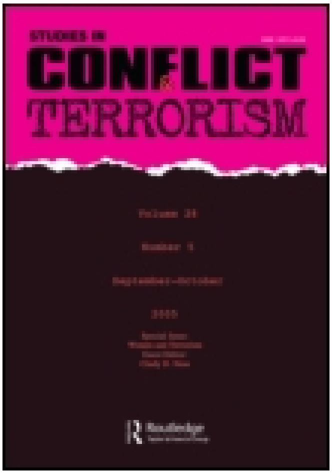

Studies in Conflict & Terrorism
Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/uter20

Going to the Source: Why Al Qaeda's Financial Network Is Likely to Withstand the Current War on Terrorist Financing

MARK BASILE [a]

[a] Fletcher School of Law and Diplomacy, Tufts University, Somerville, Massachusetts, USA

Published online: 24 Jun 2010.

Studies in Conflict & Terrorism, 27:169–185, 2004

ISSN: 1057-610X print / 1521-0731 online
DOI: 10.1080/10576100490438237

Going to the Source: Why Al Qaeda's Financial Network Is Likely to Withstand the Current War on Terrorist Financing

MARK BASILE

Fletcher School of Law and Diplomacy
Tufts University
Somerville, Massachusetts, USA

On 24 September 2001, President Bush announced the first stage of the War on Terrorism with an attack against the terrorist financial infrastructure. Since then, the impact of this attack on Al Qaeda's ability to operate has been minimal, for three reasons. First, Al Qaeda has built a strong network of financiers and operatives who are both frugally minded and business savvy. *As a result, terrorist finances are often hidden in legitimate and illegitimate businesses and disguised as commodities and cash. Second,* Al Qaeda has learned to effectively leverage the global financial system of capital markets. *Small financial transfers, underregulated Islamic banking networks and informal transfer systems throughout the world make it almost impossible to stop Al Qaeda from moving money. Third,* Al Qaeda has built a significant base of Islamic charities in Saudi Arabia with international divisions that have not been scrutinized or controlled by the regime. *As a result, Al Qaeda's sophisticated financial network may be able to sustain international efforts to disrupt it. Financial regulations imposed to reduce terrorist financing must be applied more broadly and be supported by significant resources. An improvement in the war on terrorist financing requires better international coordination, more effective use of financial regulations, and regulating the Saudi Arabian charity structure.*

The war on terrorist financing is currently ill-equipped to starve Al Qaeda of its funding. Al Qaeda is an effective organization that has taken advantage of the weaknesses in global financial markets to develop a network of financing options that cannot be easily overcome. This article will examine the mechanisms that enable Al Qaeda to continue to raise and disperse funds for future operations, and policy options to improve the ability of regulators to reduce Al Qaeda's financial strength.

Al Qaeda's strengths include its network structure and doctrine, which leverages wealthy donors and charities for funding, as well as training operatives to develop self-funding strategies. Al Qaeda's strength is a global financial system of licit and illicit companies, private investors, government sponsors, and religious "charities" that fund Al Qaeda operations.

Al Qaeda always benefits from numerous financial channels, away from government regulation and control. U.S. domestic regulations will have an impact on Al Qaeda

Received 13 November 2003; accepted 16 January 2004.
Address correspondence to Mark Basile, Fletcher School of Law and Diplomacy, Tufts University, 16 Josephine Avenue, #1, Somerville, MA 02144, USA. E-mail: mebasile@yahoo.com

finances in the United States, but applying these regulations to international markets and foreign banking systems is problematic. In addition, Al Qaeda always has a fallback financial system to rely on, including the underregulated Islamic banking system and the international hawala transfer system. The hawala system is Al Qaeda's most effective means of money movement through cash smuggling.[1]

Al Qaeda benefits from weak U.S. foreign policy and coalition building with allies, such as Saudi Arabia, who are unwilling to effectively implement stringent regulations to stem terrorist funding. Al Qaeda benefits from the weak financial regulations of failed states and weak regulation of charities throughout the Middle East to fund its organization. As such, the United States must make a significant foreign policy push for banking oversight and regulation in the Middle East and a local government crackdown on the unregulated charity structure in Saudi Arabia. The United States must use diplomatic and economic tools to push developing countries toward higher standards of regulation in order to cut off Al Qaeda sources of funding.

Al Qaeda's financial structure is well equipped to last in a long war on terrorist financing against the United States and its allies. Most of the evidence underlying this author's arguments is based on academic research, public trials, and Congressional testimony from authorities on Al Qaeda, terrorist financing, and financial regulation. The primary evidence on Al Qaeda that supports many of these findings is based on interviews with Al Qaeda detainees and documents found in Al Qaeda facilities; evidence that may be fabricated because Al Qaeda operatives are taught the tools of denial and deception when conducting operations. Therefore, there is always a possibility, especially before the war on terrorism has come to a conclusion and more evidence is available, that the information provided by detained Al Qaeda operatives and confiscated Al Qaeda paperwork is misleading or incomplete.

The Background of Al Qaeda's Financial Network

> It is neither a single group nor a coalition of groups: it comprises a core base or bases in Afghanistan, satellite terrorist cells worldwide, a conglomerate of Islamist political parties, and other largely independent terrorist groups that it draws on for offensive actions and other responsibilities.[2]

Unlike the leaders of other terrorist organizations, Osama Bin Laden did not rise to power primarily as a religious authority, military hero, or political figure. He was a wealthy financier from a wealthy Saudi family with close ties to the United States. Although his personal fortune is estimated to be between $30 and $200 million, it is quite clear that his organization, Al Qaeda, does not rest on his financial coattails. Rather, Al Qaeda operates a significant financial network, approximated at over $300 million in value, dispersing between $30 and $40 million per year.[3] This network has grown from its origins as the financing arm of the Mujahideen in Afghanistan to a decentralized network of financial capabilities that leverages a limited set of funding channels to fund its organization.

Al Qaeda uses limited funding channels very effectively. In its *Guidance for Financial Institutions in Detecting Terrorist Financing*, the Financial Action Task Force (FATF) on Money Laundering claims that terrorists raise funds from two sources: states and "revenue-generating" activities including fraud, narcotics trafficking, kidnapping, and extortion in addition to running legitimate businesses.[4] Al Qaeda is notable for primarily using fraud and legitimate businesses to support a network, rather than engaging in the full spectrum of "revenue-generating" activities.

The decentralized nature of Al Qaeda makes the overall financial structure very self-sufficient and potentially regenerative. The leadership structure comprises four committees, each reporting to a council of leadership members, the *majlis al-shura*,[5] which, in turn, reports directly to the Emir-General of Al Qaeda. The committee structure includes military, business, religious, and media arms. The business and finance committee, a group of professional bankers, accountants, and financiers,[6] is responsible for setting up and running the financial network that sustains Al Qaeda, from providing logistics for operational cells and bases, to sourcing funds from charities and other sources. It runs a number of illegitimate and legitimate businesses as part of its network. Diamond trading, import–export, manufacturing, transport, and financial services are businesses that Al Qaeda owns and uses. Until recently, the financial arm was run by one of bin Laden's close associates, Mustafa Ahmed al-Hawsawi, who was recently captured. Although the capture of Hawsawi was a good step in the war on terrorist financing, it also showed how Al Qaeda can adapt: Hawsawi was presumably replaced as early as October 2002 by an Egyptian named Abdullah Ahmed Abdullah.[7]

Al Qaeda keeps the funding for its operational cells unconnected from the network of sources from which it raises funds. Al Qaeda requires terrorist cells to be self-managed and often self-sufficient when it comes to finances. Separately, Al Qaeda relies on its businesses and charities to send funding to Al Qaeda's central base of financial operations. In this manner, Al Qaeda runs its sources of funding separately from the funding needs of terrorist cells.[8] This keeps Al Qaeda's financial sources as discreet as possible while allowing operational cells to deploy without ever giving away information on Al Qaeda's underlying financial network.

A Flexible, Extensive, and Deep Financial Network

Al Qaeda's financial capabilities benefit from a network of wealthy supporters, a number of legitimate and illegitimate businesses, and a consistent source of funding from Islamic charities. Moreover, Al Qaeda compounds this financial base of strength with an operational doctrine that teaches deception and denial, frugal financial behavior, and self-sustaining financing tools to its operatives. Al Qaeda's financial network is strong and adaptive, built on a base of networked financiers and operationally strong terrorists. Its means for sourcing funds, managing or hiding funds, and dispersing funds are numerous and complex. To date, each Al Qaeda cell that has conducted a successful operation has received or raised funds from a different channel. The flexibility of Al Qaeda's financial network relies on three strengths of its network: the operational doctrine, the extensive financial network of financiers and businesses, and the consistent source of funding from Islamic charities.

Operational Doctrine

Al Qaeda's operational doctrine breeds frugal financial practices and a self-sustaining attitude in the field. Parts of Al Qaeda's doctrine are exposed in the military training manual of Al Qaeda, *Declaration of Jihad against the Country's Tyrants*, which instructs its operatives in the tools of deception and denial.[9] In the section on financial security precautions, the commander of the cell is instructed to divide finances into funds to be invested for financial return and funds to be saved for operations. In general, these funds must be dispersed, occasionally left with non-members of the cell, and the locations of the funds are not to be divulged to cell soldiers,[10] thus reducing the chances that a captured cell will divulge the source of its financing. The cell commander is given responsibility for the effective allocation, use, and occasionally raising of cell funds.

Al Qaeda operatives are also taught to use credit card fraud, document forgery, and other criminal scams to support their objectives. This self-sufficiency hurt the early cells of Al Qaeda, notably the first World Trade Center bombing cell in 1993. In the early part of the 1990s, Al Qaeda either did not have the necessary resources, or at least chose not to use them for its operational cells. Ramzi Yousef, the mastermind and commander of the first World Trade Center bombing was financed by donations from a Holy Water company in the Middle East.[11] Yet the limited nature of Yousef's funding not only caused him to build a bomb that was too small, but also forced one of his operatives, Mohammed Salameh, to foolishly try to retrieve the deposit on the rental truck used to hold the bomb.[12]

Although Al Qaeda's doctrine is frugal in spirit, it is intelligent in its funding allocations. In the days before 11 September 2001, Al Qaeda operatives returned unused funds from their cell in the form of wire transfers for over $20,000 dollars to Al Qaeda leaders in the Middle East. At the same time, the operational commanders did not spare any expense in buying business-class seats so that the hijackers were in the optimal position to take over the cabin.[13]

Businesses and Financiers

Al Qaeda's financial strength is also based on its ability to raise funds from legitimate and illegitimate business and from its network of financiers. In the time since September 11, many Al Qaeda legitimate businesses and financiers have been exposed. However, Al Qaeda is still able to operate businesses in states that are failing around the world such as diamond trafficking in Africa and honey trading out of Yemen, and many financiers still exist that have not been exposed.

The United States shut down a number of Al Qaeda's businesses in the war in Afghanistan, but Al Qaeda continues to run businesses in developing parts of the world. One such business is the diamond business, which Al Qaeda runs in Liberia and Burkina Faso, two countries involved in the illicit diamond trade. Al Qaeda diamond trafficking, which has gone undisturbed since 1998 when it was established in the $20 million industry in West Africa, represents an illegitimate business that Al Qaeda has significantly profited from by working with a number of local companies.[14] In addition to illicit diamond trading, Al Qaeda engages in legitimate business, such as honey trading. Although some claim that this business is a cover for smuggling of money, weapons, and drugs,[15] the business may also be legitimate because the honey trade in the Middle East is important to the culture, religion, and trade. Regardless of how Al Qaeda uses the business, its ability to successfully run overt businesses in honey and covert businesses in gems illustrates a complexity in Al Qaeda's financial network.

The 19 hijackers on 11 September 2001 used less than $500,000[16] from 20 key financiers to fund the hijacking of 4 American commercial jetliners. This $500,000 was transferred to the hijackers in a large number of small installments over time, through different financial channels, indirectly passed to the terrorists from the Middle East, through Germany, the United Arab Emirates (UAE), and Malaysia.[17] The source of these funds was unclear to U.S. authorities until a recent document, recovered from the Arlington, Texas headquarters of Benevolence International Foundation (BIF), listed 20 top Al Qaeda financiers, known as the Golden Chain.[18] In the United States Court case against the President of BIF, Ennam Arnaout, it was suggested that this list of 20 financiers helped provide the funding for the 9/11 cell. More importantly, if true, these 20 individuals highlight the deep pockets of Al Qaeda financiers.

Islamic Charities

The third contributor to Al Qaeda's financial resilience is income from charities. Since September 11, the U.S. arms of a number of Islamic charities that funded Al Qaeda have been shut down and their assets have been frozen. Many of these charities were run by Al Qaeda operatives, such as Ennam Arnaout, who was sentenced to 11 years in prison for money-laundering rather than terrorism. Of course, while charities on U.S. soil are governed by American regulations, Middle East-based charities are not constrained by U.S. law. These charities not only represent a seemingly uncontrollable source of funding, they are also a stable source of funding.

Zakat, or alms giving, is one of the five pillars of Islam, a religious duty for all Muslims. As such, Islamic charities through the Middle East and the rest of the world have a consistent source of funding from religious Muslims. Although the vast majority of charities are legitimate enterprises, funding community development in Islamic communities, a number also have close ties to terrorist groups. Additionally, a number of terrorist organizations, such as Hamas and Hezbollah, include charity and nongovernmental organizations (NGOs) as an overt part of their organizational structure, which raises questions of whether charitable funds are channeled to charitable purposes or terrorism. In the case of Al Qaeda, charities and NGOs act primarily under cover in their financing of terrorism, rather than funding any charitable purposes Al Qaeda may have. Many of these charities were not specifically created to fully fund Al Qaeda, but have since become supportive of its cause.

Many of the charities that support Al Qaeda financially have done so since the Soviet Afghan war. Three of the charities that have come to the attention of the U.S. Justice Department are the Muslim World League (MWL), Benevolence International Foundation, and Qatar Charitable Society (QCS).[19] Even though there were public suggestions that these charities funded Al Qaeda as early as 1993, it was not until a year after 9/11 that the Treasury Department froze the assets of the first two charities.[20] Each of these charities has existed for many years; in the case of the Muslim World League, since 1962.

The case against Ennam Arnaout and his Islamic charity, BIF, uncovered the illegal and yet virtually undetectable ability of Al Qaeda to pull funds from its charities. Funds would be allocated, and accounted for, by the charity for community development and charitable activities. Once the full amount was pulled out for the charitable project, a small percentage (around 10%) of the cash was skimmed off the top and physically passed to an Al Qaeda operative who deposited this clean money into Al Qaeda accounts in the Middle East or dispersed it to operational cells in other parts where Al Qaeda operates, such as Bosnia.[21]

The problem with MWL, BIF, and any Islamic charity that supports Al Qaeda is twofold. First, because their objectives are typically noble and many of their activities may be justifiable, shutting them down may create serious problems for local beneficiaries and have negative impacts on humanitarian needs that the charity is funding. Second, there are typically other illegitimate charities that will accept the cash when charities like MWL and BIF are closed down. While religious Muslims are called to give to charities, with the belief that their money is being used toward an ethical cause, the cash flow out of charities is very loosely regulated and easy to move to terrorist organizations, often without the donor's knowledge or consent. This is especially beneficial to Al Qaeda because the money that is received from charities is clean money, and unlike illicit financing sources, does not need to be laundered.

Al Qaeda has a flexible, extensive, and deep financial network. Its flexibility lies in its doctrinal ability to self-fund operations and save money by the frugal behavior of its operatives. Glimpses of the extensive nature of the network are evident by the deep pockets of financiers and the diversity of legitimate and illegitimate businesses on which Al Qaeda has relied. Finally, Al Qaeda has its hands in the pockets of unknowing Muslims, who, in fulfilling their religious duty to give alms to charities are unknowingly funding terrorist operations.

Al Qaeda's Financial Channels

> Al Qaeda has three financial systems organized by bankers who are as "aware of the cracks inside the Western Financial System as they are aware of lines on their own hands."
>
> —Osama bin Laden in an interview in a Pakistani newspaper[22]

Presumably, the three primary financial systems that Osama Bin Laden divulged include the formal international banking system, the Islamic Banking financial system, and the underground hawala system. Al Qaeda uses these three financial systems, each under varying degrees of regulation, to channel its funds around the world. More recently, Al Qaeda has also used a fourth financial channel in physical movement of cash, diamonds, and precious metals in suitcases in order to evade government oversight.[23]

International Banking System

Al Qaeda's financial network reaches around the world. Although U.S. regulations and legislation have allowed the government to freeze terrorist assets in U.S. jurisdictions, it has limited abilities outside of the U.S. financial system. Al Qaeda's only limitation, in the wake of U.S. regulations and legislation, is a greater difficulty of moving money into the United States. There are two primary reasons that regulations in the international environment are not a long-term solution to winning the war on terrorist financing. The first is that the legal and regulatory structures of foreign financial markets are different and financial transfers regulations between these markets are not yet designed to identify terrorist funds. The second is that Al Qaeda has a global financial system of non-U.S. based regulated and unregulated banks, including the Islamic banking system, through which it can still transfer, store, and invest its funds.

The global financial system was not created to stop the war on terrorist financing. After Bretton Woods, central bank control of international finance decreased, as global currencies floated on international capital markets and investors put their money in places with strong economic activity. In the last 30 years, regulation of global capital markets has decreased as many countries have been gaining access to markets in New York, London, Tokyo, and Hong Kong. The goal of investing in these markets is to gain access to cheaper sources of financing and more stable rates of return. Countries that integrate into capital markets accordingly reduce their cost of capital. Tighter integration also requires faster transactions and allocation of funds, a benefit that increased regulation reduces.

In the developing world, central banks often still control foreign financial transactions. In general, economists believe that when central banks allow their currency to be traded and transacted freely, local investors will choose to invest internationally and repatriate gains into local markets. This type of laissez-faire attitude suggests that access to international markets will cause efficiencies that will force developing countries to develop their own internal financial and banking oversight to protect their new sources of funds. Unfortunately, reducing central bank control in developing countries may also allow terrorists to easily access global financial markets and rely on commercial banking systems with limited oversight.

Islamic Banking

In addition to benefiting from weak banking oversight in the developing world and the unlikely direction of reduced capital market integration, Al Qaeda also takes advantage of a financial structure close to home: the Islamic banking network. This global financial network has strong relationships through the third world, notable tax havens, and most importantly most of the developed world, including the United Kingdom and United States. The Islamic banking system is legitimate and operates under *sharia*, Islamic law, which prohibits bankers or customers from earning interest on funds. The profits that banks do earn (not specifically called "interest") are used for internal bank projects or are given to charities. Because of *sharia*, Islamic banks typically have excess cash (the interest) that must be allocated.[24] Reputable Islamic banks typically have Sharia Boards[25] who act as a religious and accounting standards committee, making decisions about what financial instruments their bank is able to use under Islamic law.[26] Unfortunately, even with Sharia Boards (who have had their share of scandals[27]), Islamic banks are known for lacking regulatory oversight, and the unclear guidelines for the use of interest make Islamic banks a possible source of funding for Al Qaeda.

Al Qaeda is no different from other terrorist organizations, arms smugglers, and drug traffickers in its use of Islamic banks. As the leading financial institutions of areas of the world rich with oil and natural resources, Islamic banks are the primary channel for investment and transactions into the Middle East and many other parts of the developing world. Therefore, they are networked into sophisticated capital markets around the world. Al Qaeda uses front companies to funnel its finances through this system. For example, the Advice and Reformation Committee, a presumed front for Al Qaeda, received funds in a Barclay's account from correspondent Islamic banks in Sudan, Dubai, and the UAE. The funds in the Barclay's account were then forwarded to operational cells in Western Europe by the signatory on the account, a presumed Al Qaeda associate.[28] To bin Laden's advantage, the correspondent nature of Islamic banks to Western banks allows for transfers that receive less scrutiny. This advantage is also detrimental to international efforts to curb the transfers as international trade relies on banking ties between the Middle East and the Western banks. Condemning the correspondent nature of this banking relationship may hurt the movement of terrorist funds, but it will also significantly impact the ability of large corporations to invest in the region and therefore is likely infeasible.

Hawalas

The hawala system, in the United States and globally, is used by legitimate persons and terrorists to move money around the world without the detection of the global banking system.[29] Similar to the Islamic Banking system, it is governed by Sharia law, but accounts are not kept, nor are financial instruments provided.[30] The legitimate hawala network has not yet been regulated, which makes it an opportune channel for Al Qaeda to use in transferring funds, not only internationally, but into the United States.

Hawala, the Arabic word for "transfer,"[31] refers to an informal global network of individuals who transact cash for their clients, similar to a wiring service. In a hawala, no money transfers are made between traders. Instead, a phone call or fax is sent from one hawaladar to another hawaladar, instructing the latter to dispense cash to the intended recipient. This cash transaction itself is not accounted for, as the hawaladars only hold balances against each other that will eventually be settled through a single wire transfer, movement of precious stones, or other means.[32] The hawala system is an ancient one that is particularly important in parts of the world with weak banking infrastructure and few bank accounts, such as the developing world.

Although Congress tried to regulate the hawala system in the United States in 1994, proposed legislation did not pass. Although the USA Patriot Act requires hawala registration in the United States, strict enforcement may be a difficult task. Executive Order 13224 closed down the Somalia Al Barakaat hawala office in the United States soon after the attacks of September 11. Unfortunately, such enforcement against one of the financial channels of 9/11 is reactive and provides little improvement in proactively preventing terrorist funds from moving through hawalas. Furthermore, even if the United States could put regulations on U.S.-based hawalas, it would be unable to have any affect on the international network of traders. Nevertheless, one of the Treasury Departments' annual money laundering priorities is to "concentrate on informal value transfer systems, such as hawalas, as a means of moving money."[33] Unfortunately, the hawala network can also be used as a money-laundering apparatus, where dirty funds are given to a trader on the inbound side of a transaction and clean funds are dispersed on the outbound side of the transaction.

Financial Regulations Used Against Terrorist Financing

> We will starve terrorists of funding, turn them against each other, rout them out of their safe hiding places, and bring them to justice.
>
> —President George W. Bush, 24 September 2001[34]

The United States has attempted to curb the funding capabilities of Al Qaeda and other terrorist organizations by passing strict money-laundering laws, ensuring tighter regulation of less structured transactions and by giving closer scrutiny to the financial network that Al Qaeda uses to fund operations. Executive Order 13224, the International Emergency Economic Powers Act (IEEPA), and the USA PATRIOT of 2001 (the Patriot Act) have all addressed the issue of terrorist financing. Although results have been significant on U.S. soil, and to a certain extent, European soil, these American regulations have had limited success in constraining Al Qaeda's international network. If the goal was to prevent Al Qaeda financing from entering the U.S. capital markets, then many of the regulations might be considered successful and appropriate. But, as President Bush said on his passage of Executive Order 13224, the war on terrorist financing must "starve" the terrorists and "route them out of their safe hiding places." In this area of regulation, the war on terrorist financing may only achieve success in blocking funds in the United States.

Although U.S. regulations have frozen terrorist assets in U.S. jurisdiction, these regulations will have limited success outside of the U.S. financial system. Eighteen months after the war on terrorist financing was announced,[35] its success must be judged at two levels: blocking Al Qaeda funds in U.S. jurisdictions and blocking Al Qaeda funds in non-U.S. jurisdictions. By 10 June 2002, $112 million had been seized from all terrorist organizations (including Al Qaeda), $34.3 million blocked domestically, and $77.8 million internationally.[36] Unfortunately, the specific magnitude of this action on Al Qaeda is impossible to judge without knowing how much of the funds specified were Al Qaeda's and how big Al Qaeda's financial network was originally.

Not withstanding Executive Order 13224, the IEEPA, improvements in the Financial Crimes Enforcement Network (FinCEN), and new attention to anti-money laundering laws, the UN member nations and some foreign bodies believe that the overall war on Al Qaeda financing has waned in its second year. In a report of the Monitoring Group on Al Qaeda, the United Nations suggested that only $10 million in funds has been blocked since the original $112 million, and that Al Qaeda still raises over $46 million a year from financiers in North Africa, the Middle East, Europe, and Asia.[37] The report also suggests that these funds are often transferred from accounts in developed markets, but once Al Qaeda receives funds it often converts the assets into untraceable gold, precious metals, and gems.

American regulatory action against Al Qaeda finances is effective within the financial system that the government controls. When President Bush signed Executive Order 12334, and invoked the IEEPA, funds in U.S. banks that were linked with terrorist groups or activities were frozen and people under U.S. jurisdiction were prevented from doing business with terrorist organizations and individuals.

The Patriot Act and the National Money Laundering Strategies have realigned the administrative focus on tighter money-laundering reporting requirements. The 2002 National Money Laundering Strategy in particular made "effectiveness of efforts to combat terrorist financing" and "dismantling terrorist financial networks" its top two goals.[38] These actions are a direct turnaround in policy as of the attacks of 9/11. Before the attacks, Treasury Secretary Paul O'Neill and the Bush Administration opposed any and all new upgrades to money-laundering legislation.[39]

The Financial Crimes Enforcement Network (FinCEN) is one of the most practical groups for fighting terrorist financing, especially when the funds come from "clean" sources and are transacted through "non-traditional" systems.[40] FinCEN and banking agencies have put some regulatory pressure on the business community to report possible terrorist financing activities, in the form of Suspicious Activity Reports (SARs). Unfortunately, SARs have a $5,000 threshold, and Al Qaeda can easily transfer smaller sums of money to avoid suspicion, as they did to discretely fund the 9/11 cell.

Although domestic legislation has improved U.S. ability to fight terrorist financing on U.S. soil, organizational barriers have limited the government's success. Tracking terrorist finances is a joint effort between the CIA, FBI, Treasury Department, Justice Department, and elements of the Department of Homeland Security. Most of the asset freezing is done by the Justice Department and the Treasury Department, and yet the Foreign Terrorist Asset Tracking Center, intended to be the lead organization on terrorist financing is housed within the CIA, which has limited overt diplomatic powers. Althuogh the CIA's involvement is important in tracking foreign assets and catching terrorists, the war of terrorist financing requires diplomatic and legal actions that domestic law enforcement and international diplomatic efforts must coordinate. Unfortunately, Treasury is prevented from taking the lead on terrorist financing, even though it must enforce such regulations. This could cause timing problems if Treasury were unable to quickly shut down terrorist bank accounts in U.S. banks.

The U.S. government should be hesitant to apply strenuous regulations to global capital markets, such as New York, because the regulations themselves may hurt the liquid nature of its international transactions. However, freezing U.S.-based bank accounts is one action the Treasury can take without adverse effects on capital markets, although freezing Middle East bank accounts may lead to a significant decrease in Middle Eastern investment accounts in U.S.-controlled banks. Controlling foreign import and export financial flows will also significantly hurt global capital markets in developing countries. More generally, free market principles are often not compatible with the regulatory mechanisms that are intended to protect them from terrorist abuse.

Central bank control of foreign transactions is generally not a favorable long-term economic condition for developing countries. However, such countries also have loosely regulated banking systems that are ideal for Al Qaeda. An appropriate solution requires international private industry participation. Large international companies, especially those involved in developing markets, rely on access to global capital markets. These companies, typically of American or European origin, are often important to the developing economic prosperity. A war on terrorist financing and improvements in developing market banking regulation must put these new companies in a leadership role. Given their U.S. or EU origins, large international companies are often subject to their own country's financial jurisdiction. Therefore, stringent accounting regulations may transcend to developing markets through international investment, rather than local government enforcement. This transfer of regulatory ideals may enable developing markets to continue to grow legitimately rather than turning into financial havens for terrorists. However, the onus of such regulatory change is on the international companies, whose ethical standards are often called into question in the international arena.

Global markets and foreign financial systems are simply not built for scrupulous regulations that can catch terrorist financing. Therefore, shutting down links in Al Qaeda's financial web, outside of developed financial markets like the United States, will be very challenging. Even other developed markets like Europe either suffer from limited financial institutional capabilities (supported by the low volume of Suspicious Activity Reports[41]) or legal systems with "stringent evidentiary standards" to block terrorist assets.[42] Regardless of the problem, international markets do not operate in the same way that the American formal financial system operates. As a result, U.S.-based terrorist financing initiatives will not apply effectively when enforced in other countries. Moreover, limiting liquidity between international capital markets will only increase the cost of capital in such markets, causing economic losses and general discontent for upstanding global investors.

Within the current actions on its war on terrorist financing, the United States has limited regulatory power to impact Al Qaeda's financial network outside of the United States. Even if increasing regulatory constraints from Executive Order 13224, IEEPA, and the Patriot Act create a more vigil environment within U.S. jurisdictions, the United States faces an uphill battle in enforcing regulatory actions in foreign markets. The formal financial system has not benefited in the past from regulatory controls and is unlikely to withstand long periods of slower international transfers. Foreign banking and financial systems are not equipped to build the regulatory environments that are required to fight an effective war on terrorist financing. And, even if regulatory actions were somewhat effective against terrorist transactions domestically and internationally, Al Qaeda has access to a well-established, global, unregulated hawala system. This system is strongly networked with hawaladars in the United States and Europe as well as in the failing states of the developing world, where Al Qaeda recruits, trains, and builds capabilities.

Current U.S. financial regulations used to target terrorist financing are incompatible with the international financial system and foreign banking systems. Unfortunately, even if international systems could follow the U.S. lead and develop self-regulating capabilities that were agreeable across nations, Al Qaeda could still easily transfer funds through the global Islamic banking network and correspondent banks or the unregulated hawala system.

Recommendations for Diplomatic Action in the War on Terrorist Financing

> We will direct every resource at our command to win the war against terrorists, every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence.
>
> —President George W. Bush, 24 September 2001

The United States has, to date, failed to strike the heart of Al Qaeda's financial structure: its charities and financier network in the Middle East. Not only has the United States failed to use every diplomatic tool, but it has also failed to use every financial and economic tool at its disposal. Although U.S. efforts domestically to track down and freeze Al Qaeda finances have had some success with the use of the Patriot Act, Executive Order 13224, and the IEEPA, the United States is not using all of the tools at its disposal to eliminate Al Qaeda's international financial base. First, it seems that the Bush administration is hesitant to take further diplomatic and regulatory action in the international community. U.S. work with international bodies such as the Financial Action Task Force (FATF) and the United Nations Counter-Terrorism Committee has not gone far enough. Second, the U.S. has not used all of its tools to impose change in unregulated offshore markets and underregulated markets that are known for terrorist financing. Third, and most important, the United States has begun to lose the diplomatic battle to fight financial networks in the Middle East. More specifically, the United States must put significant diplomatic and economic pressure on Saudi Arabia to stem charity flows to Al Qaeda, the single largest source of Al Qaeda funding.[43]

Working with the International Community

The United States must work closely with international bodies that are able to bridge the differences in financial structures between the United States and foreign allies. An independent task force of the Council on Foreign Relations recommended that the United States create a new international organization dedicated solely to curbing terrorist financing. Their rationale was that such an organization would "drive other countries—whose efforts are woefully inadequate—to greater effectiveness and cooperation."[44] Unfortunately, the United States has begun to lose international allies recently over its policies in Iraq, and gaining credibility and support for a U.S.-led organization could be very difficult. An alternative to this suggestion is the empowerment of the existing FATF, an international body representing 29 governments, established by the G-7 in 1989. The FATF published a report in April 2002 to help financial institutions in detecting terrorist financing.[45] The FATF was also instrumental in "naming and shaming" international money-laundering havens, publishing best practices for regulating charities and suggestions to "bring the hawala system out from the shadows."[46] Given these recent actions and leadership role on key terrorist financing issues, the United States must leverage the international success of the FATF and push them toward an implementation approach of their guidelines. However, the FATF has until now remained a standards body, with limited enforcement power and resources. The organization should change to certify international financial regulators that can be assigned to international banking communities.

Al Qaeda benefits from its ability to wait out political pressures in the international community. In the war on terrorism financing, the gap in European and U.S. relations is widening at the same time as the United States and the United Nations disagree on the effectiveness of the war on terrorist financing. The difference in financial systems is not the only barrier in U.S.–EU relations. As a report by the Watson Institute at Brown University suggests, the EU is significantly ill-equipped to detect and track terrorist transactions. The report states that whereas the U.S. Treasury Office of Foreign Assets Control (OFAC) has more than 100 staff "working full time on implementation of financial sanctions, the Bank of England had a staff of about seven, the French Ministry of Finance has two people working part-time, the German Bundesbank had one, and the European Commission in Brussels had only one person and a half-time assistant."[47] At the same time, a recent report by the United Nations Counter-Terrorism Committee suggested that the war on terrorist financing has had limited results. Rather than collaborate with the United Nations on such measurements, the United States has failed to provide complete information on suspected Al Qaeda members.[48] In summary, the United States must look to the international community and its allies for more support and in return must share intelligence and resources to track Al Qaeda finances and operatives.

Using all of the Financial Tools in the Toolbox

> We put the world's financial institutions on notice: if you do business with terrorists, if you support them or sponsor them, you will not do business with the United States of America.[49]
>
> —President George W. Bush

Under the "special measures" section of the Patriot Act, and sections of the IEEPA, the United States has the ability to cut off foreign countries from U.S. capital markets. This tool is currently being used in a threatening way to force a number of countries to improve their regulatory environment. The "special measures" section has also been evoked by the Secretary of the Treasury against Nauru and until recently Ukraine to cut off their access to American capital markets. Unfortunately, neither of these countries is a source of terrorist finances, although certainly their money-laundering credentials are extensive.[50] Of the current list of countries under scrutiny by the Treasury's Foreign Asset Control Office,[51] certain key Middle East countries are missing, including Egypt, the United Arab Emirates, and Saudi Arabia, whereas poorer states such as Iran and Libya are listed.

According to Lee Wolosky, Chairman of the National Commission on Terrorist Attacks Upon the United States, "Al Qaeda has been particularly attracted to operating in under-regulated jurisdictions, places with limited bank supervision, no anti-money laundering laws, ineffective enforcement institutions, and a culture of no-questions-asked bank secrecy."[52] While foreign investors have a number of choices outside of U.S. capital markets, invoking the "special measures" provision against offshore, unregulated markets in the Cayman Islands and other financial havens would send a clear sign to financial markets on the legitimacy of such offshore markets. In order to push the international community to regulate itself, the United States must deny certain countries and territories access to its capital markets. To flush Al Qaeda funds out of these underregulated markets, the United States must use all of the tools at its disposal, specifically listing countries that are not implementing appropriate levels of terrorist financing regulations.

Saudi Arabian Charities

The diplomatic relationship between the Saudi Royal Family and the U.S. administration has been historically strong, although Islamic extremism in Saudi Arabia and popular anti-American sentiment jeopardizes the strength of the Saudi Royal Family's regime. As the wealthiest state in the Middle East, the home of Osama bin Laden, his Golden Chain, and most of his prominent charities, Saudi Arabia is the source of Al Qaeda's funding that must be addressed directly and continuously.

"Charitable and humanitarian organizations have long been a preferred venue for terrorist financing, with or without the knowledge of the organizations or their donors."[53] Al Qaeda is no exception to this rule. Since 9/11, U.S. and allied authorities have discovered a number of charities that were financing Al Qaeda's operations. However, with the exception of U.S.-based charities, the United States has been powerless within its own right to shut down many of these charities in territories outside of U.S. and NATO command and has had to rely on international cooperation. If the United States is going to have a significant impact on the financial network of Al Qaeda, it must direct efforts at the source of Al Qaeda's finances—Islamic charities in Saudi Arabia. This requires consistent and devoted diplomatic efforts with Saudi Arabia to include FATF inspectors and set up internationally monitored Financial Intelligence Units (FIUs) through the Egmont Group.

Al Qaeda's charity structure is critical to its long-term funding needs. In the Middle East, zakat requires all Muslims to give 2.5% of their income to charitable organizations. Without regulation, Muslims can justify giving such alms to any charitable organizations. The Saudi government recently passed new regulations governing private fundraising and is now encouraging that funds be donated only through established groups operating under the direct patronage of the royal family. Unfortunately, some of these approved groups feature prominently on U.S. terrorist lists.[54] And even if the Saudis shut down these approved groups, "encouraging" Saudis to use established groups is not incentive enough for those that oppose the Saudi Royal Family and the United States. While it is unlikely the Muslims will accept the regulating of zakat without significant public resistance, the Saudi regime must regulate the charity structure itself, while ensuring that innocent Saudis are still encouraged to fulfill their religious duty. New legislation in August 2003 increased penalties for terror financing to up to 15 years in jail and significant fines.[55] However, these penalties are unlikely stringent enough for the Saudi Arabian Monetary Agency to enforce.

The Saudi Royal Family must also seek out those Saudis that are intentionally funding Al Qaeda with law enforcement efforts and a FIU. Unfortunately, "one Saudi official stated that a Saudi organization created to crack down on charities that fund terrorism has been ineffective because its personnel do not want to uncover high-ranking Saudis actively financing such charities."[56] In this case, executive leadership and support is required on both sides of the U.S.–Saudi relationship. If high-ranking Saudis are connected to charities that fund Al Qaeda, the United States must push to have these charities closed and the high-ranking Saudis removed from power and prosecuted. Regardless of its relationship with Saudi Arabia, the United States must also freeze the assets of charities and, when possible, expose guilty Saudi leadership. Although uncovering high-level scandals within the Saudi government may be somewhat destabilizing in the short term, it is a better long-run alternative than continuing to fund a terrorist organization that is against both the United States and Saudi Arabia.

The United States has known for some time about the Saudi charities that fund and support Al Qaeda. In 1998, Mercy International Relief Organization smuggled weapons into Kenya from Somalia for Al Qaeda,[57] and recent discoveries have shown that Benevolence International Foundation raised funds in America for support of Al Qaeda operatives in Bosnia.[58] Regardless of whether a Saudi charity is smuggling weapons or smuggling money, the Saudi government, with the strong support and enforcement of U.S. diplomatic action must shut these charities down. This is not an action that has been successful under current U.S.–Saudi diplomatic relations. Regardless of close historic ties between the United States and Saudi Arabia, the United States must address Saudi charities, with or without Saudi government support. In the absence of rigid Saudi support, the United States may take a number of financial actions. Such actions may include stringent actions such as adding Saudi Arabia to the list of IEEPA culprits or less stringent action such as limiting foreign direct investment into Saudi Arabia. While the later policy may create dissent in the U.S. business community, it will also force U.S. businesses to put pressure on the Saudi regime.

The United States and Saudi Arabia share many interests in the war against terrorism. President Bush must abide by his words on 7 November 2001: "if you do business with terrorists, if you support them or sponsor them, you will not do business with the United States of America." The United States must use all its diplomatic and economic tools to address the largest source of Al Qaeda's fundraising: charities and financiers in Saudi Arabia.

U.S. diplomacy cannot be underrated in the war on terrorist financing. Al Qaeda's financial pockets are deep outside of the United States, and therefore, the United States must take decisive action with allies in Europe and the Middle East to stop funding to Al Qaeda. In addition, the United States must diplomatically provide options to help countries regulate their financial systems and defend them against Al Qaeda abuses. In situations where countries are unwilling to take decisive and immediate action, at the strategic and tactical level, the United States must leverage economic tools to persuade foreign countries to comply.

Conclusion and Suggestions for Further Research

The war on terrorist financing may be purging terrorist funds from U.S. and European bank accounts, but it is not attacking the source of Al Qaeda's financial network. Al Qaeda's flexibility and financial doctrine make cutting of funds very difficult. This difficulty is compounded by the inability of U.S. regulations to have a significant effect outside of U.S. markets. Therefore, the United States must build more aggressive international coalitions and use all of its regulatory tools to stem the flow of financing to Al Qaeda. This starts with two actions: empowering and backing the FATF to impose terrorist financing regulations internationally and taking decisive action on Saudi Arabia's financial network of charities.

Given the complexity of the international financial system and the numerous foreign banking systems that connect to it, the United States must support an international organization in the global war on terrorist financing. This organization must be responsible for oversight of illegal international transactions, enforcing a progressive schedule of banking oversight in developing countries (working with organizations like the IMF and OECD) and exposing illegal terrorist financial havens around the world. Such an organization requires the full support and financial backing of the U.S. coalition on the war on terrorism.

Unfortunately, taking the war on terrorist financing to Saudi Arabia poses a significant change in U.S. foreign policy. Saudi Arabia's inability to control the financial flows to terrorist groups poses a problem to U.S. national security that must be directly addressed. While U.S. regulators in the Saudi banking system will not be well received, the United States must nonetheless require the Saudi government to invite international banking inspectors in to regulate their financial systems. It is not enough for the Saudi government to request that Muslims give zakat through government charities, it must also regulate and oversee the charity structure.

Although charity oversight will certainly cut off many sources of Al Qaeda's financing, there will always be financiers who are willing to fund Al Qaeda in cash. Whereas tighter regulation and banking oversight will fix structural problems, no regulations will prevent the basic smuggling of cash and the existence of financiers sympathetic to Al Qaeda's cause. Therefore, the United States must continue to support the fighting of financial networks as part of the larger war on terrorism with military, political, and social capabilities.

Terrorist financial sources have evolved significantly from the days of state-based terrorist financing. In this relatively new field of research, Al Qaeda represents just one example of how non-state actors fund global operations. As such, there are a number of further research topics on fighting terrorist financing and fighting Al Qaeda's network structure. The United States has only started to uncover the network of financiers behind Al Qaeda and other international terrorist organizations such as Hezbollah, a topic that will grow as more evidence is uncovered. While terrorist financing continues to evolve, so does the international financial system, as regulations change and markets increase their level of integration. Limited research has looked at how the international financial systems are inefficient in their tracking of terrorist financing. In addition, balancing the development of economic prosperity with preventing terrorist abuses of the system is a topic that development and security organizations must continue to study. Looking in particular at Al Qaeda, further research should look at preemptive tools to identify economically strong non-state actors that threaten U.S. national security. While there were many signs of the attacks on 9/11, in hindsight, the financial trail of Al Qaeda was one indication of the nature of their threat on U.S. soil that might have been exposed yet failed to translate into financial regulation against the channels that funded the World Trade Center attack in 1993.

The war on Al Qaeda's financial network is certainly not over. Al Qaeda is able to leverage a number of financial systems to hide funds from U.S. and allied governments as well as leverage an underregulated base of Islamic charities for funding. A decisive victory in the war on terrorist financing requires a more aggressive U.S. foreign policy on issues of finance. While U.S. political and military policy has directly targeting threats to national security, the United States has not adequately addressed the financial networks that support international terrorist groups like Al Qaeda.

Notes

1. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, Subcommitee on International Trade and Finance, *Hawala and Underground Terrorist Financing Mechanisms: Hearing before the Subcommittee on International Trade and Finance*. 107th Congress., 1st sess., 14 November 2001.

2. Rohan Gunartna, *Inside Al Qaeda: Global Network of Terror* (New York: Columbia University Press, 2002), p. 54.

3. R. T. Naylor, *Wages of Crime: Black Markets, Illegal Finance, and the Underworld Economy* (Ithaca: Cornell University Press, 2002), p. 288.

4. Financial Action Task Force on Money Laundering, "Guidance for Financial Institutions in Detecting Terrorist Financing," April 2002; available at (http://www.fatf-gafi.org/TerFinance_en.htm).

5. Gunaratna, *Inside Al Qaeda,* 57.

6. Ibid., p. 61.

7. Susan Schmidt and Douglas Farah, "Al Qaeda's New Leaders; Six Militants Emerge from Ranks to Fill Void," *The Washington Post*, 29 October 2002, p. A01.

8. "Government's Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements," *United States of America v. Ennam Arnaout*. United States District Court Northern District of Illinois, Eastern Division. Case # 02 CR 892. 31 January 2003.

9. "Declaration of Jihad Against the Country's Tyrants, Military Series," recovered by Manchester Police from home of Nazihal Wadih Raghie, 10 May 2000, p. 66. www.usdoj.gov/ag/trainingmanuel.htm.

10. Ibid., p. 22

11. Mark Hubard, "Bankrolling bin Laden," *The Financial Times*, 20 November 2001, p. 10.

12. Gunaratna, *Inside Al Qaeda,* 64.

13. Ibid., p. 65.

14. Douglas Farah, "Report Says Africans Harbored Al Qaeda; Terror Assets Hidden in Gem-Buying Spree," *The Washington Post*, 29 December 2002, p. A01.

15. Judith Miller and Jeff Gerth, "Trade in Honey is Said to Provide Money and Cover for Bin Laden," *The New York Times*, 11 October 2001, p. A01.

16. Council on Foreign Relations, "Terrorism Q&A," available at (http://www.terrorismanswers.com/responses/money.htm).

17. Gunaratna, *Inside Al Qaeda*, 104.

18. "Government's Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements," p. 30.

19. U.S. Congress. House. Committee on Financial Services, Subcommittee on Oversight and Investigations, *Progress since 9/11: The Effectiveness of U.S. Anti-Terrorist Financing Efforts*, 108th Cong. 1st sess., 11 March 2003.

20. Office of Public Affairs, United States Treasury Department, "Treasury Department Statement on the Designation of Wa'el Hamza Julidan." 6 September 2002. Document #PO-3397.

21. "Government's Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements," pp. 65–74.

22. Congress. Senate. Committee on Banking, Housing, and Urban Affairs, Subcommitee on International Trade and Finance, *Hawala and Underground Terrorist Financing Mechanisms: Hearing before the Subcommittee on International Trade and Finance*. 107th Cong., 1st sess., 14 November 2001.

23. U.S. General Accounting Office, *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms,* United States General Accounting Office, November 2003, GAO-04-163, p. 19.

24. Ibrahim Warde, *Islamic Finance in the Global Economy* (Edinburgh: Edinburgh University Press, 2000), p. 144.

25. Reputable Islamic banks typically are part of the International Association of Islamic Banks (IAIB)

26. Warde, *Islamic Finance in the Global Economy*, p. 227.

27. Ibid., p. 227.

28. Loretta Napoleoni, *Modern Jihad: Tracing the Dollars behind the Terror Networks* (Sterling, VA: Pluto Press, 2003), p. 126.

29. Warde, *Islamic Finance in the Global Economy*, p. 227.

30. Napoleoni, *Modern Jihad,* p. 125

31. Hawala is also translated as “trust,” but according to Ibrahim Warde, an Islamic banking scholar, the word actually means “transfer” in Arabic.

32. U.S. General Accounting Office, *Terrorist Financing,* p. 18.

33. National Money Laundering Strategy, July 2002, p. 21.

34. Fact Sheet on Terrorist Financing Executive Order, 24 September 2001, available at (http://www.whitehouse.gov/news/releases/2001/09/print/20010924-2.htm).

35. President George W. Bush announced the war on terrorist financing with the passage of Executive Order 13224 on 24 September 2001.

36. National Money Laundering Strategy, July 2002, p. 18.

37. Colum Lynch, “War on Al Qaeda Funds Stalled; Network ‘Fit and Well,’ Ready to Strike, Draft of U.N. Report Says,” *The Washington Post*, 29 August 2002, p. A01.

38. National Money Laundering Strategy, July 2002, p. iii.

39. Ibrahim Warde, “The War on Terrorist Financing,” Lecture at the Fletcher School of Law and Diplomacy, Tufts University, 7 April 2003.

40. In the National Money Laundering Strategy, The Department of Treasury and Department of Justice define “Non-traditional” systems as a family of monetary remittance systems that provide for the transfer of value outside of the regulated financial industry. National Money Laundering Strategy, July 2002, p. 21.

41. Maurice R. Greenberg (Chair), “Terrorist Financing: Report of an Independent Task Force Sponsored by the Council on Foreign Relations,” *Council on Foreign Relations*, New York, October 2002, p. 21.

42. Ibid.

43. U.S. Congress. House. Committee on Financial Services, Subcommittee on Oversight and Investigations, *Progress since 9/11*.

44. Greenberg, “Terrorist Financing,” p. 5.

45. Financial Action Task Force on Money Laundering, “Guidance for Financial Institutions in Detecting Terrorist Financing,” April 2002; available at (http://www.fatf-gafi.org/TerFinance_en.htm).

46. Lee Wolosky, *Public Hearing on the National Commission on Terrorist Attacks Upon the United States,* 1 April 2003 available at (http://www.9-11commission.gov/hearings/hearing1/witness_wolosky.htm).

47. Greenberg, “Terrorist Financing,” p. 22.

48. Lynch, “War on Al Qaeda Funds Stalled,” p. A01

49. Remarks of President George W. Bush, 7 November 2001.

50. Wolosky, *Public Hearing on the National Commission on Terrorist Attacks Upon the United States*.

51. A list of countries currently under scrutiny can be found at (http://www.ustreas.gov/offices/enforcement/ofac/sanctions/index.htm).

52. Wolosky, *Public Hearing on the National Commission on Terrorist Attacks Upon the United States*.

53. Matthew Levitt, *The Network of Terrorist Financing*, Washington Institute, 15 August 2002, available at (http://www.washingtoninstitute.org/media/levitt/levitt080102.htm).

54. Ibid.

55. Royal Embassy of Saudi Arabia, *Initiatives and Actions Taken by the Kingdom of Saudi Arabia in the War on Terrorism*, Royal Embassy of Saudi Arabia, Washington, DC, September 2003, available at (http://www.saudiembassy.net), p. 9.

56. Levitt, *The Network of Terrorist Financing*.

57. Levitt, *The Network of Terrorist Financing*.

58. “Government’s Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements,” pp. 65–74.