

Global Governance: The Case of Money Laundering and Terrorist Financing

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Abstract

This paper examines efforts at international cooperation and international organizations' role in the fight against money laundering and terrorist financing before and after 9/11. Globalization makes it more difficult to effectively address issues requiring global governance within the limits of state/country laws. We employ Robert Keohane's concept of "governance dilemma" and Slaughter's theory of "government networks" to international efforts to deal with money laundering and terrorist financing. Keohane states that although a world governed by international institutions is beneficial, it poses a threat to our liberty. Slaughter offers a solution to problem in her theory of "government networks" wherein she states that "relatively loose, cooperative arrangements across borders" form the basis for post-modern governance.

It is often said that global problems require global solutions. Such a framework can promote cooperation among nation states while protecting state sovereignty. Global governance mechanisms involving the state provide a middle ground between the liberal internationalist view that supranational authorities such as the United Nations should formulate rules and regulations for global issues, and the New Medievalists who proclaim the end of the nation state in an age of fragmented governance. It provides a viable alternative to supra-nationalism, which because it robs states of sovereignty often ends up unworkable, and ad hoc efforts of disconnected states, which often proves ineffective. An international regime of laws, rules and regulations for money laundering and terrorist financing has been established within a complex network of governmental, nongovernmental and intergovernmental surveillance efforts. We focus on the efforts of the Financial Action Task Force (FATF), the International Monetary Fund (IMF), World Bank and private groups such as the Egmont Group and the Wolfsberg Group in combating money laundering and terrorist financing.

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Sheik Saeed, a key al Qaeda leader in Afghanistan, was asked in a May, 2007 interview, "what are the [most important] needs of Jihad in Afghanistan?" He responded that the foremost need is financial, and added that "there are hundreds wishing to carry out martyrdom-seeking operations, but they can't find the funds to equip themselves. So funding is the mainstay of Jihad" (Shapiro, 2009: 1). This casual quote reveals the central importance of financing to terrorist operations. The money required to carry out a terrorist operation is channeled to training camps, weapons, travel, payouts, and propaganda. Both American and British governments claim that they had successfully thwarted terrorist attacks in Bali and Heathrow, respectively, by tracking money linked to financing of planned attacks. Thus, following the money trail and stopping terrorist financing could lead to a decline in terrorist incidents.

Following the money trail and halting terrorist financing in many cases requires transnational operations, which may be difficult because each country guards its sovereignty. However, since money laundering and terrorist financing are key issues for the security of all states, there is a strong need for global governance. Though correct estimates of the amount of money laundering are hard to come by, the IMF in 1996 reported that between two and five

percent of the global GDP (\$590 billion to \$1.5 trillion dollars) may be due to money laundering (FATF, "Money Laundering," 2009: 1). This has potential for economic distress for various countries. The increasingly transnational nature of criminal activities requires international cooperation. However, the diversity of national legal systems, especially in surveillance of financial activities, creates loopholes that terrorists often use. They can exploit countries with weak or ineffectual controls to participate in legal financial markets.

This paper examines Robert Keohane's concept of "governance dilemma" and Slaughter's theory of "government networks" to understand the nature of international efforts to control money laundering and terrorist financing (Slaughter, 2004a: 4). Among other things, Keohane states that although a world governed by international institutions is beneficial, it poses a threat to people's liberties. Slaughter offers a possible solution to this problem in her theory of "government networks" in which she states that "relatively loose, cooperative arrangements across borders between and among like agencies that seek to respond to global issues" can be formed to address issues at a global scale. According to Slaughter, "networks will form the core of the new world order of governance" (Slaughter, 2004a: 14).

More specifically, this paper considers Slaughter's theory in terms of money laundering and terrorist financing by focusing on the international regime of laws, rules and regulations established within a complex network of governmental, non-governmental and intergovernmental surveillance efforts. The paper takes a historical perspective, in that, it examines the international cooperation efforts and international organizations role in the fight against money laundering and terrorist financing before and after 9/11, for instance, establishment and operation of the Financial Action Task Force (FATF).

With great pressure from the U.S., the G-8 created the FATF which was set up as an independent inter-governmental task force with the OECD handling its financing. Created in 1989 and now having thirty-three members, the FATF works very closely with the IMF, World Bank, United Nations and FATF-style regional bodies for the development and promotion of policies to fight money laundering and terrorist financing. The FATF has promoted forty recommendations to create a base-line of universally applicable measures constituting a framework of international cooperation for the criminal justice system, the financial sector, and the non-financial businesses. After the 9/11 Incident, the FATF expanded its area of concern to terrorist financing and added nine more recommendations for confronting terrorist financing.

The FATF recommendations are very general and so give each country more flexibility, and yet create an overarching framework for rules or laws to be enacted and implemented by each member nation.

In short, paraphrasing Slaughter, a regime involving elements of power, authority and legitimacy can be created when agencies or organizations set up a network of laws to deal with the increasingly serious issue of terrorist financing. This paper examines the efforts of nation-states to cooperate in combating money laundering and terrorist financing. In doing so, we use global governance theory as put forward by Slaughter and others. We seek to understand the dilemma that nation-states face between the need to cooperate versus the loss of sovereignty in their attempts to combat financial terrorism.

Globalization and Terrorism

Global trade depends on the international transportation and mail system, involving a large range of activities. Most of us expect transportation to be safe and efficient, and we assume a global system of governance keeps it that way. Without a form of world government, how is the world truly governed? Simply, it is global governance, i.e., “the sum of laws, norms, policies and institutions that define, constitute and mediate relations among citizens, society, market and public authorities-the wielders and objects of the exercise of public power” (Slaughter, 1997: 195). The world is interdependent in areas as diverse as financial markets, control of infectious diseases, climate change, terrorism, product safety, and food supply. While major corporate operations, international markets and financial flows are global, regulatory and surveillance systems remain mostly national, or in a few cases such as Europe or East Asia are partly regional. At present, the most important common challenges are global, and the risks are shared internationally, but the benefits of globalization are far from global. This is why there is a widespread agreement on the need for cross-border supervision of financial institutions, as well as shared global standards for accounting and regulation.

Castells notes that global transport and communications, along with inter-linked news and entertainment media, the internet and computer networks constitute “the backbone” of global interdependence. The world is undergoing “a process of structural transformation in multiple dimensions,” including technological and economic. This engenders not only opportunities, but problems (Castells, 2005: 9-10). Crack examines the creation of communication networks as

critical to the creation of new forms of informal governance (Crack, 2007: 342-348). The critical issues of everyday life for people and their government in every country are largely produced and shaped by globally interdependent processes. The advances in communications have made it “impossible to remain a hermit to events happening in the rest of the world” (Lim, 2005: 4). For this study, the fundamental global paradox is that the same systems that link the world together can now be used by terrorists for their own ends.

In an environment of increasing global interdependence, the role of non-governmental actors has become increasingly important, with both positive and negative impacts. While interdependence in terms of increasing trade and communications can lead to development throughout the world, these very channels have been used by terrorists to enhance their activities. Sageman states that “face-to-face radicalization has been replaced by online radicalization,” while “offline peer groups” have now been supplemented by online forums that put forth heroic images of terrorists and connect users to a radical online community, and give them guidance in terror tactics. Such forums have become “virtual marketplaces for extremist ideas,” where frustrated youths can easily be swept into acts of terrorism. “They seek to belong to a movement larger than themselves, and their violent actions and plans are hatched locally, with advice from others on the web” (Sageman, 2008: 40-41).

As the most prominent global terrorist organization, al Qaeda created an extensive global financial network. This included the smaller network created to fund anti-Soviet operations in Afghanistan during the 1980s, as well as connections to “sympathetic financial facilitators” among the business community and charities in Saudi Arabia and the Persian Gulf states. Before 9/11, they were able to use European and Middle Eastern banks for much of their operations (Comras, 2005: 1-5).

Why are money laundering and terrorist financing major concerns for the international economic community? Among other things, it may threaten the integrity of global financial institutions, add risks to financial transactions, and heighten the “volatility of international capital flows.” Money laundering and terror funding have gone global and, due to the unevenness of legal standards, are more difficult than ever to control (IMF, “The IMF and...”: 1). Terrorism in any one country can have an impact globally, e.g., the Mumbai attacks in 2008 killed nationals from seventeen countries. Terrorists have demonstrated their ability to exploit the ease by which anyone can use international travel and financial transactions in order to

launch attacks in other countries. There is a growing “gap between the space where the issues are defined (global) and the space where the issues are managed (the nation-state)” (Castells, 2005: 10). All significant local issues have global effects or implications. Events in one part of the world, are conditioned by events in other places. As Tony Blair states, “the world is interconnected, [and so] the only way for the world to work is to have a set of common values. We have no option but to work together” (Message from Davos, 2008: 1). “Combating international terrorism requires cooperation in a wide range of areas” among states and international organizations (Banks, et al., 2007: 232). Diplomatic efforts are needed to maintain, strengthen and implement international antiterrorist laws and to encourage more states to endorse international treaties and organizations. Accordingly, various forms of cooperation and building of coalitions among states are vital to making the international system work well and taking care of both global and regional problems (Marquina, 2009: 2-4).

The question then is what form of cooperation can be fostered between states while balancing the need for sovereignty of the state. Sovereignty can be defined as supreme lawmaking authority. Globalizing forces are thus redefining the role of the state in the context of globalization. Traditional states were formed to secure sovereignty, legitimacy, economic development and social stability, but are facing a whole new set of imperatives in a “borderless world.” The increased power and reach of trans-national corporations weakens even the richest or most powerful states’ abilities to control or influence events. That means that states have to more actively participate in global “governance structures” in order to enhance the “bargaining processes” involving such trans-national economic actors (Lim, 2005: 12, 19).

Cooperation on use of economic tools can eliminate the sources of terrorist financing and help ensure that those who support terrorists can be punished. States may be reluctant to participate due to concerns about protecting their sovereignty. They may be wary about cooperating because of “the image it projects to its own populace,” fearing a negative reaction. Even so, international cooperation is taking place “at multiple levels and in multiple forms,” e.g., as international organizations set standards or give technical assistance so that states enhance their anti-terrorist capabilities (Banks, et al., 2007: 238).

The democratic deficit of networks incorporating non-governmental and private corporations, or among non-state and non-governmental organizations, can be reduced if international

organizations are involved in implementation of international rules and regulations. The legitimacy afforded by involvement of multilateral institutions may be crucial to the success of a network. As citizens rely more heavily on the state for security and in the process give up more and more of their rights, the state in providing this security and meeting the demands of the people has to either give up some of this power and sovereignty or redefine its sovereignty in the international arena. When decisions are made by multiple actors in a network structure, the state cannot make decisions by itself—global problems need global solutions. However, the state does not surrender its sovereign authority completely—the “network minimalism approach” that Keohane presents allows flexibility in implementation of decisions made in the network structure. Many observers feel that only by being part of a network and being involved in the decision-making process can states be effective in pursuing their international goals.

There are three major theoretical approaches to the issue of international financial cooperation among states:

- (i) The Traditional/International Liberalist approach asserts that international institutions, acting as supranational organizations, can set rules that must be followed by individual states. Establishing such a supranational organization would mean the transfer of power and sovereignty from nation-state organs to an international institution.
- (ii) The New Medievalist approach claims that the era of globalization brings the end of the Westphalian nation-state and establishment of a truly borderless global cooperative regime.
- (iii) The Global Governance framework insists that coordination to deal with global issues does not require transfer of power to international institutions, but can be brought about through trans-governmental cooperation among the same officials who make and implement policy at the national level (Slaughter, 1997: 195).

This paper examines the efforts of nation-states to cooperate in combating money laundering and terrorist financing. In doing so, we consider the applicability of the Global Governance framework to international efforts to combat money laundering and terrorist financing. In context of this approach, we look at the roles performed by organizations as part of a network of organizations that now constitute a regime for fighting money laundering and terrorist financing. We conclude by pointing out some of the most important problems and limitations of such frameworks.

The Global Governance Framework

Globalization has demanded new governance structures to handle global challenges, and this has resulted in the emergence of new actors, such as FATF, and reformed principles (in existing institutions like the IMF and U.N.). Increasing trans-national interdependence and the emergence of global challenges require a trans-national governance able to “address common problems with centralized competence.” Modern methods use a combination of old fashioned treaties and various informal cooperative means. When shifted to the global level, regulatory decision making works both horizontally and vertically, while becoming less hierarchical. (Wilke, 2008: 510-511). Aiding trans-governmental networks of regulators and administrators are private actors such as financial institutions and non-governmental organizations, hybrid private-public networks and enforcement. The interconnectedness between such diverse actors becomes evident when examining financial regulatory regimes. In our paper, we will examine the regime of money laundering and terrorist financing.

Keohane best summarizes the notion of the new global governance: Rulemaking and rule interpretation in global governance have become pluralized. Rules are no longer a matter simply for states or inter-governmental organizations. Private firms, NGOs, subunits of governments, and the transnational and transgovernmental networks that result, all play a role, typically with central state authorities and intergovernmental organizations. As a result any emerging pattern will have to be networked rather than hierarchical and must have minimal rather than highly ambitious objectives. “Networked minimalism” seeks to preserve national democratic processes and embedded liberal compromises while allowing the benefits of economic integration (Keohane, 2002: 214).

There may be competing networks—networks between private corporations that are formed because the states are unable or have no agreements. Transparency and accountability will be important in the success of networks. The role of the state in this new system is changing. Power can be exerted by various players – through soft power—which is gained by consistency of an actor adhering to the rules and norms established.

“Globalized informal violence” that uses modern communication, transport and military technologies poses as direct threat of globalism (Keohane, 2002: 273). Globalized informal violence strengthens one aspect of globalism, i.e., networks through which support for terrorism flows. Networks on non-state actors operate trans-nationally so that acts of violence in one

society can be launched and managed from far places. When such acts occur, they states may form global networks to respond to violence in their societies. As is often noted, the notion of geographical space is no longer controlling in an era of globalization.

Under global governance, states are not disappearing but being “disaggregated” into functionally different parts. This process allows creation of

networks of institutions engaged in a common enterprise even as they represent distinct national interests. Moreover, the states can work with their sub-national and supranational counterparts, creating a genuinely new world order in which networked institutions perform functions of a world government-legislations, administration and adjudication-without the form (Slaughter, 1997: 195).

These global scale networks can bolster the state as the central actor in the international system. States have traditionally been defined in terms of sovereignty, usually posed as the unchallenged exercise of power in domestic and foreign affairs. However, in this new form of global governance, sovereignty is recast as “membership in the regimes” that constitute international existence (Chayes and Chayes, 1998: 1-28).

Disaggregating the state leads to the dilution of state sovereignty, as institutions obtain both strength and status from participation in the trans-governmental networks. Disaggregation of states permits domestic institutions to build networks with other state institutions and supranational counterparts and thereby, become actively involved in decision-making and implementation. Involving a variety of actors in policy making can make implementation of rules and regulations more effective than a supranational institution simply making decisions and handing them off to states. Issue networks include governmental, non-governmental, supranational and private actors in the decision making and implementation process, and foster better understanding and acceptance of laws to address global problems. Recognition that one state or actor cannot effectively deal with global problems is vital; a “we are in it together” attitude leads to more effective global governance.

When states attain more authority through international institutions, they are likely to cooperate more extensively with each other on security issues. Now, state sovereignty can be measured by the degree of connectedness to these networks and the influence it gains by being part of them.

Is there such a network regime among states in the area of terrorist financing and money laundering? Have states, nongovernmental organizations and private institutions been able to cooperate to create a network of laws, rules and regulations that can be implemented globally? In fact, there has evolved a complex network of actors that constitute a framework of global governance to combat money laundering and terrorist financing.

FATF and Global Governance

The Financial Action Task Force (FATF) has emerged as a predominant institution to deal with issues of financing of terrorist operations. This organization seeks to develop a worldwide standard for anti-money laundering (AML) and combating terrorist financing (CTF). The FATF is a thirty-three member inter-governmental organization created in 1989 by the Group of Seven (G-7) industrialized nations. The FATF works very closely with the International Monetary Fund (IMF), World Bank, United Nations and FATF-style regional bodies for the development of worldwide standards to counter money laundering and terrorist financing. “Its mission is to track money-laundering activities and to make recommendations to governments to make their banking systems more resistant to use by those seeking to launder money” (Banks, et al., 2007: 252)

FATF was set up in 1989, and was tasked with examining measures taken against money laundering and making recommendations for actions that were still needed. The next year, the FATF introduced its Forty Recommendations, which became the de facto international standard and overall action plan for curbing money laundering. After the 9/11 Incident, the task force took on the additional task of combating terrorist financing, and put forth eight Special Recommendations against terrorist financing in October, 2001. It added a ninth recommendation concerning cross-border cash movements two years later (see Appendix I) (Jackson, 2005: 1-2).

FATF has become an important institution in the global fight against AML/CTF. This is partly because, even though it only has thirty-three members, a high percentage of financial activity occurs in these member countries and that a large majority of member states have embraced FATF Recommendations. The principles contained in these recommendations aid coordination of national AML/CTF policies (e.g., FATF Recommendations are similar to Security Council Resolution 1373, which states have already accepted). Resolution 1373, adopted on September 28, 2001, stated that all member states “should prevent and suppress the

financing of terrorism, as well as criminalize the willful provision or collection of funds for such acts.” It also called for denial of safe havens to anyone who commits or finances terrorist acts. It defined terrorist acts as criminal acts that could be prosecuted in domestic courts. Since such resolutions are binding, it helped assure cooperation. The United Nations, by way of Security Council Resolution 1617, also calls for the implementation of FATF standards, including their “uniform assessment process” (Gardner, 2007: 342).

FATF undertook a review of its operations, and in 2004 adopted five objectives: 1) to establish international standards against both money laundering and terrorist financing, 2) to bolster global AML/CTF activities, especially working with the IMF and World Bank, 3) to expand the FATF membership, 4) to improve relationships with FATF and “regional bodies” and non-FATF countries, and 5) step up studies of money laundering and terrorist financing methods (Jackson, 2005: 2-3). In collaboration with the IMF and the World Bank, FATF established a common means to measure the degree of implementation of national AML/CTF rules. Working with the IMF and World Bank, to which almost all countries belong, allows FATF to become a truly global player due to “increased peer pressure, transparency and accountability” (Gardner, 2007: 342). The most tangible expression of FATF’s work with the IMF and World Bank was the year-long pilot program, ending in 2004, to test “consistent application” of global AML/CTF standards. The three organizations were generally pleased with the degree of compliance with international standards. As a result, the three organizations drafted a “common methodology” for assessing compliance with these standards (FATF, “FATF strengthens...”: 1-2; IMF and World Bank, 2004: 4-6). In 2003, FATF claimed a high degree of compliance with its anti-terrorist funding recommendations. Only three countries were not complying with any of the recommendations, and the rest were fully or partially complying with seven of them. An IMF/World Bank pilot program found greater compliance with the Forty Recommendations than with the eight Special Recommendations. In particular, they noted the lack of coordination of government agencies, poor law enforcement, ineffective financial supervision, and inadequate international cooperation (Jackson, 2005: 3-5).

FATF has developed three specific processes to assess the compliance of countries to FATF Recommendations: 1) a self-assessment process 2) a mutual evaluation process, and 3) the Non-Cooperative Countries and Territories (NCCT) process, which involves “naming and shaming” of “non-compliant non-members.” When the FATF points out a state having major

systemic problems, it suggests possible technical assistance and “positive inducements” to work with international organizations, especially the IMF, World Bank and the Counter-Terrorism Action Group (CTAG) (Gardner, 2007: 335). The CTAG was established at a G-8 Summit in 2003, and was hailed by the Bush administration as a means to “build counterterrorism capacity worldwide” by way of training and technical assistance to countries with “the will but not the skill” to fight terrorism (The White House, 2003: 1). It is designed as a three-times-per-year forum in which counter-terrorism donor countries can discuss issues involved with carrying out U.N. Resolution 1373, especially in financing of terrorism, security of ports and shipping, airline and air freight security, and law enforcement and policy. Some of its more noteworthy accomplishments include compiling a list of “priority countries” for technical assistance and funding of technical needs assessments by FATF. Members include the G-8, EU, and various U.N. organizations (Realuyo, 2004: 3-4; Foreign Affairs and International Trade, 2008: 1-2).

The NCCT Initiative is intended to “reduce the vulnerability of the [international] financial system” by making sure that all countries and territories use common measures against money laundering. Primarily, it is a process for examining and identifying countries that may not comply with international standards. The initial process in 2001 identified nineteen nations and territories, and these were forwarded to FATF for reviews. By 2004, the list had been reduced to seven (FATF “About the...,” 2009: 1-2; “Non-Cooperative...” (1), 2001: 1-2; “Non-Cooperative...” (2), 2004: 1-2). Recently, coordination of NCCT shifted to the IMF and World Bank, whose leaders have stated that they want to boost capacity building in weak states instead of publicly censoring non compliant countries.

To this FATF/IMF/World Bank network has been added another set of institutions, the FATF-style Regional Bodies (FSRBs), which increase involvement of countries in the AML/CTF regime. There are currently nine FSRBs with membership of roughly 100 countries, covering Europe, the Asia-Pacific, Central Africa, Eastern and Southern Africa, the Middle East and North Africa, South America, the Caribbean, and a non-regional body of offshore Group of Banking Supervisors. FSRBs play an important role in expanding the reach of AML/CTF standards in three ways:

- (i) Expanding the geographic scope beyond FATF members, e.g., to the Middle East and Africa. FSRBs allow FATF recommendations to cover crucial geo-strategic arenas and bring in countries that may be crucial to the success of the regime.

- (ii) Allowing the organization to focus on specific regional needs and capacities. FSRB member states better understand their regional needs and areas where they need help, and membership allows them to reach out to FATF and the IMF, who can cater to the specific or particular needs of that region or country. It provides states a greater involvement and a “sense of ownership” of rules and regulations, and thus implementation and acceptance of rules is more likely.
- (iii) Providing a regular forum for regional organizations that helps them to form “working relationships” involving governments and other actors on various levels. Neighboring countries have linked interests and can “yield greater leverage” because of their “proximity and ability to embed the issue in a wider regional context” (Gardner, 2007: 341).

IMF and Global Governance

The IMF seeks to curb money laundering in member economies, and identifies problems relating to laundering as: threats to stability of financial institutions and financial systems, increased volatility of international capital flows and adverse effects on foreign direct investment. As an institution with diverse membership and automatic entry into many countries, it is an effective forum for information sharing, development of commonly accepted policy approaches and promotion of global standards.

The IMF is involved in three ways in the fight against AML/CTF:

- (i) Providing *technical assistance* to member countries to strengthen “their legal, regulatory, institutional and financial supervisory frameworks for AML/CFT”
- (ii) Surveillance of member economies to determine *compliance* with the FATF 40+9 recommendations in line with an “agreed Methodology for Assessing Compliance with FATF.” FATF, FATF-like regional bodies and the World Bank use these recommendations for their analysis.
- (iii) Developing efforts to determine program failings, based on IMF and World Bank staff research and analysis of international practices and implementation of the AML/CTF regimes (IMF, 2008: 1-2).

In 2000, in answer to international demands, the IMF stepped up its overall work in money laundering, and tried to curb abuse of the Offshore Financial Center (OFC). It carried out an assessment of OFC and studied inclusion of AML work in its programs. It also focused on use of Article IV and the new Financial Sector Assessment Program (FSAP) for surveillance. The

tragic events of September, 2001 intensified these efforts and expanded IMF's mandate to include both AML and CTF.

Among the specialized IMF programs targeted at terrorism have been a series of training events, such as the Anti-Money Laundering Workshop in Kenya in 2003 and the Anti-Terrorism Financing Legislation Workshop for North Africa, and the Horn of Africa in 2005 (GOPAC, 2003: 2-4; IMF, "IMF Promotes...": 1). The IMF also focuses its conventional economic programs on frontline anti-terrorist states, especially Pakistan. Cooperation with the Pakistani government was stepped up under the Musharraf government, and despite the nation's mushrooming political problems, economic performance improved (Looney, 2002: 1-4).

Private Non-Governmental Actors and Global Governance

There are several private non-governmental financial security forums such as the Egmont group, the Basel Committee of Bankers, and the Wolfsberg group. These allow sharing of information that is not always publicly available. The Egmont group, formed in 1995, has as its key goal the creation of a global network of international cooperation among Financial Intelligence Units (FIUs). FIUs were intended independent compliance information centers, and as such evaluate suspicious transactions and decide how to use such information, i.e., whether to hand it over to prosecutors. The role of FIUs is potentially problematic, since these organizations are not accountable to governments. The Egmont Group, named for the palace in Brussels where the initial meeting was held in 1995, is intended to pool efforts of FIUs from around the world to improve information sharing, training, and application of new technologies to financial oversight. It has promoted cooperation in information exchange, training and sharing of expertise. The Egmont Committee of fourteen, representing FIU regions, acts as administrator and intermediary between 108 member FIUs and five Egmont Working Groups (Financial Crimes Enforcement Network, 2007: 1). To join the Egmont Group, an organization must a "centralized unit" in a state or jurisdiction engaged in detection of financial crimes. Currently, 108 countries have operational FIUs (Egmont Group, 2009: 1).

The Wolfsberg group is an association of twelve global banks. Its stated goal is to develop finance industry standards and curb both money laundering and terrorist funding in the global financial system. For instance, it is pursuing three main programs for bank payment systems: 1) to "promote the effectiveness" of programs against money laundering and terrorist

financing, 2) to improve inter-bank transfers and inter-bank messaging services, 3) to improve transparency of payment and message standards. It has also issued guidance statements on banking standards and corruption (Wolfsberg Group “Bank Secrecy Act,” 2007: 1; “Global Banks...,” 2008: 1) (see Appendix II).

Following FATF recommendations, banks are required to closely watch transactions and if they discover that there have been suspicious transactions they report it to the FIU which investigates the individual/group and gathers data to support the claim of an illegal financial activity and report this data to the law enforcement agencies (both national and Interpol)

State and Global Governance

All these organizations and nation states work within the established rules of the FATF. FATF recommendations are not very specific, and so provide each country with flexibility while encouraging each to erect an overarching framework for rules and implementation. Task force recommendations accordingly set base level action standards, and members may implement detailed rules “according to their particular circumstances and constitutional frameworks” (FATF, 40 recommendations). National laws have established norms for subsequent proceedings (like the FIUs) and identified related offences, while “inner bank procedures” are handled by banks under the broadest possible regulatory guidelines (Wilke, 2008: 518). FATF revised its recommendations in light of the Wolfsberg Principles and gave more freedom to financial institutions to decide how to obtain information about customers, assign risk factors and determine which actions banks should carefully monitor.

Government institutions have also formed networks of their own, ranging from the Basle Committee of Bankers and the Egmont Group to FTAF, Interpol and informal ties with law enforcement agencies to legal network of laws. The Basel Committee was set up in 1974 to “formulate broad supervisory standards and guidelines” and “statements of best practice” for banks. These are very general bank regulatory proposals, which may include provisions on money laundering and terrorist financing. National authorities are expected to adopt and implement these recommendations as they see fit. They hope to promote global standards “without attempting detailed harmonisation” of individual states. In 1997, the committee proposed its “Core Principles for Effective Banking Supervision,” and two years later a

statement of “methodology” to implement these principles (Bank for International Settlements, 2007: 1, 3).

Conclusions

It is often said that global problems require global solutions. Global governance provides a framework for cooperation among nation-states for combating terrorist financing and money laundering. Such a framework can promote cooperation among nation states while protecting state sovereignty. Global governance mechanisms involving the state provide a middle ground between the liberal internationalist view that supranational authorities such as the United Nations should formulate rules and regulations for global issues, and the New Medievalists who proclaim the end of the nation state in an age of fragmented governance. It provides a viable alternative to supra-nationalism, which because it robs states of sovereignty often ends up unworkable, and ad hoc efforts of disconnected states, which often proves ineffective.

With the rise of terrorism, citizens rely more heavily on the state for security and, in the process, give up more and more of their rights. States, for their part, must meet the demands of their peoples by providing security against terrorism. In order to provide such security, states have to cooperate effectively with other states. They need to strike a balance between enhanced cooperation and giving up some of their sovereignty, and this requires a redefinition of sovereignty in the international arena. Being part of a global or regional network lessens the burden on states because sovereignty must only be redefined to the extent of state involvement in the network decision-making process (Chayes and Chayes, 1998: 1-28).

Networks to fight money laundering and terrorist financing include both governmental and non-governmental actors. Some network actors, especially private organizations (and NGOs), may operate without accountability, giving them tremendous flexibility and power. Their lack of transparency and accountability is a growing concern for the formation of these issue networks. Additionally, to solidify the legitimacy and the effectiveness of the network, network membership has to be expanded beyond a few powerful states. Success of any international regime depends on the political will to implement laws on a global scale, yet it must also consider the problem posed by Plato, when he asked, “who guards the guardians?” (Plato, 1930: 264-265)

The principal problem with this new networked form of global governance is that it lacks vital characteristics of democratic governance. First, it lacks accountability. For instance, representatives in FATF, unlike ambassadors to the U.N., are not directly accountable to their states. Second, it underlines current power asymmetries in the international system. Formed by the G-7/G-8 countries, FATF is dominated by the same major powers who dominate the U.N. and other institutions of global governance. Wilke notes that these states control much of the world's "stored data" about corruption due to the sensitive nature of such information (Wilke, 2008: 523). Third, storing of information by the major powers and developed countries puts developing countries at a huge disadvantage. Information on politicians and other leading actors in poor countries makes them vulnerable to political pressure. Since developing nations often rely on advanced industrial countries for aid and technical assistance, they must also depend on richer countries for data storage. Fourth, as noted before, the ad hoc organizations of global governance are not fully transparent or accountable, and thus manifest a clear democratic deficit. They are thus plagued by questions of legitimacy. As Slaughter notes, networks only possess legitimacy if all states join, and the "most networked" states tend to be most powerful (Slaughter, 2004a: 4, 14).

Other problems concern administration of networked programs. For instance, banks may not report potentially suspicious activities because it could affect their cash flows. States may not have the political will to pursue cases unearthed by the network, and this could prevent true cooperation. Also, despite the guiding influence of supposedly binding U.N. resolutions and the presence of national police forces, no merely networked system can force any state to take action in domestic law enforcement if it chooses not to do so.

One positive step that has allowed the inclusion of more countries is the recent G-20 Summit process. This has included several developing countries, which formerly were not involved in major international summit, including countries that ostensibly represent whole regions of the developing world. Their inclusion is critical to the future success of any financial regime. Moreover, the creation of FSRBs may well boost participation of countries from various regions. Enhanced cooperation may then create sufficient impediments that it will become more difficult for terrorist organizations to operate internationally.

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Appendix I: FATF RECCOMENDATIONS

The Nine Special Recommendations are:

- (1) ratification and implement of UN instruments
- (2) criminalizing the financing of terrorism and associates money laundering,
- (3) freezing and confiscating terrorist assets,
- (4) reporting suspicious transactions related to terrorism,
- (5) international co-operation,
- (6) alternative remittance,
- (7) wire transfer,
- (8) non-profit organization, and
- (9) cash couriers.

SOURCE: Financial Action Task Force. "9 Special Recommendations (SR) on Terrorist Financing (TF)." October 22, 2004. http://www.fatf-gafi.org/document/9/0,2340,en_32250379_32236920_34032073_1_1_1_1,00.html Accessed 5/21/09.

Appendix II: Banks in the Wolfsberg Group

- (1) ABN AMRO Bank
- (2) Banco Santander
- (3) Bank of Tokyo-Mitsubishi-UFJ
- (4) Bar Clays
- (5) Citigroup
- (6) Credit Suisse

- (7) Deutsche Bank
- (8) Goldman Sachs
- (9) HSBC
- (10) J.P Morgan Chase
- (11) Societe Generate
- (12) UBS

Source: “The Wolfsberg Anti-Money Laundering Principles for Correspondent Banking.” 2002 (updated, 2008). <http://wolfsberg-principles.com> Accessed, 5/21/09.