

Terrorism Financing in Canada: Emergent Risks and the Effectiveness of Existing Mechanisms within Canada's Anti-Terrorism Financing Regime

Jez Littlewood & Dane Rowlands (NPSIA, Carleton University)

TSAS Workshop

March 3, 2017

Ottawa

Research Question & Methods

Research Question

1. Is FINTRAC equipped to address existing and emerging challenges of TF up to 2020?
 - a) Legislation / Regulation
 - b) Policy / Stakeholders
 - c) Criteria, Metrics, Measures to assess performance
 - d) Is there a typology of TF specific in/to Canada compared to other Western democracies?
 - e) TF emerging risks

Methods

- Existing literature & studies
- Primary docs/data (CA, US, UK, AU, FATF, UNSC etc.)
- Interviews with SMEs, stakeholders (12), officials (pending; est. 10)
- *Feedback & User-Generated response and revision*

Timeline: remaining interviews: April-May
Feedback & response + revision: May
Complete: June

Summary

- Q. Is FINTRAC equipped to address existing and emerging challenges of TF up to 2020?
- A. Yes...but challenges evident that require attention so complacency & inattention poses its own risks to Canada's ATF regime
- a) Legislation – is broad enough, but regulatory approach must remain dynamic and adaptable
 - b) Policy / Operations / Networks / Stakeholders – is generally effective given resource constraints and scale of TF problem
 - c) Criteria, Metrics, Measures to assess performance – FATF Assessment 2016
 - d) Is there a typology of TF specific in/to Canada compared to other Western democracies? – not really, though lower (but not insignificant) TF threat in Canada than elsewhere
 - e) TF emerging risks – remain emergent: diversity of *resourcing* methods is a challenge in itself: old, new, and emergent TF/TR is evident globally

TF challenge

- Diversity: 'hardly find a single way in which funds have not been raised for some militant group'
- Many forms of TF & beyond "money": resources/resourcing
- Domestic & international
- Lower TF threat, but not insignificant
- 'terrorist financing is a smaller proportion of the work that we [FINTRAC] do, compared to money laundering and organized crime...money laundering remains a more significant amount of work, probably 70 to 75 per cent'
- 'little bit of virtual currency, but not much'
- AQ – handful of individuals, legitimate & illegitimate means, simple methods
- Al Shabaab – some financing networks in Canada
- FFs/Extremist Travellers – frequently self-funded &/or family + friends: deplete accounts, max-out credit etc.
- HAMAS – small groups of supporters in Canada
- Hizballah – global network of support that spans Americas, Europe, M.East, Africa; has an established fundraising network in Canada

TF: Illustrative Examples

Revenue generation	Example / Illustrative Case
Criminal / Proceeds of Crime	Robbery: convenience & 15 year old in Montreal (2014) \$2,200: smuggling, thefts, insurance fraud & fake accidents
Private donations	\$10,000+ collected across Canada by multiple individuals. Guilty plea (not terrorism); Thambithurai case (2008)
Charity / Not-for-profit	IRFAN-Canada: approx. \$14.6 million resources to operating partners that were run by officials of Hamas
Extortion	'Revolutionary taxes' e.g. Taliban "telecom tax", PKK business protection taxes, LTTE extortion of diaspora
Kidnapping for Ransom	Robert Fowler, Mellissa Fung, Amanda Lindhout, Colin Rutherford, Robert Hall, John Ridsdel
Legitimate systems (misuse)	ATM withdrawals in Syria/Iraq; Loans (cashed out / fraud); multiple accounts & overdrafts; Wire Transfers; prepaid cards
Legitimate Business (fronts)	Bars, Restaurants: Tahawwur Rana example of immigration law office as front support to David Headley
State sponsorship	Iran, Syria as designated state sponsors
Self-Funding	Including use of social benefits, allowances – examples from Denmark
Micro-funding (family/friends)	Khawaja: \$6,800 to UK associates (TF conviction); Zafirr Golamaully (UK); Jack Letts case UK
Internet-based & Social media	Evident, anecdotal, but very likely in existence: cyber-digital as a (usual) facilitating factor
Virtual currencies	Suspected and implied, but little concrete evidence & data
Natural resources	Oil production & distribution (ISIS/ISIL); Charcoal (Al Shabaab); Minerals. Basically anything with value
Other	Project Saluki (2002) & WTM as a front organization; illicit trafficking; cultural artefacts;

Legislation

Box 2. Canada

Canada's criminal code defines a terrorist financing offence both on the basis of purpose, and on the basis of the nine conventions, which are listed in the definition of terrorist activity.

(Extract from Criminal Code)

83.02 Every one who, directly or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, in order to carry out

- a) an act or omission that constitutes an offence referred to in subparagraphs (a)(i) to (ix) of the definition of terrorist activity in subsection 83.01(1), or
- b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act.

is guilty of an indictable offence and is liable to imprisonment for a term of not more than 10 years.

83.01 (1) The following definitions apply in this Part ... *Terrorist activity* means:

- a) an act or omission that is committed in or outside Canada and that, if committed in Canada, is one of the following offences [*lists the nine conventions and the Terrorist Financing convention*], or
- b) an act or omission, in or outside Canada,
 - (i) that is committed (A) in whole or in part for a political, religious or ideological purpose, objective or cause, and (B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and
 - (ii) that intentionally (A) causes death or serious bodily harm to a person by the use of violence, (B) endangers a person's life, (C) causes a serious risk to the health or safety of the public or any segment of the public, (D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or (E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C). ...

- “RCMP confirms that it assesses the existence of a TF component in every national security investigation” (65)
- FATF finding noted all high-risk areas covered, “except legal counsels, legal firms, and Quebec notaries. This constitutes a significant loophole in Canada’s AML/CTF framework” (3)
 - ‘Ottawa will attempt to close Fintrac lawyer loophole’ *Vancouver Sun* Oct. 2016 – NB AML issue
- OPC concerns: relevancy, excessive information: ‘In March 2009, FINTRAC’s databases contained approximately 101 million reports; this number increased to approximately 165 million reports by March 2012.’ ‘we identified STRs where there was no reasonable grounds to suspect money laundering or terrorist financing activities’

Policy, Operations, Networks, Stakeholders

- Policy & regulations: under constant review: <http://www.fintrac-canafe.gc.ca/publications/guide/guide-eng.asp>
- Operations: terrorism investigations all have a financial component; prosecuting a TF offence when sufficient evidence; ability to pursue TF evident; frequent use of other measures to disrupt TF;
- Networks:
 - FINTRAC-CSIS-RCMP-CRA-CBSA & other liaison & cooperation evident + international MOUs
 - CRA-Charities enhanced outreach plan reflects best practices
- Outreach to stakeholders, awareness, training: everyone always wants more. Typologies, Criteria, Specifics

Results Highlights

What funds were used?

\$54,952,391

(FINTRAC's actual spending for 2015–16)

Results Highlights

- In 2015–16, FINTRAC made 1,655 disclosures of actionable financial intelligence to partners. Of these,
 - 1,172 related to money laundering;
 - 329 disclosures related to money laundering/terrorism financing/threats to the security of Canada; and,
 - 154 disclosures related to terrorism financing/threats to the security of Canada.
- 1,618 voluntary information records were received from law enforcement and national security partners, as well as from the public.
- 92% of disclosure recipients indicated that the FINTRAC disclosure provided information that was helpful to the investigation.
- FINTRAC conducted 739 compliance examinations to assess the effectiveness of the compliance measures put in place by reporting entities.
- 22 administrative monetary penalties were issued.
- FINTRAC imposed its first ever administrative monetary penalty upon a Canadian federally-regulated financial institution, totaling \$1,154,670.

Who was involved?

339

(FINTRAC's actual FTEs for 2015–16)

Program Performance Analysis and Lessons Learned

FINTRAC's case disclosures play an important role in helping to combat money laundering, terrorist financing and other threats to the security of Canada. In 2015–16, FINTRAC made 1,655 disclosures of actionable financial intelligence to its regime partners. Of these, 1,172 were associated solely with money laundering, 154 dealt solely with cases of terrorist activity financing and other threats to the security of Canada, and 329 had associations with all three areas.

Table 16. TF Investigations

	2010	2011	2012	2013	2014	Total
Assistance Files ¹	235	162	117	201	179	894
Participate/Contribute to Terrorist Group Activity	40	29	33	45	52	199
Provide/Collect Property for Terrorist Activity	31	26	17	21	9	104
Information Files ²	30	31	15	25	34	135
Crime Prevention ³	0	2	1	2	79	84
Facilitate Terrorist Activity	15	3	6	10	15	49
Make Available Property/Service for Terrorist Act	10	15	8	5	8	46
Suspicious Person/Vehicle/Property	0	1	6	9	2	18
Use/Possess Property for Terrorist Activity	4	1	2	1	0	8
National Security Survey Codes ⁴	1	1	0	4	0	6
Instruct/Commit Act for Terrorist Group	2	3	0	1	3	9
Others (Criminal Intelligence, Fraud, etc.)	5	3	6	5	4	23
Total	373	277	211	329	385	1 575

1. An Assistance file is created when assisting domestic or foreign non-PROS/SPROS units or agencies.

2. Information File is information received, it is not a call for service, or the person or agency supplying the information does not expect police action.

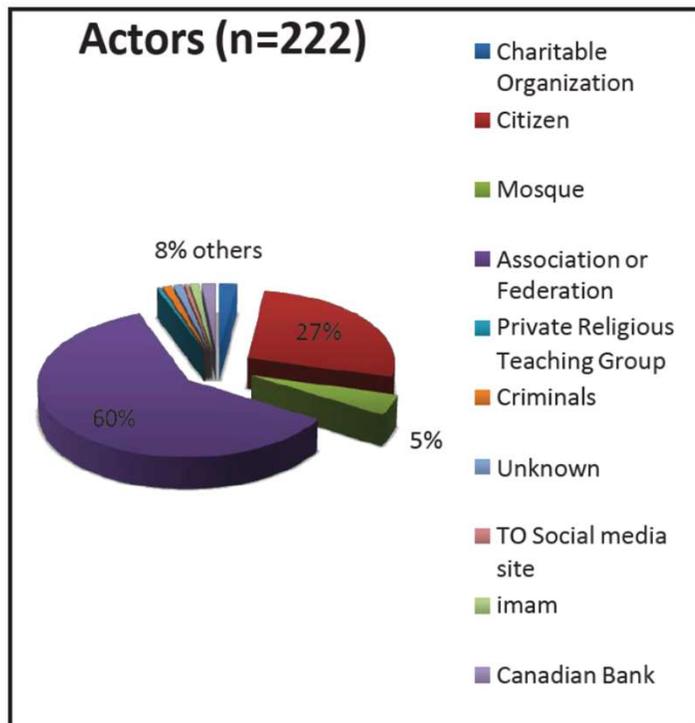
3. Crime Prevention are activities directed toward the tangible objective of preventing a specific type of crime, e.g. breaking and entry, approved or accepted community-based policing program such as Drug Abuse Resistance Education (DARE).

4. National Security Survey Codes are the combined collection of two different survey types: Threat Assessments and VIP/Major Events.

Performance Assessment: FATF evaluation (2016)

- Effectiveness ratings
 - Substantial: Risk policy & coordination; international cooperation; supervision; **TF investigation & prosecution; TF preventive measures & financial sanctions;**
 - Moderate: Preventive measures; Financial intelligence; Confiscation; *ML investigation & prosecution; PF financial sanctions*
 - Low: Legal persons & arrangements
- Technical compliance ratings
 - 40 ratings: Compliant (11), Largely compliant (18), Partially compliant (6), Non-compliant (5)
 - **Terrorist financing offence = largely compliant**
 - **Targeted financial sanctions (T & TF) = largely compliant**
 - US 2016 MER = C (9), LC (21), PC (6), NC (4)
 - Significant progress since 2007
 - FINTRAC and RE additional information issues
 - Good level of understanding of TF risks
 - Effective cooperation in CTF
 - 2 x TF convictions
 - Regular use of other disruption measures
 - TF-related TFS generally good for large FIs, Designated Non-Financial Business & Professions limited awareness
 - Few assets frozen 'not unreasonable in the Canadian context'
 - Charities/NPOs risk-based: risk of misuse high, but few inspections

Canada-specific TF typology?



O'Halloran *et al* 2016. TSAS WP 16-10

- Not really: wide variety of activities and means of TF
 - Small, sporadic acts – likely not detect TF
 - Support to large insurgent-groups – transnational aspects
 - Domestic & FFs – legitimate, friends, fraud issues
- Variation in groups/inspired-by activity, e.g. charities vs individuals
- Use of legitimate system for illegitimate purposes, banking, MSBs etc.
- Some newer methods indicated, but simple, tried, trusted, accessible methods appear to dominate
- Financing evident component of terrorist investigations: one of the tools, leads, methods, to collect intelligence, evidence, etc.
 - Difficulty of proving TF likely accounts for small # of prosecutions & preference for disruption
 - Metrics...not just prosecutions
- For Lone actors, FFs/travellers, TF information might be an important indicator of mobilization



Emerging TF risks

BROAD TERRORISM FINANCING BEHAVIOURS

Continued use of established methods

Regional countries face a range of terrorism financing risks depending largely on their domestic situation and geographic location. Most of these risks feature prominently in recent international reporting on global terrorism financing risks and ISIL financing.³ However, to date the region has not been exposed to the full range of risks experienced globally, particularly the risks apparent in the Middle East region.

"...THE REGION'S POROUS LAND AND CLOSE MARITIME BORDERS, AS WELL AS INFORMAL CASH-INTENSIVE ECONOMIES, ALSO INFLUENCE THE CONTINUED USE OF THESE ESTABLISHED METHODS..."

The capability and intent of regional terrorist actors and groups influence the scale and nature of terrorism financing behaviour across the region. Small-cell terrorist activity, foreign terrorist fighter travel and a growing number of lone actors will see continued use of self-funding and cash smuggling to raise and move funds. Along with misuse of NPOs and remittance businesses, these proven and easy-to-use terrorism financing methods continue to be effective, reducing the need for terrorists and their supporters to resort to more complex methods or adopt new payment systems.

APPENDIX 2: TERRORISM FINANCING CHANNELS

This assessment collected and analysed a broad range of channels commonly associated with terrorism financing. The list of channels was drawn from recent reports from the FATF, the Egmont Group and other international bodies. Participating FIUs provided statistical information and self-assessed the risks and vulnerabilities of these channels. This information appears in **Appendix 3 and 4**.

RAISING FUNDS TO FINANCE TERRORISM

- Securities company (including investment managers)
- Wealthy private donors
- Funding from terrorist group external to the region
- Non-profit organisations
- Kidnap-for-ransom
- Self-funding through legitimate income
- Legitimate and front businesses
- Social media and crowdfunding platforms
- Other criminal activity

MOVING FUNDS TO FINANCE TERRORISM

- Emerging and other payment platforms (e.g. PayPal, Bitcoin and other digital currencies)
- Cross-border movement of funds/value
- Money changers
- Banking system
- Alternative remittance sector
- Property companies/agents
- Vehicle dealers
- Antiques and arts dealers
- Other valuable commodities (e.g. elephant ivory, endangered animals, narcotics)
- Other (e.g. casino, precious metals and stones and international trade)

USING FUNDS TO FINANCE TERRORISM

Operational

- Personnel mobility (vehicle) or travel
- Weapons or explosive material
- Training personnel

Organisational

- Widow or family charity
- Propaganda, radicalisation or meetings
- Terrorist network maintenance
- Salary

ONLINE FUNDRAISING ACTIVITY HAS BEEN MINIMAL, LARGELY OPPORTUNISTIC AND INVOLVES SELF-DIRECTED INDIVIDUALS AS OPPOSED TO GROUPS OR NETWORKS.

Obtaining proof of user identity and intent to use funds for terrorism will remain a challenge for authorities but the digital footprint from online use may help deter terrorism financing activity and provide detection opportunities.

Risk rating

Countries assess the risk of fundraising through social media and crowdfunding as medium (Australia, Thailand and the Philippines) to high (Indonesia and Malaysia). While very few cases have been detected, the risk associated with this channel is increased due to the inherent vulnerabilities that online fundraising presents to authorities.

Country experience

Online fundraising activity has been reported more in Indonesia and Malaysia than other regional countries. In identified cases, individuals have made donations into a bank account after a call was made for donations online.

The number of identified cases of online fundraising for terrorism varies throughout the region, but is minimal overall. Most online activities are highly visible and – without sophisticated understanding of computing and use of encryption tools – can leave a trail that can be used for successful prosecution. This may deter future uptake of online platforms for raising terrorism funds.

Conclusion



Recommended Actions

Canada should:

10.9

- Pursue more and different types of TF prosecutions.

10.10

- Require DNFBPs to conduct a full search of their customer databases on a regular basis.
- Consider increasing the instances of proactive notification of changes to the lists to REs other than FRFIs.
- Consider enhancing the number of seizures and confiscations related to TF offenses.

- Work on-going
- Nothing significant out of line with published research, reports, and other data
- TF illustrative of complexity of CT
 - Not one dimensional
 - National-international aspects
 - Cooperation essential
 - Complex system evident
 - Expect challenges
 - Dynamic & Adaptive + Evolving system
 - Technology always an issue
 - Human element: training, awareness, assistance