and by multiple people and at separate times, as these transfers appear as if they are separate and unlinked. Terrorists move their money either through the banking system or through the quasi-banking system. Transportation by these two methods is very risky. For ease of tracking, detection, interception, prevention and





confiscation. These two methods were available until the past few years, until mechanisms and laws were put in place that greatly limited the transfer of money and transferring it from one place to another.

3. Non-Transpare means and mechanisms: It is used to transfer money through the so-called hidden economy. One of the most important mechanisms for transferring and transferring purchasing power is through the hawala mechanism, which is a channel for transferring or paying some obligations from one party to another, without the use of licensed financial institutions; It is thus an informal system, which takes place through various actors such as some individuals. However, banks are sometimes used in the last stage of it, to conduct settlements between the different transfer agencies. This system is receiving a lot of attention in the Arab countries and South Africa ⁽⁴⁾.

International frameworks to limit the financing of terrorism

International Convention for the Suppression of Terrorism of 1999 (Financing Agreement) This agreement came as a result of the escalation of acts of terrorism in all its forms. The importance of this agreement lies in its uniqueness in addressing the issue of terrorist financing, as when reviewing the agreements related to combating terrorism⁽⁵⁾, we find that all of them did not refer to this subject. This agreement came and emphasized the urgent need to strengthen international cooperation in addition to taking effective measures to prevent terrorist financing.

The agreement defines the sources of financing terrorism as confined to funds, and then returned and clarified the concept of funds as any type of material or immaterial funds, movable or immovable, obtained by any means, and legal documents or instruments in any form, including That electronic or digital form, which indicates ownership of, or interest in, such funds,





including, but not limited to, bank credits, travellers' cheques, cashier's cheques, money orders, shares, securities, bonds, drafts and letters of credit⁽⁶⁾.

The provisions of the Convention apply only to acts that include an international element ⁽⁷⁾in the sense that the scope of defining the crimes stipulated in the Convention must have an international element. Internal, as well as terrorist acts, are local. A good example of this is that many of the terrorist operations in Iraq were carried out by Iraqis, and the financing of these operations was also local. Therefore, we hoped that the drafters of the agreement would not require the availability of the international component for the validity of the provisions of the agreement.

By extrapolating the provisions of the agreement, it can be said that the crime of financing terrorism can be committed by any person, and this is stipulated in the agreement, and that the term “any person” extends to include natural persons and legal persons as well, and this is what distinguishes the crime of financing terrorism from other crimes, as everything related to terrorism With the exception of financing committed by the natural person only, the drafters of the agreement did well when everyone who contributes to the financing of terrorism was criminalized, whether a natural or legal person, as it is envisaged that terrorism is funded through financial institutions or charities and others⁽⁸⁾.

Likewise, the Basel Committee on Banking Supervision In 1988, the members of the Basel Committee approved a statement on preventing the use of the banking system in depositing, transferring, or hiding funds received from illegal activities, and this is done through procedures to identify customers (know your customer), adhere to laws and legal standards set, and cooperate with Law enforcement agencies. The committee continued throughout the years to issue





recommendations and guidelines for the global banking system. In October of 2001, the Basel Committee issued an important paper on the basic principles of customer identification.

Also comes the role of the Egmont Group of Financial Information Units (EGMONTGROUP): which began in 1995 to enhance cooperation and exchange of information between national anti-money laundering units (FIUs) worldwide in order to develop the technical capabilities and institutions of these units in combating money laundering operations and in In 2001, it issued a set of principles for combating money laundering.

In addition to the Middle East and North Africa Financial Action Task Force (MENA FATF), a group of countries (18) countries whose main objective is to improve the process of combating money laundering and terrorist financing in the Middle East and North Africa region according to the recommendations and international standards (FATF) and United Nations agreements and decisions of the Council international security, and that the group is actively working to develop a culture of combating money laundering in the Arab region, and Lebanon is the first presidency of this regional organization during the year 2005, and its nominal goal is to ensure the purification of Arab banking markets from polluted funds passing through the world.

In addition to the Arab Convention on Combating Money Laundering and Terrorist Financing, the preamble indicated that the signatory Arab countries, realizing the seriousness of what results from the actions of money laundering and financing terrorism and its risks to political and security stability, with the desire to cooperate with the countries of the world to enhance that cooperation in order to preserve international peace and security while respecting human rights, and his dignity.





It is worth noting that the Iraqi government has taken a series of measures in the context of combating the financing of terrorism, which we summarize in the following points:

After the issuance of the Anti-Money Laundering and Terrorist Financing Law No. (39) of 2015, with the formation of the specialized structures mentioned in the law and the issuance of instructions and regulations to facilitate the implementation of the law, my agencies:⁽⁹⁾

1. Anti-Money Laundering and Terrorist Financing Council (headed by the Governor of the Central Bank)
2. Office of Anti-Money Laundering and Terrorism Financing (independent financially and administratively).
3. Issuing a system for freezing terrorists' funds (according to the law), including the formation of a committee for freezing terrorists' funds, and instructions and procedures necessary for implementation.
4. Establishing mechanisms and systems for coordination and cooperation between the Freezing Committee and the Most Wanted Committee and following up the implementation of the sanctions that were formed according to Diwaniya Order 45S in June 2015.

The process of combating terrorism depends on preventing its financing, which is an essential and effective step to combat terrorism. Without the presence of financing, it is difficult to carry out terrorist operations. Therefore, the signatory countries to this agreement must fulfill their international obligations and enact effective laws criminalizing the financing of terrorism. Therefore, the risk of financing at the present time and due to technological development is represented by the necessity Tracking the sources of funding, whether internal or external, and this comes through the governance of banks and financial companies specialized in financing and following up the paths





of money transfer. This would narrow the possibility of funding terrorist groups and supporting their activities.

Banking governance and mechanisms to limit the financing of terrorism

The need to find modern means and methods in Iraqi banks to detect money laundering operations, and work to combat them in a manner consistent with the methods used to pass those operations through them, as well as the need to activate cooperation with money laundering follow-up units in all Iraqi banks, to undertake active monitoring operations for banks, as well as training and educating cadres, and taking the necessary measures in combating money laundering.

As well as the formation of a special association for monitors of compliance units and money laundering follow-up units in Iraqi banks, under the supervision of the Money Laundering Reporting Office in the Central Bank of Iraq; For this association to hold periodic meetings, discuss problems and find solutions, as well as discuss new methods of money laundering, and see the experiences of developed countries in this field, and the electronic programs used in the analysis of suspicious transactions, and try to apply them in Iraq.

Work to establish an institution for financial investigations affiliated with the National Security Agency and the Intelligence and Financial Intelligence Service, whose mission is to deal with issues of financing terrorism and money laundering, and the need for these units to work in cooperation with economic intelligence, and with the Central Bank of Iraq, to facilitate means of cooperation and communication for the purposes of combating terrorist financing and money laundering operations⁽¹⁰⁾.

It is also working to develop legislation, instructions, and a guide for the banking and financial sector, to ensure that banks and financial sectors take the principles of caution and caution,





and that their internal procedures enable knowing the identity of customers, and the activities and operations that they perform and issuing rules for opening accounts in commercial banks, and general rules for their operation, which include in international standards related to bank accounts, such as the principle: know your customer, and the standards of statutory contractual obligations between customers and banks, issued by the Basel Committee on Banking Supervision and the Financial Action Group, and relying on their recommendations with the aim of protecting the banking sector from economic crimes and financing terrorism And money laundering, and not allowing the opening of bank accounts for non-residents in Iraq, whether individuals or companies, before obtaining the approval of the National Security Agency, and based on justifications acceptable to it.

Conclusion :

The phenomenon of money laundering and terrorist financing has received wide attention in the countries of the world and international organizations because of the negative effects this phenomenon has caused at the level of the global economy as a result of exploiting developments and modern banking operations to pass terrorist financing operations with the aim of legitimizing illegal funds and obliterating their criminal sources, which obligated the banking sector by increasing control procedures in order to reduce these operations, which conceal money laundering, by activating control agencies, programs and mechanisms, including monitoring compliance in banks, which is one of the most important functions in the banking business to follow up and monitor the extent of banks' commitment to control legislation for the purpose of achieving its objectives, so it is necessary to tightening control over the issue of banking sector governance according to advanced systems that would limit the possibility of manipulation and fraud in order to





support terrorist groups by providing them with financial assistance, whether from inside or outside Iraq.

-
- (1) Taher Mohsen Mansour and Salih Mahdi Hassan, *Social Responsibility and Business Ethics*, Dar Wael, Amman, 2008, 2nd edition, pg. 458.
 - (2) Amar Gill, *Corporate Governance and the Inevitability of Gradual Application: Corporate Governance in the Twenty-First Century*, Center for International Enterprise (CIPE), 2003, p. 65.
 - (3) Muhammad Omar Shabla and Ahmed Habib, *Institutional Management in Islamic Institutions: The Islamic Bank and the Islamic Development Bank*, Dar Amjad, Amman, 2016, p. 74.
 - (4) Al-Sharif Bahmawi, *Mechanisms for Drying Up the Sources of Financing Terrorist Groups*, Afaq Magazine, Algeria, Issue 13, 2017, p. 283.
 - (5) See Preamble to the International Convention for the Suppression of the Financing of Terrorism, adopted and opened for signature, ratification and accession by UN General Assembly Resolution 109/54, 9 December 1999.
 - (6) Article No. 1 of the International Convention for the Suppression of the Financing of Terrorism of 1999.
 - (7) Article 3 of the International Convention for the Suppression and Financing of Terrorism of 1999.
 - (8) Ali Lewinsi, *Mechanisms for Combating International Terrorism between the Effectiveness of International Law and the Reality of International Unilateral Practices*, PhD thesis submitted to Mouloud Mamari University - Tizi Ouzou, Faculty of Law and Political Science, 2012, p. 24.
 - (9) Bashir Al-Wandi, *Lost Security (The Role of Intelligence and Development in Establishing Security)*, Dar Al-Saffar, Baghdad, 2013, p. 257.
 - (10) Sadiq Ali Hussein, *The Financial Structures of Terrorist Organizations, Iraq as a Model*, Publications Company for Distribution and Publishing, 1st edition, 2018, p. 187.

