

The War on Terror and Islamic Charities: Securitization and the Evolution of Policy and Practice

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Abstract

The purpose of this study was to investigate the effects and impacts of the war on terror on Islamic charities, in the context of evolution of securitisation in policy and practice following the events of the September 11, 2001 attacks in the United States. In the aftermath of 9/11, a new international regime was instituted which led to increased securitization and risk management at the global, regional, and national levels. The thesis presents evidence that the effects of the new regulations on Islamic charities can be explained and analysed using securitisation frameworks. The study was conducted using qualitative research methodology involving systematic review of the literature. Utilizing this method allowed collection and analysis of a very broad array of both formal academic works and of media reports and grey literature which reflected the pulse of the international community on issues of terrorism and risk. Theoretical frameworks of societal security theory, Copenhagen school of securitization and the risk management theory were used to analyse and organize the research. Findings from the systematic literature review and case studies demonstrated that Islamic charities were negatively affected by the efforts of the United States, and global multilateral financial regulatory enforcement mechanisms such as Financial Action Task Force (FATF), banks, and national regulatory agencies of charitable works. The international community believed that through the process of heavy regulation, charities could be made less vulnerable to penetration by terror groups. In turn, they would be less likely to fall prey to being a mechanism by which charitable funds could be transferred to terror groups. Even though the charities are not as vulnerable as the West believes, the US Treasury has continued to freeze and block assets of charitable foundations in an effort to counter terror. A number of initiatives by governments and civil societies to remove obstacles to humanitarian aid and reduce the negative impacts of laws developed as a result of the war on terror are presented in the study.

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Chapter 1: Introduction

1.1. Background to the topic and context of the research

This thesis investigates the effect of the global war on terror on Islamic charities following the terrorist attacks on the United States on 11th September 2001. Following the terrorist attacks on the United States on September 11th 2001 by a group of individuals with links to the Al-Qaeda organisation, the United States declared that it was in a war with global terrorism. The primary focus of the war against global terrorism was to interdict and destroy non-governmental organisations that used terrorist methods to achieve a political objective (Keatinge, 2014). The majority of the governments in the Western and industrialised nations have subsequently joined the war against global terrorism. As part of the effort to suppress terrorism, the national governments have identified many non-state armed groups as terrorist organisations (Pantuliano, Mackintosh, Elhawary, & Metcalfe, 2011). The general approach used in these countries is to pass legislation criminalising actions that can provide support or assistance to terrorist organisations. Examples of the legislative approach include the Anti-Terrorism, Crime and Security Bill in the United Kingdom and the Common Position 931 in the European Union (Dudouet, 2011). One of the purposes of the legislation is to ensure that governments take actions to reduce or eliminate the flow of funds that terrorist organisations can use to conduct terrorist operations. This interdiction is based on the assumption that interdiction of financing will lead to less terrorist activity (Mackintosh & Duplat, 2013).

Legislation at the national level as well as resolutions of the United Nations Security Council (UNSC) has led to the development of an inter-governmental counter-terrorism initiative (Mackintosh & Duplat, 2013). The Counter Terrorism Action Group (CTAG) was formed by the G8 countries in 2003 to provide counter-terrorism capacity building to other countries and to

encourage adherence to UNSC Resolution 1373, which was intended to hamper terrorism using shared intelligence. The designation of the Financial Action Task Force (FATF) to combat terrorism by interdiction of flow of funds that support terrorist activities represented a new use for the FATF, which was originally established in 1989 to reduce international money laundering. The same principles would be used to interdict the flow of funds that finance terrorist operations (Keatinge, 2014). Because of its concern with the source and utilisation of funds, the FATF has a significant influence on national governments, financial regulatory frameworks, banks, and international organisations including charities. In addition, the Middle East and North Africa Financial Action Task Force (MENA FATF) focuses on ensuring Islamic charities terrorists from using the organisations as a conduit to transfer funds across international borders.

The approach to fighting terrorism taken by Western governments and various international organisations is complicated because there is no commonly accepted definition of international terrorism. The term *terrorist* has a pejorative connotation; it tends to reflect the perspective of the group that is in a position of authority or power towards another group, particularly when the group is engaged in armed conflict to unseat the party in power (Sorel, 2003). In practice, the term terrorism is applied to the actions of non-state armed actors and to state actors during both peacetime and formally declared wars (Pantuliano et al., 2011).

Many international agreements as well as national legislations omit a definition of terrorism. Sorel (2003, p. 369) argues that terrorism is understood in terms of the way that acts are committed rather than the reasons for the act or by whom the act is perpetrated. Under international humanitarian law, targeting civilian persons or civilian objects is considered impermissible and can be designated as terrorism without considering the motivation for the violent act (International Committee of the Red Cross, 2011). Other countries may have a

different definition; the United Kingdom requires that acts have a political purpose as their basis. This ensures that acts committed for a religious purpose are not labelled as terrorist, which is consistent with the more liberal ideologies of democracies (Byrne, 2017). Because of the lack of a clear definition, however, individual states are relatively free to establish criteria by which they assess whether an organisation advances an agenda deemed as terrorist (Dudouet, 2011). As a result, there is often no consensus among countries and international organisations about the groups that are labelled as terrorist and therefore subject to sanctions.

The FATF activities that have had an effect on Islamic charities have not been subject to extensive scrutiny in order to ensure that the application of money laundering and other rules has occurred in a fair and impartial manner (Blazejewski , p. 1). The FATF does not specifically define the concept of financing for terrorism although it makes use of the term in its various recommendations. Consequently, the way a nation implements the FATF for eliminating financing for terrorism depends on the definition of terrorism adopted by the nation. The FATF is also concerned with interdicting global financing flows that provide the revenues necessary for terrorist operations. (Vaccani, 2010).¹ The *hiwala* system involves payment of funds to a private intermediary in one country who then arranges for the payment of the funds to the charity through a second intermediary in another country. The FATF also considers international charitable organisations as particularly vulnerable for use by terrorists to move funds and material across international borders (Keatinge, 2014).

The FATF has significant power to affect the financial flows in and out of a country

¹ An additional problem is distinguishing between legal or legitimate interests and interests which may be being used for funding terrorist activities. As Blazejewski (2003, p.3, note 4) pointed out, “Terrorist groups also generate funds through the revenues of legitimate businesses.” In point of fact, while in Sudan, Osama bin Laden provided funds that were legitimately acquired through his business interests for illicit purposes for Al Qaeda. There is suspicion that the Saudi Arabian government may also provide legitimate funding for illegal and terrorist purposes.

because of the ability of most countries to follow recommendations concerning forfeiture of assets and interdiction of international financial activity.² Before the FATF takes extreme measures against a country, it monitors the country with the International Cooperation Review Group (ICRG) process (Desta & Cockayne, 2012). If a country subject to the ICRG process fails to implement and enforce legal safeguards to prevent the funding of terrorist organisations, the FATF can take action that interferes with the ability of the nation to transact international business. Some of the structural factors that the FATF deems unacceptable include cash-based economies with a high level of corruption, weak law enforcement and poor judicial capacity, and the presence of transnational criminal networks in the region. The ICRG review process also carefully examines charitable organisations operating in a country to ensure that they provide services only for recipients that the FATF considers legitimate. At the same time, the national regulators in a country operating outside the FATF can freeze the assets of a charity and prevent the organisation from collecting donations or conducting other types of operations in a country (Pantuliano et al, 2011).

To implement the policies to prevent the transfer of funds to organisations designated as terrorist, the governments of the Western countries have adopted a strategy of privatisation of a portion of the necessary enforcement effort through the banking industry (European Union Committee: House of Lords, 2009). Because the governments can impose severe sanctions on banks and other financial institutions that facilitate the transfer of funds to terrorist organisations, the banks and in particular, international banking organisations have established substantial hurdles to the transfer of funds to organisations considered suspicious (Croatian National Bank [Hrvatska Narodna Banka], (2015). Consequently, Islamic charities can experience significant

² The FATF itself is very small and compact; its power lies in its ability to develop institutional partnerships. In numbers, there is power (Blazejewski, 2003).

delays in providing funds for local humanitarian operations (Metcalf-Hough et al., 2015).

The specific problem created by the war on terror for many Islamic charities is the perception that many of their activities constitutes criminal behaviour. Because they are perceived to be engaged in criminal terrorist behaviours, the charity is subjected to sanctions, including forfeiture of funds or criminal prosecution for its workers in Western countries jurisdictions. Western policies towards Islamic charities have fundamentally criminalised many of the non-governmental charitable and service organisations in Muslim majority countries, which reduces their ability to provide mediation or other support that might reduce radicalisation over the long run (Dudouet, 2011, p. 5). Any direct support in the form of transfer of funds, or indirect support including provision of food, clothing or non-monetary benefits to individuals who are members of an organisation considered as terrorist can result in criminal sanctions or regulatory penalties for the charity in nations with anti-terrorism legislation. Requirements for charities are so stringent that almost any activity that takes place in an area or region where designated terrorist organisations are active can lead to sanctions against the charity (Mackintosh & Duplat, 2013). The legal provisions can also affect Islamic charities that may not have any offices or other types of operations in a Western country but nonetheless receive financial contributions from donors residing in a Western country. At the same time, criminal penalties imposed by governments on groups providing support to designated terrorist organisations allow the government to freeze assets of charitable organisations based on allegations; the court proceedings necessary to recover the assets can take several years (Metcalf-Hough et al., 2015).

In general, the financial restrictions imposed by the FATF as well as the laws in many countries concerning support for terrorism has infringed substantially on the ability of Islamic charities to provide humanitarian assistance in many parts of the world (Mahmoud, 2013). Self-

limitation of mission scope and self-censorship of activities have become particularly common among Islamic charities who perceive that their funding is vulnerable to governmental actions that damage their reputations. Fear of prosecution under the laws of various countries that restrict interactions with foreign terrorist organisations has been a central factor in the decline of the presence of humanitarian organisations in some areas such as Somalia or Gaza (Gonzalez, 2013). Consequently, the perception has developed in many Muslim countries that the efforts of the Western governments to reduce funding for terrorist organisations harm the general Muslim population.

The need to comply with anti-terrorism requirements has increased the operating costs of Islamic charities. Additional administrative burdens associated with compliance certification reduce the amount of funds available for programmes (Pantuliano et al., 2011). Consequently, a particularly significant effect of the war on terror is to reduce the scope of the activities of Islamic charities on local events and conditions in the countries where they operate (Dudouet, 2011). Charities in countries that the Western governments have identified as providing support for terrorist organisations have difficulty receiving financial support from diaspora national expatriates or other Muslims living abroad that may have an interest in contributing to the work of the charitable organisation. In some cases, the governments have frozen the assets of the organisation within the nation's borders, which often leads to the dissolution of the charity (Dudouet, 2011).

Because of the restrictions on funding for organisations designated as terrorist, the number of Islamic charities that are able to operate internationally has decreased substantially over the past decade (Challand, 2011, p. 2). The decline in the number of Islamic charities is most apparent in the United States, but it is also a trend in the United Kingdom. The result is a

reduction in the quantity and quality of the humanitarian work that larger international Islamic charities are able to accomplish in the Middle East. In particular, Islamic charities are unable to provide substantial humanitarian assistance in regions where designated terrorist organisations exercise political control.³

The post 9/11 climate with regard to Islamic charities has been affected in a manner that negatively affects those most in need of charity. It appears that whenever an Islamic charity is actively engaged in the fund-raising process, or partnering with other agencies to deliver aid to beneficiaries in conflict areas, the Islamic charity has a high risk of being designated as a terrorist organization. This occurs even when the Islamic charity is a bona fide charitable organization and has been following the toughest securitization and risk management regulatory regimes established by the Western governments and Muslim countries to suppress terrorism.

1.2. Research questions:

The question that guides the theme of the research asked:

What were the effects and impacts of the war on terror on Islamic charities and the subsequent evolution of securitization in policy and practice following the events of the September 11, 2001 attacks in the United States?

Several specific questions were developed to focus the research and elicit specific information:

1. What were the effects of the global war on terrorism (GWOT) on the global regulatory regimes and subsequently on Islamic charities?
2. To what extent has the GWOT curtailed the charitable actions and contributions of

³ See Price et al. (2012), in which the writers argue that the law, because of its scope, makes it nearly impossible even for scholars to determine what is, and what is not, acceptable conduct.

charities suspected of supporting terrorism, with an emphasis on Islamic charities?

3. Do the U.S. and other non-Islamic nations use the process of combatting financing provided by Islamic charities (and other charities that serve the Islamic world) as a way of asserting their ideology over Islamic nations?
4. How do other nations approach the effects and impacts of the war on terror on Islamic charities?

1.3. Aims of the research

The research has four main aims: to demonstrate the effects of the war on terror on humanitarian charities and organisations; to explain the evolution of securitisation in the war on terror; to review how and why Islamic charities became framed as funding for terrorists; and to identify and discuss challenges faced by bona fide charities that function in an area with high rates of terrorism.

The first aim is to demonstrate the effects and impacts of the war on terror on global and national regulatory regimes of charities and civil society organizations, specifically relating to the effects of financial sanctions on Islamic charities in many parts of the world. The second aim is to explain the securitization evolution in policy and practice after the beginning of the war on terror, post 9/11 attacks, through the analysis of securitization theoretical frameworks. The third aim is to critically review how Islamic charities have been socially framed as vulnerable, and thus hotbeds for funding terrorist groups, within larger social settings and public attitudes. The fourth aim is to present and discuss a number of governments initiatives to remove obstacles to charitable works and humanitarian organisations, and to inform securitization actors in their ability to advocate the reduction of challenges faced by bona-fide Islamic charities.

1.4. Significance of the research

The research arises in the context of the global war on terror and involves the operation of Islamic charities in Middle Eastern and Gulf regions. Islamic charities must remain faithful to their customs and their mission, but the traditional Islamic approach may conflict with external governmental requirements or requirements of international organisations that are intended to reduce funding for terrorist activities. Islamic teachings require followers to donate a portion of their earnings to the needy (Beranek, 2010).

Muslim nongovernmental organisations have historically played a significant role in providing humanitarian aid and in supporting development in Muslim majority countries (Kraffass, 2005). The concept of a charitable organisation has been a traditional part of Muslim cultures because of the requirement imposed by Islamic teachings to donate a portion of earnings to the needy (Beranek, 2010). Most of the major Islamic organisations such as the British Islamic Relief Worldwide and the Saudi International Islamic Relief Organisation (IIRO) conduct operations in nations throughout the Middle East and Africa (Petersen, 2012). The Islamic charitable organisations are based on the principles of charity and a fair distribution of wealth that are embedded in Muslim societies (Petersen, 2012). The principle of *Dawa* or proselytising is embedded in Muslim society. Charitable organisations that provide humanitarian aid and general social services are considered to be proselytising (Zelin, 2014). At the same time, Islamic charitable organisations are perceived as part of a response to the general social movements now affecting Muslim society, including the growing importance of using jihadist organisations to achieve social objectives (Munson, 2001).

Funding for Islamic charitable organisations comes from two sources. Oil revenues in the wealthier nations of the Middle East provided much of the funding for the charities headquartered

in Middle Eastern countries. In contrast, Muslims residing abroad often pay their *zakat* or voluntary religious contribution to an Islamic charity that is presumed to use the funds to help others (Petersen, 2012). The concept of using charitable donations to reduce personal wealth and to benefit others is a fundamental aspect of Islam (Kroessin, 2011). In Muslim majority countries, the *zakat* has become a type of tax with the government distributing the funds to charitable organisations that the government deems appropriate (Beranek, 2010). The operation of Islamic charitable organisations was largely unknown to non-Muslim Westerners and the West in general prior to the terrorist attacks on the United States in 2001.

Since the attacks on the U.S. in 2001, Islamic charities have been faced with unprecedented challenges. This thesis provides a review of the range of effects and impacts on Islamic charities as a result of the application of counter terror measures. The thesis argues that Islamic charities from all corners of the globe have been affected, but those charities in the U.S., the United Kingdom (U.K.), Saudi Arabia, Kuwait and Qatar were affected particularly severely. The shift in paradigm that resulted in Islamic charities being highly scrutinized for ties to terrorism have affected mainstream public views, foreign policies, academic views, mainstream think tanks, funding policies of global donors, operation of charities, scrutiny of regulatory institutions in many countries, private sector banking de-risking actions, and even the operations of small remittances or *hiwala* companies. The impacts directly affected Muslim communities in many parts of the world, specifically in conflict zones such as Palestine, Somalia, Afghanistan, Pakistan, Syria, and Mali. The financial sanctions of Islamic charities to operate in "securitised regions" could be argued to hypothesize that securitisation theoretical frameworks have been expanded further to cover new actors in the form Islamic charities. Regardless if this is hypothesis is correct, the body of policy and law of global war on terrorism have been on a collision course

with the body of law and policy of International Humanitarian Law and principles.

The findings of the study will have significance for the managers and directors of Islamic charities by identifying the barriers and constraints under which they will operate if they have contacts with donors and partner charities from Western countries. By inference the results will be of great importance to the thousands of individuals who would benefit from having greater access to the benefits of Islamic charities, access which is currently barred due to the restrictive anti-terrorism laws, inappropriately applied. Increasing the knowledge about barriers and constraints may help managers formulate strategies to avoid legal entanglements that could compromise their ability to implement programmes and thus the ability of the populace to access those programmes. The findings of the study will also provide information to legislators and regulators in Western countries concerning the effectiveness of their on-going efforts to ensure that Islamic charities do not provide support for terrorist organisations. The findings may be helpful for changing policy to improve the ability of Islamic charities to implement humanitarian and development programmes.

1.5. Research methodology

The study used a qualitative research method involving a systematic review of the literature, triangulated with three case studies. Qualitative research is part of the constructivist paradigm in which the objective of the study is to understand the perception of reality from the perspectives of the subjects of the study (Mertens, 2010). This research methodology reflects a worldview that reality is socially constructed and can therefore vary based on time and place. The application of the constructivist approach to the current study is based on the assumption that the role of Islamic charities and their relationship to organisations designated as terrorists varies in different cultures and societies. The case studies specifically address the cases of Islamic Relief Worldwide, Qatar Authority for Charitable Activities and the Montreux Initiatives.

The qualitative approach is appropriate in research that endeavours to ask how or why, or to describe why something is the way it is. In the current research, the qualitative approach was used to identify the perspective of the subjects of the study and their attitudes towards Islamic charities, as well as the effects the global war on terrorism have had on these charities. A qualitative approach to research is appropriate when the aim of the study is to explore or describe the topic under investigation (Creswell and Poth, 2018). The qualitative approach to research is also suitable when there are many variables that are difficult to identify and measure but which affect the topic under investigation. In the current study, the topic involves a large number of factors related to the attitudes towards the charities, societal norms in Western and Islamic cultures, and the beliefs about the effectiveness of various legislative and monitoring methods to control the activities of Islamic charities.

The systematic review uses an explicit method for assembling and extracting data from previous research or discussions of the topic under investigation found in the literature (Gough, Oliver, & Thomas, 2012). The use of an explicit and defined approach to the systematic review is intended to reduce the degree that research bias influences the choices and interpretation of the findings of other researchers. The approach also relies on a large number of studies concerning the topic to diminish the possibility that the conclusions drawn in the study are based on atypical findings of previous researchers. The systematic review can be useful for reducing bias in studies involving social sciences when there are numerous qualitative studies and discussions that may not be objective because of ideological factors (Gough et al., 2012).

Case studies are utilised when a broad scope of complex issues needs to be investigated (Harrison, Birks, Franklin, & Mills, 2018), , especially when the topic involves humans and how they understand the topic that is being studied (Yin, 2014). Stake (1995) emphasised the actual

study of the circumstances of the case, rather than any particular methodology. Stake (2006) stated that case study "requires experiencing the activity of the case as it occurs in its context and in its particular situation"(p. 2). This is the approach that was utilised in developing the case studies. An in-depth discussion of methodology is provided in chapter two.

1.6. Theoretical frameworks

To a large degree, the legal and institutional restrictions on Islamic charities are intended to reinforce the perspective among the public in Western countries that the governments are taking actions that will increase security. The effectiveness of the measures for reducing terrorism are less important to the government than the fact that the government is taking an action approved of by the general public, one which the populace perceives is lowering the possibility of terrorists receiving funding and thus being less able to launch attacks. However, it is important to understand that when the government takes an action against an Islamic charity, it also reinforces the perceptions among the public that the charities are not providing legitimate humanitarian aid or other social services.

The theoretical framework underlying the study is based on a combination of societal security theory or (Copenhagen Securitisation theory)and risk management theory. This combination explains the effect of the actions taken by the U.S., U.K. and the UN and number of Western governments towards Islamic charities in the global war against terrorism. The theoretical framework provides concepts of securitisation that represent a constructed understanding of the issues that Western countries perceive as a security issue (Saleh, 2010). In general, societal security is about the ideas, norms, and practices that identify individuals as a member of a specific social group. While social identity is often intertwined with political organisations and governments, the social identity itself functions as a separate construct (Fisher, 2012).

1.6.1. Security theory

The purpose of this section is to explain and analyse the process of framing Islamic charities under the war on terror through a detailed explanation of the securitisation theoretical frameworks used in carrying out this study. Rather than using a single theoretical framework, the issues and factors involved in the global war on terror and its effects on Islamic charities require the use of several theoretical schools of thought. The theoretical frameworks underlying this study are societal security theory, Copenhagen school of securitization and the risk management theory.

The use of theoretical frameworks provides a means by which to bring together ideas and concepts related to securitization, risk management, and issues of security within the larger social issues and threats related to terrorism. Bringing together these theoretical frameworks allows for the ability to take advantage of their strengths while also compensating for their weaknesses. In this regard, the theoretical frameworks used to conduct this study with the greatest level of validity possible.

Security theory has been in a state of flux over the past several decades because of the ineffectiveness of the traditional Realism approach to provide a framework for understanding security issues in the post-Cold War Environment (Robinson, 2010, p. 847). Constructivist approaches to theory have emerged as a means of understanding the characterisation of issues as security matters by various actors and the way individuals and groups respond to the issues (Buzan and Hansen 2009, p. 191). The Critical Security School is an example of an approach to security theory based on the assumption the perception of a threat and the type of response necessary to deal with the threat is socially constructed and therefore does not have an objective reality. The Societal Security School of security theory is also rooted in constructivism and is based on the proposition that societies need to maintain their identity in the face of perceived

threats such as migration or globalisation (Research Council of Norway, 2011, p. 3). The risk management security theory adopts a proactive approach to the identification and mitigation of security risks, although the theory also recognises the nature of modern security risks defy rational calculation (Van Munster, 2005, p. 7).

The Copenhagen Securitization School Theory Framework (CSSTF) provides an approach for understanding the means by which securitisation and de-securitisation of an issue occurs (Does, 2013, p. 3.1). Securitisation is the process by which political or other actors characterise an issue as a significant threat to the fundamental values and institutions of a nation through rhetoric and demand extraordinary powers to contend with the purported threat (Stritzel, 2007, p. 358). When used in conjunction, the CSSTF and Risk Management security theory offers an approach for understanding how the Global War on Terrorism (GWOT) influenced the securitisation of Islamic charities. The CSSTF and risk management theory are also significant because it informs the processes by which Western nations construct a dialectic narrative creating a clash of identities between Western and terrorist organisations. The narrative concerning the threat posed by terror organisations as well as the measures taken by Western governments to manage the risk of terrorism are foundational for explaining how Islamic charities have been securitised by Western governments based on the construction of Islamic charities as funding conduits for terrorism.

1.6.2. Definitions

The definitions necessary to understand security issues and securitisation concepts often involve multi-faceted constructs that are imprecise. An example is the definition of terrorism, which is amorphous because the concept involves actions by others contrary to the values and

norms of a specific society (Kundnani, 2015, p. 9). Consequently, the actions considered terrorism in one society may not be considered terrorism in another society. Kruglanski et al. (2016, p. 1) suggested the concept of terrorism could be understood as a group attempting to achieve objectives by using extreme radical behaviour as understood by the values and norms of a specific society. The lack of definitional clarity including the definitions used in the laws of Western nations creates difficulties with understanding terrorism as a normal occurrence in society capable of prosecution under the law (Sciullo, 2014, p. 566). An additional problem with the definition of terrorism is that the term can be used to characterise social movements that may challenge existing social norms or values (Munson, 2001). A well-known saying is that one man's freedom fighter is another man's terrorist, and to a great extent, this is true; the perception of terrorist vs. freedom fighter causes a great deal of clash on the part of those who study the topic.

1.6.3. Challenges with the term 'Security'

A challenge with using the term security is the vague and imprecise meaning ascribed to the concept. Security can mean the safety of the state as in the traditional construct as understood in Realism theory, with military power as central to the understanding of the nature of security (Baldwin, 1997, p. 9). Security can also mean the protection of interests or infrastructure a group of people or the state perceives as vital for the operation of society, such as economic interests or transportation infrastructure. Consequently, the concept of security is mutable and dependant on the type of discourse surrounding the issue (Does, 2013, p. 3.1). The concept of security is also the product of the historical, cultural, and political environment in a particular time and place (Buzan and Hansen, 2009, p. 9). Objective facts or data are often not relevant to the understanding of security. This is one of the reasons that the decision was made to include media reports and grey literature in the current study. Because of the issues with definition security, security is often

considered a contested concept for which a neutral definition is not possible (Diskaya 2013, p. 1). The many different understandings of security suggest that the concept may be essentially a contested concept, which implies that no amount of persuasion or evidence can lead to consensus on the meaning of security (Baldwin, 1997, p. 10). Researchers in the area of security studies, however, cannot agree that security is indeed an essentially contested concept.

Sulovic (2010, p. 2) suggested the concept of security can only be understood through careful examination of how the term is used in discourse. Only by assessing the term with additional information concerning issues such as security for whom, for which values, from which threats, and by which means can the use of the term security be fully understood. While the various schools of security theory attempt to address the issue of defining the concept of security, the CSSTF provides a means for analysing the context in which the term is used through the specific discourse associated with the speech act leading to securitisation.

There is no generally accepted definition of security because of the inconsistency created by objective and subjective interpretations of the concept. Objective security can mean the actual absence of threats to values while subjective security can mean the absence of fear of threats to values (Buzan and Hansen, 2009, p. 32). Because of the impossibility of measuring objective security, subjective factors play a substantial role in the understanding of security. Consequently, the term security often refers to the outcome of a subjective process rather than an objective state of protection from threats (Popovic, 2007, p. 14).

The traditional approach to security considered the term synonymous with the military because of the importance of the military for protecting the state and for projecting power (Robinson, 2010, p. 847). The concept of security as military power, however, was based on the centrality of the state when defining security. Consequently, security was defined as preservation

of the state, with all political, military, and civilian actors accepting the premise that the continuation of the state through the use of military force if necessary was fundamental for safety and prosperity of the peoples living within the political boundaries of the state.

1.6.4. Societal Security Theory (Copenhagen Securitisation Theory)

The theory of societal security proposes that nations and regions interpret security in terms of maintaining security for *society as a whole* rather than focusing solely on the security of the state (Brimmer, 2006). The approach is sometimes referred to as the Copenhagen school of security and involves states and supranational organisations such as the UN taking collective action to maintain security (Floyd, 2007). The fundamental proposition of the theory of societal security is that societies seek to preserve their essential character under changing conditions (McSweeney, 1996). Consequently, societal preservation rather than the preservation of the state is the object of security policy and the actions perceived as necessary to maintain security. This is an extremely important point for the purpose of the current research.

The theory of societal security proposes that events threatening to change society create societal insecurity and this insecurity triggers the security response from governments intended to eliminate the cause of the insecurity. Many of the potential trigger events simultaneously affect society in many countries, which result in collective security response (McSweeney, 1996). Events that can threaten society include migrations that lead to fundamental changes in the makeup of society and cultural trends leading to changes to basic societal paradigms. The security threat exists primarily in the perception of the group that is threatened. This may be a subjective, rather than an objective, threat. In effect, the governmental institutions responsible for security create a representation of the threat that can be addressed through some sort of action (McDonald, 2008). Consequently, the perception of a threat is socially constructed in accordance with the

norms, values, and interactions in the society in question (Charrett, 2009). The government or other non-state actors can theoretically use persuasive methods such as propaganda to shape the social construction of the perceived threat. At the same time, the socially constructed perspective of societal security has a significant effect on the actions taken by governments to preserve security, particularly in democracies where the government is somewhat responsive to the pressures from constituencies (Fisher, 2012).

Once society recognises the existence of a threat, it makes the decision to take an action to prevent the threat from harming society (McSweeney, 1996). Consequently, attitudes or beliefs about the nature of the threat and the desire to preserve the essential character of society are the key predictors of the decision to take an action to eliminate the threat. The type of action necessary to deal with the threat to societal insecurity, however, it depends on the beliefs concerning the effectiveness of the action for achieving the desired objective.

In the theory of societal security, the individual state actors recognise the limits of using military force to protect society from many types of societal threats such as migration or the attacks by armed non-governmental organisations. A large shift in perception has occurred since the end of the Cold War and the reduction in significance of a state-centric concept of security (Saleh, 2010). As a result, individual state actors replace the traditional military approach to controlling societal threats with a multinational approach that involves the use of legal and financial frameworks. In addition, the theory of societal security adopts a regional approach to security analysis in which the interlocking security concerns and dynamics of a region are considered. The regional approach challenges the traditional state-centred focus of security, with the aggregate behaviours of the state and non-state actors in a region rather than the individual state actors determining security (Charrett, 2009).

The theory of societal security also proposes that proactive methods for taking actions to prevent or to reduce a perceived threat before the threat causes substantial harm is preferred to a reactive approach (Brimmer, 2006). Military solutions are inadequate for efforts to preserve security, so broader and multi-sector approaches aimed at specific security domains or issues are necessary to protect society. This changing approach places the nongovernmental sectors to be as important as the state for achieving security objectives. The assumption in the societal securitisation theory is that the critical security domains of military, political, economic, societal, and environmental security do not operate in isolation from each other (Saleh, 2010). Thus, proactive efforts to address security in one domain inherently have an effect on the other domains. As an example, the use of force to preserve military security will have an effect on environmental security.

The theory of societal security provides a framework for evaluating the actions taken by the U.S. and other Western governments when faced with the threat to societal security that is posed by the asymmetric warfare techniques used by Al-Qaeda and other terrorist organisations linked to Islam (Brimmer, 2006). The assumption for the use of a societal security approach is that defending against transnational threats from non-state actors requires a holistic and multinational effort that far exceeds the capacity of the traditional military action. Consequently, the methods used to protect Western society from Islamic terrorist organisations emphasise the use of the law and the financial system as an adjunct to direct military action. The purpose of the proactive use of the law and the financial system is to preserve the traditional patterns of language, culture, and national identity in Western nations.

The analytic framework related to societal security theory initially examines the power inherent in the securitisation process, with state actors and nongovernmental institutions and

organisations holding power to implement a security agenda (Charrett, 2009). The perceptions of security are a social construct. Thus, the involvement of non-state actors in the process of providing security creates a voice that seeks alternative approaches to security arrangements that do not involve the use of military or political power. The societal security model presupposes the existence of a conflict between traditional state perceptions of security and societal security perceptions that must be resolved in order to create an effective approach to societal security.

1.6.5. Risk Management Theory

The risk management school of security is based on the assumption that risk identification and management should be the central factor behind security policies in the post-Cold War environment (Buzan and Hansen, 2009). Risk is defined as the product of the probability of an adverse event taking place and the consequences of the event on society (Research Council of Norway, 2011). Society and its government are not able to completely moderate the risks inherent to modern society because of the complexity and multifaceted sources of the risks. When a catastrophic risk arises, such as the risk posed by an attack from a force external to society, the government attempts to mitigate the risk with the use of extraordinary measures. The risk management approach is a proactive response to threats rather than the reactive approach occurring when a threat is securitised (Van Munster, 2005). At the same time, certain risks are a manifestation of the unpredictable turbulence in modern society. It is possible to know that it is likely terrorist attacks will occur, but not when or where. They cannot be rationally predicted (Aradau and van Munster, 2007).⁴

Risk management theory does not define a distinction between friend and enemy through discourse or speech acts. Instead, risk management involves continuous assessment of state and

⁴ There are those who would argue that this is not completely true; many times governmental intelligence organisations have warning in advance that an attack is likely.

non-state actors to determine the degree of threat they represent, the harm they could cause by adverse action, and the type of actions that could be taken to mitigate the harm (Van Munster, 2005). Consequently, the designation of friend or enemy is not a binary distinction but rather end points on a continuum of threats. In effect, risk management theory has elements of the positivist ontology by presuming risks exist as an objective reality. Risk prevention or resilience approaches can be used to mitigate harm. Risk management theory also has a constructivist epistemology; it emphasises the importance of selecting the risks to address based on social, historical, and cultural considerations (Aradau and van Munster, 2007).

Threats are potentialities in the risk management field. Risk management focuses on taking actions to reduce the possibility of the potential threat's development into an actual threat (Van Munster, 2005). The process requires a long-term perspective; risk management is possible to implement only if the concept of risk remains separate from the concept of danger or imminent threat requiring immediate action. If danger is not considered imminent, risk mitigation can adopt long-term strategies that do not inherently involve the use of force. In practice, mitigation measures address broad social trends rather than attempting to interdict the actions of individuals or organisations. Identification of the trends often depend on statistical data, which results in the depersonalisation of individuals and organisations. In addition, risk management involves increasing the resilience of society to contend with threats that lead to actual harm. Resilience is the capacity to resist sudden stress and the capacity to recover from stress (Bakker and de Graaf 2014).

1.7. Linking Islamic charities and the Global War on Terrorism

The linkage of Islamic charities to the global war on terror is largely because many of the terrorist groups initiating attacks on Western nations are Islamic and advocate the use of violence

against non-military targets to advance various agendas (American Civil Liberties Union [ACLU], 2009). There is a general assumption in Western countries and societies that the conflation of religious and humanitarian purposes in Islamic charities increases the possibility that the organisation could be used to transmit funds or other supports across international borders (Borchgrevinck, 2007). As a result, institutions and donors are often suspicious of Islamic charities in Western nations. In particular, newer charities that are founded in response to a specific crisis involving an Islamic country. One example would be Islamic charities formed to assist with the refugee crisis in Syria (Arnold, 2015). There is very little evidence suggesting that there has been substantial diversion of the funds donated to Islamic charities for use in direct terrorist acts. Nevertheless, the current law and regulations are based on the possibility that this diversion, or acts of subterfuge related to finance or terrorism groups, could occur. This idea will be discussed at length later in this thesis.

1.8. Islamic charities and Zakat

Zakat is the process of giving alms within the overall context of the Islamic religion. According to Stirk (2015), estimates of the annual value of zakat range from \$200 Billion USD to \$1 trillion USD. Countries in the Organisation of Islamic Cooperation are estimated to give alms worth \$198 million USD per year (Shaikh, 2016). Shaikh has pointed out that Zakat has the potential to contribute significantly to the alleviation of poverty throughout the world. Poverty itself is not caused by a lack of resources around the globe. Rather, it is due to the way the resources are currently utilized or allocated. A generation ago, the globe was producing 17 percent fewer calories person than it is today. Yet, there has been a 70 percent increase in population around the globe during this time. Thus, if there are parts of the global population that are underfed, it is due to under allocation of resources in some areas, and over allocation in others. This has become

increasingly more pronounced in the period after World War II (Shaikh, 2016).

Terry (2011) believes that the global war on terror launched after the United States was attacked in 2001 caused radicalisation of many Muslims, Muslims that would not otherwise have been radicalised. As Muslim people became increasingly polarised and radicalised, they began to believe that Western aid organisations, such as the International Committee of the Red Cross (ICRC), were not neutral aid organisations. In 2003, an engineer with the ICRC was murdered because of local belief that the ICRC was an agent of the West and therefore imperialist and not neutral. Although the ICRC has continued to operate in Muslim nations, the rejection of “neutrality as a guiding principle of humanitarian action” has continued to be soundly rejected by many of the Muslim nations (Terry, F, 2011, p. 173). As a result, the need for intervention by Muslim charities using zakat has continued to increase as nations like Afghanistan remain in extreme need of help from a humanitarian perspective. Non-Muslim non-governmental organisations (NGOs) risk the lives of their volunteers in order to help, but the logical solution to this issue is to provide more charity by the Muslim organisations, who are not perceived as being biased by Muslims.

1.9. Summary

This chapter of the thesis has introduced the topic, the effect of the global war on terror on Islamic charities following the terrorist attacks on the United States on 11 September 2001 and the resultant securitization and evolution of policy and practice. The overall background of the impact of the September 2001 attacks on Islamic charities was discussed. The guiding research question was revealed, along with the sub-questions. The aims of the research were provided, and the significance of the research itself was considered. A brief overview of the methodology used in the thesis, along with the data collection methods, was provided.

The theoretical frameworks used in conducting the research were introduced and placed in the context of Islamic charities and a post-911 world. Finally, a link between Islamic charities and the global war on terrorism was considered. In the next chapter, the review of literature relating to Islamic charities and their importance is accomplished. The narrative relating to Islamic charities funding terrorism is also presented and debunked or critiqued. An overall review of literature relating to the topic of the thesis is presented.

Chapter 2: Unpacking the global war on terrorism effects on regulatory regimes and Islamic charities

2.0. Introduction

The purpose of this chapter is to provide an in-depth examination and discussion of the literature related to the position of charity in Islam, the global war on terror, and the impact of counter terrorism measures on charities. Efforts of the United States to combat terrorism financing have affected Islamic charities (Terry, F, 2011), but have also affected the safety of international humanitarian organisations. By emphasizing that Muslim organisations are violent radical organisations rather than acknowledging that Muslim humanitarian organizations are only organized to help through works of charity, Western nations have succeeded in further radicalizing young Muslims and causing a lack of overall availability of humanitarian aid.

This section revolves around two main topics. The first topic begins with information about the concept of charity in Islam and the existence of Islamic charities around the world. Then, literature is examined regarding the efforts of the United States to address the September 11, 2001 terrorist attacks within the global regulatory framework. Finally, the literature is reviewed to discover whether Islamic charities are a cover or a target for terrorist organizations..

The second portion of the review examines tensions between risk management and securitisation and its impact on the operation of charities in the Muslim world. Chapter two illustrates how the narrative related to Islamic charities funding terrorism has been constructed as well as the way this narrative has impacted overall humanitarian aid in the Muslim world.

2.1. The concept of charity in Islam

Charity, or the giving of one's personal wealth to help others who are less fortunate or in need, is a requirement of Muslim life. This section defines the concept of charity within Islam. It

describes the connection between charities and political movements and illuminates links that have caused the Western nations to believe that Islamic charities are supporting anti-American or terrorist activities. The directives and ideals behind Muslim charity are described in detail in order to provide the reader with enough information to understand two ideas: why Westerners *believe* that Islamic charity is linked to terrorism, and why it is not linked to terrorism.

2.1.1. Understanding Islamic charity

There is a great deal of confusion relating to Islamic charities and the use of money. The culture of making charitable contributions plays a key role in the socio-cultural and religious aspects of the Muslim community. Among Muslims, charity refers to the helping others to meet their material or emotional needs (Krafass, 2005; Perry, 2006, p. 34). It is one of the five pillars of faith (Stirk, 2015). The five pillars include the declaration of faith, or Shahadah; prayer, or Salah; charity, or Zakat; fasting for Ramadan, or Sawm; and making a pilgrimage to Mecca, or Hajj (Stirk, 2015). The existence of millions of starving, suffering and poor people in the world points to the need for the teachings of the pillar of charity to be put into practice. According to Lacey and Benthall (2008, p. 34), giving of charity is an ongoing responsibility through which Muslims express their love for Allah (God) by helping the needy. Kochuyt (2009) reminded readers that the Prophet Mohammed gave a promise that Muslims would be provided with all the resources they needed. Since Allah gave voluntarily to his people, the receiver of that largesse is morally bound to pass that benefit on, and to do so selflessly, the same way that Mohammed did (Kochuyt, 2009). Prophet Mohammed, the founder of Islam, taught his followers that the true owner of all things visible and invisible is Allah, and that human beings are only custodians of what Allah has given them. Therefore among Muslims, the whole concept of wealth and other forms of material possession is considered a blessing from Allah. The same Allah who provided wealth to one

person made a portion of it for the poor, and thus those in need have a right over other people's wealth (Stirk, 2015). The explanation of this process, in the Quran, led to the interpretation that all Muslims have a religious obligation to donate part of their wealth to the poor through charity.

The Prophet Mohammed taught that material possessions do not give a Muslim any merit in this world or in hereafter. Wealth should only be acquired with the intention of spending it to satisfy personal needs and the needs of others. By making charitable contributions, Muslims free themselves from the love of money and material things. Allah promises those who perform charitable acts hefty rewards in the afterlife (Napoleoni, 2005, p. 85). This means that those who donate to charities or help the poor should not expect earthly gains by doing so. An example of an earthly gain is using charity to build a name as a philanthropist. This is strongly condemned in Islam because it hurts the feelings of the beneficiaries of zakat by making them feel inferior.

One of the most striking features of Islamic charity is the solemn secrecy that characterizes it. Muslims are encouraged to give to charities secretly so as to maintain utmost attention to self-purification and devotion. In so doing, Muslims protect the reputation and self-worth of those receiving charity especially in public. This is explained in the Quran (2:271), which tells Muslims that Allah knows everyone's misdeeds. If a Muslim discloses who they give charity to, it is acceptable to Allah, but if the gift is given anonymously, Allah will take away some of the person's misdeeds. Thus, it is better *for the giver* to give quietly.

Perry (2006) believes that any donations given as charity can only be used to support particular causes. Quran (9:60) specifically enumerates that Zakah (or zakat) can only be used for particular purposes. First, they are used only for the poor and the needy. Next, they are given to the individuals who take care of the poor and needy (the administrators who collect zakat). They

can be used for bringing hearts together for Islam, or used for freeing captives or slaves. Zakah funds can be used to alleviate the debt of others, used for Allah's causes, and used for travelers. Other interpretations of the Quran specify that alms are for the poor, the administrators, for those whose hearts have recently turned to Islam, as well as for those in bondage, debt, in God's causes, and for the wayfarer.⁵ It is the difference in interpretation of 'bringing hearts together for Islam' or 'for those whose hearts have recently returned to Islam', as well as 'slaves, bondage, or God's causes' that have led not only to arguments that zakat is being used to increase terrorism but used to fund terrorism. Further, with mosques collecting large sums of zakat (Stirk, 2015), it can easily appear to outsiders or onlookers that funding earmarked 'humanitarian' is being used to fund terrorism. In the next paragraphs, different types of Islamic charity are discussed, along with the concepts that are used in the acquisition and distribution of funds for charity in the Islamic faith.

There are different types of Islamic charities. Some are mandatory, such as *zakat*. Others are voluntary. *Sadaqah*, a form of social finance, is voluntary. Khums (sometimes listed as khoms) is a non-voluntary tax a believer is obligated to give, based on the spoils of war. Zakat is defined as a form of purification, which is used both to purify the human heart of greed (Napoleoni, 2005, p. 32) and to give thanks to Allah for all that the giver has received. *Zakat* is paid based on a monetary formula and on a gold or silver standard. It is paid based on the income or material blessings of an individual throughout the year.

Muslims are required to contribute two and a half percent of their assets and wealth as *zakat*. In determining the zakat donation, the income of all Muslims (poor or rich, young or old) is considered, and those who meet objective requirements are required to pay *zakat* (Perry, 2006, p. 65-67). Zakat is calculated on the individual giver's increase over the *nisab*, or baseline amount allocated for survival (Islamic-relief.org, 2018). The individual who is giving zakat calculates

⁵ This version is from Translation and Commentary by Abdullah Yusuf Ali, first published in 1934

nisab based on the current value of gold or silver. The individual can choose which value to utilize, unless all of their investment is in one metal or another. If the investment is in a single metal, then they must calculate zakat based on the current value of that metal. Once the baseline has been determined, zakat is paid on all amounts over that baseline, minus amounts for food, clothing, rent, and other needs for the individual or his or her family. If the wealth dips below the nisab after making the deductions, then there is no zakat liability. The increase is also considered to be based on an increase in money or wealth that has been in one's possession for a lunar year. If the person has wealth at the beginning of the year and at the end of the year, but dips below nisab during the year, then zakat is still owed (Islamic-relief.org, 2018).

Closely related to *zakat* is the concept of *sadaqah*, which has been interpreted as voluntary alms-giving to support those in need. Islamic teachings emphasize clothing of the naked, feeding of the hungry, and helping of the poor as various forms of *sadaqah*. Muslims believe that the more *sadaqah* one gives, the more blessings the giver gets from Allah. In specific, Allah knows everyone's misdeeds, and will cancel or remove some of them from the person's 'record' if they give a gift to charity anonymously (Quran 2:271). Unlike *zakat* which is obligatory and binding upon all Muslims, *sadaqah* is discretionary and does not have to be in monetary form. An act of kindness, for example, could be *sadaqah*. Giving someone without a car rides to the store could be *sadaqah*. Even providing someone with a kind word is a form of *sadaqah*.

Another type of charitable obligation is *khums*, practiced by the Shia Muslims. *Khums* requires the individual or conquering army who benefits from war to give a fifth, or 20 percent, of that profit to charity. The conquering army considers the value of all treasures, booty, maritime recovery, mineral resources, earnings (both legal and illegal), business profits, and land (Sachedina, 1980). Another type of Islamic charity, which is less well-known, is *kaffara*. *Kaffara*

is a penitential contribution an individual makes for breaking an oath to fast (Perry 2006, 52-56). Kaffara, sometimes referred to along with fidyah, are religious donations that are made when the donor breaks a fast, particularly during Ramadan. The giver has a choice of making a donation of food or money, but the intent is to make up for one's sin by providing food to another Muslim. These forms of charity are authorized in Quran 2:184.⁶

In addition to individual obligations to perform charitable acts, Islam emphasizes institutional foundations called *waqf*. Waqf is what would be referred to as the permanent donation or endowment of property, or reserving property to benefit a religious cause or a certain common good. Waqfs are permanent and are made with no intent to ever receive the donated property again as one's personal property.⁷ *Waqfs* can be endowed by institutions, individuals and families, and may be used to generate income. For example, a mosque may have space for commercial stalls, from which rent is collected. These income generating activities can be used to support charitable activities. *Waqfs* can also support charitable acts by furthering public goods. Examples of such *waqfs* are schools, hospitals and other institutions supported by religious groups. These *waqf* institutions perform charity by offering services to the less fortunate members of society (Kaleem and Ahmed, 2010).

Waqfs are used extensively in the Islamic charity system. There are five different types of waqfs. The religious waqf is used to spread religion, while the philanthropic waqf is used to provide for the welfare of the public. A family waqf can be used to designate welfare of family members. Two types of waqfs have well-defined limits. In a waqf of usufruct, only the usufruct of

⁶ To wit, "[Observing Saum (fasts)] for a fixed number of days, but if any of you is ill or on a journey, the same number (should be made up) from other days. And as for those who can fast with difficulty, (e.g. an old man, etc.), they have (a choice either to fast or) to feed a Miskin (poor person) (for every day). But whoever does good of his own accord, it is better for him. And that you fast, it is better for you if only you know."

⁷ "It is prescribed for you, when death comes to anyone of you, if he leaves much wealth, that he makes a will to parents and near relatives to act with fairness. This is an obligation on those who fear God. (Quran 2:180)"

the property being donated is used for waqf. In a financial waqf, the property itself is not used for the waqf, but only the income that the property generates. Waqf is used not only for financial support for the poor, but to support universities and other organizations that improve the quality of life of the people overall (Kahf, 2003).

Islamic charity is more pervasive and systematic than the ideas of charity espoused by other religions such as Christianity and Judaism. In most religions, financial contributions are voluntary; in religious organisations such as the Latter Day Saints (Mormons), the contributions are ‘voluntary’ but if they are not made, the member does not have access to all of the benefits of the Church (LDS.org, 2018). Notably, members who do not pay what their Bishop feels is a reasonable tithe can be banned from utilizing the Temples. This is still less intense than the concept of Muslim charity, and it varies in another important way. There is a separation of church and state in the United States, and church money does not go directly into the government’s coffers. In Muslim nations, money can go directly from the donator into the government’s treasury (PWC, 2018). Companies which are solely citizen-owned in Saudi Arabia are charged 2.5 percent zakat, while companies owned by foreign non-Muslim investors are charged 20 percent income tax. Companies which have combination ownership are charged a combination of zakat and tax.

In many Muslim countries, charity (specifically zakat) functions as income tax, in the manner just described.⁸ It can also serve as foreign aid, humanitarian and educational assistance and a means of gaining political influence. The notion of separation of religious from civic obligations that is common among Western societies does not exist in the Islamic world.

⁸ There is much debate on whether zakat is a tax. There is little debate, however, that it *functions* as a tax. A portion of all formalized zakat goes to national governments of Islamic nations. This money can then be distributed as the government sees fit. Allami (2016) argues that, particularly in Saudi Arabia, zakat is a tax. On the surface, this seems like a pointless argument. This is not the case, however. If zakat is a tax and the government can use the money as it wishes, then any nation could use that money to support terrorism or terrorists from an institutional standpoint.

Therefore, funding of charitable causes is a primary responsibility of governments in Muslim countries. In the Kingdom of Saudi Arabia for instance, there is a state department that is responsible for collecting Zakat directly from the people (PWC, 2018). The department functions more or less the same way as the Internal Revenue Service of the United States. This shows that charity is of great importance in the Islamic faith.

According to Brunn (2004) the kind of projects sponsored and financed by waqfs in modern times are very diverse, covering economic, social, cultural and humanitarian domains. In many Muslim countries, waqfs have played a major role in the sinking of wells, construction of homes for the poor, maintenance of roads, construction of water fountains, establishing free motels and hostels for travelers, up keeping of burial places, and organizing funerals for the poor. The funds can also be used to provide help for the physically and mentally impaired, and used to organise marriages for those unable to afford dowries themselves.⁹ With advancements in the means of transport and accommodation, modern waqfs are no longer limited to a local region but covers the whole world. Nowadays, waqfs have been organized as non-governmental organizations and are constantly improving their capacity to carry out large scale projects or provide massive humanitarian aid during emergency situations. This continuous practice of moral prerequisites involve the accumulation of wealth and resources which are then distributed to the needy, thus fulfilling moral and religious obligations (Perry, 2006, p. 16).

According to Ly (2007, p.177), although charity is a central tenet of the Islamic faith and practice, it is not clearly understood outside the Islamic communities how giving of charities binds the Muslim ummah despite differences in class, race, ethnicity or other factors. One of the beliefs in charity in the Muslim world relates to the distribution of wealth to help build infrastructure. In

⁹ Whether one accepts the idea that a dowry is a proper treatment of women, it is none the less an important part of life in many Muslim nations. Women from poor families can be at extreme disadvantage when seeking a spouse. Waqfs help fulfill this need.

the Western world, charity is typically given directly to needy people or used in building homeless shelters and other direct service products. In the Islamic world, however, donations or money can be, and frequently are, given to the government for use in infrastructure improvements. When the money is used for this type of project, it is impossible to say for certain that terrorists will not travel on the road or that they will not turn on the tap to get clean water just like all the other residents. As a result, this type of giving causes great suspicion in the non-Muslim parts of the world. This is essentially the heart of the fear that is prominent in the Western world, relative to distribution of charity monies to terrorists or the people who support them.

2.1.2. Connections between Islamic charities and Islamist Political Movements

Political Islam is a revival movement within Islam characterized by attempts to infuse conservative Islamic values in the various spheres of life for the Muslims. The movement favors reorganization of government and state apparatus in accordance with the doctrines of Islamic laws as enshrined in the Quran. In most cases, Islamist political movements advocate extremist views which are contrary to the views expressed by conservative Islam. For these reasons, most Islamist groups are held in great suspicion by other groups and nations throughout the world. Islamic politics connect Islamic groups to terrorist groups.

Today, Islamist political movements are active in many Muslim countries (especially in the Arab world) where they have assumed the powerful roles once played by leftist political parties and national liberation movements. The most active and powerful movements include the Muslim Brotherhood of Egypt and neighboring Arab countries, Hamas of Palestine, and the mujahedeen of Afghanistan (Brunn, 2004). The rise of Wahhabism and Salafism in Saudi Arabia, the jihad in Kosovo and other countries have all been inspired by Islamism political movements. Their ideologies prescribe solutions to the persistent problems facing the society and a return to

the fundamentals of true Islam. These movements are strongly embedded in the social fabric, exhibit high levels of organizational structure, and are therefore able to mobilize considerable resources and constituents. Accordingly, Islamist political movements present the only viable opposition to the existing state regimes. As a result, these movements have been outlawed by state regimes in the countries where they operate. For example, in Egypt the Muslim Brotherhood is the largest Islamist movement. The organization has been operating in the Arab country for over 80 years but has been outlawed by the government because of its extremist political views. Nonetheless, Muslim Brotherhood is still active in Egypt and has even spread to neighboring Arab countries.

Generally, the rise of Islamist political movements has become an issue of great concern for governments in many Muslim countries as well as in the Western countries, who are suspicious of the ultimate goals of these movements and their sources of financing. Some of these movements are associated with acts of terror and other criminal activities. In the Arab world, state regimes are apprehensive of the growing influence of Islamism political movements. State regimes fear that with the massive resources that these movements control and the amount of donations they receive from Islamic charities, they can mobilize the people to cause civil unrest, which can eventually lead to regime change. That does not mean that all Islamist political movements are motivated by the desire to take over the state. A great majority of these movements are involved in preaching and missionary activities such as alms giving, publishing, mosque building, provision of medical services and promotion of public virtue in the local communities. Nonetheless, these involvements engage the political domain in the sense that they compete with state-sponsored institutions that support similar services (Kaleem and Ahmed, 2010).

2.1.3. Islamic charities and Geo-Politics

Historically, the Christian West and the Muslim world have been at ideological conflict both politically and culturally. Taking different manifestations, this conflict constitutes one of the most important features of contemporary geopolitics in the Arab and Muslim world and beyond (Ibrahim 2014, p. 37). In most cases, the clash has led to catastrophic consequences such as the implementation of terrorist activities (for example 9/11 attacks) and the invasion of Muslim and Arab countries by foreign armies. In all these cases, Muslims have maintained the determination to transform their religious zeal through charity and acting in conformity with Islamic teachings. With Islamic charity's persistent growth, it has been perceived by the West (specifically the U.S.) as a threat to the United States and her allies' interests in the Muslim world. Subsequently, geostrategic calculations regarding the Islamic world have been greatly influenced by the geopolitical perception of Islamic charity as a tool for perpetrating anti-Western ideologies.

According to Gerges (2003, p. 46-54) political Islamism groups are at the center of the geopolitics of Islamic charity in the Muslim world. Over the years, Islamic charity has manifested itself as an unparalleled political force, featuring as a prominent catalyst for change, and hence posing a threat to the geopolitical status quo. Despite the unrelenting series of political exclusions and oppression of Islamist groups, the latter have steadily grown in strength due to strong backing received from Islamic charities. To the dismay of incumbent regimes in the Muslim world and their foreign allies, Islamist groups have successfully exploited the magnanimity associated with Islamic charity to extend their geopolitical spheres of influence. The groups have also used charity to reinforce their socio-cultural outreach, which furthermore advances their geopolitical appeal (Atteridge, 2016, p. 21-24).

2.2. Global Frameworks for Anti-terror Financing

Financing of terrorism refers to the processing of funds and other vital resources to support, facilitate or sponsor terrorist activities. Across the world, terrorist organizations have developed appropriate infrastructures and networks to strengthen financing of their activities. Like other criminal organizations, terrorists need structures to facilitate sourcing of funds and to channel the funds to providers of critical services and materials. Generally, terrorism financing can be construed in two main levels – financial support and revenue generating activities. Financial support for terrorism occurs in the form of various fundraising initiatives such as donations and community solicitation. This form of financing can be obtained from individuals, charity groups, not-for-profit organizations and sometimes states. On the other hand, revenue generating activities involve lawful and unlawful engagements through which terrorist organizations get funds to support their activities. These engagements include smuggling, fraud, money laundering, legitimate commercial enterprises, extortion and drug trafficking and human trafficking. Real estate investments and trade on precious metals are some of the legitimate economic activities conducted by terrorist groups (Greenberg et al., 2004, p. 1-10).

Reaffirming its support for the global war on terrorism, in 2001 the UNSC adopted a series of wide-ranging resolutions with strategies and steps for combating acts of terror. The UN adopted Resolution 1373 which obliged member states to implement measures to prevent and combat the spread of terrorism and its financing. The resolution establishes a committee for monitoring the implementation of measures and calls upon all UN member states to take steps to suppress and prevent financing of terrorism within their jurisdictions. Among other requirements, the UN security council's anti-terror financing resolutions require member states to immediately freeze economic resources and financial assets of individuals and groups suspected of participating in

terror financing. Further, the council encourages its member states to prohibit their nationals from making donations (such as charity) to groups or individuals that participate in terrorism.

As part of the United Nation's continued effort to fight terrorism, the Security Council imposed sanctions on several individuals, countries and organizations suspected of perpetrating and abetting acts of terrorism and terror financing. For example, after the 1998 bombing of United States embassies in Kenya and Tanzania, the UN Security Council imposed sanctions on the Taliban-led governments of Afghanistan for hosting suspected masterminds of the terror attack. In addition, the Security Council imposed sanctions on Al Qaeda and its leader Osama bin Laden. Member states were required by the UN Security Council to limit links with the Taliban government and to deny permission for flights from Afghanistan to land or take off in their territories. Other countries such as Libya, Iran and Iraq have faced a similar fate.

Alongside the UN Security Council framework which is the important international framework for counter terror financing, there are other international frameworks. These include the Financial Action Task Force. In 1989, the Group of Seven countries formed FATF as an intergovernmental organization for developing an international framework for combating financial crimes. After the 2001 terrorist attacks in the United States, the mandate of FATF was extended to include terrorism financing. Expansion of FATF's mandate was based on the reasoning that terrorism is a global threat that requires concerted action by the global community. Almost all countries and some autonomous territories are members of FATF. In addition, international and regional organizations are also members of the task force. These include the UN, the World Bank, the International Monetary Fund and the European Union. As part of its mandate, FATF has a special responsibility to develop standards for implementation of legal, operational and regulatory measures for combating financial crimes including terror financing and money laundering.

Since 2001, FATF has undertaken a vigorous approach to ensure that its member states, organizations and institutions have a robust system in place to combat terror financing and ultimately terrorism itself. In particular, FATF helps its members to better understand the changing nature of risks posed by terror financing, including by enhancing information sharing among members. FATF conducts financial intelligence analysis among all members to review their readiness to combat terror financing and to understand unique challenges faced by each member in addressing the issue. This helps in informing the task force's future actions as part of adopting a proactive strategy for monitoring and preventing terror financing.

2.3. Regional and National Frameworks of Anti-terror Financing

Recognizing the threat posed by financing of terrorist groups, individual countries and major international organizations such as the UN and the European Union have enacted measures to suppress terrorist financing. These measures constitute the war on terror financing. Effectively, the fight against terror financing is as important as the war on terror. Without financing, terrorist organizations will not be able to conduct their operations, at least in the scale and magnitude with which terrorism has manifested in recent years. Individually and collectively, countries have developed frameworks, which describe standards for fighting terror financing. The Financial Action Task Force (FATF) is the most important international organization for combating terrorism financing. Regional and national frameworks for anti-terror financing are based on the guidelines developed by FATF under the guidelines of appropriate UN Security Council resolutions (Scherpenberg, 2001, p. 32).

In accordance with the UN resolutions, several regional and national frameworks have been developed to combat financing of terrorist activities. In the Middle East, regional countries have taken significant measures to stem the flow of financial resources to designated terror groups

and individuals. These measures are mainly aimed at securing and regulating the banking sector as well as alternative remittance, and charitable organization operating in the region. In particular, regional countries have made impressive strides in dedicating more resources to strengthen intelligence units responsible for monitoring and investigating possible terrorism financing. The countries have also pledged to enhance exchange of intelligence and information between themselves to better combat cross-border terrorist activities (Kohlman, 2004, p. 35-37).

The United States has developed the most comprehensive anti-terror financing frameworks in the world. After the 2001 terrorist attacks, Congress passed the Patriot Act, which is an anti-terrorism law intended to help relevant law enforcement agencies to detect and prevents any acts of terrorism including sponsorship and financing of terrorism. The new legislation gave increased powers to the National Security Agency, the Department of Justice and other agencies to maintain surveillance of electronic communications with the aim of stemming possible terror-related activities. The law also removed certain legal barriers that had prevented defense, law enforcement and intelligence agencies from sharing pertinent information about potential terror activities and coordinating response efforts (Sidel, 2006, p. 1-124).

Since the Patriot Act was passed, the government of the United States has stepped a comprehensive campaign against terrorist groups and their support networks around the world, including the sources and channels of terror sponsorship. Investigations conducted by the U.S. government during this period have revealed preference by terrorist groups to hide behind the charitable sector and divert charitable funds to support terrorist activities in different parts of the world (Scherpenberg, 2001, p. 32). In response to these acts, the U.S. treasury department released guidelines for helping charitable organizations to protect themselves against abuse by terrorist groups, thereby making charity groups indispensable partners in the fight against terror

financing.¹⁰

Like North American and Middle East countries, member states of the European Union have a regional framework for combating terror financing. In 2004, all EU member states adopted a legislative policy on anti-terror financing and money laundering both within and outside the union (Metcalf-Hough , 2015, p. 32). The policy calls upon member states to work individually and cooperate in ensuring total traceability of funds transfer outside the union (Gunning, 2007, p. 237). The European Union has also signed a comprehensive agreement with the United States for tracking of terrorism finance activities. The agreement entered into force in 2010 and has enabled the EU and U.S. to collaborate in the critical fight against terrorism. Among member states, the European Union has stepped up cross-border police cooperation. Through the Europol, the Union has put in place appropriate tools to provide members with information on terrorism activities. Similarly, the union has moved to strengthen judicial cooperation through the creation of Eurojust. The joint judicial program coordinates investigation and prosecution of terrorist crimes in the European Union (Gunning, 2007, p. 237).

The various national and regional anti-terror financing frameworks give a clear indication that the world has united in the war against terrorism and terror financing. Indeed, financing of terrorism poses serious threats to global peace and national interests of countries. At its worst, terrorism financing can fund domestic extremism, which can lead to insurgence and political instability in otherwise peaceful countries. More commonly, terror financing activities conducted in one country can help sustain terrorism in other countries and support foreign insurgencies and cross border terror attacks. Terror financing also presents risk to the credibility of national and international financial systems. Thus, there is a compelling need for countries to unite in the fight

¹⁰ Although the Patriot Act is a very crucial tool in the fight against terrorism, concerns have been raised that the law borders on infringement of civil liberties (Sidel 2006, p. 1-124).

against this vice.

2.4. Effects of 9/11 attacks on Islamic charities Global Regulatory Framework

Although terrorism has been the most prominent international issue since the end of the Second World War, agreements on counterterrorism took a new turn after the 9/11 terrorist attacks on the U.S. Since then, several conventions have been passed to give guidelines on the most effective ways of dealing with terrorism (Christison, 2004, p. 32). Because terrorism is generally defined in relation to opposition with a state regime, existing counter-terrorism conventions require states to implement appropriate measures to proactively monitor and suppress terrorist activities within their borders. These measures include refraining from providing any form of support to organizations and individuals suspected of associating with terrorism, enhanced border and financial controls, cooperation on international judicial processes, and denial of asylum to terrorists. It is a reality that some charities do exist solely to collect funds and channel them to terrorist groups (Wilson, 2006). These concerns, together with the manner in which support for terrorism has been defined in the war against terrorism, has caused some of the counterterrorism legislation to have a major impact on Islamic charities. This has been particularly the case after 9/11, with the impact becoming more severe throughout the entire humanitarian sector (Krieger and Meierrieks, 2011).

Research shows that measures and laws aimed at combating terrorism have affected Islamic charities in five key areas. *The first* and most important area of impact relates to funding levels. According to the Graduate Institute of International Studies (2005, p. 87-89), Islamic charities have been affected most because of the suspicion that they aid terrorist groups. This has seen many of their donors become afraid of the potential consequences of donating funds to the charities (Harmer and Macrae, 2003, p. 29). For example, Islamic charities which ran sponsorship

programs for orphaned children in the Gaza Strip using donations from Islamic charities were forced to suspend their operations following stringent laws about transfer of funds to the strip. Most of the Gaza-based aid organizations received aid directly from Islamic charities based in the United States and other Western countries. But when the Western countries made it difficult for these charities to send money abroad, the aid organizations had to scale down their operations (Odendahl, 2005, p. 12).

Charity donors who had in the past given out aid to support waqfs and other Islamic development institutions have significantly lowered their level of support when there is evidence that issues related to terror use for their funds has not been addressed to their satisfaction. Donors have done this without considering the impact to humanitarian community of the withholding of their donations (Mackintosh and Duplat, 2013). In fact, most donors of aid to Islamic charities require proof that the aid will not be used to support terrorist activities and that no benefit will go to outlawed groups. When donors consider these issues to be inadequately addressed, funding has always been reduced or stopped. One result is that licenses are not always renewed for charitable organizations (The Graduate Institute of International Studies 2005, p. 87-89).

The inability of some charities to provide convincing assurance against the possibility of channeling aid funds to terrorist groups has been particularly important for organizations operating in the Middle East and North Africa, a region largely under the influence of many terrorist groups (Hilman 2012, p. 29). For example, the Al Shabaab group of Somalia has been designated a terrorist organization by the United States. Accordingly, the organization has been put under sanctions. It is now difficult for it to receive donor funds from Islamic charities. This has been the case for other organisations as well, even when they were using the funds for legitimate charitable causes (Mats 2005, p. 5; Mackintosh and Duplat, 2013, p. 34).

The second area of impact is the administration of Islamic charities and partner organizations and agencies. Counter-terrorism laws have imposed restrictions on the efficiency and timeliness of funds transfer involving Islamic charities. This is the greatest burden introduced by anti-terrorism legislations. Administrative rules have severely affected the ability of aid organizations to operate in high risk areas (Le Sage and Menkhaus, 2009). Delays in the transfer of funds and other resources to Islamic charities and beneficiaries of their aid have become a norm since 9/11. Aid organisations who are in compliance with anti-terrorism laws have felt the results of these cautionary practices. In most cases, Islamic charities encounter tremendous challenges in transferring any money received from donors, including legitimate multilateral donors in Western countries. For most of these charities, bank transactions are often monitored and frequently stopped without justification. In other cases, transactions take too long to be finalized, thereby crippling operations for charities engaged in giving humanitarian aid (Roth, Greenberg, and Willie, 2004).

While some Islamic charities have implemented impressive measures to minimize chances of aid being diverted to organizations engaged in outlawed activities, hefty financial resources and substantial staff time must be devoted to applying for exemptions and ensuring compliance. Law-enforcing agencies and regulatory bodies require a lot of information to vet Islamic charities to ensure that they are complying with the law. Partners in charitable organisations need to be vetted, as well as the staff. These stringent requirements impose significant administrative burdens on the operations of Islamic charities (Baum and Philip 2008, p.23). Although Islamic charities consider restrictions to be important to some extent, there is a general feeling that some of these restrictions are too cumbersome and only serve the purpose of preventing delivery of aid to needy communities and individuals. In some countries such as Somalia, the difficulty of complying with

applicable counter-terrorism laws led some Islamic charities to limit their operations in areas that are controlled by suspected terrorist organizations (Ackerman 2001, p. 32).

Third, the war on terrorism has significantly resulted in harming relations between Islamic charities and local communities. In the United States and several other countries, Islamic charities are required to report personal information about recipients of their aid, a requirement that is often seen as accusatory and invasive by the local communities. Charity groups may also fear that the process lacks transparency and clarity. In compliance with counter-terrorism laws, aid donors have inserted specific clauses in their funding contracts which require to disclose personal information related to their recipients. These requirements undermine the neutrality of legitimate Islamic aid organizations and make acceptance by local communities hard to achieve. In some cases, complying with counterterrorism laws makes donor partners to be seen by local partners as supporting the political views of the countries that enact the laws. This is particularly the case with the countries' conception of terrorism and which groups deserve assistance (Wilson 2006, p. 19).

Fourth, the war on terrorism has affected Islamic charities in terms of transparency. According to Roth, Greenberg, and Willie (2004), the apparent lack of clarity on the implications of donor policies and legislations has led to *decreased* accountability and transparency in the way in which Islamic charities are monitored and regulated. This is exacerbated in cases where charity organizations have to operate in situations that require frequent interactions with designated groups or individuals (Berry, 1990, p. 95-96). As an example, in aid organizations based in Gaza, documentation is rarely done during cluster meetings to avoid suspicion of engagement with proscribed terrorist organizations. In that case, it is common for donors to give policy advice and other material communications on non-headed papers. This makes it difficult to track the

communications. The charities believe that in case of suspicion, no one will be held responsible (Weisman, 2005, p. 34).

As the war against terrorism gets strengthened through various policy legislations, donations to Islamic charities have become less transparent, as donors and charities turn to less regulated and unorthodox means to avoid contravening counter-terrorism laws. Some donors prefer giving cash donations because these are hard to track (Elu and Price, 2011, p. 23). The downside of the cash strategy is that there is a limit on the amount of cash that can be carried and transferred especially across the border. For example, during Pakistan's deadly floods of 2010, restrictions relating to banking affected transfer of monetary aid from Islamic charities in Europe and Americas to Pakistan. This forced donors to give their cash to individuals and small NGOs (U.S. Department of the Treasury, 2006, p. 16).

Fifth, the war on terror and its supporting legislations has affected the coordination of Islamic charities operations due to the threat of criminal sanctions (Howell and Lind, 2009). Because of the increased monitoring of the activities of Islamic charities and partner organizations, there is a higher risk of criminalization and potential likelihood of staff prosecution. For this reason, many individuals working on Islamic charities are reluctant to discuss important issues that could lead to development of the most effective responses with aid organizations. Charities are reluctant to share crucial information in coordination forums. This level of reluctance is also visible among aid donors with most of them preferring not to discuss any issue openly (Schmid and Hindle, 2009).

The situation in Gaza strip provides a good illustration of the effects of 9/11 on the global regulatory frameworks on Islamic charities. Hamas is an Islamist movement with strong political influence in Gaza. The organization has been designated a terrorist group due to its strong

opposition to the state of Israel (Charity Commission, 2009). In 2006, Hamas won legislative elections in Gaza. Immediately, the United States, the European Union, Israel, the UN and Russia imposed sanctions on Hamas. Part of these sanctions required strict monitoring of Islamic charities that donated aid to Hamas (Napoleoni 2005, p. 34). Subsequently, aid donors have been making grants to Gaza on strict conditions that the grants would not benefit Hamas in any way. From a practical and operational standpoint, this is an impossibility; Hamas represents government authorities in the Palestinian conclave and thus all grants or aid would benefit Hamas or its members in some fashion. As a result, a number of Islamic charities and NGOs have been compelled to suspend or limit their operations in Gaza, leaving thousands of people vulnerable to hunger, disease, and homelessness. The designation of Hamas as a terrorist organization in many jurisdictions, including the U.S., has affected humanitarian operations led by Islamic charities in Gaza (Charity Commission, 2009).

Hamas' growing influence in the area means that more sanctions are likely to be imposed. Accordingly, any aid organizations working in the region bypass established protocols for fear that their operations border potential breach of sanction laws. Some Islamic charities refuse to work with local authorities and municipalities headed by Hamas affiliated leaders as working with them could be interpreted to mean support for Hamas. Relations with Hamas authorities and Islamic charities have deteriorated further after Hamas was accused of staging a series of terrorist attacks targeting Israel. Tensions escalated further after Hamas announced plans to vet Western financed NGOs operating in its area of jurisdiction (Roy, 2001, p. 5-20).

The sanctions have also created additional bureaucracies for Islamic charities. The charities now have to devote scarce staff time and resources to check that potential aid partners are not blacklisted. In order to operate in Israel, charity licenses must be applied for. During this

process, the applicant must provide evidence that the necessary background checks have been carried out and that it has been ascertained that the prospective aid beneficiaries and partner organizations are legitimate (Lazareva and Bingham, 2014).¹¹ Islamic charities end up employing personnel whose sole duty is to carry out these checks. As a result, operational costs have significantly increased, forcing Islamic charities to reduce the scale of operations. The post 9/11 counter-terrorism laws have also limited the pool of local suitable partners, dealing a blow to the relations between Islamic charities and donor partners. For this reason, most Islamic charities, especially those that rely on major international NGOs, are moving towards developing their own relief programs. In this way, the agencies avoid the legal challenges of partnering. Most aid agencies in Gaza Strip are barred from coordinating their aid programs with local partners, so parallel structures are being put in place to circumvent restrictions (Levitt 2003, p. 32- 34).

The situation in Somalia provides another rich example of how the war against terror is frustrating humanitarian missions in conflict zones. Somalia, located in the horn of Africa, has not had a stable government for 25 years. The fall of the government of Siad Barre in 1991 left a power vacuum which led to the emergence of extremist groups grappling to control power. The most important of these groups is Al Shabaab, which is affiliated with the infamous terrorist group al Qaeda. Today, Al Shabaab controls huge territories in Somalia where it imposes strict religious laws. The group is opposed to any Western values and is at odds with the transitional government of Somalia. For several years, Al Shabaab has restricted humanitarian aid to Somalia, resulting in the starvation of millions of people. Aid organizations have concentrated their operations in areas

¹¹ News reports of the time provide an interesting view of what has been occurring in the area. In June, Islamic Relief Worldwide declared that it work with children and is not politically involved (<https://www.haaretz.com/islamic-charity-denies-hamas-link-1.5252898>). In September, in the article cited, the charity had agreed not to use funds in Gaza. However, by December, Islamic Relief had decided to ignore the Israeli ban and had begun working in Palestine without permission. There are clearly differences of opinion as to the practicality and humanity of the ban.

controlled by the government, such as the capital city, Mogadishu, leaving other parts of the country vulnerable to deadly famines and pandemics.

Undoubtedly, the application of stringent counterterrorism laws and other measures targeted at aid organizations have severely crippled operations of Islamic charities (Realuyo, 2015, p. 22). Bureaucracies involved in complying with funding agreements have curtailed operations of charities in areas controlled by designated terrorist groups or individuals (Kaplan, 2006). This has affected the ability of aid organizations to provide legitimate humanitarian assistance even in situations where local communities are in dire need of the aid. Although preventing material support for terrorism is important, the legislations implemented as part of the counterterrorism war are having devastating negative impacts on genuine efforts to provide life-saving support to communities caught up in conflicts (Prados and Blanchard, 2004, p 19).

As Thorne (2007) reported, the diversity of regulatory laws that have been introduced since 9/11 have raised operations' costs, slowed down administrative efficiency and curtailed funding for charities. It has been established that there has been a sizeable number of prosecutions of charitable organizations for collaborating with terrorist organizations. The risk of criminal sanctions continues to undermine charitable operations at least until there is clarification on the application of counterterrorism laws to charities. For now, most of the charitable groups continue to suffer from the application of stringent laws even when the charities are not involved in any outlawed activities (Sageman 2004, p. 84-96).

2.5. Role of Office Foreign Assets Control (OFAC) and U.S. Treasury

The Office of Foreign Assets Control (OFAC) have tried to minimize the transfer of huge amounts of funds abroad from the U.S. and has continued to operate on flawed assumptions about the U.S. nonprofit sector and the alleged links with terrorist groups. The OFAC has also

misinterpreted the relative non-response from non-profits to the continued shut-down and restrictions as a sign of either approval or cooperation. The U.S. non-profit sector seems to be doing less than expected about the allegations of links with terror groups and this apparent inaction has harmed the non-profit sector even more.

Many U.S. charities have faced the allegations of links with terror groups. Current counterterrorism financing policies and regulations allows that funds of designated charitable organisations could sit in frozen accounts indefinitely. This could definitely benefit U.S. bank accounts and an estimated \$16,413,733 million in assets of foreign charitable organizations have been frozen (U.S. Treasury Assets Report 2006). The U.S. laws authorize the freezing of assets with no timeline for long term disposition and the funds could remain frozen as long as the sanctions last. The war on terror does not seem to have a deadline as terrorism continues to exist in many forms and the U.S. government continues to freeze accounts and assets of charitable foundations alleging their links with terror groups. The problem will remain until there is a change in laws and the blocked funds are released for charitable purposes.

Blocked funds and assets are a major financial stress to charitable foundations in the U.S. as these organisations are unable to operate without the required money. When funds are transferred to regions outside the U.S., that becomes a major issue and the treasury could keep a close tab on such transfer and block transfers, accusing such organisations of international money laundering. Despite no real evidence charities can be denied access to their own funds, thus making it impossible for them to set up camps or hospitals in aid of disaster victims or create health awareness programs. The war on terror has largely and adversely impacted the charities and the ground level social work in poor regions of Asia, Africa and Middle East. All funds meant for charitable purposes sits in U.S. banks indefinitely.

It is a secondary question on how this sort of recurring freezing of accounts affects the U.S. economy. But it could be said that the primary impact is negative and the charities, their work and operations in the U.S. and abroad are affected adversely. Charities have been quietly avoiding the politically sensitive regions of the world, especially to avoid the possible issues that can arise from trying to work in these regions. This has not created more good than harm as the politically sensitive regions are the most deprived and people need help more than anywhere else. Yet it becomes difficult for charities to channel funds to these areas and help people that need the most support. As a consequence charities are unable to work to their full potential, especially in war torn zones, in disaster regions and in typical terrorist centers such as Pakistan and Afghanistan.

2. 6. Impacts of counter-terror measures on Islamic charities in conflict zones

The counterterrorism measures implemented by different countries and international organizations have had major effects on the financial, political and humanitarian aspects of Islamic charities operating in conflict zones. The fact that there are millions of people affected by conflicts in many parts of the world, especially in the Muslim regions, is a sufficient reason for Islamic charities to scale up emergency operations in the conflict zones. The ongoing war in Syria and Iraq, the crisis in the Gaza Strip, and the instability in Somali and some North African countries are some of the most important conflict zones where Islamic charities have been active in giving humanitarian aid (Lightblau and Schmitt, 2010).

According to Sparre and Petersen (2007), the sheer scale of civilian suffering in many of the conflict zones, as well as the high level of insecurity and violence, presents overwhelming challenges to aid organizations such as Islamic charities. These challenges are compounded by stringent counterterrorism measures, which directly impact on the activities and operations of

Islamic charities (Huysmans, 1998; Krause and Williams, 2002). The speed and scale of these conflicts have placed charitable groups under intense pressure, with some forced to operate at record levels across multiple conflicts. Some of the current crises, such as the humanitarian crisis that has resulted from the Syrian war, involve intense terrorist dimensions. Charities working in these regions must take into account existing provisions of counterterrorist measures (Vaughn-Williams and Peoples, 2014).

Since 9/11, Islamic charities have raised concerns that counterterrorism measures are impacting their work negatively, particularly when much humanitarian aid takes place in areas which are already physically risky. Accordingly, the issue of the counterterrorism war and its impact on Islamic charities offering humanitarian aid have been debated widely at national, regional and international levels (Buzan and Hansen, 2009, p. 32). Reports from various studies indicate that counter-terrorism measures introduced by different countries and organizations are affecting charities by making it difficult for them to obtain access to financial services. According to IRIN (2013), access by Islamic charities to financial services has become increasingly limited as state and private donors demand concrete guarantees the charities do not support proscribed terrorist groups involved in the conflicts (Wigger, 2005).

Islamic charities based in Western countries such as Britain, Canada and the United States are facing increasing difficulties in accessing financial services such as cross border money transfer and the ability to raise funds. This is mainly because these countries have strict financial regulatory frameworks to prevent channeling of funds to outlawed activities such as terror financing (Smith, 1999). The challenges are greatest for the Western based Islamic charities that support humanitarian missions in high risky contexts where outlawed terror groups exist. When the humanitarian need is in predominately Muslim nations, such as Afghanistan, Syria, Pakistan,

Somali and Libya, the process is even more complex and fraught with risk. The same challenge applies for charities working in countries that are under international sanctions such as Iran and Myanmar (Parameswaran, 2002). Receiving, transferring, moving or storing money in the formal financial systems has become extremely difficult for some Islamic charities even if their work is legitimate humanitarian assistance (Mahathir, 2003). In order to be in compliance with anti-terror laws, most banks demand detailed information about donors, partners, beneficiaries and recipients. Where this information is not provided as required, donations made to Islamic charities have been blocked, frozen, delayed or returned to the donors. Increasingly, credit card companies and online payment services have imposed similar restrictions on Islamic charities (Eric, 2002).

For example, the Islamic Relief Worldwide (IRW) found in 2012 that donations sent by account holders at a Swiss bank had been blocked. IRW was one of the largest Islamic charities in the world with active operations in more than thirty countries. Similarly, Ummah Welfare Trust which operates in the Gaza Strip had its accounts closed by the HSBC Bank. Other Islamic charities have had millions of dollars' worth of donations blocked and had to return the donations to donors (Douglas, 2002a). Some charities have found it difficult to transfer funds to humanitarian missions in conflict zones. Moreover, salaries transferred to the bank accounts of humanitarian workers have also been blocked or delayed (Jude, 2010). Many Islamic charities feel that they are impacted most by counterterrorism measures, but other faith based and secular charities operating in conflict zones have reported similar difficulties in accessing financial services. The problem does not seem to be isolated to Islamic charities although their problems are perhaps the most widely publicized. According to the International Committee of the Red Cross (2011), delays to the provision of financial services for charities, or withdrawing support of financial services of charities operating in conflict zones is not just an administrative issue.

Instead, delaying or denying funds can have major implications for the operations of aid partners (Douglas, 2002b).

The increase in the number of threats to agency reputations is another impact of counter terrorism measures. Reputational threats translate into a wide variety of implications for the operations of charitable groups. In recent years, many Islamic charities have reported incidents of abuse of charities by organizations and individuals engaged in terrorist activities (Douglas, 2002b). In most cases where terrorists are receiving funds, the terror groups have involved themselves in charitable activities in order to disguise their true mission and facilitate transfer of funds and resources undetected. It is clear that these types of incidents, although few, would have a profound negative impact on the reputation of Islamic charities who are legitimately involved in the provision of humanitarian aid in conflict zones. History Commons (n.d.) reported that state actors and other stakeholders such as the media have a tendency to overstate the likelihood or prevalence of infiltration and abuse. The attentions of the media, however ill deserved, are having a major implication on the ability of legitimate implications to conduct their charity and humanitarian works (The Graduate Institute of International Studies, 2005; Suria 2010).

There was a series of high-level investigations into abuse of legitimate NGOs working in conflict zones relating to fraudulent Islamic charities that hide behind the humanitarian sector in order to perpetuate terrorism. These investigations have examined issues related to the end use of charitable funds, and the possibility of misconduct or mismanagement on the behalf of the trustees of charity groups (Jonathan & Trifin, 2002, p. 87). Western governments believe there is a high likelihood that Islamic charities will collaborate with terrorist groups. For this reason, it is necessary to conduct investigations in order to ensure that all charities operating in conflict areas are fully registered and have the required governance systems in place to guard against abuse and

exploitation (Charity Commission, 2009).

Besides the rising numbers of cases of reputation damage by fraudulent charitable groups, concerns have been raised regarding the level of risks that these groups present to genuine groups. As Keatinge (2014, p. 34) explained, smaller charitable organizations are being diverted unknowingly or knowingly for the use of extremist groups. Diversion incidents have caused donors to lose confidence in the charity groups they support. Supporters can never be absolutely certain that their donations are going to humanitarian causes. This is such an important issues that in some cases, charitable groups engaged in genuine humanitarian causes are denied an opportunity to benefit from donor funding. Even if terror abuse is rare, when it happens it causes a lot of damage to the donors' trust in the charities (Jeffrey, 2010, p. 32).

There are also concerns that statements and utterances made by the media and government agencies regarding the operations of terrorist groups would lend weight to the crackdown on legitimate Islamic charities involved in relief services. Thus, due to the intensity of the war on terror, majority of Islamic charities have been rendered vulnerable to unfounded allegations of links to terror groups (Robert 2007, p. 42). Because of their vulnerability to unfunded allegations, the affected charities were not able to operate effectively in conflict zones. Unfounded claims about links to terrorists can significantly damage a humanitarian organization's reputation and by extension undermine its ability to source finance and engage partners for ongoing relationships. Ultimately, reputational damage has caused some charity groups to withdraw from their core mission or scale down the level of support offered (Kroessin, 2011).

Overall, the experience of reputation damage has fueled frustration among large, international Islamic charities involved in massive humanitarian aid. This has occurred on a cross national basis; it occurs in many countries and is not limited to the Islamic nations. Frustrations

about those charities alleged to have abused their mandate to collaborate with terrorist groups have impacted all humanitarian groups operating under the umbrella of Islamic aid (Levitt, 2003). For this reason, some Islamic charity groups feel that they have been targeted unfairly by counterterrorism laws and the war on terror. Indeed, some of them are subject to massive scrutiny by law enforcement agencies, and are held at a far higher level of scrutiny than secular based humanitarian groups or even humanitarian groups supported by other religions (Laqueur 2002, p. 4-7). The perception of disproportionate targeting has extended to financial institutions and now Islamic charities risk being blacklisted by banks if there is even the slightest suspicion of collaboration with proscribed groups (Borchgrevinck, 2007).

Another impact of the counterterrorism laws on the Islamic charities is in terms of risk exposure. By their very nature, Islamic charities engaged in the provision of humanitarian aid in conflict zones (especially where terrorist groups are active) are exposed to greater risks of abuse and exploitation by organizations and individuals engaged in terrorism. This risk of exposure relates to a number of factors, the most important of which is the engagement with outlawed groups (CASE Collective, 2006 p. 448; Sorel 2003, p. 378;). In major conflicts zones, including Syria, Iraq, Afghanistan and Pakistan, many charity groups work in areas where outlawed terrorist groups control large territories and key supply routes. In these types of areas, civilians are always in dire need of humanitarian aid and emergency relief (Mackintosh & Duplat, 2013).As a result, charities are forced to engage with the terrorist groups in order to deliver the much-needed humanitarian aid, regardless of whether they wish to do so or not. The engagement does not necessarily involve delivery of aid alongside the terrorist groups. Rather, it involves making essential contact and negotiation with the terrorist groups in order to be allowed access to the groups and to obtain guarantee of the safety of the charity staff (Monson, 2001, p. 208).

Engagements with terrorist groups and the risk of working in areas prone to unpredictable violence increase the exposure of Islamic charities to harm by the terrorist groups. Death, injury, kidnapping, and confiscation of the materials intended for humanitarian relief are some of the risks suffered by Islamic charities working in conflict zones (Gonzalez 2013, p. 312). Sometimes, the charities are charged a fee by the terrorists in order to be allowed to delivered aid. Although this fee cannot be justified in any way, it must be paid by the charity groups or they will be denied an opportunity to work in the areas controlled by the terrorists. This brings into focus the secondary risks of exposure in accordance with the existing counter-terrorism measures (Latheef, 2006, p. 85; Sims 2004, p. 35).

A report by Aziz (2011) indicated that American and European based Islamic charities working in the Middle East have high levels of risk exposure due to several factors. First, they use predominately local staff rather than international staff. The staff has Islamic values, and they have proficiency in local languages. Because they have these proficiencies, they can penetrate deeply into conflict zones and access needy populations (Saleh 2010, p. 229). The charities are more likely to be suspected of terrorist ties or to be suspected of having compromised staff simply because of the common cultural values such as language and religion. This is always the case especially during periods of heightened public discourses of terrorism and armed conflict (Desta and Cockayne, 2012; Zelin 2014, p. 34-37).

Another factor contributing to the particularly higher risk exposure for Islamic charities operating in conflict zones relates to the difficulty of balancing the concept of zakat with the requirement for professional standards (Beranek 2010, p. 152). Islamic charities and humanitarian organizations were established with focus on local communities and remain strongly dependent on these communities for support. For some reasons, these communities can be conservative and

refuse to accept change in the manner in which charity money and items are collected and distributed to the needy (Challand, 2011). Some members of the populace are against the legalization (i.e. licensure) of the operations of charities, unable to understand that this is now a necessary procedure to ensure compliance with the law. For example, some individual donors may find it difficult to accept that zakat can be channeled to large international NGOs that may not use it in accordance with the Islamic laws. Aid organizations may use the zakat to pay rent for charity staff or pay for logistics and administration costs (Pantuliano et al., 2011, p. 12). These uses are essential for the operations of charities but do not conform to the prescribed uses of zakat as explained in the Quran. For this reason, many individual donors prefer giving zakat to small, community-based charity groups which are more likely to give it directly to the needy (Arnold, 2015).

Another factor that causes high risk exposure is that some Islamic charities or individual trustees working with them have links to individuals that have voiced strongly political or controversial views, or individuals with extremist views that have worked with the charities (Morris, 2014). Although these relationships may not have any impact on the ability of the Islamic charities to discharge their mandates, they cause suspicion, which leads to increased surveillance by the authorities fighting terrorism. As the American Civil Liberties Union (2009) explains, lack of understanding regarding the responsibilities and roles of trustees have contributed greatly to these challenge. Some Islamic charities feel like they are under intense pressure from the local communities to appoint local individuals as trustees. Even when the concerned individuals may not be the best to hold such positions, the charities will not object due to lack of alternative options (Brimmer 2006, p. 29). It is also obvious, but not legally acceptable, that many of the terrorists are related to individuals who are doing humanitarian works. Muslim families tend to be

large and extended; it is quite unreasonable for a culture with smaller less integrated families to place their cultural habits on another nation.

It is clear that although the war on terror and associated laws have heavily impacted on the ability of Islamic charities to conduct their operations freely, states and international organizations have a strategic interest in fighting terrorism. Most importantly, states fear that overseas charitable aid can be abused by being used to support terrorist causes. For these reasons, most countries have maintained intense surveillance and monitoring of the activities of charities. Although a limited number of Islamic charities have been accused of collaborating with terrorists, maintaining a proactive stance against such behaviors is the best strategy in the global fight against terrorism.

2.7. Securitisation and Risk Management

2.7.1. Securitisation

The human condition involves insecurity of various types (Diskaya, 2013, p. 1). To reduce insecurity, people in the modern era have adopted a rational approach leading to enlightenment, which relies on a systematic approach to understand and protect against insecurity (Horkheimer, and Adorno, 2002, p. 3). Enlightenment is based on rationality and rules. Consequently, anything not conforming to the normal rules capable of reducing insecurity in the past requires the use of extraordinary methods or abnormal procedures to reduce insecurity. Because of the historical use of rationality and rules, the process constructs evidence concerning the source of the insecurity such as the nature of the threat and the methods necessary to eliminate the threat. In this context, insecurity involves anything the community identifies as a threat to the survival of the community, which encompasses physical threats as well as religious and ideological challenges to values and norms (Kaya, 2009, p. 8). The identification of the threat creates the need to engage in a process

to ensure others understand the nature of the threat and to take measures to address the threat.

Actors in the development of security policy are the individuals who identify the existence of a threat and use speech acts to convince others the threat is real and imminent (Walker and Seegers, 2012, p. 27). The actor exerts influence over others to accept the proposition of an existent threat and the need for some type of extraordinary action to protect against the threat. Political leaders are generally the actors to address security matters although actors can also consist of community, religious, or other types of leaders. The position of the actor in the political and social hierarchy contributes to the perception of authority and ability to influence others. The actor, however, can have an agenda in the attempt to securitise an issue using speech acts (Kaya, 2009, p. 8).

Securitisation involves speech or discourse, which is necessary to communicate information about the existence of a threat and the means the speaker believes are necessary to mitigate the threat (Robinson, 2010, p. 851). The presentation of the nature and source of the threat has a significant influence on the understanding of the public and their willingness to accept the state's use of force or other extraordinary powers necessary to counter the threat. The speech is also often framed in terms of traditional Realism theory in which the threat is presented as an objective reality threatening the survival of the state rather than to the well-being of the people living within the state. In effect, an actor constructs the security issue through a speech act presenting an object constituting a threat. The actor expects the discourse resulting from the speech act will motivate others to accept the need for actions to address the threat (Schlantz, 2010, p. 6). The constructs contained in the speech act, however, is a securitising move or effort to securitise an issue. The speech act does not inherently lead to securitisation of the issue, which occurs only when members of the group accept the premise that the issue indeed represents a

threat (Bonacker, Braun, & Groth, 2009, p. 3).

The discourse surrounding terrorism demonstrates how the speech act operates to ultimately securitise an issue in Western nations. The official narrative contends terrorism is the product of extremist ideology (Kundnani, 2015 p. 8). The way the speech actor constructs the official narrative, however, is the product of the culturally appropriate methods for presenting a narrative found in Western nations (Maan, 2015, p. 80). The narrative construction has a linear quality intended to give meaning to an event. The beginning describes the event, discusses the agency behind the event, and offers some resolution to the problem created by the event. People often uncritically accept the narrative because the discourse enables them to understand the event and the effect the event will have on their lives. When appropriately constructed, a narrative has the quality of a foundational myth, which resonates with cultural norms and values. From this perspective, the acceptance of the official narrative of terrorism as the product of extremist ideology depends on the way in which the narrative has been constructed.

The discourse concerning terrorism is not solely a phenomenon of Western nations. An Islamist narrative exists based on a Salafi-jihadi ideology promoting the use of violence to achieve a utopian vision (Russel, and Rafiq, 2016, p. 7). The Western discourse, however, does not focus on dismantling or undermining the Islamist narrative. As a result, the Western and the Islamist narratives coexist with both narratives serving the purposes of political actors in a specific cultural and social context.

Once securitised, the issue concerning the threat has the highest priority for a group because of the implicit assumption that if the threat is not neutralised the group will lose its identity and freedom of action (Bonacker et al. 2009, p. 3). The prioritisation of the securitised issue can be viewed as conflict escalation because the issue is no longer subject to debate as to

whether a legitimate security threat exists. Placing a high priority on a securitised issue also determines the percentage of resources a society will spend on addressing or mitigating the threat as well as the means the society will use to attempt to mitigate or manage the threat (Burgess and Jore 2008, p. 4).

The designation of an act as a security issue is fundamentally a political decision, which results in the politicisation not only of the act, but also of the discourse concerning the act (Does, 2014, p. 3.1). Politicisation occurs when groups of people articulate their needs in a manner appearing to be incompatible. The result is conflict within a society as it mobilises to defend itself against the presumed threat (Marchetti and Tocci, 2011, p. 51). Once the conflict arises, the politicisation of the threat draws new actors in to the civil society discourse because of the dangers assumed to be associated with the presumed threat. Consequently, new political forces exert influence on decision makers, which increases the importance for political actors to take some action or to adopt some type of extraordinary measures to manage the threat. The politicisation of the issue also precludes serious debate about whether the issue represents a legitimate or objective threat (Delibas, 2009, p. 90).

The perceived terrorist threat to security in the early stages of the GWOT led Western political leaders to place a relatively high priority on measures intended to reduce vulnerability to terrorism. The rush to adopt extraordinary measures to manage the presumed threat was compounded by the discourse of political actors not normally involved in security issues such as business organisations and local communities. Contrary to the stated approach of dealing with terrorism of attempting to eliminate the root cause of terrorism, the methods were usually protective by focusing on interdicting terrorist attacks. Consequently, Western nations adopted protective counterterrorism methods such as requiring teachers or other youth workers to report

suspected terrorist activities or surveillance of Muslims living in Western nations. The approach however, was counterproductive fostering hostility and resentment among Muslims (Langman, and Morris, 2002, p. 2).

The logics of securitisation establish an object as a security issue through discourse (Van Munster, 2005, p. 2). The logic associated with the securitisation approach is rooted in the assumption that the discourse by a political actor can elevate a matter from mundane and routine politics to the level of exceptional politics in which the issue is presented as a critical danger and requiring the immediate use of extraordinary methods to deal with the matter. The logic is dialectical in nature, postulating a thesis concerning the importance of a value to society, an antithesis in the form of a threat to the value, and a synthesis concerning the need to take some type of action to preserve the threatened value. The logic process relies on the principle of the need to restore order at any cost, including war if necessary. In addition, the logic admits the possibility of external factors facilitating or inhibiting the acceptance of securitising speech by an audience (Sulovic, 2010, p. 4).

The fundamental premise developing in Western nations as a result of the GWOT is the assumption that extremist religious ideology is the primary driver of extremist behaviour such as terrorism (Kundnani, 2015, p. 10). The concept demonstrates the logic of securitisation as practised in the Western nations with any religious, moral, or economic issue can become an antithesis if it is useful for grouping others as friends or enemies (Van Munster, 2005, p. 4). The political actors argue they can restore order by taking an extraordinary action against the groups defined as enemy, which is the thesis of the argument.

An additional form of logic related to securitisation is the premise that understanding the processes by which perceptions of threats to security emerge can lead to progress towards

improving security against genuine or objective threats. A particular problem with this logic of analysis, however, is the way the concept of progress towards improving security is framed. The neo-liberal concept of progress in the West focuses on the importance of dialogue, strategies to meet basic needs of others, and approaches to minimise harm to group identities as well as physical harm (Browning and McDonald, 2011, p. 237). Other societies, however, may have a different logic for the purpose of securitisation and the definition of progress towards achieving security.

The logic of securitisation focuses on how an issue initially came to be perceived as a threat. In contrast, risk management has a different logic based on the premise the occurrence of adverse events challenging the norms and structure of society is inevitable and cannot be rationally calculated (Corry, 2010, p. 9). Because postmodern global society creates the risks, elimination of the risk is not possible. Consequently, societies should prepare for the adverse events and for management the consequences by developing systems to maintain resilience. When compared, the logic of securitisation and the CSSFT is descriptive while the logic of risk management is prescriptive.

2.7.2. Theoretical Framework of Risk Management

The risk management school of security is based on the assumption that risk identification and management should be the central factor behind security policies in the post-Cold War environment (Buzan and Hansen, 2009, p. 250). Risk is defined as the product of the probability of an adverse event taking place and the consequences of the event on society (Research Council of Norway, 2011, p. 6). The significance of risk is a product of modern society in which many types of risks such as the possibility of environmental or personal harm are embedded in the fabric of society. Society and its government are not able to substantially moderate the risks inherent to

modern society because of the complexity and multifaceted sources of the risks. When a catastrophic risk arises such as the risk posed by an attack from a force external to society, the government attempts to mitigate the risk with the use of extraordinary measures. The risk management approach is a proactive response to threats rather than the reactive approach occurring when a threat is securitised (Van Munster, 2005, p. 9). At the same time, certain risk can arise such as terrorism that is a manifestation of the unpredictable turbulence in modern society that cannot be rationally predicted (Aradau and van Munster, 2007, p. 92).

The risk management school does not call the distinction between friend and enemy into existence through discourse or speech acts. Instead the approach involves continuous assessment of state and non-state actors to determine the degree of threat they represent, the harm they could cause by adverse action, and the type of actions able to mitigate the harm (Van Munster, 2005, p. 6). Consequently, friend and enemy are not binary distinctions but are end points on a continuum of threats. In effect, risk management theory has elements of the positivist ontology by presuming risks exist as objective realities for which objective risk prevention or resilience approaches can be used to mitigate harm. Risk management theory also has a constructivist epistemology emphasising the importance of selecting the risks to address based on social, historical, and cultural considerations (Aradau and van Munster 2007, p. 95).

The risk management school considers threats as potentialities. As a result, risk management focuses on taking actions to reduce the possibility of the potential threat developing into an actual threat (Van Munster, 2005, p. 7). The process requires long-term perspective and is possible to implement only if the concept of risk remains separate from the concept of danger or imminent threat requiring immediate action. If danger is not considered imminent, risk mitigation can adopt long-term strategies that do not inherently involve the use of force. In practice, the

mitigation measures address broad social trends rather than attempting to interdict the actions of individuals or organisations. Identification of the trends often depends on statistical data, which results in the depersonalisation of individuals and organisations. In addition, risk management involves increasing the resilience of society to contend with threats that lead to actual harm. Resilience is the capacity to resist sudden stress and the capacity to recover from stress (Bakker and de Graaf 2014, p. 4).

Risk management theory of security focuses on managing the risks produced by modernity, which includes factors such as industrialisation and globalisation found in the modern environment (Corry, 2010, p. 7). The approach conceptualises modern existence as a risk society unable to control fully for the risks created by technology and social interactions. Consequently, the risk management process recognises the limits of risk mitigation and focuses on controlling the effect of negative events on society.

Risk Management Theory differs from securitisation through the use of normal intervention methods rather than extraordinary intervention methods. The measures consist of surveillance and other approaches to social control of large populations (Van Munster, 2005, p. 8). In addition, risk management approaches seek to control or minimise risks rather than to eliminate the risk, which occurs with securitisation. In practice, the risk management school advocates the use of interventions that are not dramatic and seek to change the basic conditions producing the security threat.

Risk Management Theory has some elements appropriate for the present research although the Risk Management Theory does not provide a means for fully explaining the reasons behind the failure of non-dramatic interventions to alter the nature of the threat. An example of the failure of the Western nations to accept the invitation to dialogue with the Islamist figures to prevent

escalating the conflict between the West and Islam (Lynch, 2005, p. 7). The Western political leaders and particularly the Bush administration rejected the intervention of dialogue despite its potential to reduce conflict and avoid future terror attacks. The risk management theory cannot explain the choice of political actors for securitisation and the use of extraordinary measures that may increase the security threat when given the option of dialogue with a possible threat object as a routine security measure,

Risk Management Theory also proposes the existence of de-bounded risks, which are risks not subject to normal rules and therefore cannot be forecast using statistical models (Hameri and Kuhn, 2011, p. 276). A de-bounded risk has a low probability of occurrence, but can have a catastrophic effect if the event does occur. In addition, de-bounded risks are not contained by national borders, such as the presumed risk posed by global warming or a global pandemic. Transnational terrorism is a de-bounded risk because a terrorist attack in a specific location is a low probability event yet results in widespread anxiety and concern if the event should occur.

An issue with risk management theory is the need for political actors to determine the level of acceptable risk. (Research Council of Norway, 2011, p. 8) . De-bounded with very low probability of occurrence and a large magnitude of consequences can occur, but the resources necessary to mitigate the risk of occurrence of these events can reduce the resources available to mitigate risks associated with events of high probability of occurrence. Risk management theory does not provide adequate guidance concerning approaches to assessing acceptable risk. At the same time, risk management theory acknowledges the centrality of the political actor in the risk management process in the past (Hameri and Kuhn, 2011, p. 276). Nonetheless, the emergence of de-bounded risks suggests the need for international organisations to undertake measures to reduce the risks because of the need to pool resources on a regional or global basis.

2.7.3. Application of Risk Management to the Global War on Terror

Risk management perspectives are found in the strategies adopted by Western Nations in the GWOT. The risk management approach is intended to assist policy makers by identifying risks to security related to terrorism and to determine how to allocate resources to reduce terrorism and to mitigate harm under conditions of high uncertainty (Jore, 2012, p. 4). The approach leads policy makers to presume terrorism is a manageable phenomenon through the use of the correct preventive measures. The application of risk management principles in the GWOT has involved a structured and rational approach to terrorism management through the expansion of the authority of governments to engage in normal criminal intervention methods.

An example of the application of risk management concepts is the counterterrorism approach of reducing political influence through de-radicalisation programmes conducted by various Muslim nations with Islamist detainees (Kruglanski et al., 2106, p. 1). The programmes focus on providing information to the detainees through dialogue with Islamic clerics to dissuade the detainees from having a radical interpretation of the Quran. The programmes use persuasion to prevent terrorism rather than force to protect against terrorism. The rational assumption underlying de-radicalisation is persuasion by respected religious leaders will be effective for reducing the risk of terrorist attacks. The programmes relying on the influence of moderate religious leaders, however, may not have substantial credibility with young people who have extremist views (Schmid, 2014, p. 2). The radicalisation of the concept of jihad in the Muslim community has led to the development of highly committed individuals in extremist groups (Doosie et al. 2016). It is likely that efforts to change the convictions of highly committed individuals belonging to a social group defined by fundamentalist religious ideals will be viewed as a threat to their identity and lead to strong resistance to change. The lack of success with de-

radicalisation underscores the difficulties with governing modern societies in a rational manner (Jore, 2012, p. 4).

Risk Management Theory also explains some of the efforts by some Western nations such as the United States and the United Kingdom to treat terrorism as a crime rather than as a separate and distinct threat to society. Domestic terrorism was classified as a crime and the normal approaches to containing and controlling crime were used to prevent terrorist attacks and to identify perpetrators (Fisher 2012, p. 261). The amount of resources the governments committed to the interdiction of domestic terrorist activities also depended on the level of acceptable risk as determined by political actors.

2.7.4. Risk Management Theory and Islamic charities

Risk Management Theory provides a rationale for the reasons behind the Western securitisation of Islamic charities despite the work the charities perform to reduce poverty that is presumed to be a significant contributing factor for terrorism. The involvement of an Islamic charity with a terrorist organisation leading to a specific attack on Western interests can be considered a de-bounded risk because of low likelihood of occurrence of the attack. However, the political actors in the West, have to determine the acceptable level of risk (Hameri and Kuhn 2011, p. 276). The approach to contending with the risk posed by Islamic charities is to use normal financial surveillance techniques associated with criminal behaviours albeit with extraordinary powers to implement the techniques. The result is to reduce the risk by increasing financial surveillance of all Islamic charities to ensure the rare event of a charity supporting a terrorist organisation does not occur.

Because Risk Management Theory depends on a subjective epistemology in determining the measures necessary to manage risks in the modern post-industrial environment, the decisions

concerning charitable organisations are not objectively rational. Effective risk management approaches would consider Islamic charities as a tool for addressing many of the underlying social problems contributing to terrorism in Islamic nations such as poverty or the threat to identity posed by globalisation (Huuhtanen, 2005, p. 79). However, the governments of Western nations, have had a historic and cultural mistrust of the voluntary sector possibly because charities provide some of the services neo-liberal governments promise to provide (Sidel 2006, p. 204). The result is a policy to manage the risk associated with the possibility of the use of charities to finance charity limiting the ability of the charities to perform their customary work that could address some of the factors fostering terrorism. The increased oversight and regulation of Islamic charities has also had a chilling effect on contributions to the charities from Western sources, which further undermines the ability of the charities to provide services in Muslim nations.

An example of the application of Risk Management Theory by political actors to Islamic charities is the use of asset tracing in the United States as a means of reducing terrorism. Asset tracing is a normal law enforcement procedure to identify the source and use of assets to ascertain whether the assets have been used in criminal wrongdoing (Gillespie, 2002, p. 4). The objective is to identify money laundering by tracing the sources and the uses of cash flows of seemingly legitimate organisations. When applied to Islamic charities, however, asset tracing has not been generally successful in determining whether the funds of the charities are used to support terrorist activities as such activities are defined by the United States. In addition, the government's overt and covert prying into the affairs of Islamic charities fosters resentment in the Muslim community and therefore contributes to hostility towards the United States. In effect, the rational approach of using a traditional law enforcement technique to reduce the risk of terrorist attack has been counterproductive.

The use of asset tracing as an antiterrorist method also demonstrates the dialectic occurring between the positivist ontology and constructivist epistemology in Risk Management Theory as described by Aradau and van Munster (2007, p. 96). The political actors had an objective understanding of the threat posed by terrorism and the need to interdict financing of terrorism if possible. The selection of the risk management tool of asset tracing, however, was based on the historical and cultural approaches to enforcing criminal laws. Consequently, it may not have been the best method to achieve the objective of reducing terrorism or of controlling cash flows to terrorist organisations.

The general restrictions placed on the operations and funding of Islamic charities in the GWOT also appears to have been counterproductive from a risk management perspective. In many of the developing nations with a predominately Muslim population where the state structures have failed, Islamic charities provide social services (Huuhtanen, 2005, p. 79). The provision of social services reduces some of the consequences of industrialisation and modernity to Muslim communities such as poverty and threats to existing community norms and values. By limiting funding, the Islamic charities cannot perform the work necessary to address some of the fundamental causes of terrorism.

Securitisation of Islamic charities creates special difficulties for Western governments because of the importance of charitable giving in Muslim culture (Coughlin, 2014). The *zakat* or requirement for charitable giving is a Pillar of Islam. In addition, business organisations from Islamic cultures conducting business in the West often receive interest payments from funds circulated in Western banks and other institutions. Donating the interest to charities purges the funds from the taint of usury (Le Sage and Menkhaus 2004, p. 6). Consequently, a large amount of funding is available to Islamic charities, the majority of which is used for legitimate purposes.

The securitisation of Islamic charities, however, creates the impression all charities are suspect. In addition, securitising Islamic charities has resulted in restriction on the delivery of charitable activities in areas designated by Western authorities as under terrorist control because of the erroneous belief that the charity is indirectly supporting the terrorists (Kieffer, 2015, p. 73). Another ill-considered approach to dealing with Islamic charities operating in some nations has been an attempt to impose curricula on madrassas funded by Islamic charities as a means of de-radicalising the educational process (Howell and Lind, 2009). If the charity does not agree to the curricula, the United States government treats the Islamic charity as a terrorist organisation. As a result, the securitisation process appears to have been counterproductive for reducing the political influence of terrorist organisations because Muslim society perceives the restrictions on the charities as unwarranted intrusions on legitimate charitable practices.

The securitisation of Islamic charities has had an effect on all international non-governmental organisations (INGOs), including secular and inter-faith INGOs (Metcalf-Hough, 2015, p. 5). Although the extraordinary powers to regulate charities were primarily intended for Islamic INGOs, all charitable organisations have to comply with the regulations. Consequently, a substantial portion of the funds contributed to charities are diverted to support administrative functions necessary for regulatory compliance. At the same time, the securitisation of Islamic charities has presented dilemmas for many organisations faced with the need to cooperate with the authorities of donor countries or risk losing a substantial amount of funding (Obaid n.d., p. 1).

Some researchers suggest that the motivation behind the securitisation of Islamic charities is the result of the challenge to state control of welfare represented by the charitable organisations (Harris, 2014, p. 14). In neo-liberal states, charitable organisations compete with the state for providing welfare services. The charitable organisations generally occupy spaces deemed too

costly or too impractical for the state to provide welfare services. Consequently, the securitisation of Islamic charities can be viewed as part of a larger process involving the securitisation of international aid by the United States and other Western nations (Obaid n.d., p. 1). The Western nations use aid as a tool to improve the security position of the west by providing support only to nations and organisations with a pro-Western orientation rather than distributing aid solely on a humanitarian basis.

A component of the challenge to the state represented by Islamic charities is the inherent religious basis for the Islamic charities (Masoud, 2014, p. 24). The neo-liberal secular states attempt to minimise the importance of religion to society despite the official positions concerning tolerance and acceptance of diverse religious beliefs. At the same time, the provision of welfare services by the state is intended to provide an electoral return, which the activities of religion-based charities can diminish. Whenever a charity performs its work, it is denying a government contractor the opportunity to perform the same type of work, which can lead to government hostility towards the charitable organisation (Klein, 2007, p. 418). Consequently, the opportunity to securitise Islamic charities through discourse linking the charities with terrorist organisations has the potential to achieve the objectives of neo-liberal political leaders of reducing the influence of religious charities and maximising the electoral return from welfare programmes.

2.8. Tensions between Securitization and Risk Management Theories

The current security discourse across the globe is characterized by tensions. On one side, the fight against global terrorism or ways of dealing with security issues is entirely different as illegal immigration indicates that security appeal is a call to an emergency that signifies issues related to existential hazards that needs immediate measures to correct them. On the other side, the language of prevention is becoming popular, and risk management and precautionary approaches

are adapted to handle the same issue. Indeed, security is adopted to evoke different measures and to shun them. Therefore, this section describes tensions that exist between securitization theory and risk management theory in the fight against global terrorism in Islamic charities.

Copenhagen securitization theory offers a detailed system of dealing with the question of what makes something to be a security challenge. Principally, it recognized security as an act related to speech that causes a particular form of social situation where specific matters are handled in a unique viewpoint or politics in which it is easy to apply emergency rules. Therefore, securitization encompasses identification of an existential threat, prescription of a plan of action in connection with the stated perceived risk, and movement of the issue of the danger to a form of emergency politics that sets aside the standard rules controlling the process of making decisions within the society (Bright 2012). Reports indicate that the principal aim of Copenhagen securitization theory was to offer better means beyond the relative virtues of military versus nonmilitary concepts of security to deal with narrow realist focus on military and state threats (Charrett 2009,).

Risk management theory introduces the idea of risk as a contemporary concept that assumes decision making. It explains that risk society has not emerged due to the presence of other dangers or threats in daily lives but due to the de bounding of uncontrollable risks. According to this theory, it is growingly becoming difficult for nations across the globe to safeguard the security of its citizens in the current environment that is full of numerous risks and active mistrust. Therefore, to the solution to global terrorism, financial, and ecological conflicts lie in the cooperation among countries. Principally, this leads to an absurd situation for countries because for them to further achieve their national interests, they must denationalize themselves. For a fact, the global cooperation against terrorism stands a witness to this fact (Corry 2011). For

a point, to safeguard their constitutional promise of protecting the lives of its citizens, particularly from global terror threats, numerous nation-states joined hands to fight against global terrorism. Principally, this fact can be ascribed to the fact that it is almost impossible for a single country to fight the numerous connections of terrorism spread across the globe. Indeed, even well-developed countries have to seek support from other countries to win the war on terrorism.

The theory of risk management challenges the reasoning of security described by Copenhagen securitization theory in two aspects. First is the possibility of depending on reactive emergencies approaches while the second is the understanding of insecurity around the concept of threats external to oneself. As claimed by Trombetta (2006), having a security logic that emphasizes on emergencies is a move to accept them and create a space of managing such crises. Drawing from the *laissez faire* approach used to control global terrorism in the past, he argued that scholars and government agencies were initially not concerned with the prevention of terrorism or eradication of its emergence but instead wanted to allow for their spread to guide and control their effects. Therefore, he summarized that probably the right time has arrived for nation states to work towards the prevention of global terrorism and its impact rather than towards its control. Currently, there are numerous plans for military, medical, and ecological emergencies. However, politics are surrounding their prevention. Principally, within a risk society as stated by the risk management theory, the very likelihood of implementing security practices by evoking crises is questioned. Therefore, by mentioning that current global terrorism or threats are beyond insurability, risk management theory warns against security approaches that allow terrorism to thrive or emergencies to occur. The primary tension is that the security vision of the first modernism as stated by Copenhagen securitization theory was founded on the scientific ideal of making insecure effects and dangers of decisions even more controllable, accidents could still

occur because they were believed to be compensable (Amoore & De Goede 2005). Nonetheless, according to risk management theory, the reasoning behind compensation is ignored and is substituted by the concept of precaution through prevention. Therefore, it is difficult for nation-states to either adopt Copenhagen securitization theory or risk management theory to fight against global terrorism especially in Islamic charities.

Another tension between securitization theory and risk management theory concerns the likelihood of escaping threats and is closely connected to the possibility of evoking enemies. Principally, in the global arena, security has been organized by the concept of dangers external to oneself. Risk society seems infused by risks among which individuals can select but cannot detach themselves from it. Further, the risk management theory eradicates all the social differentiation and protective zones around and within countries (Risk Advisory Website 2017). Therefore, risk management theory questions the possibility of handling security especially global terrorism regarding enemies rather than shared threats. Nonetheless, for Copenhagen securitization theory, security encompasses the inscription of enemies together with the logic behind the war. However, for risk management theory, the idea of the enemy is one of the possible leading barriers to the concept of security. Principally, risk management theory states that enemy stereotypes inspire as they establish the relations and the behavioural reasoning of attack and defence, as well as, pro and contra that kills people. Therefore, nation states are torn between evoking enemies or escaping threats in their bid to fight against terrorism. Diskaya (2013) has claimed that securitization theory is founded on a friend-enemy concept and this collapses with the launch of a risk-security framework. The theory states that the idea of the political takes over a similar place as the idea of security. The theory says that risk management is not an ideal decision that requires a binary opposition between enemy and friend into existence. Necessarily, this argument of

securitization theory is biased because the grammar of securitizing speech act is explained by the Copenhagen institution only the presence of existential risk and not an existentially intimidating subject. If not, it would be difficult to witness securitization in all five sectors of society.

Environmental threats would be senseless in case friend-enemy concept was essential to securitization. Nonetheless, risk management theory contends that existential threat could also emanate from natural disasters together with other non-intentional sources that fall beyond friend-enemy concept (Aradau & Van Munster 2007). As such, contemporary nation-states need to understand that fighting terrorism entails understanding causes of terrorist activities together with the reasons behind such cowardice acts rather than pointing fingers at the enemies.

More importantly, risk management theory downplays the need for establishing a dangerous object. This point is ignored in the risk management theory, but it is supported in the securitization theory. As defined by securitization theorists, a valued referent object refers to a situation where a security action can be executed in a socially critical way. Principally, in securitization, such an object is assumed to be vital to survival and in mortal and immediate danger (Balzacq & Guzzini 2015). Nonetheless, in the case of a risk management situation, there is no measurable risk and not necessarily an intimidating subject; there is a high possibility that referent object will be left correspondingly vague. This statement was supported by Coker (2014) who argued that the threats that most nation-states experience are diffuse and significantly varied.

Further, the intended targets are countless, and the list of possible weapon or tools is endless as well. This implies that in case all members of a particular population are viewed as potential threats, it is undoubted to note that all other remaining sections of the society are also critical targets. Using referent object for security operations against terror especially in Islamic charities can turn such states into risk communities. Therefore, shifting territorial defense as

suggested by securitization theory to risk management as implied by risk management theory means that most nation-states across the globe have become risk communities and therefore, there is need to look for ways of managing the risks as opposed to fighting back.

In summary, tensions between securitization and risk management theories have led to the adoption of Prevent and counterterrorism policies that have resulted in the securitization of states' engagement with Muslims states. Through these tensions, nation states have introduced participatory approaches to discipline Islamic charities and brand them as suspects of terrorist activities across the world. In particular, although Preventing Violent Extremism program was established to fight terrorism, it has caused a sharp decline in the relationship between Islamic and non-Islamic states because Muslim youths and community employees in Islamic states are coerced by intelligence officers to provide detailed information regarding the communities with who they worked channel their charities to. The approach is viewed as a spying program that criminalizes vulnerable communities and brands them suspects instead of preventing nations from terrorism. O'Toole, Meer, DeHanas, Jones, and Modood (2016) argued that the multi-agency nature of the program's delivery implied that on the grassroots level, the "Prevent" was established to permeate an extensive collection of policy areas. Thus, numerous policies such as cohesion, integration, and civic renewal policies are problematically connected to counter-terrorism.

Secondly, the tensions between securitization and risk management theories have led the formulation of monetary regulating measures that continue to cause more problems to Islamic charities. In particular, because of the de-risking, banks have been denying Islamic charities fundamental rights of opening accounts and transferring money overseas. Principally, it has been argued that terrorism risks may increase when more accounts are opened to Muslim charities in conflict zones and transfer of funds overseas allowed. Nonetheless, denying Islamic charities the

rights to open accounts and transfer money to overseas have fueled rhetoric of fear, bared essential financial assistance aid to needy persons and interfered with the operations of such agencies

Securitization theory is not well endowed to explain and deal with the growth of security practices based on the elements of risk management theory. Intuitively, securitization theory has the advantage of theorizing the power of discourses and of the word security in changing situations that threaten people's lives. Nonetheless, risk management theory explains what characterizes security, as well as, the confrontational reasoning behind the war. Therefore, these tensions have imposed problematic fixities that make it challenging to understand sector specific and historical understanding of fights against security threats such as terrorism.

2.9. Integration of theory and practice

The present study contributes to the understanding of securitisation theory by demonstrating how the process of securitisation of Islamic charities can be analysed using CSSFT and Risk Management Theory. While the approach to examining Islamic charities will rely on the CSSTF framework, it will include acts other than speech to create representations of Islamic charities as a threat. The issue of the full range of acts capable of supporting the securitisation process has not been widely examined in previous research. The use of Risk Management Theory shows the way the process of securitisation goes beyond speech acts to include the context and a range of representations concerning the nature of the threat. In addition, Risk Management Theory provides some understanding of the way political actors determine acceptable risk and the expansion of normal intervention methods to contend with the risk. The present study relies on elements of Risk Management Theory to understand the way political actors select specific

extraordinary powers to apply to the perceived threat to Western society represented by Islamic charities.

Previous research has not applied the combined CSSTF and risk management approaches to securitisation or the specific topic of securitisation of Islamic charities. Popovic (2007) for example, used only the CSSTF to analyse EU securitisation processes in the GWOT. Donini et al. (2008) addresses the speech act elements of the CSSTF to support case study analysis of humanitarian aid, but does not consider the grant of extraordinary powers or risk management perspectives related to the restriction of humanitarian aid. Hameri and Kuhn (2011), p. 276 relied on Risk Management Theory to understand the specific approaches used by Western political actors to determine the level of threat but did not extensively analyse the perception in Western nations of the level of threat represented by Islamic charities.

The present study also contributes to the understanding of the way historical and social context can influence the securitisation process. The issue of the historical and social context has been discussed by others such as the study by Balzacq (2005, p. 172). The past speech acts in a society as well as the social constructs concerning outsider groups and organisations can significantly influence the willingness of an audience to accept speech acts intended to result in securitisation. There has not been extensive research, however, concerning the interaction between the specific historical and social context in which the securitisation takes place and the effectiveness of the speech act.

The present study also focuses on the political processes associated with securitisation, which affect both the initial securitisation move and the acceptance of the speech act as valid by constituencies. The CSSTF considers the way political factors such as the desire to appease vocal constituencies influences the initiation and outcomes of the securitisation process. It provides an

explanation of the choices made by political actors to shape the security agenda. By examining Islamic charities, the present study will show how the CSSTF can be applied to understand the reasons behind many of the choices made by the political actors in both the discourse surrounding the charities and the demand for extraordinary powers to contend with the perceived threat posed by the charities.

Although the present study relied on both conceptual and empirical analysis, it avoided the problem of conflating the two types of analysis, which is a potential problem noted by Baldwin (1997, p. 8). Understanding the concept of securitisation is a different process from understanding how securitisation occurs. Similarly, understanding the concept of de-bounded risk and acceptable risk differs from determining how these processes are applied when dealing with a perceived security threat. Consequently, priority will be given to the application of the securitisation and risk management with the securitisation of Islamic charities followed by management of risks with the expansion of normal intervention methods to assess the validity of the concepts as explanations for the efforts of Western governments to monitor and control the activities of Islamic charities.

2.10. Summary

Post the introduction of global war on terror, the securitization field has evolved in importance in policy and practice. The strength of combining securitization and the risk management theory is that these frameworks have not been combined in previous studies of Islamic charities. By combining these frameworks, it is possible to achieve a more complete means by which to study issues of terrorism, securitization, and the effects of the global war on terror on framing new actors such as Islamic charities. Utilizing a single theoretical framework would result in ignoring many of the important issues and factors that may be important to fully understanding how policies of countries such as the United States and the United Kingdom have

curtailed the work performed by Islamic charities.

Chapter 3: Securitisation and framing of Islamic charities: The Case of Islamic Relief Worldwide

3.0. Introduction

Governments should always prevent any new loopholes in the regulatory agents to ensure that terrorist organizations do not abuse any new loopholes and ways of capitalizing on charities to gain funds. Even though the regulatory processes have been established to disqualify individuals with a criminal record or history of money laundering, bribery or perjury or terrorist offences from obtaining funds from charitable organizations by becoming trustees, being vigilant to prevent new weak points for these criminal activities is necessary. Also, since self-regulatory measures have worked, it is recommended that the strategy should be applied in the charity sector as to defend itself from abuse or any harm. It is important to adopt risk management techniques and actively develop charity sector capacity, and Respect of International Humanitarian Law to avoid conflating wrong with good charities. In essence, regulators and governments that work in the charity sector should function efficiently and use necessary powers to carry out important activities, regulate and ensure beneficiaries of the fund's benefit. Besides, the governments should implement policies and stricter laws that offer charity commission's extra powers to strengthen its investigation unit and its enforcement and regulatory work (Bill of Rights Defense Committee, 2004). Charity commissions should be given the authority to disqualify trustees who may be operating in self-interest and trustees may be asked to step down to avoid sanctions against the charity. Therefore, these commissions should focus on both the individuals receiving the funds, how the funds are used, as well as establish the connections of the target organizations to discredit it if it has ties with terror groups. As such, there has to be a paradigm shift from the funds to the people and the connections of an organization, and when organizations are found as associated

with people of dubious reputation and criminal record, these are the ones that are primarily blocked from sending or receiving funds. In essence, organisations such as Islamic Relief have reported that funds have been blocked, donor's money sent back or accounts frozen and transfers from U.S. or U.K. banks to Syria, Middle East and other regions have been delayed, reversed or held up indefinitely causing extreme problems to charities working in conflict zones (RT.com, 2015). As such, governments should ensure that they monitor the usage of funds given to charity.

3.1. Defining the organisation

Islamic Relief is an Islamic charitable organisation headquartered in the United Kingdom that has strictly complied with the laws concerning the operations of charities and has not been sanctioned by the charities commission or other monitoring groups. The charity was founded in 1984 by a group of medical doctors with the intention of providing humanitarian assistance in accordance with Islamic values. Consequently, Islamic Relief defines itself as a faith-based organisation. At the same time, the organisation maintains some degree of religious neutrality by offering services to both Muslim and non-Muslim recipients (Kirmani, Kahn, & Palmer, 2008, p. 8).

Since the terrorist attacks in 2001, Islamic Relief has had a steady increase in funding from donations that has led to expansion of staff, budgets, and operating activities (Petersen, 2012). Islamic relief receives the majority of its funding from institutional donors and UN agencies. In addition, the organisation has operational partnership with other international nongovernmental organisations such as Oxfam. The ability of Islamic Relief to integrate donations and operations from Muslims with financial assistance and from mainstream non-Muslim institutions demonstrates a practical approach to fund raising and operations. To qualify for continued assistance from non-Muslim sources, the charity has had to ensure that it operates completely

within the laws of the United Kingdom and the laws of the nation's responsible for providing funding. In addition, the organisation has developed approaches to ensure that all stakeholders perceive that it is a legitimate charity. An example is the Humanitarian Forum hosted by Islamic Relief, which is intended to establish understanding and cooperation among humanitarian groups from different cultures and religious traditions.

3.1.1. Restrictions on operations

There remains implicit restrictions on the operations of Islamic Relief as a result of the global war on terror. In general, the organisation does not conduct operations in areas that could result in the violation of British, American, or other national laws (Benthall, 2007, p. 7). The organisation has also experienced obstruction in its work in providing assistance for refugees in some nations such as Chechnya because of Russian suspicions that some of the aid will be used by groups designated as terrorists (Kirmani et al., 2008, p. 11). To overcome some of these difficulties Islamic Relief has partnered with organisations such as ECHO, which has allowed Islamic Relief to operate in portions of Somalia controlled by Al-Shabaab without any restrictions or sanctions from the British or other Western governments (Kirmani et al., 2008, p. 10).

On 2014, the United Arab Emirates (UAE) designated Islamic Relief as a terrorist organisation (Emirates News Agency, 2014, p. 1). The organisation has been suspected of providing terrorist funding, but investigations conducted by Israel have not substantiated the allegations. Nonetheless, the UAE has terminated all operations of the charity and prohibits citizens from making contributions.

There are numerous charities globally. However, from the research, the Gulf country of Qatar has the most developed charitable sectors in the Middle East. Even so, while some of the charitable organizations in the country operate locally, others are involved in a wide range of

humanitarian missions in faraway places especially in countries hit by conflicts such as Syria, Sudan, Libya and Iraq. Most of the charitable organizations in Qatar depend on donations from private donors as the main source of funding. They also get funding from the public in the form of an Islamic charity, commonly known zakat. These charities are therefore directly connected to areas where terror groups are located, which significantly might increase the likelihood risks to get connected to terrorist groups. Although the war on terror and associated laws have heavily influenced the ability of Islamic charities to conduct their operations freely, states and impacted international organizations have a strategic interest in fighting terrorism. Most importantly, states fear that overseas charitable aid can be abused by being used to support terrorist causes. In essence, U.S. officials and other security and investigation officials worldwide have pointed out that there are links between Islamic charities in the U.S., U.K., Middle East and the terrorist organizations based in Pakistan, Palestine, Iraq, Syria, and Afghanistan. However, this may not be the case, as there are many legitimate charities that have been pushed under this generalization and continue to face financial constraints. For this reason, most countries have maintained intense surveillance and monitoring of the activities of charities. In effect, some Islamic charities and NGOs have been compelled to suspend or limit their operations in most of the war struck regions, such as the Middle East, leaving thousands of people vulnerable to hunger, diseases, and homelessness. However, although not many Islamic charities have been accused of collaborating with terrorism, maintaining a proactive stance against such behaviors is the best strategy in the global fight against terrorism.

Importantly, charities are known traditionally for helping needy and poor communities. However, the suspicions raised seem to have adversely affected the transfer of funds to Islamic charities and other philanthropic organizations. Money sent to Islamic groups are largely held in

suspicion and most cases there are many steps to the process of scrutiny and transaction may be delayed, reversed or denied support in a crisis. Public charities are usually tax-exempt in the U.S., U.K. and many other countries with some degree of regulatory framework varying in its capacities from one country to another. Charities are valued and considered within many societies as trustworthy institutions and deserve public support. Hence for the terrorists financing experts the hypothesis has been that Islamic Charities could offer a good haven or disguise platform and infrastructure to raise and transfer funds or recruit sleeper cells of Al Qaida or other terrorist groups who could divert funds for terrorist activities while enjoying a good public image with very minimal accountability frameworks (Bell, 2008). Hence Islamic Charities were believed as vulnerable and easy targets for abuse by terrorist groups if not being a façade or fronts of terrorism support at the first place. Essentially, according to U.S. Treasury and government authorities, there are alleged links between charity activities and terrorist funding and terrorism financing is one of the major concerns and areas of investigation by the U.S. government officials. It is, of course, a debatable and controversial question whether terrorism funding has any links with Islamic charities and whether financing is as important as figured out to be. Islamic jihadists have been found to have links with educational institutes, schools or madrasas rather than charities and foundations and thus the whole premise of investigation and focus on Islamic charities may be misplaced, as jihad seems less a question of money obtained from charitable foundations and more about personal beliefs ingrained in educational institutions.

Islamic Relief Worldwide provided their account of the challenges faced by the organisation in terms of getting aid delivered to the most dangerous and deprived regions of the world such as Somalia, Syria, Iraq and Afghanistan (Kroessin, 2007). The organisation claims that they have faced first hand discrimination and direct adverse effects related to the counter-

terrorism legislation and they suggest that this would continue to have a deterring effect on charities and their services.

In case of the Somali famine of 2011, a cash for work programme was proposed in which people displaced by conflict and weakened by hunger could get cash and rebuild their lives by doing some work. However the internal processes required to ensure counter-terrorism regulations are met tend to screen every beneficiary and some individuals and organisation who benefit may be part of watch list of U.S. and U.K. government.

Deprived Somali children and youth may join terrorist groups when they are displaced from homes, have nothing to eat and no one to help them. Thus ironically counter-terrorism laws seem to breed terrorism as the means to counter terrorism seems to get nipped in the bud with no funds made available to organisations working towards upholding counter-terrorism efforts. The Islamic Relief Organisation dropped the cash for work programme as it was unrealistic for them to screen every beneficiary of the program as little or no documentation were available of the children and youth of Somalia. The organisation claimed that counter-terrorism legislation has severely restricted and limited their capacities to assist people in major emergencies or to provide long term support to children and young people (Kroessin, 2007).

In 2012, the Overseas Development Institute (ODI) has provided a report on the donors of Islamic Relief and these donor banking with the Swiss bank had their accounts blocked when they tried to transfer funds to Islamic Relief Worldwide. The Islamic Relief Worldwide has claimed that governments should help charities to find a way through the legislation and review the new laws for the protection of charities and the people who are affected by such laws. The organisation claimed further that operating in conflict zones is itself a huge challenge and it is necessary to develop and approve elaborate financial processes and management systems over many years to

ensure that funds get through to people who need them most. The organisation emphasised that most charities follow an elaborate procedure to ensure that money is utilized properly and adequately and does not fall into the wrong hands.

Charities have been keeping cash transactions to a minimum to ensure that money does not get transferred on to the wrong hands and this is especially true of volatile locations. All workers are also thoroughly screened and although charities employ globally everyone has confirmed identity and independent auditors confirm whether field officers work appropriately and effectively. In Syria, for example, there is a network of Syrian nationals that have been employed by charities and that enables more control as it is more challenging to operate through third parties. Charities have continued to work at the best of their abilities to meet the needs of vulnerable and marginalised people in Syria, Iraq and conflict zones and charities need more support and guidance from governments, not restrictions and hindrances. Charities need a way out to navigate through the counter-terrorism legislation.

When considering why the Western world became so convinced that terrorism and humanitarian aid are so intertwined, it may be helpful to consider how the linkage evolved. Much of the problem with the perception of the Western world can be related back to the roots of financing of Al-Qaida and Usama bin Laden's network (Kohlmann, 2006). In the late 1980s, a large number of Islamic fundamentalist volunteers (Kohlmann refers to 'thousands') travelled to Pakistan. There were no local guides to meet them nor were there any type of living accommodations. There was only idealism and a desire to serve Islam.

It was at this point that the idea of linking terrorism and humanitarian aid seems to have been born. A small number of charitable organizations headquartered in the Arabian Gulf that came forward with donations and accommodations for the recruits.; For the most part, these were

non-governmental organisations (NGOs) that were very wealthy. They were sponsored by businessmen in the Gulf, and they were able to provide houses, travel papers, and even weapons to jihadists that needed assistance. The groups were so powerful that as mujahideen were injured, the groups were able to divert ambulances and medical services from bona fide relief organisations, albeit relief associations that were run by fundamentalist groups. In essence, the groups were used to mask what was really occurring, in a ‘wolf-in-sheep’s clothing’ façade. By ensuring that their assistance organisations looked and acted like bona fide charities, a number of radical leaders were able to “slip below the radar of many global intelligence agencies” (p. 1).

Once the model was proven to be so successful, it was expanded even after bin Laden was expelled into Sudan. During a number of ‘conversations’ with his senior lieutenant, bin Laden revealed that several prominent Muslim charities were really fronts for providing funding for Afghan-led jihadists (Kohlmann, 2006). Information gathered about the same time revealed that the Central Intelligence Agency (CIA) of the United States believed that roughly one third of the Islamic NGOs actually supported terrorists, or had hired individuals that were believed to be terrorists (Staff report, 2004). The report stated that the CIA believed that there were whole agencies that had unwittingly become controlled by Al-Qaida.

These organisations were reported to have been laundering money from bin Laden’s financial accounts, as well as from accounts of other wealthy people in the Gulf who supported the activities of the terrorist groups. Not only were the funds laundered, and moved to wherever there were terrorist activities sponsored by Al-Qaida, but they were used to provide official documents enabling travel and employment for terrorists worldwide (Kohlmann, 2006). Kohlmann reported that the system was so efficient that the Al-Qaida financing network became invisible. Former employees of some of the charitable organisations later asserted that more than

half of their funding had been diverted to Al-Qaida or to bin Laden.

Funding was not the only benefit garnered from the organisations, according to Kohlmann (2006). The Muslim NGOs were very successful at determining which individuals would be successful as jihadists. During the course of interviewing people for 'humanitarian' reasons, the charities were able to screen susceptibility to extremism and siphon off people to be converted to Islam and made into jihadists. FBI Special Agent Robert Walker (2002) testified that the first terrorist cell to develop in the United States, led by Americans but supporting Al-Qaida, was partially funded by the Third World Relief Agency (TWRA), which was based in Sudan. This organization was linked to an attempt to blow up a police station in Croatia in 1995 using an individual who possessed Canadian citizenship.

In 2002, the head of an Islamic charity in Chicago was indicted on conspiracy and racketeering relating to use of the Benevolence International Foundation (BIF) as a financial front for terrorist activities in support of bin Laden and other terrorist organisations (Lightblau, 2002). Enaam Arnaout was indicted for using the humanitarian organization that he developed to funnel donations to supporting Bosnian fighters, without letting donors to the charity knowing who they were really supporting. This case is particularly interesting for several reasons. First, Arnaout was born and raised in Syria, and had fought with the mujahideen. He developed the charity on his own, alleging it was for humanitarian purposes. However, he openly purchased AK-47s and guns, and did not deny using the charity's funds to buy boots, tents, an ambulance, and other goods in support of the fighters in Bosnia. The case went before Judge Suzanne Conlon, who accepted Arnaout's eventual pleas agreement in which he declared he was guilty of racketeering in return for the dropping of the other charges. Conlon sentenced Arnaout to 136 months in prison (*United States of America v. Benevolence International Foundation, Inc.* [2002]).

During the sentencing, Conlon stated that the prosecutors had failed to connect Arnaout with terrorism or even to show that he supported terrorism. Both the US prosecutor and Aranaout appealed to the Seventh Circuit's Court of Appeals. As a result, the sentence was reversed and Conlon was directed to resentence. She resented Arnaout to only 120 months in prison.¹² The Attorney General of the United States, John Ashcroft, insisted that Arnaout was conspiring to commit terrorist acts; Arnaout insisted he was innocent. The case would likely fade into obscurity – and certainly to have far less interest to this project – were it not for *the nature* of Aranaout's pleading.

Aranaout did indeed originally plead innocent, and in fact used the arguments that will be described shortly as the basis for asking that several of the counts be dismissed. Rather than denying that he knew the participants were considered terrorists,¹³ Aranaout argued that “alleged recipients of BIF aid in Chechnya and Bosnia-Herzegovina were lawful combatants [or soldiers], who actions during armed conflict with legitimate military targets are privileged from prosecution under the Geneva Conventions” (*United States of America v. Benevolence International Foundation, Inc.* [2002, p. 3]). According to international law and convention, lawful combatants cannot be prosecuted for acts of war that would include killing an enemy, maiming them, hurting them, or even kidnapping them. This is supported by US law¹⁴ (which is the national law that Aranaout was charged with violating). If lawful combatants cannot be prosecuted for acts of war that would include killing an enemy, maiming them, hurting them, or even kidnapping them per 18 USC §956(a)(1), then the government could not legitimately prove that Aranaout supplied support to people involved in a violent conflict, under the application of 18 USC §239A. This is because it would be an act of war (which is legitimate) and not an act of conflict. Judge Conlon

¹² Arnaout has seen finished his sentence and been released.

¹³ He obviously knew, because he did not deny providing guns and so forth.

¹⁴ 18 USC §956(a)(1), 18 USC §239A

specifically ruled that “Arnaout has failed to establish as a matter of law that the lawful combatant privilege extends to alleged recipients of his aid” (*United States of America v. Benevolence International Foundation, Inc.* [2002, p. 5]).

This issue and the attending ruling are important to the content of this research because they highlight one of the greatest issues of dealing with humanitarian organisations and even those individuals and groups that provide hardware. In fact, the issue can be traced, at its broadest, to the issue of definitions (discussed in section 1.6.2). Munson (2001) pointed out that social movements that challenge social norms and values are looked upon with suspicion by those who are not part of or participants in, the movement. If the movement is being led by grass-roots levels action, rather than sponsored by a nation-state, then the participants are likely to believe the movement is related to freedom and that they are freedom fighters. On the other hand, if the action is a state-sponsored action, it is considered war unless the action results in a large number of unarmed combatant deaths. There is a very fine line between freedom fighting, terrorism, and state-sponsored terrorism or genocide, and the line very much depends on which party the participants are functioning to support.

This problem becomes even more complex when one considers that governments themselves may be supporting what is regarded by terrorist activities in other, non-Muslim parts of the world. This topic is discussed in greater detail in section 2.1.1, *Understanding Islamic Charities*. The emphasis of this section, 3.1.1, has been helping the reader to comprehend the very convoluted set of arguments that has led to all sides believing they have the correct understanding of a situation that is, in reality, very complex and multi-faceted. There is no one, objective answer to who is a terrorist, what acts are terrorist, or even who should be prosecuted for what. It is clear that the Western regions have had, and are likely to continue to have, a different perspective on

this matter than the Muslim nations. Furthermore, even different nations within the Muslim states have differing perspectives on what is, and what is not, acceptable. The remainder of this paper discusses the differences in perspectives, how different groups reached the perspectives that they did, and what impact the differing perspectives have on the future.

Regardless of what Westerners believe, Islamic charity organizations are essential in the Islamic religion. Importantly, the culture of making charitable contributions plays a key role in the socio-cultural and religious aspects of the Muslim community. Among Muslims, charity refers to the spirit of helping others to meet their material or emotional needs and it is one of the Five Pillars of Faith. However, since the charities have occasionally been connected to terrorist groups and organizations, it is necessary for governments and international organizations to look into the legitimacy of the charities. There are several barriers to aid as non-profit sector organizations are faced with increased scrutiny and financial restrictions. Importantly, governments should note that humanitarian assistance, donations and aids from private individuals play a major role in stopping terrorist related activities and yet ironically governmental regulations and laws have made it increasingly difficult for Western-based relief and development organizations to operate in controlled and designated areas and obtain the required funding. It has been argued that it could be impossible to set up camps and hospitals and distribute food and water without violating laws that bar material support provided through certain means. Setting up hospitals or camps required transferring money abroad and some charities are unable to operate as they are stopped from doing politically neutral work and have to follow the laws laid out by the Western authorities. Funding is often slow, sometimes denied to charities abroad in the name of money laundering and this creates a major impediment for charities, even for those operating on the Western front.

Ironically, agencies who are submitted to great scrutiny are often ‘cleared’ after massive investigation. Price (2014) pointed out that despite repeated claims that the Islamic Relief Worldwide was providing support to terrorists and groups on the terror watch list, an audit showed that the agency was, in fact, not supporting these groups. At issue were claims by Israel and the United Arab Emirates that the IRW was supporting terrorism in the Occupied Palestine Territories (Price, 2014). The IRW functions in more than 40 countries but was accused of terror support in the West Bank. When accused, the IRW hired independent auditors to investigate. The auditors found “minor accounting and procedural errors” (Price, 2014, para. 13). In fact, they found “absolutely no evidence” of a terrorism link. However, the damage was already done; the IRW closed its charity operations in the West Bank, leaving 78,000 people without aid. Charity agencies are afraid that humanitarian projects in Somalia, Iraq, and Syria could be shut down. In the end, it appears this is all too possible; less than a week after the auditors declared that there was no wrong doing, Israel announced that the “decision to declare IRW illegal was ‘based on information that has been accumulated over years, that the fund is a central player in financing of Hamas... [and] on accumulated knowledge and experience in fighting terror and financing of terror organisations’” Price, 2014, final para.).

3.2. Perception and attitudes towards Islamic charities

The attitudes towards Islamic charities are significant for the development of the perceptions that these organisations pose a threat to Western society. In general, attitudes reflect a way of thinking about the nature and purpose of Islamic charities. The attitudes towards the Islamic charities vary between Muslims and the non-Muslim populations in Western countries.

In general, the Muslims living in both Muslim majority countries and Western nations have a positive attitude towards Islamic charities including charities that provide direct and

indirect support for groups that are classified as terrorist by Western governments and international organisations such as the UN. In Qatar, for example, the local Islamic charities provide substantial financial support for the Palestinians in Gaza (Rossomando, 2014, p. 1) and more recently for the Islamic Armed Groups in Syria. Some of those armed groups have been considered as extremists. The contributions occur despite laws in Qatar established by the Authority for Charitable Activities intended to prohibit the use of Islamic charities to foster violence and unrest, which is contrary to the principles in the Quran (Coughlin, 2014, p. 19). From the perspective of the Qatari Authority, providing aid for people living in Gaza does not cause violence and unrest. The charities providing often do not operate outside of Islamic countries and therefore are beyond the reach of the sanctions that Western governments can impose on charitable organisations. In addition, support of groups that are perceived as advancing the legitimate interests of the Islamic community is an appropriate function of Islamic charities. Consequently, many Muslims believe that the political objectives of many groups classified as terrorists are justified and therefore the funding of these groups through Islamic charities is appropriate (CTITF, 2009, p. 5).

Many Muslims have perceived the focus of the U.S. and other Western governments on controlling Islamic charities as unfair and unwarranted by the actual activities of the charities (Aziz, 2011, p. 2). In particular, Muslims object to interference with the Islamic charities that prevents distribution of humanitarian aid in regions controlled by groups identified as terrorist. Consequently, the global war on terror has strengthened the positive attitude of Muslims towards Islamic charities. As a result, the Islamic countries such as Kuwait or Qatar are likely to authorize charitable organisations providing humanitarian assistance to Muslims even if some of the support ultimately benefits organisations identified by Western governments as terrorist (Coughlin, 2014,

p. 20).

3.2.1. Attitudes of Westerners towards Islamic charities

An important pattern in the literature is the attitude of Western governments toward Islamic charities based on their understanding and perception of terrorism and Muslim culture. Western governments assume that some Islamic charities will use funds and resources for political purposes, which include the support of terrorist organisations. Evidence from data compiled by the U.S. Department of Justice suggests that approximately 30% of the funding for Al-Qaeda operations prior to the attacks on the United States came from Islamic charities (Bell, 2008, p. 351). The assumption concerning Islamic charities is also based on the experience with Islamic charities in Afghanistan during the occupation of the country by the Soviet Union from 1979 to 1989 (Beranek, 2010, p. 138). The Western countries and particularly the United States used Islamic charities to provide funding and material such as weapons to support the Mujahedeen fighting against the Soviets forces. The paradigm concerning the potential political uses of the Islamic charities persisted after the conclusion of the Afghan conflict with the Soviets and influenced the Western perspective towards the charities following the terrorist attacks on the United States in 2001.

A central assumption of governments in their conduct of the war on terror that it is possible to identify organisations that are actively engaged in terrorist operations as well as the organisations that provide indirect support for non-state armed actors by their actions. The support organisations can range from state sponsors of the non-state armed groups that engage in terrorism to nongovernmental organisations that offer monetary or material support for terrorists. Because of the presumed link to terrorism, the Western governments have a hostile or negative attitude towards all organisations with alleged terrorist links. As a result, the suspicion that an Islamic

charity has connections to terrorist organisations leads to the isolation, stigmatisation, and de-legitimatisation of terrorist groups (Dudouet, 2011, p. 5). There is some evidence that the premise concerning the stigmatisation and de-legitimatisation is valid even for charitable organisations that have not been clearly identified as having links to terrorist groups. Many of the banks in the United Kingdom have closed the accounts or blocked transfers from registered charities because of concerns about becoming involved in anti-terrorist investigations (Arnold, 2015, p. 1). HSBC, for example, has closed the accounts of over 70 organisations and individuals from various countries because of concerns that the bank will face fines if the government in the United Kingdom perceives its anti-money laundering protocols to be too lax (Laurie, 2014, p. 1). In effect, the actions of the governments have created the perception among non-Muslims that all Islamic charities should be suspected of having links to terrorist organisations with institutions such as banks taking extraordinary measures to avoid risks of fines or other sanctions (Aziz, 2011, p. 2). The result is a hostile attitude towards Islamic charities that permeates Western society.

3.2.2. Societal norms and Islamic charities

The societal norms concerning the purpose and operation of a charity is one of the essential characteristics of a society. The societal norms create an expectation concerning the way a charitable organisation should function with a violation of the norm perceived as a challenge to the society. In the context of the global war on terror, the societal norms in the Western countries have become the basis for determining the legal mechanisms for controlling the operations of the Islamic charities.

3.2.3. Societal norms for charities in Muslim majority countries

Islamic charities developed in a different cultural context than the charities of Western nations, which has created a perspective of the purpose of the charitable mission that may be

difficult to understand outside of the Islamic community. In general, the charity in Islamic culture is intended to provide assistance for the community with the individuals in need part of the community. The Islamic charity, however, also undertakes larger projects that benefit the community group rather than the individual. The community orientation developed during the medieval period with the *waqf* form of charitable institution or foundation, which focused primarily on projects that benefited the Islamic community (Beranek, 2010, p. 131). The *waqf* often constructed civic or religious buildings that benefited all Muslims rather than providing benefits only for the needy. The charitable foundations that exist in some countries such as Afghanistan do not operate like some Islamic charities; because they use existing endowment funds and do not seek new funds. Nonetheless, they follow the principles of Islam when determining the types of projects they will support (Borchgrevinck, 2007, p. 25). The use of a charitable organisation for the defence of the Islamic community is also considered appropriate in Muslim culture, which can theoretically include support for non-government state actors perceived as providing protection for Muslims against some type of threat to the community (Kroessin, 2011).

As the concept of charitable organisations evolved in Islam, there was no separation between the state and the organisation as developed in the West. In many of the Majority Muslim Countries, the charitable organisation became an extension of the government with the government collecting the *zakat* and distributing the funds as it saw fit (Beranek, 2010, p. 129). The role of the government with respect to charity is to provide for the needy and to use charitable donations for civic development that benefits the entire community (Kroessin, 2011). Consequently, there was considerable overlap between politics and charity with the charities sometimes undertaking public works projects such as the building of city fortifications based on

the premise that the project would benefit the entire Muslim community. Because of the perspective, the Islamic charities at the current time work with Islamic populations and rarely provide benefits to non-Muslim groups (Fast, 2015, p. 14). In addition, Islamic charities consider using funds for civic development appropriate, although civic development could benefit a non-governmental state actor that exerts de facto control over a region.

In the modern period, the Islamic charities operate internationally and focus on providing a benefit to Muslim communities in different parts of the world. The modern Islamic charities also have a proselytising component that is fundamental for Islamic institutions (Beranek, 2010, p. 137). In general, the development of philanthropic institution in Islamic culture as well as in Western society has been a means of challenging state actions when they fail to provide a benefit to social groups (Weber, n.d., p. 2). From this perspective, the operation of the Islamic charities provides Muslim society with the benefit of challenging the political regimes imposed on it by Western society in the past.

3.2.4. Societal norms in Western countries

A key social norm in the non-Islamic nations with respect to charities was to maintain a strict separation between charitable organisations and political issues. Charities are assumed to operate in a neutral manner without reference to political issues. At the same time, the charities in Western countries are generally secular in nature with the missions based solely on liberal concepts of humanitarianism (Benthall, 2003, p. 38). Consequently, the dominant paradigms in the United States and other Western nations that guide policy formulation and implementation are based on a profound suspicion of religious organisations (Zoli, 2014, p. 3). The suspicion also affects the foreign policy of the Western liberal and secular democracies towards Muslim majority countries because of the expectation that religion will not play a major role in the decisions of

governments.

Charities in the Western countries are also expected to operate in a manner that benefits others meeting some type of social need. Consequently, the charities tend to receive less scrutiny from government regulators than business or other types of organisations. The reduced level of scrutiny can lead to the use of a charitable institution by terrorists as a vehicle to raise funds for non-humanitarian purposes functions as a breach of the social normal, which leads to hostility towards Islamic charities and intensified oversight of their operations (Bell, 2008, p. 456).

3.2.5. The Effect of societal norms in the areas of origin

Societal norms, values, and attitudes have a significant influence on the perception of societal security. The analysis of the literature suggests that there is a clash between the social norms of the Islamic and non-Islamic nations on issues related to the role of the charitable organisation in society. The clash creates the perception of a threat to Western identity by challenging the conception of the purpose and value of a charitable organisation to society. In Islamic culture, the charitable organisation is intertwined with religion and politics. The charity is expected to follow the principles of Islam while in number of Muslim majority countries the state has officially adopted Islam and enforces Sharia law (Borchgrevinck, 2007, p. 25). In the Western countries, however, charities may be secular or faith-based but are expected to remain separate from political matters. The differences in perceptions of the role of religion in charities as well as in general governmental affairs undermines the ability of Western countries and Muslim majority countries to develop the rapport necessary to formulate an effective defence against the use of charities to fund terrorist organisations (Zoli, 2014, p. 5). There is often a lack of cooperation between the Western countries and the Muslim majority in matters pertaining to the use of charities for terrorist financing because of differences in perspectives toward the use of charitable

finds (Levitt, 2003, p. 9). From the perspective of the securitisation theory framework, the perceived threat posed to Western society from the Islamic charitable institutions requires a protective security response from the government.

The effect of the differences in the societal norms concerning charitable organisations is evident from the approach to indigenous charities taken by the Western forces occupying Afghanistan following the defeat of the Taliban. A number of Islamic charities operated in Afghanistan under the Taliban rule with programmes that primarily involved building mosques and madrassas. The organisations were also largely funded by contributions from Pakistan. The Allied authorities in the country closed all the indigenous Islamic charities because of their historic involvement with the Taliban government, with the Taliban designated as a terrorist organisation (Borchgrevinck, 2007, p. 25). The cooperation of the Islamic charities with the Taliban government was an appropriate societal norm in Afghan culture but was an inappropriate norm in Western culture. At the current time, there is relatively little engagement in Afghanistan of Islamic charities with a primarily religious function, although some charities with a humanitarian purpose continue to operate. The Western governments do not consider the religious functions of the Islamic charities to be fully benign despite claims concerning the religious neutrality appropriate in the societal norms of liberal democracies. As a result, the Western governments remain suspicious of the motives and operations of the Islamic charities. The suspicion creates a need for the power structures in the Western countries to take some type of security action that is intended to protect the Western or non-Islamic identity that is consistent with the societal security framework

The position adopted by the UN and Western governments that emphasize the primacy of the non-Islamic societal norms concerning the operation of charitable organisations undermine the

role that Islamic charities could play for developing cultural affinity between Islamic and non-Islamic society (Weber, n.d., p. 7). The restrictive approach resulting from the war on terrorism also creates a global philanthropic division between the Western organisations that avoid partnering with Islamic charities and the Islamic charities that increasingly turn to other Islamic organisations for support when implementing humanitarian programmes. The restrictive approach also ignores the deeply embedded paradigm in Islamic culture that a legitimate purpose of the charitable organisation is to promote and protect Muslim communities.

3.2.6. Differences in attitudes

A significant division exists in the attitudes towards Islamic charities between Muslims and non-Muslims. In general, Muslims have a positive attitude towards the Islamic charities because of the Muslim belief that charities should provide support to advance the interests of Islamic communities (CTITF, 2009). In effect, the Muslim paradigm supports some overlap of humanitarian and political purposes for charitable programs. The attempts by Western governments and multinational organizations to restrict the activities of Islamic charities ostensibly associated with terrorist organizations may be counterproductive because it appears to foster a more favorable attitude towards the charity among Muslims (Coughlin, 2014, p. 20). From the Islamic perspective, the charities contribute to the societal security by reinforcing Islamic values in the community. Based on societal security theory, the Islamic charities are integral to the identity of Muslims because they provide a mechanism by which to fulfill religious duties to help others. Any challenge to the legitimacy of the charities is, therefore, a threat to the social identity of Muslims, and thus, when charities are connected to terrorism, it taints the whole Muslim fraternity.

It must also be noted that the Western attitude towards Islamic charities involves suspicion

and hostility, which is usually based on past experiences of the Western governments where they have a font that they have been used as loopholes to fund terrorist organizations. For instance, there have been allegations that Islamic charities have played an important role in providing the funding for the growth of ISIS. Kumar (2015) asserts that since ISIS began to gain control of territory in eastern Syria in 2011, Islamic charities that operate solely in Islamic nations have been providing funds for the operation of ISIS. In addition, Gilligan (2014) asserts that there is some evidence which suggests that an Islamic charity based in the United Kingdom, Al-Fatiha Global, has links with ISIS. However, many Muslims perceive the focus of the U.S. and other Western governments on controlling Islamic charities as unfair and unwarranted by the actual activities of the charities (Aziz, 2011). According to Bell (2008), (Borchgrevinck, 2007), and History Commons, (n.d., 1), these groups use violence to achieve political objectives. The use of a charitable institution to advance political causes is inherently suspect in Western countries and generates suspicion towards the organization as using funds for illegal purposes. Besides, the interests of many armed Islamic groups are contrary to the interests of Western society, the Islamic charities that fund the Islamic groups are perceived as a threat to societal security. For this reason, like Aziz (2011) articulates, the non-Muslim citizens in the Western countries have a negative attitude towards the Islamic charities and are willing to support legal constraints to ensure that the charities do not use funds in a manner that the Western nations deem inappropriate. The charities represent a threat to the existing identity of non-Muslims in Western countries because they allegedly provide a means to provide funding for organizations that wish to harm non-Muslims. In most instances, the differences in attitudes towards Islamic charities between Muslims and non-Muslims are the result of the belief in the Western countries that Islamic terrorist groups represent a threat to societal security. Regardless of protestations about religious

neutrality, it is likely that many individuals in the West perceive Islam as a threat to society because of the claim by many terrorist groups that they have objectives related to Islam such as establishing a caliphate (Tase, 2013). As a result, the authorities in Western countries have a negative attitude towards Islamic charities, which leads to structuring societal safeguards so that the charities can be easily sanctioned or controlled to reduce the perceived threat. However, the negative attitude reflects the societal security construct.

For this reason, most Islamic charities, upon the incorporation of sanctions, were forced to become united in their demand for the lifting of unjustified and arbitrary sanctions imposed by some Western governments against them. These sanctions had made it tough for the Islamic charities to access funding for their activities, notwithstanding the fact that most of them were engaged in legitimate and lawful activities. Also, it has also been revealed that majority of charities were bothered by the continued unjustified surveillance and information tapping by some Western governments and intelligence agencies. Therefore, there is a need for better oversight and control of charities to be approached as a legal process rather than a political one.

3.3. Intervention of International Bodies

Besides sanctions, there are other steps taken in the fight against terrorism. However, the financing of terrorism has remained a legal, institutional, political and human rights issue and finding solutions to terrorism as a social or political issue has remained central to the effectiveness of the government security machinery. One of the main bodies involved in the fight against terrorism is the UN. The UN and the Western governments believe that it is possible to reduce the risk that a particular charitable organization is involved with terrorist organizations by criminalizing activities that lead to the transfer of fund or other types of support to terrorist organizations (CTITF, 2009). The approach, however, is effective primarily at the national level

for controlling the use of Islamic charities for terrorist financing. Difficulties persist in international cooperation because of factors such as differences in national laws and the lack of an effective international enforcement mechanism beyond possible sanctions on a nation by the FATF (CTITF, 2009, p. 9). The national response can be viewed as regional because it primarily involved Europe and North America and affects another region in the Middle East. The effect is consistent with the societal security framework because the restrictions on Islamic charities have an ancillary effect on issues such as economic and political security in both regions. In essence, the UN counter-terrorism unit has emphasized that authorities must be cautious not to introduce laws and regulations that would burden private and public stakeholders and organizations with financial stress in the name of countering financial support of terrorism. It is necessary to clearly distinguish funding that is used to support terrorist activities and funding that may be channeled for more constructive purposes. However, this may be difficult to achieve as it is difficult to identify financial transactions used for terrorism. The crackdown on terrorism funding has meant that all funding channeled for Islamic charity activities are subject to increased scrutiny and restrictions.

The criminalization of terrorism financing has been addressed through the International Convention for the Suppression of the Financing of Terrorism and in 1999 the International Convention criminalized the financing of terrorism and defined it as a legal offence separate from the actual terrorist act. The identification of financing of terrorism as an actual criminal act and a legal offence gives authorities great powers to prevent terrorism. Money laundering issues are recognized by the Security Council resolution 1617 (2005) and the Plan of Action of the General Assembly resolution 60/288 (2006). There have been proposals for a comprehensive set of measures for an effective national regime to help fight money laundering and terrorism financing.

In accordance with the International Convention for the Suppression of the Financing of Terrorism, money laundering for funding terrorism has been identified as a criminal act so these rules and laws have successfully justified the “criminalization of the financing of terror”.

Essentially, following the terrorist attacks of September 2001 in the United States, the international community led by the UNSC set stringent regulations for the global charity sector. This was in response to the revelation that certain charitable organizations had helped terrorist organizations to plan and finance the attacks. One of the measures taken by the UN Security Council was the strengthening of the role of the Financial Action Task Force (FATF) in fighting money laundering. The Financial Action Task Force (FATF) is the most important international organization for combating terrorism financing. Regional and national frameworks for anti-terror financing are based on the guidelines developed by TAFT under the guidelines of appropriate UN Security Council resolutions (Scherpenberg, 2001). Member states of the task force, as its affiliate institutions, are required to take appropriate measures to comply with the stated recommendations for combating money laundering and other financial crimes. Part of these recommendations (Special Recommendation VIII) refers to the regulation of not-for-profit organizations, which include charity groups and other non-governmental organizations. FATF requires member states to implement laws for regulating the activities of the not-for-profit sector. International and regional organizations are also members of the task force. These include the UN, the World Bank, the International Monetary Fund and the European Union. As part of its mandate, FATF has a special responsibility to develop standards for implementation of legal, operational and regulatory measures for combating financial crimes including terror financing and money laundering. Since 2001, FATF has undertaken a vigorous approach to ensure that its member states, organizations, and institutions have a robust system in place to combat terror financing and ultimately terrorism

itself. In particular, FATF helps its members to understand better the changing nature of risks posed by terror financing, including by enhancing information sharing among members. FAFT conducts financial intelligence analysis among all members to review their readiness to combat terror financing and to understand unique challenges faced by each member in addressing the issue. This helps in informing the task force's future actions as part of adopting a proactive strategy for monitoring and preventing terror financing.

3.4. Summary

Islamic Relief has also suffered reputational damage from the UAE identifying the charity as a conduit for funding terrorists although the charity was fully compliant with laws in the United Kingdom. The case of Islamic Relief suggests that an Islamic charity is vulnerable to an adverse action by any nation and often does not have recourse to refute allegations and repair damage to its reputation.

The patterns in the case studies suggest that the global war on terror has had a significant negative impact on the ability of Islamic charities to implement humanitarian and developmental programmes. The interference with the operations of Islamic charities had contributed to poverty and famine in many parts of the Islamic world, which are circumstances that enable terrorist organisations to attract recruits and clandestine financial support. From this perspective, the efforts to prevent Islamic charities from providing funding and material support for terrorists as part of the war on terrorism have been a failure. The Islamic charities have lost their position as neutral parties that could potentially function as intermediaries between groups of armed non-state actors and both Islamic and non-Islamic governments. At the same time, the interference of Western governments with the humanitarian and community support programmes of Islamic charities has fostered animosity in Muslim communities. As a result, the approach to Islamic

charities in the global war on terrorism has not significantly improved societal security through collective action.

Chapter 4: Effects of extended securitisation and risk management instruments

4.0. Introduction

The purpose of this chapter is to present case studies of actions of governments to regulate Islamic charities in the aftermath of the September 11, 2001 terrorist attacks. Some governments have recognized the obstacles that Islamic charities have faced because of the global war on terror. Initiatives have been implemented to attempt to ensure that Islamic charities can carry out their missions while also preventing charities from giving funds to terrorist organizations.

This chapter begins with a case study of the Qatar Authority on Charitable Activities, followed by a case study of the Montreux Initiative. . For each of the case studies, the role of the organizations or initiatives are discussed, as well as their accomplishments and challenges. The goal in providing these case studies is to understand what has occurred to reduce the burdens faced by legitimate Islamic charities, as well as the obstacles and major issues.

4.1. Case Study : Qatar Authority for Charitable Activities (QACA)

Law number 13 of 2004, Establishing the Qatar Authority for Charitable Activities, has since been repealed. Today, the Regulatory Authority for Charitable Activities (RACA) cooperates with the Qatar Fund for Development (QFFD) and various Qatari humanitarian organizations in order to develop a new general strategy for a way to develop charities and the humanitarian sector within the nation of Qatar (The Peninsula Qatar, 2018). In 2014, Article 4 of the Emir Decree 43 established RACA in order to comply with the Qatar National Vision of 2030 (QNV 2030). The change in Qatari law, relinquishing the role of QACA, came in part with the observation that civil society in Qatar is changing. With the changes in civil society comes the requirement of a civilized nation to improve the standards in society, ensure that the principles which are being used are compatible with those being used in international practice, and to ensure that the

governmental sector can work not only with the civil society, but also with the private sector. RACA will develop the Authority's role as a supervisor by training charity associations to achieve higher levels of self-censorship. A professional environment is the goal, one which will be both accountable and transparent.

While the plan is to increase the level of effectiveness of civil society, improve development, and increase humanitarian works at the national level in conjunction with the QNV 2030 and the Qatari National Development Strategy, the goal is also to help the State of Qatar to be on a more level playing field in the international charitable sector. In order to improve the role of Qatar in the fields of international solidarity and improve the roles of charitable foundations, a new plan is being developed to help focus the nation on its charitable goals (The Peninsula Qatar, 2018). One of the questions that naturally arises from the dissolution of QACA is whether or not the dissolution of one agency and the implementation of another is a form of extended trying to bypass securitisation and risk management regimes, and making the situation worse in the process. The Qatar Fund for Development supported development of humanitarian and development issues. The director of the Qatar Red Crescent (QRCS) stated that the new initiative will make it easier to share capacities among humanitarian agencies in Qatar, as well as making it easier to collaborate and cooperate in the offering of services in various parts of the globe. The new initiative should make it possible to achieve more, but with less effort, especially if agencies work to integrate their efforts, as well as the humanitarian service products they offer (The Peninsula Qatar, 2018).

The process of building capacity will help not only the Qatari organisations, but also their employees. The Director of the Foundation for Humanitarian Services (RAF) pointed out that as employees reflect positively on provided services, the nation will be able to enhance its

international presence as an aid organization (The Peninsula Qatar, 2018). This development comes as the charitable organisations which are headquartered in Qatar are carrying out millions of dollars of aid projects in a variety of countries, including Syria.

The new processes that are being developed in Qatar appear to be developed in an effort to bypass securitisation and risk management regimes. By setting up a process that centralizes the control of Qatari humanitarian aid organisations in Qatar, and seeming to take steps to ‘own’ the charity process, it may well appear to extra-national organisations that there will be less risk of terrorist activity when dealing with Qatari organisations. In reality, however, this change appears to be more a case of smoke and mirrors, perhaps one that will allow Qatar to be more vocal about sitting in judgment of other nations. The new processes may be, to that extent, a bid for political approval from the Western nations, rather than a genuine effort to improve the situation relating to charities and humanitarian aid.

In September 2018, Meshal Bin Hamad Al Thani, the Qatari Ambassador to the United States, accused the UAE and Saudi Arabia of aiding terrorists in Yemen and thus of creating the situations that Qatar must then try to solve (Meshal Bin Hamad Al Thani, 2018) through RACA. This is an interesting perspective because the Sheikh is essentially accusing UAE and Saudi Arabia of state-sponsored terrorism. If these nations are participating in terrorism or sponsoring terrorism, then the charities which operate within their borders might also be ordered to cease and desist under the possibility that charity money would be used for terrorism. The net effect would be to ensure that Qatari charities were able to receive more money from the people of Qatar. At the same time, Qatar’s perspective to Westerners would be boosted.

Sheikh Meshal Bin Hamad Al Thani suggested that the UAE and Saudi Arabia have been making “secret deals with Al Qaida fighters, paying some to leave key cities and towns and

letting others retreat with weapons, equipment and wads of looted cash ... hundreds more were recruited to join the coalition itself” (2018, para. 2). The crux of the matter may be revealed in the following statements, however. Sheikh Meshal Bin Hamad stated that the UAE has been demonizing Qatar, while it is working with Al Qaeda in Yemen at the same time. He proclaims that the UAE says that Qatar supports terrorist groups while the UAE is trying to expand its hold in Yemen and on the Horn of Africa (Sheikh Meshal Bin Hamad Al Thani, 2018). The problem, he believes, is that Qatar has been public about facilitating missions through the Al-Udeid Air Base in attacking Al Qaida and the Islamic State, as well as other terrorist or political groups that would threaten stability of the Middle Eastern area.

A political agenda, however well-meaning, is underway in Qatar. Sheikh Meshal Bin Hamad states that neighbors of Qatar must help take steps to bring stability to the area. He points out that anyone that allows Al Qaida to gather arms and cash is not a friend; nor is anyone that would allow extremist fighters to filter into the regional coalition. This, he suggests, is even worse than stockpiling arms and cash. Nations who allow these actions are indeed enemies (Sheikh Meshal Bin Hamad Al Thani, 2018).

Ironically, Sheikh Meshal Bin Hamad is very aware of the manipulation value of the situation. He says it is the nation’s *neighbors* that use the war as a public relations exercise. He is clearly aware that stories can be told and perceptions of the Americans can be shaped and reshaped through these public stories, rather than simply addressing the issues that have occurred. He states that “We have seen this approach to countering terrorism and extremism before, with deadly results. There is no option to sweep radicals under the rug” (Sheikh Meshal Bin Hamad Al Thani, 2018, para. 4). He even takes the opportunity to blame attacks on the American embassies, the USS Cole, and 9/11 on the UAE and Saudi Arabia. While this opinion is not necessarily one

held by him (or Qatar) alone, it is rarely so boldly stated. Sheikh Meshal Bin Hamad's opinion is that extremists should not be allowed to 'fester' but should be dealt with rapidly. The last paragraphs of the article expound on the reasons that he believes Saudi and the UAE will continue to spawn terrorism. In addition, he blames Qatar's neighbors for deliberately ignoring what was going on. He repeats these points several times.

The spat between Qatar and its neighbors has been continuing for several years. As far back as 2015, Qatar charities were being accused of funding terrorism (Ebersole, 2015). It came to a head in 2017, when Saudi Arabia, the UAE, Bahrain, and Egypt all accused Qatar of allowing 'dozens' of organizations in the country to fund terrorism. The nations also accused Qatar of supporting Iran and various military groups that support terrorism. Saudi Arabia and the other nations levied sanctions against Qatar in response to their alleged support of terrorism (World News, 2017). RACA immediately responded to the accusations (Qatar Tribune Qatar, 2018), asserting that the organization was transparent and that the organization in question had received a number of humanitarian prizes. It also asserted that RACA would be taking legal measures to protect humanitarian activities by Qatari organisations, as a "noble means to enhance solidarity among nations" (Qatar Tribune Qatar, 2017).

Earlier in this section, the researcher suggested that "The new processes that are being developed in Qatar appear to be developed in an effort to bypass securitisation and risk management regimes." One thing seems very likely: whether it is Qatar that is manipulating the process by bypassing securitisation and risk management regimes, or whether Saudi Arabia, the UAE, Bahrain, and Egypt are exploiting this process, designation by securitization regimes has continued in the face of new regulations both within the nations and from the Western nations.

4.1.1. Overview of the charitable sector in Qatar

The Gulf country of Qatar has one of the most developed charitable sectors in the Middle East. While some of the charitable organizations in the country operate locally, others are involved in a wide range of humanitarian missions in faraway places especially in countries hit by conflicts such as Syria, Sudan, Libya and Iraq. Generally, most of the charitable organizations of Qatar depend on donations from private donors as the main source of funding. They also get funding from the public in the form of Islamic charity, commonly known zakat. To a small extent, they also get funding from sadaqah (the non-obligatory form of Islamic charity). A few of the charities are involved in commercial activities through which they get money to support their activities (Mohamed, A, n.d.).

The charitable organizations of Qatar can be classified into three broad categories. The first category comprise of those charitable organizations working under the forum of non-governmental organizations. The leading charitable organizations in this category are the Qatari Red Crescent Association and the Qatari Charity, both of which operate as NGOs. The two organizations get their funding mainly from the obligatory almsgiving collected during the holy month of Ramadan. These NGOs have implemented complex administrative and operational systems to ensure compliance with the law and statutory provisions. They pledge to remain neutral with regard to political issues and to pursue policies that are distinct from those pursued by the government.

The second category comprises of charities founded by members of the Qatari royal family. These include the Sheikh Jasim Bin Jabor Al Thani Foundation, the Sheikh Thani Bin Abdul Allah Al Thani Foundation and the Sons of Sheikh Eid Al-Thani Charitable Foundation. These charities depend greatly on their founders' endowments (waqfs) for funding. However, as

the charitable becomes more competitive and resource constrained, the royal family foundations have in the recent years resorted to fundraising to support their activities. For example, during the 2010 catastrophic floods in Pakistan, the Sons of Sheikh Eid Al-Thani Charitable Foundation organized a series of public funds drives to help the victims of the floods. Thus, the royal family foundations are actively competing against NGOs for funding (Mohamed, A, n.d.).

The third category of Qatari's charities comprises of those founded by the Qatari Foundation. These charities depend on the Qatari Foundation for their financial needs, and are mostly civil society organizations. The Qatari Foundation's scope of operations is mostly domestic and therefore the charities supported by the foundation focus mainly on providing support to disadvantaged groups such as children, the elderly and the disabled. They also help victims of catastrophic disasters. A few charities funded by the Qatari Foundation provide limited relief support and aid overseas. These include the Education Above All, the Al-Fakhoora Project and Reach out to Asia.

As in many other countries, the level of volunteerism within Qatari's charitable sector is very small. As such, most of the charities depend on paid staff to execute their mandates. It can be noted that Qatar is a small country with population of 2.3 million people (about half a million are nationals of Qatar with the rest being foreigners). Accordingly, the charitable sector is very small, with most of the charities pursuing fairly similar objectives. For this reason, there have been persistent calls for Qatari charities to consolidate their missions and work together. This has not been achieved due to various factors such as differences in organizational cultures, fear of loss of donors, and lack of trust between charities (Mohamed, A, n.d.).

The government of Qatar takes cognizance of the fact that the charitable sector not only provides vital services but also acts as a platform through which Qataris express the spirit of

altruism to promote the change they could like to see in the country and beyond. The government has taken further consideration of the fact that the charitable sector is vulnerable to abuse and illegal activities such as terror financing and money laundering. In this regard, the government has taken various measures to regulate the charitable sector. Charitable organizations are accountable to their financiers and the government, and are expected to account for all funds received. By regulating the charitable sector, the government of Qatar aims to minimize vulnerabilities of the sector. The various regulatory mechanisms put in place by the government enable tracking of charity funds right from the source to the beneficiaries.

The global war on terror has been an issue of great concern for Qatar's charities and non-governmental organization since the 9/11 terrorist attacks in the U.S. It has been established that a number of charities across the world have been clandestinely working with terrorist groups through funds transfer and other forms of material support. Moreover, some charities are run by associates of terror groups for the purpose of collecting funds from the public and other well-wishers who are never informed of the really missions of the charities. This has led to increased pressures by government oversights over the charities. In countries such as the U.K. and U.S., several NGOs and Islamic charities have been blacklisted for helping terrorist groups. Consequently, these charities have had their assets frozen, and operations stopped. In other cases, some of the charities' leaders have been prosecuted and imprisoned. Qatar is fortunate in that it has not had any of its charities designated as a sponsor of terrorism. Nonetheless, the government of Qatar has worked tirelessly to strengthen the law on terrorism to ensure that charities do not abuse their privileges to support terror groups. To this end, the government is committed to developing a robust regulatory framework for civil society and NGOs to bring out long-term positive changes.

4.1.2. Role of QACA in regulating charities in Qatar

Between 2004 and 2009, QACA played an increasingly critical role in making Qatar's charitable sector more efficiency and competitive in the region. One of those roles was facilitation of information sharing and accreditation of overseas charitable partners. Under Qatar laws, it is required that charities present information about other organizations and associations with which they have formal working relationships. QACA conducted due diligence to ensure that the foreign partners of Qatari charities were lawfully registered in their countries and that they were engaged in legitimate activities (Jonathan, 2003). Most importantly, QACA sought to ascertain if the foreign entities were blacklisted or designated as sponsor of terrorism or money laundering. In conducting the due diligence, QACA worked closely with many stakeholders including law enforcing agencies and regulatory bodies in home countries. QACA also distributed notices to financial institutions in the country informing them of foreign and domestic partners for Qatari charities.

For ongoing monitoring of the activities of Qatari charities and their foreign partners, QACA implemented a system that allowed its staff to regularly inspect the legal and financial documents of the charities. In addition, the authority encouraged Qatari charities to request their foreign partners to provide required information as a way of ensuring transparency. In some cases, QACA turned down requests for registration whenever it was felt that certain charities or their foreign partners were not engaged in legitimate activities. For example, where it found that the supposed foreign partners were registered as commercial entities rather than a charitable organization, registration was automatically declined. Registrations were also declined if the foreign partners were found to be from countries that lacked clear regulatory frameworks. This unique approach employed enabled it to ensure that Qatari charities operated lawfully and in

accordance with international regulations (Mohamed, A, n.d.).

The second role that QACA played related to regulation of the fundraising activities of all charitable organizations registered or operating in Qatar. Unlike other countries, Qatar's charitable associations do not operate like typical donors when handling requests for charities from abroad. Instead, they convert requests for funds into funding projects. They then conduct a fundraising campaign to support the specific cause. In so doing, some charities may abuse their powers to misappropriate charitable funds. QACA took a series of measures to protect the interests of donors and the public during fundraising. Among these measures were the series of awareness campaigns informing the public that charitable donations must be made through the right channels. In particular, QACA banned Qatari charities from raising money in public using collection boxes without approval. Only those charities and individuals approved could collect funds from the public. In addition, they were not allowed to empty the cash from the collection boxes without the supervision of QACA inspectors. Reports were made for each box, which served as basis for financial oversight and control (Jonathan, 2003).

QACA also made it mandatory for charities to obtain approval before launching media campaigns for overseas humanitarian missions or projects. Each media campaign had to have an identification code and license number serving as proof of QACA approval. In addition, involvement of the media in fundraising activities had to be done in accordance with the terms of reference stated in the campaign license. Under its mandate, QACA was authorized to take appropriate disciplinary and legal action against any individual or entity found collecting charity funds without following the law. Fear of disciplinary action compelled most of the charities to operate within the law.

QACA also took measures to protect charitable funds from being channeled away from the

intended beneficiaries. It achieved this by communicating with banks and informing them to monitor movements of funds held in the accounts of charities. In addition, the authority sent memos to various mosques and religious leaders in the country asking them not to allow fund raising by individuals and groups not authorized by QACA. The authority also requested all charities to provide periodic reports with detailed descriptions and statistics of their foreign missions. For those charities with foreign operations or overseas partners, QACA conducted overseas visits to verify records and financial transactions of foreign operations. Through these foreign visits, QACA was able to obtain pertinent information that it used to implement measures for avoiding future risks. It can be argued that the foreign visits conducted by QACA helped to boost the authority's international reputation as a strategic partner in the global war against terrorism and terror financing. In essence, the various rules and regulations implemented by QACA are strongly related to the anti-terror laws, making the association the foremost player in Qatar's involvement in the counterterrorism war.

Thirdly, QACA played a critical role in coordinating and facilitating relief efforts by charities during crises and disasters. Major local and foreign crises such as the earthquake in China, floods in Pakistan, the Indian Ocean tsunami of 2004, the Israel bombardment of Gaza in 2008 and 2009, and the Lebanon crisis are some of the instances during which QACA coordinated humanitarian activities by Qatari charities. During the crises, the authority organized several high-level public appeals for funds and other forms of humanitarian assistance. The public and philanthropic donors responded favorably, which earned QACA increased reputation as an effective funds mobiliser.

4.1.3. Accomplishments of Qatar Authority of Charitable Activities between 2004-2009

Following the terrorist attacks of September 2001 in the United States, the international community led by the UNSC set stringent regulations for the global charity sector. This was in response to the revelation that certain charitable organizations had helped terrorist organizations to plan and finance the attacks. One of the measures taken by the UN Security Council was the strengthening of the role of the Financial Action Task Force (FATF) in fighting money laundering. Member states of the task force, as its affiliate institutions, are required to take appropriate measures to comply with the stated recommendations for combating money laundering and other financial crimes. Part of these recommendations (Special Recommendation VIII) refers to the regulation of not-for-profit organizations, which include charity groups and other non-governmental organizations. FATF requires member states to implement laws for regulating the activities of the not-for-profit sector.

Qatar is one of the several countries that have implemented the FATF recommendations on combating money laundering and terror financing. The government of Qatar established the Qatar Authority of Charitable Activities (QACA) in 2004 with a key mandate of developing, regulating, encouraging, supervising and supporting all types of charitable activities conducted by charitable organizations in Qatar. In addition to regulating fundraising by Qatari charities, QACA also directly supported humanitarian activities. Under the laws regulating charitable activities in Qatar, all charitable institutions and associations operating in the country are subject to control and supervision by QACA. In addition, individuals and entities authorized to raise donations or initiate charitable activities are also subject to supervision by QACA. Thus, QACA occupies a special position with regard to the regulation of charities in Qatar and by extension neighboring

countries in the region.

Like similar organizations in other countries, QACA was responsible for approving prospects for charitable organizations in Qatar, keeping crucial documents and overseeing financial management. All charitable institutions (including those funded through royal foundations) are subject to rigorous accountability tests and thorough auditing by QACA. QACA specifies the legal requirements that must be met by organizations and individuals involved in charity activities in the country as well as their foreign partners. The association retains the right to deregister or dissolve any charitable organization that violates the law. It can also recommend prosecutions against entities and individuals suspected of violating the charity law. Under the law, no charitable group registered in Qatar can be part of another charitable group in another country without prior and explicit permission from QACA. Similarly, no charity can receive or send funds abroad without the approval of QACA.

4.1.4.Challenges faced by QACA between 2004 and 2009

Despite the many gains that QACA achieved between 2004 and 2009, it had to overcome many challenges. First, the authority employed a small staff (less than 60 employees). Due to the small size of its workforce, the authority outsourced auditing services to third party entities such as Price Waterhouse Coopers. Outsourcing of services became a major bone of contention between the authority and Islamic charities in Qatar. Some of the charities claim that the contracted third-party auditors were unreliable and not objective, and that they could disclose confidential information to unauthorized parties. The charitable groups also complained that the routine audits conducted by the contracted auditors at the behest of QACA lacked clear terms of reference because the charities were not getting reports after the audits. Concern were also raised that the audit cycle was taking too long, which was too costly to the charities. The charities

alleged that the contracted third parties were deliberately taking too long to complete the audit process so as to earn more money. These claims were refuted by QACA, but severely dented the organization's image in the country.

Another issue of concern related to information exchange between QACA and the various charities and state agencies operating in Qatar. Immediately QACA was formed, it embarked on developing a system of communication network through which it could facilitate exchange of information with stakeholders. The authority could also use the communication system to electronically monitor each charitable group's financial processes. Such a communication system was never implemented because the charitable sector felt that the system could violate the privacy and confidentiality of charities. Some charities expressed fears that financial information passed to QACA through the system could end up in the hands of the competitors. Due to these reservations, the communication system, though well intended, was never implemented. This severed communication between QACA on one hand, and Islamic charities and other stakeholders on the other (Jonathan, 2003).

Another challenge faced by QACA was the strong opposition from Qatar international charities which complained that the authority was biased because it played a dual role as a government regulator and as a charitable organization. In fact, part of QACA's mandate was to provide charitable aid and humanitarian assistance. Accordingly, the authority was always involved in several instances of aid delivery especially during catastrophic disasters and in crisis hit areas. For example, it provided aid to Indonesia after the deadly tsunami of 2004. The authority also provided aid to Pakistan and China following a series of catastrophes. Other charity groups felt that QACA's duality of roles created conflict of interest and exacerbated a state of competition between QACA (as a regulator) and the charities. This led to constrained

relationships, making it difficult for QACA to execute its mandate effectively.

4.1.5. Dissolution of Qatar Authority for Charitable Activities (QACA)

QACA was disbanded in 2009 following a decision by the government to restructure state institutions and ministries. In the restructuring process, a number of small government agencies were merged into ministries. Resultantly, the activities of QACA were taken over by the Ministry of Social Affairs. During the five-year period when the Qatar Authority on Charitable Activities existed, it achieved many successes, setting precedence for future oversight and control of the charity sector. In its oversight roles, the authority found no evidence that Qatari charities or their foreign partners were involved in any illegal activities such as terror financing or money laundering. This gave the Qatari charity sector a clean bill of health, making Qatar one of the few countries in the Middle East with a well-managed, transparent and efficient charity sector. Although QACA has long been disbanded, the government continues to regulate and monitor the charity sector with the aim of ensuring that charitable funds are used to make the greatest impact and that they are not diverted to criminal activities.

As could be expected, the dissolution of QACA caused an immediate and long-lasting impact on the charity sector. Some charities felt that the dissolution was a sign of fragmentation in the government administration of public state agencies. Some feared that although the dissolution was not targeted exclusively at QACA, it could cause the charity sector to be regulated more stringently. Until the time of its dissolution, QACA had been considered the pioneer of a consultative framework for government coordination of the non-governmental sector. As such, some stakeholders felt the amalgamation of the activities of QACA with those of the ministry to be a wrong step taken by the government at a time when governments in other parts of the world were doing the opposite.

4.2. Case Study : Montreux Initiative

4.2. 1. Montreux Initiative

The Montreux Initiative is also another initiative developed in fighting global terrorism and financing. The Montreux Initiative, which was facilitated by the Swiss Federal Department of Foreign Affairs to review and remove unnecessary obstacles for Islamic charities. One of the defining characteristics of the Montreux Initiative since its inception is that it would operate purely as a confidence building forum. However, some obstacles (especially about financing and transfer of funds) had been put in place since the 9/11 terrorist attacks. The barriers made it tough for Islamic charities to deliver humanitarian aid to victims of disasters such as natural catastrophes and wars. By removing the obstacles, the Montreux Initiative hoped that it would contribute to the strengthening of relationships between Western countries and the Islamic world.

Essentially, the Montreux Initiative envisaged enhanced cooperation between governments of Western countries and the Islamic charities (Montreux Initiative, 2007). Regarding legal standing, the MI was instituted and formalized as a private not-for-profit organization under the laws of Switzerland. The organization's primary mandate would be to build confidence and help governments to engage constructively with Islamic charities. In effect, the organization would help governments identify bona fide Islamic charities operating anywhere in the world. The organization proposed a rigorous criterion for demonstrating that a particular Islamic charity is meeting applicable regulatory provisions and that it operated legitimately within the applicable laws, both nationally and internationally. The Montreux Initiative encouraged Islamic charities registered anywhere in the world to be part of it. Any Islamic charity that chose not to enter the Montreux Initiative would be deemed not to be bona fide, and this would have serious implications for their operations. In essence, the Montreux Initiative played a crucial role in

assessing the financial management, governance, and project management approaches of some Islamic charities against set standards to ensure that the charities were operating lawfully. In the process, suspicions were identified over a small number of Islamic charities. For the suspected charities, further investigations were conducted and their names forwarded to the responsible government for disciplinary and legal action. In the United States and the United Kingdom, for instance, a few Islamic charities and NGOs were blacklisted and eventually suspended for contravening the law. Among other accusations were that the suspended charities had maintained ties with proscribed terrorist groups or had engaged in money laundering activities. Nonetheless, the Montreux Initiative accepted that a vast majority of Islamic charities were involved in legitimate operations and that they were transparent and accountable for all their financial resources.

However, The Montreux Initiative and its successor, the Islamic Charities Project (ICP) has not demonstrated a substantial amount of success in reducing the restrictions imposed on Islamic charities in the war on terror (Benthall, 2007). The efforts by Islamic charities to comply with various national and international laws have often been insufficient to convince Western society that Islamic charities do not pose a threat. While the ICP has collected a substantial amount of information about the way that Islamic charities conduct operations, the laws and regulations imposed by the United States and other Western governments had remained substantially the same as when they were implemented more than a decade in the past.

Governments in the past have applied the use of force to control terrorism, which has not worked. In essence, the use of power to control Islamic charities is inconsistent with the fundamental premise of societal security theory that non-coercive approaches are more effective than the use of power to reduce threats to societal identity and norms. In fact, the use of coercive

approaches by Western nations to control Islamic charities reflects the more traditional paradigms of the Cold War period in which states were viewed as the primary actors that created security threats. In the current environment, however, social movements are the primary cause of societal security threats. Consequently, the application of power is not likely to be effective in suppressing actions or behaviors that Muslims believe are beneficial such as contributions to charitable groups that provide humanitarian and social benefits to people in Muslim-majority countries. Also, from the research, it is clear that the attempts to control Islamic charities by Western governments may result in less accountability of the charities to the people that they are intended to serve in Muslim-majority countries (Zoli, 2014). Before the implementation of stringent requirements concerning for the way charities conduct operations in Islamic nations, the charities were accountable primarily to their donors and to the communities where they provided humanitarian or developmental programs. At the current time, however, the Islamic charities with ties to Western nations are also accountable to the governments of those nations, which introduce secular considerations into charities that have a faith-based orientation towards their missions and their programs. The stringent legal requirements imposed on Islamic charities tend to reduce the effectiveness of the organizations' programs, which can lead to resentment among the intended beneficiaries of the programs as well as among Muslims in general (Donohue, 2008). Over time, the practice can increase the military and political threat by attracting people to radical jihad movements.

In practice, the legal approach to controlling the activities of Islamic charities had not been effective for conflict transformation as evidenced by intensifying terrorist activity in Western nations more than a decade after the restrictions on Islamic charities were initially imposed. The Western restrictions on Islamic charities interfere with basic Muslim practices and principles such

as the *zakat*, which is the required practice of almsgiving. Consequently, the attempt to control Islamic charities by Western nations engenders suspicion and hostility among Muslims that can lead to increased support for organizations that challenge Western societal security. The conditions that foster the development of radical terrorist groups in Islamic countries remain fundamentally unchanged. The restrictions on Islamic charities have also reduced their ability to function as intermediaries with terrorist organizations because the terrorist groups often believe that the refusal of the charities to provide assistance the result of collusion with Western governments (Dudouet, 2011). The absence of humanitarian exceptions in the laws concerning the operation of Islamic charities is also perceived as evidence of the hostility of the United States and other Western nations toward Islamic interests (Burniske, Modirzadeh, & Lewis, 2014). In addition, attempts to moderate the efforts of Western nations to restrict the operations of Islamic charities such as the ICP have been ineffective because of the belief that a strictly legal approach is necessary to protect society from organizations that fund the operations of terrorists.

Since, charities have been connected to funding terrorist organizations, it is recommended that the U.S. Treasury and U.K.'s Charity Commission must provide more guidance on how credit card companies, banks, and donation websites should use their internet payment services and how they could comply with counter-terrorism laws and yet do not fall into the trap of getting adversely affected by these laws that would deter or hinder their legitimate aid activities. Governments should address the needs and concerns of charities working in conflict zones, and they must find more constructive approaches to enforcing counter-terrorism laws, rather than simply blocking funds from reaching the people who need them most. They also need to make exceptions when taking the step to avoid potential harm to the charities. Besides, profiling the charities can do more harm, thus hampering the intended goal of legitimate charity organizations.

To prevent any loopholes that charities may be used in funding terrorism, charities should have adequate risk management and due diligence processes in line with financial and administrative standards and laws. For instance, governments, charities, and the commissions should be especially alert that funds are adequately and continually safeguarded from reaching wrong hands and are in no way responsible for financing terrorism. Besides, governments in the world need to adopt strategies that disallow the funding of Islamic groups and funds because it is clear that these organizations channel the funds to the terror groups. Commissions should investigate the history of trustees, and the trustee could resign if found to have a criminal record, and if this happens, the new regulations suggest that the case would be closed and the charity would be allowed to operate. They should also give prior notice to a charity and issue a warning and allow reasonable period within which the warning can be heeded, and changes in the organization could be made. It is also now mandatory that all charities have to be registered to obtain funding. In addition, the creditability of the registering bodies should be approved.

For governments, they need to pass enact laws that specify that any support for terrorism is punishable under the criminal provision. Countries should pass new legislation that criminalize collection or provision of funds for the purpose of facilitating intimidation of the public. This includes acts of terror and financing of terror. Laws that make it illegal to transfer criminal proceeds such as charity funds for financing terrorism should also be adopted. On the other hand, international organizations should ensure that all the charities are protected from unnecessary forms of profiling even when the charities have no connection to terrorist groups. At least the perpetrator should have enough evidence to reveal that a charity organization is not legitimate. Unless so, they should continue with their work in helping those in need. Besides, the international community and organizations should recognize and work in conjunction with

regional bodies in mediating and supporting the implementation of the international standards to the local context, and in particular, in determining the risks and vulnerabilities of countries to terrorism, as well as the financing of terrorism through charity organizations.

Besides, there needs to be more cooperation between international and domestic cooperation, which works best when the relevant agencies are operating on a shared comprehension of “terrorism financing,” a common agenda to cracking down terrorism tied charities, as well as sharing of intelligence about what charities might be involved in financing terrorist. By incorporating appropriate anti-money laundering (AML) regulatory, institutional, and legal frameworks. It is recommended that where these agencies exist, deficiencies need an immediate remedy, which should be prioritized. In essence, this can be handled via the strengthening of the financial intelligence units and the alternative mechanisms and enhance domestic and international cooperation. Countries need to ensure that they have a domestic policy with a coordinating mechanism and that works effectively. Besides, relevant international bodies and institutions that act within their respective mandate and governments need to conduct research with the aim of identifying and removing the various obstacles to national coordination and international cooperation.

Charities, Muslim donors, and NGOs in the sector should also play their part. Charities should challenge any instances of discrimination by ensuring that Muslim Donors know their rights, including the right to free exercise of religion, the right of free association, and speech, as required by international laws. Donors also need to be briefed about the situation and should have greater clarity on how counterterrorism legislation and measures could be applied to help or hinder humanitarian projects. For this reason, donors and NGOs along with the respective governments agencies in charge of regulating the non-profit sector should be involved in ensuring

that donor money is not laundered or channeled to terrorist groups. Besides, charities should be able to convince Muslim donors that there is no way that their funds will be channeled to terrorist groups. They should also make it clear that they are working with national, regional, and international authorities to ensure that the funds only help those in need. Besides, charities should challenge any instances of discrimination by making sure that Muslim Donors know their rights, including the right to free exercise of religion, the right of free association, and speech, as required by international laws.

4.2.2. Islamic Charities Project (Montreux Initiative)

The Islamic Charities Project (ICP) formerly known as the Montreux Initiative is a programme by the Swiss Federal Ministry of Foreign affairs intended to promote dialogue between Islamic charities and the Western nations that attempt to control terrorist funding by regulating Islamic charities. The Montreux Initiative was launched in 2005 to remove some of the obstacles imposed by Western governments on the operation of legitimate Islamic charities (Centre on Conflict, Development and Peace building [CCDP], 2015, p. 2). The approach brought was to bring experts in Western and Islamic charities together to develop methods to build capacity among bona fide Islamic charities to ensure they could meet their mission objectives while minimising risk that funds would be misdirected to support terrorist organisations. The ICP replaced the Montreux Initiative in 2010, and now has the objective of examining various research questions concerning the work of Islamic charities. The findings of the research are used to promote constructive dialogue to promote the understanding of Western governments concerning the operations of Islamic charities.

The Montreux Initiative and the successor ICP has not demonstrated a substantial amount

of success in reducing the restrictions imposed on Islamic charities in the war on terror (Benthall, 2007, p. 7). The efforts by Islamic charities to comply with various national and international laws have often been insufficient to convince Western society that Islamic charities do not pose a threat. While the ICP has collected a substantial amount of information about the way that Islamic charities conduct operations, the laws and regulations imposed by the United States and other Western governments have remained substantially the same as when they were implemented more than a decade in the past.

This case study details how responses to the changes and effects of the global war on terror were made by governments following the Montreux Initiative. The Montreux Initiative was a project facilitated by the Swiss Federal Department of Foreign Affairs to review and remove unnecessary obstacles for Islamic charities. One of the defining characteristics of the Montreux Initiative since its inception is that it would operate purely as a confidence building forum. A number of obstacles (especially with regard to financing and transfer of funds) had been put in place since the 9/11 terrorist attacks. The obstacles made it extremely difficult for Islamic charities to deliver humanitarian aid to victims of disasters such as natural catastrophes and wars. By removing the obstacles, the Montreux Initiative hoped that it would contribute to the strengthening of relationships between Western countries and the Islamic world. Essentially, the Montreux Initiative envisaged enhanced cooperation between governments of Western countries and the Islamic charities (Montreux Initiative, 2007).

In terms of legal standing, the MI was instituted and formalized as a private not-for-profit organization under the laws of Switzerland. The organization's primary mandate would be to build confidence and help governments to engage constructively with Islamic charities. In effect, the organization would help governments identify bona fide Islamic charities operating anywhere

in the world. The organization proposed a rigorous criterion for demonstrating that a particular Islamic charity is meeting applicable regulatory provisions and that it operated legitimately within the applicable laws, both nationally and internationally. The Montreux Initiative encouraged Islamic charities registered anywhere in the world to be part of it. Any Islamic charity that chose not to enter the Montreux Initiative would be deemed not to be bona fide and this would have serious implications for their operations.

It can be noted that Western governments were the main targets of the Montreux Initiative. According to the founders of the initiatives, government in Western countries had legitimate security concerns due to the increasing terrorist attacks targeted at them. For instance, Al Qaeda, the largest terrorist organization in the world had declared a holy war against the United States and her allies especially in Europe (Kohlmann, 2004, p. 32). In response, these Western countries began the counterterrorism war, whose aim was to annihilate the capacity of the terrorist organizations to launch an attack on their territories or anywhere in the world. In the counterterrorism war, it was widely believed that certain Islamic charities were behind the financing of the terror groups. As such, one of the aims of Montreux Initiative was to persuade governments not to victimise all Islamic charities as majority of them were engaged in legitimate and genuine activities such as provision of humanitarian assistance and development aid.

The Montreux Initiative could achieve its goals by making a set of recommendations for Islamic charities and governments regarding the operations of charities and their supervision and control. Several recommendations were drafted with the primary aim of establishing a criterion for recognizing bona fide Islamic charities and for blacklisting charities suspected of contravening the law. The recommendations were endorsed by several Islamic charities across the world. Governments in Western countries also endorsed some of the recommendations. Thus, the

Montreux Initiative became an important tool for minimizing misunderstanding between Islamic charities and governments. The initiative was specially designed to drive Islamic charities to ensure that their financial and operations systems were adequately protected to minimize risks of money being channeled into illegitimate purposes (Montreux Initiative, 2007).

The Montreux Initiative was fast tracked and by the end of 2006, it was entering a new phase consisting of capacity building, rigorous information campaigns and assessment of critical processes. Capacity building was necessary to enable Islamic charities to embrace the principles of due diligence, accountability, financial good practice and transparency. Information campaign was targeted mainly at Western governments to gain support for the Montreux Initiative by removing unnecessary barriers for Islamic charities. The assessment process envisaged appointment of an international board of trustees with mandate for assessing compliance of Islamic charities with national and international standards.

After a series of consultations with leading Islamic charities, donor groups and experts, responsibility for furthering the objectives of Montreux Initiative was entrusted to a technical core team comprising of representatives from the Swiss Federal Department of Foreign Affairs, an independent adviser, an expert in international charity laws and regulations and four experts on Islamic charities. A supervisory body was created which was headed by a chief executive officer. Among other duties, this body was responsible for facilitating consultations with wider stakeholders, formulating statutes for future plans and arranging for future funding of the Montreux Initiative. The government of Switzerland, as well as the governments of other countries would support the Montreux Initiative on grounds that they had set up mechanisms to improve relations with Islamic charities and by extension the Islamic world following 9/11 attacks. Therefore, the Montreux Initiative provided a platform that complemented individual

efforts undertaken by each respectful government. However, the Montreux Initiative differed from other similar initiatives in that it set practical goals that would be realised in the short term. Any success gained by the Montreux Initiative initially would make a significant contribution to the long-term objective of facilitating mutual understanding and dialogue between Islamic charities and Western governments. This was crucial because at the time, a number of Islamic charities were suspected of engaging in terror financing (Montreux Initiative, 2007).

The Montreux Initiative played a crucial role in assessing the financial management, governance and project management approaches of a number of Islamic charities against set standards to ensure that the charities were operating lawfully. In the process, suspicions were identified over a small number of Islamic charities. For the suspected charities, further investigations were conducted and their names forwarded to the responsible government for disciplinary and legal action. In the United States and the United Kingdom, for instance, a few Islamic charities and NGOs were blacklisted and eventually suspended for contravening the law. Among other accusations were that the suspended charities had maintained ties with proscribed terrorist groups or had engaged in money laundering activities. Nonetheless, the Montreux Initiative accepted that a vast majority of Islamic charities were engaged in legitimate operations and that they were transparent and accountable for all their financial resources.

Following a series of legal and administrative restrictions imposed upon charities as part of the global war on terror, the Montreux Initiative sought to address specific restrictions that legitimate Islamic charities would be facing. Apparently, the Montreux Initiative felt that indiscriminate blacklisting of many Islamic charities without concrete evidence that they were involved in unlawful activities would result in unprecedented resentment in the Islamic world. Among Muslims, the tradition of charity is widely practiced and regarded as a fundamental part of

Islamic moral and religious heritage.

As part of its operations, the Montreux Initiative would have practical effects by allowing charitable organizations in the Islamic world (particularly in the Middle East region) to present a strong case of their dissociation from unlawful political and military engagements. This consideration was crucial because a number of charities in the region (such as Hamas) had been suspected of being terrorist groups disguised as Islamic charities (Levitt, 2006, p. 32). Thus, Montreux Initiative would contribute to a number of these charities gaining acceptability and legitimacy within the international relief community as well as partner development agencies. In the long run, this would have positive effects in the enrichment of the civil society across the Islamic world.

The Montreux Initiative was to work in accordance with diverse legal standards for charity groups. Some of these legal standards overlapped in respect of certain provisions. For instance, the Swiss laws were more stringent and comprehensive in their definition of legitimate charity groups. Despite these differences, the Montreux Initiative had a responsibility to respect and work in accordance with local charity laws. In most cases, local laws about charity concurred in most aspects. For instance, charity laws in all countries agreed that it is illegitimate for charity groups to channel funds into suspected terrorist groups. Thus, any charitable organizations found to have given financial aid to terrorist groups would be banned regardless of the country in which it operated. Even if the organization was not banned, it would fail the Montreux Initiative assessment because it would be difficult to meet accreditation standards for legitimacy (Montreux Initiative 2007).

The Montreux Initiative called for a number of procedures to be put in place to help Islamic charities overcome unjustified obstacles. For example, if an Islamic charity suffered from

denial of accreditation (for a particular reason), Montreux Initiative would consider the situation and commence a process of high-level lobbying with the authority or organization responsible for the obstacle. Such lobbying would only be effective when conducted in an environment of transparency, objectivity and openness. However, since some charities feared that the Montreux initiative could be used to gather intelligence against them, there was need for openness on the part of the founders of the initiative.

4.2.3. Perceptions of Ability to Control Islamic Charities

The general approach adopted by the UN and the Western governments to monitor and control the Islamic charities represents a collective security response by the national governments in the societies that feel directly threatened by terrorist activity. The events of September 11, 2001 as well as subsequent terrorist attacks have created an association between Islam and terrorist organisations launching attacks on Western societies. Consequently, the collective security approach is implicitly intended to protect Western societies from the threat of terrorism by limiting the operations of Islamic charities, which is consistent with the societal security framework (Copenhagen School Security Theory).

4.2.4. Efforts of Western Governments to Control Islamic Charities

The efforts of the Western governments are intended to preserve a collective identity in the West that is largely free from Islamic influences. The securitisation actors intended to preserve Western societal security adopt various coercive or restrictive approaches based on their scope of authority. The multinational organisations attempt to coordinate the efforts of individual nations to restrict the activities of Islamic charities. The UN Security Council's Counter Terrorism Committee is intended to increase counter-terrorism capacity building, which includes ability to interdict fund transfers. The CTAG of the G8 in coordination with the FATF and the MENA

FATF attempts to control the financing of terrorist organisations (Rosand, 2009, p. 2). The technical assistance that these organisations provide to Muslim countries represents an effort to enlist the assistance of these nations in protection of Western values in a manner that tends to threaten Muslim values. The individual Western nations also take direct action to monitor and control Islamic charities operating in their jurisdictions as a means of reducing the perceived threat to societal security. In the United States, the Department of the Treasury issues regulations to control Islamic charitable operations. More significant than the direct regulations are the pressure that the Department of the Treasury places on banking institutions to monitor fund transfers that involve Islamic charities (Challand, 2011, p. 2). In the United Kingdom, the Charity Commission controls the activities of Islamic charities, although its oversight has not been as stringent as the analogous agencies in the United States (Metcalf-Hough, Keatinge, & Pantuliano, 2015, p. 5). The elaborate oversight and enforcement mechanisms are intended to provide societal security for Western norms and values by restricting the flow of funding for Islamic charities from Western sources.

The Western nations and international organisations that have established mechanisms that ostensibly prevent Islamic charities from supporting terrorist organisations use the operation of the law to reduce the perceived threat to society from the possible support of terrorist groups by Islamic charities. The legal approach is based on the assumption that it is possible to analyse the security risk and to control the actors presumed to create the security risk. The assumption may be flawed because in most situations, it is not possible to control the actions of decentralised institutions such as Islamic charities. In addition, the premise that any reduction in oversight of the Islamic charities will lead to increased politicisation of the operations of the actors may be flawed (Floyd, 2007, p. 43). From this perspective, it is unlikely that the Charity Commission in the

United Kingdom, OFAC in the United States, and other agencies responsible for monitoring and regulating Islamic charities in Western society will meet their security objective of reducing funding for terrorist organisations.

4.2.5. Application of power and control of charities

The use of power to control Islamic charities is inconsistent with the fundamental premise of societal security theory that non-coercive approaches are more effective than the use of power to reduce threats to societal identity and norms. The use of coercive approaches by Western nations to control Islamic charities reflects the more traditional paradigms of the Cold War period in which states were viewed as the primary actors that created security threats. In the current environment, however, social movements are the primary cause of societal security threats. Consequently, the application of power is not likely to be effective in suppressing actions or behaviours that Muslims believe are beneficial such as contributions to charitable groups that provide humanitarian and social benefits to people in Muslim majority countries.

The attempts to control Islamic charities by Western governments may result in less accountability of the charities to the people that they are intended to serve in Muslim majority countries (Zoli, 2014, p. 9). Prior to the implementation of stringent requirements concerning for the way charities conduct operations in Islamic nations, the charities were accountable primarily to their donors and to the communities where they provided humanitarian or developmental programmes. At the current time, however, the Islamic charities with ties to Western nations are also accountable to the governments of those nations, which introduce secular considerations into charities that have a faith-based orientation towards their missions and their programmes. The stringent legal requirements imposed on Islamic charities tend to reduce the effectiveness of the organisations' programmes, which can lead to resentment among the intended beneficiaries of the

programmes as well as among Muslims in general (Donohue, 2008, p. 651). Over time, the practice can increase the military and political threat by attracting people to radical jihad movements.

In practice, the legal approach to controlling the activities of Islamic charities had not been effective for conflict transformation as evidenced by intensifying terrorist activity in Western nations more than a decade after the restrictions on Islamic charities were initially imposed. The Western restrictions on Islamic charities interfere with basic Muslim practices and principles such as the *zakat*, which is the required practice of alms giving. Consequently, the attempt to control Islamic charities by Western nations engenders suspicion and hostility among Muslims that can lead to increased support for organisations that challenge Western societal security.

The conditions that foster the development of radical terrorist groups in Islamic countries remain fundamentally unchanged. The restrictions on Islamic charities have also reduced their ability to function as intermediaries with terrorist organisations because the terrorist groups often believe that the refusal of the charities to provide assistance the result of collusion with Western governments (Dudouet, 2011, p. 4). The absence of humanitarian exceptions in the laws concerning the operation of Islamic charities is also perceived as evidence of the hostility of the United States and other Western nations toward Islamic interests (Burniske et al., 2014, p. 9). In addition, attempts to moderate the efforts of Western nations to restrict the operations of Islamic charities such as the ICP have been ineffective because of the belief that a strict legal approach is necessary to protect society from organisations that fund the operations of terrorists.

The perception that it is possible to use legal methods to control Islamic charities is also the result of the lack of a precise and generally accepted definition of terrorism. The United States, the United Kingdom, or any government can designate an organisation as terrorist and

thereby force Islamic charities to curtail or suspend programmes that could directly benefit the Muslim communities who are caught or being under the influence of terrorist groups. It is possible for Western governments to use the terrorist designation to influence the outcome of political struggles that do not involve the use of methods that can be unequivocally characterised as terrorist (International Committee of the Red Cross, 2011, p. 5). As a result, the government is capable of manipulating the perceived intensity of the societal security threat posed by Islam in general as well as by Islamic charities to justify the use of power to suppress the threat.

4.2.6. Key events and milestones of Montreux Initiative

Major events of 2005. During the year 2005, the Montreux Initiative's Core Team held a series of meetings to deliberate on the best strategies for achieving the organizations' objectives. The first of these meetings was the Montreux meeting which was held between the 13th and 16th of June 2005. This meeting was largely a ground-breaking session during which the core team emphasised the need to put all measures in place to achieve practical outcomes. As such, the meeting purely focused on where the Montreux Initiative was and what it wanted to achieve in both the short-term and long-term. The participants agreed that it was necessary for the team to move from mere dialogue to serious engagement. At around this time, the Western media had painted a negative image of Islamic charities and it was therefore necessary for the initiative to quickly work on redeeming the image of charities, especially those that had been wrongly suspected of terror financing.

The Montreux meeting also reached consensus that while some Islamic charities might have been involved in illegitimate activities, greater responsibility should be placed on regulatory authorities in the respective countries where these charities operated. Therefore, it was agreed that the technical team would work on developing general statements for compliance with

international charity standards and anti-terror financing laws. In particular, the initiative was to set high thresholds for the charity code of conduct as a way of compelling Islamic charities to operate legitimately. The most important outcome from the 2005 Montreux meeting was the long list of suggestions for Western governments with regard to control and oversight of Islamic charities. The meeting stated that in case where abuse of charity privileges was suspected, the concerned government could focus on identifying individuals behind the abuse instead of the entire organization accountable for the wrongdoings of a few individuals. It was also agreed that standards of proof for individuals and organizations suspected of malpractice be high in a similar fashion as that required in criminal conducts.

The meeting stressed the importance of governments allowing Islamic charities to use national banking systems (as well as the global money transfer system) to advance their goals. It was also suggested that where it was necessary to take legal measures against to blacklist suspected organizations or individuals for abusing charity privileges, they would be accorded a right of appeal and defence before a neutral tribunal. However, individual states would have the right to close down or suspend any organization engaging in serious malpractices. In addition, participants at the Montreux meeting emphasised the significance of strengthening national regulatory bodies, which could be complemented by international bodies, organizations and other governments engaged in similar initiatives across the world.

During the last two days of June 2005, another meeting was held in London. This meeting was attended by representatives from various Islamic charities, NGOs and academic institutions from the Gulf Council countries and Europe. The meeting spoke on the need for the international community to develop a common framework for regulating charities. The participants expressed strong interest in supporting the Montreux initiative. During the meeting, a number of contacts

were made with representatives from several Islamic charities. The meeting in London also resolved to include as many Islamic charities on board as much as possible. This could give more credibility to the Montreux initiative in its push to facilitate good relations between Western governments and Islamic charities.

In September 2005, a similar meeting was held in Kensington, London to assess progress and set strategies for the way forward. Prior to the meeting, some members of the core team had made contacts with several charities in the Middle East to determine their willingness to be a part of the Montreux Initiative. Questionnaires were designed and circulated to the targeted charities. During the meeting, it was reported that majority of the Middle Eastern charities expressed positive responses meaning that they were willing to support the Montreux Initiative in its objectives. During the meeting, plans were made for a subsequent technical workshop to be held in Turkey a few months later. Before then, it was necessary for the Kensington meeting to propose an operational structure for the Montreux initiative. A threefold structure was proposed encompassing capacity building, compliance and a supervisory board. It was further proposed that the three-front structure be coordinated by a secretary general of the Montreux Initiative (Montreux Initiative, 2007).

During the Kensington meeting, the core team received a memorandum from the Islamic Relief in response to an early request for feedback regarding the Montreux Initiative. In the memorandum, the Islamic Relief welcomed the initiative and pledged support for its activities. The Islamic Relief also reported that it had implemented most of the recommendations set out by the Montreux Initiative. However, some general suggestions were made about the need for the technical team to forge close working relationships with the Humanitarian Forum because its aims and objectives were compatible with those of the Montreux Initiative. After analysing proposals

and recommendations from various stakeholders and interest parties, some modifications were made to the Montreux document. The most important of these modifications regarded the proposed criteria for endorsing charities. It was proposed that the Montreux Initiative would adopt a non-discriminatory and neutral approach in decisions regarding endorsement of charities. Thus, all charities would be treated equally regardless of their size or nature of operations.

In October, members of the core team met in London again to deliberate on the process through which any Islamic charity could be granted Montreux certification. Among other requirements, the charity must demonstrate awareness and adherence to international and local charity standards, financial transparency, lack of association with proscribed organizations and existence of internal structures. The October meeting also discussed solutions to the difficulties faced by Islamic charities in transferring funds abroad. A closely related issue that was discussed during the meeting was the on-going crackdown on some forms of fundraising activities. For example, some countries had banned collection of funds in mosques. This had resulted in a sharp reduction in the budgets of some Islamic charities that relied exclusively on funding from the public through mosques (popularly known as Zakat).

Between November 22 and 23, 2005 a technical workshop was held in Istanbul, Turkey. The meeting was attended by a large number of participants, chiefly from the U.K. Charity Commission, the Core Team, FDA, INTRAC and FCO. Also in the meeting were representatives from various Islamic charities such as the International Islamic Charitable Organization, the Islamic Charity Centre Society, the Islamic Welfare Association, the Qatar Charitable Society, the International Islamic Relief Organization, the Foundation for Human Rights and Freedoms and Humanitarian Relief and the Foundation for Human Rights and Freedoms and Humanitarian Relief. In total, 17 charities from different countries sent their representatives to the Istanbul

workshop, an indication of the importance attached to the initiative (Montreux Initiative, 2007).

The meeting began with a presentation from the Core Team about progress made so far. The conclusions that had been made in the previous meetings were presented to the participants and they were asked to review and make amendments for modification before ratifying them. After lengthy deliberations with the participants, it appeared to the core team that it was not possible to remove unjustified obstacles facing charities through mere persuasion of Western governments (especially the United States which was determined to change the charity sector laws). The best strategy was to develop a rigorous system of self-regulation and compliance, to be followed at later stages by sustained media coverage and intense lobbying. Although this could cause some sort of inconvenience to the charities that were being managed informally, it would result in overall benefits to the entire charitable sector as a whole.

A key outcome of the Istanbul workshop was the proposal to set up a supervisory board of trustees comprising of between eight and ten representatives. The representatives would be drawn equitable from all relevant constituents (non-governmental organizations, governments and Islamic charities). The primary responsibility of the board of trustees would be development of a mechanism for defending and promoting a confidence building process as well as supervising the progress of the Montreux Initiative. The core team was entrusted with the responsibility of selecting trustees upon consultation with the representatives present in Istanbul. External consultants appointed to the board would be required to be knowledgeable about Islamic charities as well as the effects of the global war on terror on Islamic charities and other humanitarian organizations.

During the meeting, a number of difficulties were highlighted. These difficulties could have far reaching ramifications for the majority of Islamic charities. One of them was that

although many non-governmental organizations were working in cohorts with terror groups, Islamic charities were singled out and victimized in the global war on terror. The implication for this victimization was that majority of Islamic charities had deficient administrative procedures to exercise any meaningful internal controls. If true, this could easily be exploited to abuse the privileges enjoyed by charities. It was however agreed that the main reason for singling out Islamic charities was because of their exposure to unfair discrimination. Another difficult was the suspicion of the possibility of a hidden agenda behind the Montreux initiative, in particular, some charities expressed concerns that the initiative was propagating a different agenda, that of extracting information from the charities for the purpose of intelligence gathering. Assurances were given that the initiative had no hidden agenda and that it was purely a confidence building platform. Concerns were also raised about the benefits of long-term commitment to the Montreux Initiative. Participants noted that even if the Islamic charities adhered to all provisions of the Montreux document, such a move could not mollify the United States in its commitment to the global war against terror.

Despite the above concerns, the Istanbul meeting eventually endorsed most of the proposals agreed on during the previous meetings but with some modification to the document. Further, the core team was given the green light to proceed with the initiative. The next stage would be setting up of a legal framework for the initiative (until now, the initiative operating based on lack of a solid legal platform), which could pave way for raising of funds and appointment of the board of trustees. Afterwards, a communiqué was drafted for financial institutions (mainly banks) that would be willing to partner with the Montreux Initiative to advance its agenda. The financial institutions could, for instance, participate in the publication of articles and reports, sponsorship of meetings, and training courses.

2006 was another busy year for the Core Team and the Montreux Initiative partners. In February 2006, a series of meetings were held in London. One of the outcomes of these meetings was the appointment of Abdulfatah Said Mohammed (The Author) as the Chief Executive Officer of the Montreux Initiative's board of trustees. His foremost responsibility was to lead the core team in making budget for the initiative. Later meetings focussed on the occasion of charitable organizations in the Middle East. During a conference in the Sheraton Hotel, a presentation was given about the Montreux Initiative and its role in the global war on terror. During the conference, the Core Team established important formal encounters with leading personalities. After discussions, it became apparent that some delegates were suspicious of the real mission of the Montreux Initiative. In a way, it was felt that the suspicions harboured by a section of the delegates were due to the perceived competition between the Humanitarian Forum and the Montreux Initiative, whose missions were fairly similar (Jonathan, 2008).

By large, the Core Team had difficulties coordinating different aspects of the meeting. In particular, the team had difficult time drafting a constitution for a new legal entity to be formed under the Swiss law. For convenience purposes, it was agreed that the proposed office holders of this new entity be Swiss nationals with the original mandate to guide stakeholders in implementing the provisions of the Montreux initiative. It was contended that formation of the new legal entity would signal departure from the previous approach that the meeting would be on equal basis so as not to be perceived as being imposed on Islamic charities by Western governments. Still, some charities were not convinced that the initiative could be relied upon to protect their interests.

On a more positive note, delegates spoke of the possibility of initiating contacts with governments in Muslim countries. Such contacts would signal desire by the Core Team to elicit

the help of governments in the Muslim world in facilitating understanding regarding the oversight and control of Islamic charities. To this end, the team prepared compliance assessment manuals and compliance indicators were prepared to provide directions and guidelines on self-assessment as well as external assessment of charities. Each of these compliance indicators was propped by expected objective evidence based on deliberations, contracts and meetings with key stakeholders outside the forum. While these indicators were not intended to be used as stand-alone documents, they would be used alongside standards for risk analysis and strategic procedures by the initiative (Jonathan, 2008).

Following revelations that many Islamic charities operated on weak administrative systems and lacked internal control mechanisms, the Montreux Initiative resolved to encourage Islamic charities to embrace a culture of self-regulation as a positive step towards facilitating confidence building. Specifically, the concept of Hisba was adopted, which calls upon charities to put in place self-monitoring and social accountability mechanisms as part of internal administrative procedures. It was also emphasised that various standard operational management tools be adopted in order to make it easier for charities based in more difficult regions to perform their functions. Regarding the issue of suspicion, charities were encouraged to carry out rigorous due diligence and background checks on their partners, donors and recipients and to also examine their own internal controls to determine the extent of compliance with applicable laws and regulations (both national and international).

The second meeting was held in Montreux between the 21st and 24th of May. Delegates and representatives from various charities and stakeholders attended the Montreux meeting. First on the agenda was the issue of suspicions raised against Islamic charities. It was regretted that due to the effects of the global war on terrorism, Islamic charities were now being coerced to offer

concessions instead of being treated as victims. Moreover, Western governments were accused of not being ready to offer necessary help to Islamic charities. Therefore, high level of practical commitment from the Western governments rather than mere dialogue was encouraged. In addition, the delegates discussed progress made as a result of early exchanges initiated with some Gulf countries and the United States.

It was revealed that Islamic charities were united in their demand for lifting of unjustified and arbitrary sanctions imposed by some Western governments against them. These sanctions had made it extremely difficult for the Islamic charities to access funding for their activities, notwithstanding the fact that most of them were engaged in legitimate and lawful activities. It was also revealed that majority of charities were bothered by the continued unjustified surveillance and information tapping by some Western governments and intelligence agencies. Eventually, the meeting resolved that it would be better for the issue of oversight and control of charities to be approached as a legal process rather than a political one. This could appease Islamic charities and make it easier for them to support the initiative (Jonathan, 2008).

Several Gulf charities registered objections regarding the assessment processes proposed in early meetings. It was felt that some of these processes were heralding foreign interference in the activities of lawfully constituted charities. Therefore new options were suggested, one of which called for the Montreux Initiative to be incorporated into a larger international framework regarding regulation of charitable organizations. The second option was emphasis of the role of accrediting agencies in each country. The accreditation process and requirements could have to be standardised in a manner that could lead to an international regulatory body with support from all stakeholders. There were, however, fears that small countries would have a limited say as the drafting of such international standards would closely emulate those of more powerful countries

such as the United States.

In July, another meeting was held at the Swiss embassy in London. In this meeting, members of the core team met with representatives of the United States government and discussed ways of ironing out differences between the United States of America and the Montreux Initiative provisions on monitoring, control and oversight of Islamic charities. Several presentations were made, most of them emphasising the need for the United States to throw its weight behind the Montreux initiative. Representatives from various charities expressed concerns that the United States' rigid laws implemented in response to the 9/11 attacks were a major impediment to the growth of the charity sector at the global front. In particular, majority of the charities decried that the United States had made it difficult for them to raise funds, transfer funds to legitimate recipients or conduct awareness campaigns. On their side, the U.S. representatives expressed optimism that the Montreux Initiative was a good idea but that it needed to make clear several legal issues in order to secure the full support of the United States, the European Unions and other Western countries (Jonathan, 2008).

The July meeting was followed by another meeting in Heathrow, London in October. This meeting was attended by members of the technical team as well as representatives from the U.S. Food and Drug Administration and selected Islamic charities. During the meeting, it was stressed that the Montreux Initiative was under jeopardy, particularly because of the political implications of its recommendations. The main difficulties were as follows:

- i. Several Gulf countries expressed strong fears that the Montreux Initiative could be used to facilitate foreign intelligence gathering services. Owing to the strong political and military ties between Gulf countries and the United States, these countries felt that their continued involvement with the Montreux Initiative could not be received favourably by the United

States. In any event, most of the Gulf countries were allies with the United States in the fight against terrorist since September 2001 attacks. Therefore, they did not want to feel betrayed by the Montreux Initiative.

- ii. Representatives from the United States were categorical that their country could not support the initiative if it brought on board Palestinian charities (especially Hamas and those affiliated to it). In the war against terror, the United States had blacklisted several Palestinian charities and their associates across the globe (ICG, 2003, p. 29-32). Some of these charities were openly supportive of outlawed groups such as Hamas, which was regarded to be a leading Islamist group in Palestine. According to the United States, allowing such like charities to be represented in the Montreux initiative was tantamount to endorsing their violent and terrorist activities, contrary to the charter of the Montreux Initiative.
- iii. The United Kingdom expressed strong objections to some of the previous recommendations arguing that they did not state explicitly how the initiative was going to deal with the issue of political Islamist groups. The United Kingdom also argued that it was impossible for the Montreux Initiative to be non-political and only follow the humanitarian principles in its actions. This, in the U.K.'s view was because the issue of charity has important political implications for the involved organization as well as the recipients (Jonathan, 2008).

Upon deliberations and negotiations, it was agreed that the Montreux Initiative would stick to its original mandate of facilitating confidence building among Western countries. This meant that the initiative would not involve itself in any matters that could be construed as attempts to blacklist or white list any Islamic charity. Nor would the Montreux initiative attempt to influence

decisions taken by any government to either ban or register any charitable organization. However, the initiative could encourage governments to strengthen their laws on charity to accord suspected organizations and individuals a fair hearing in the war against terrorism. It was further agreed that a common assessment process be instituted to pave way for a future directed mechanism for providing certificate of compliance. This would in the long run contribute to improvement of governance and transparency of Islamic charities as well as the external environment around them (in the context of the global war on terrorism).

It was observed that the Montreux recommendations did not talk about the need for Islamic charities to conduct background checks on their donors. In essence, the initiative paved way for the Islamic charities to receive funding from anonymous donors (some of whom could be outlawed groups). This could be dangerous to the objectives of the Montreux initiative as some of the anonymous donors could be individuals and organizations keen to use charities for money laundering or terror financing. Accordingly, it was agreed that future meetings be held to discuss the issue of donor identity, with particular emphasis on the significance of encouraging transparency in the flow of funds into and out of the accounts of Islamic charities and the recipients (Jonathan, 2008).

In October 2007, an exclusive meeting for the Core Team was held in London. Interpal, the pro-Palestinian Islamic charity organised the London meeting with the aim of reviewing progress and charting a way forward since the previous year's meeting in the same city. During the meeting, it was revealed that delegates from Switzerland had begun negotiations with the United States Treasury. The purpose of these negotiations was to agree on ways through which Gulf countries would support the Montreux Initiative without fear of backlash from the U.S. For a great majority of charities based in the Gulf, funding is obtained from Western countries, with the

United States being the largest source. Therefore, the funds have to pass through the U.S. financial system, and can easily be held up if the United States suspects foul play on the part of charities. The meeting also revealed that the board of trustees was working on developing a compliance indicator software, which would hopefully be funded by the government of Switzerland. Overall, the core team expressed its faith on the Montreux initiative principles and pledged to rally the support of as many stakeholders as possible in its activities and operations.

In the same month, a meeting was convened for lawyers involved in cases relating to Islamic charities delivering aid to Palestine. It was agreed that due to the neutrality principle, the Core Team could not be involved in the meeting because its deliberations were more of advocacy rather than confidence building. The meeting made clear that a number of Islamic charities in many European countries were facing difficulties in raising funds and channelling them to recipients even in dire situations. In this regard, the participants agreed to jointly initiate a clearing house of information, and to also put in place a necessity plan to cater for the long-term needs of the affected charities with the aim of creating a win-win situation.

During the last week of October 2007, a planning meeting was held in Lausanne. In this meeting, it was agreed to document a historical narrative for the Montreux Initiative, detailing core events, milestones, achievements and challenges since the initiative's conception. The meeting also discussed a strategy for long-term improvement of the image of Interpal, one of the many Islamic charities that did not enjoy good relations with Israel and the United States. The meeting was adjourned with all members having reached a consensus that if all the Montreux principles were adhered to by the stakeholders as outlined, substantial success would have been achieved in the confidence building process. It was however agreed that the Montreux Initiative had a major obstacles to overcome to be accepted as a legitimate organization in the West because

each country had their own framework for fighting terror.

4.2.7. Counter-terrorism Laws and the Montreux Initiative

The impact of counter-terrorism laws on charities needs to be studied further. The current effects of counterterrorism laws have only been adverse as such laws have only hindered the NGOs from carrying out vital humanitarian work in conflict zones. It is important to protect charities from coming under the laws, especially when they are doing vital and important work in conflict zones such as Syria, Afghanistan and parts of the Middle East (Coll 2004). These charities may need to negotiate with governments to get their work done as they have enough challenges already. The effectiveness of the draft bill would be crucial to ensure that the charities, the Commission and the social workers use their powers effectively (Bill of Rights Defense Committee, 2004).

Counter-terrorism laws have been stopping charities from doing vital work as counter-terrorism legislation has created a lot of uncertainty among charities, banks and governments (Malik, 2015). Governments have over-reacted to the legacy and banks have blocked funds even for legitimate charities thus making it impossible for charities to carry out their necessary transactions. Charities with offices and workers in the Middle East have especially been affected.

There is a lot of vagueness in the U.K. and U.S. counterterrorism legislation, where Muslims and non-Muslims who run charitable organisations are equally confused and anxious about the legal regulations. The uncertainty caused by counter-terrorism regulations have undermined the capabilities of charity and aid agencies and aid workers who desperately need to work in conflict zones have been prevented from working or working unpaid with strict restrictions on transfer of salaries and other forms of payment (Malik, 2015).

One of the measures that seek to mediate in order to tackle counter-terrorism laws and the

issue of funds denial to Islamic charities is the Montreux Initiative 2005. The initiative came after concerns of charity leaders about the increased obstacles faced by bona-fide Islamic charities without any medium of cooperation among stakeholders who could meet to understand the challenges and take recommendations forward through information campaign while making sure that Islamic charities who are willing to join the initiative on voluntary basis would be subject for capacity building and compliance assessments. The aim was that Swiss government and countries who friends would help in promoting Islamic charities engage in a process of confidence building and design a project aimed at promoting cooperation in removing the obstacles to the effective operations of legitimate Islamic charities.

The Swiss initiative has been supported by the U.K. government and a rigorous voluntary code of conduct has been developed for Islamic charities, supported by independent assessments of charities' financial and management controls (FDFA, 2008). The Montreux Initiative attempted to identify other countries that will support the initiative, and has been seeking representative countries from the Gulf States. Although U.S. involvement was not expected in the Swiss initiative, some guidance regarding the conduct of charities was expected to receive some sort of assistance from the U.S. (FDFA, 2008).

A core group of the Swiss initiative acknowledged that although some charities have been used to support terrorism, many legitimate charities have been unfairly caught up in counter-terrorism finance measures. The basic objective of the initiative is to remove obstacles to the operations of legitimate Islamic charities worldwide, as many of these charities could have been empowered to combat terrorism in the first place (FDFA, 2008). The initiative core group hoped that the regulations and guidelines specified in the Montreux Guidelines Document would standardize an assessment process that will give banks, aid agencies, and donors the required

confidence that the charity with which they are dealing is serious and legitimate. Once charities are assessed using the set of guidelines and assessment process as given in the document, members of the initiative's core group would lobby to influence the decisions of any banks, institutions, or governments that continue to pose restrictions on the charities.

4.2.8. The Status quo

Since 2008, the government of Switzerland has maintained strong support for the Montreux Initiative and wishes to see rapid results. However, one of the most important problems facing the initiative is that Switzerland has not succeeded in getting any major partner to join the initiative. Thus, Switzerland remains the only country solidly behind the Montreux Initiative. No other European country seems to be willing to take part in future Montreux deliberations. However, most European countries have developed joint frameworks for enhancing capacity building throughout the European Union. On its side, the United States does not seem to be ready to support the initiative. It argues that there are a number of grey areas that needs to be polished to make the Montreux Initiative capable of withstanding international standards. Several Middle East countries have given a green light, meaning that they are likely to join the initiative. However, they will have to be assured that the initiative cannot be used to advance other interest such as foreign surveillance and information espionage (Jonathan, 2008).

Besides lack of support from governments across the world, the Montreux initiative has been hampered by several risks. Some of these risks have made it difficult for the initiative to register any positive results despite having been in existence for a considerably long period of time. The most important of these factors is failure to raise enough funds to support its activities and programs. Since its inception, the Montreux mainly depends on limited funding from the

Swiss government. Attempts to diversify funding sources have not been successful. Another impeding factor has been failure to appoint a suitable board of trustees to push the Montreux Initiative and its agenda forward. Third, the initiative has been taken aback due to low participation of Islamic charities. As already explained, many Islamic charities fear that the initiative could be used for intelligence gathering services especially by Western countries. As such, most of the Islamic charities have given the initiative a wide berth.

The foregoing risk analysis was the subject of a 2006 meeting in Doha, Qatar by the core team. During the meeting, it became clear that the Montreux initiative was not making the expected progress, at least in view of its original recommendations. Delegates in the Doha meeting took note of the immediate consequences of the low participation rate by Islamic charities. The risk of the low participation was considered to be important to the extent of making it impossible for the Montreux Initiative to move forward with its agenda. The core team agreed to engage in high-level meetings with some of the leading charities to solicit their support for the Montreux initiative. If a large number of the Islamic charities were to sign up to the process, the subsequent setbacks could be significantly reduced

One of the shortcomings of the Montreux Initiative was related to the structure of the process of Islamic giving, as opposed to the actual process of giving. It is the opinion of Benthall (2016) that unless people in the West make an effort to understand Islamic humanitarianism and giving, issues will continue with determining which agencies are affiliated with terrorism and which are not. One of the chief issues is that Islamic tradition decrees that the giving of aid or alms is best done in private, or anonymously, so that the giver gives for the benefit of the person and in homage to Allah, rather than for praise. Benthall also establishes that the very nature of Muslim society is far less transparent than Western cultures. He suggests that the “idea of

transparency is...alien to these cultures” (2016, p 81). In the Islamic tradition, *Hisbah* or the concept of accountability is a central issue.

While *Hisbah* is not referred to directly in the Koran, it is “a horde of knowledge” that evolved from a conglomeration of Islamic paradigms and perspectives. (Ibrahim, 2015, p. 184). *Hisbah* has been readily and fully accepted by members of the Islamic faith, and has been widely supported in the academic literature. The linguistic background of the word suggests that it derived from either a phrase that meant ‘seeking wages’ or one which meant ‘calculation’. Either way, the word *Hisbah* refers to a requirement that emphasizes doing good, and abstaining from misdeeds. It is an obligation to conduct a good deed if one is needed, but also to abstain from conducting bad deeds.

In modern times, *Hisbah* is considered to be a core part of the governance of Islamic nations. It is a body that is formed by the government to monitor how individuals behave relative to their morality, the religion of Islam, social life, and the overall economy, with the intention to maintain honor (Ibrahim, 2015). *Hisbah* is part of the system of Islamic management; it specifies that Allah is the God and teacher of everything. Managing wealth is part of the mission that people should have to give homage to the Creator. The concept of *Hisbah* not only supports Allah by fulfilling his demands, but meets the needs of the human flock as well (Ibrahim, 2015).

Hisbah management has seven facets. The intent to give to the poor must be present, as well as the act of planning. Implementation takes place, the activity is organized; it is monitored, and finally it is evaluated (Ibrahim, 2015). *Hisbah* is interpreted as the monitoring process of management, but the other processes are part of the management process as well. Ibrahim (2015) suggests that the overall management process in Islam, but particularly the *Hisbah* portion of the process, are utilized to ensure that human life is on the correct path. It encompasses responsibility,

but also fairness and integrity.

Hisbah is comprised of both internal and external monitoring. Internal monitoring is self-directed, or comes from within, while external monitoring is directed by the government and to some extent by society. Hisbah is believed to include both action and reflection, and has six levels. The first is to form one's agreements carefully, and with a commitment to finishing them. The second level is to remember that one is always observed by Allah. The third is to study one's own actions and evaluate them to ensure that any errors that are made will be repaired, and not repeated. The fourth level is one of evaluation, in which safeguards are developed so that it would not be possible to keep repeating the same mistakes. The fifth level is to follow Allah's leadings in such a way there is no internal fear, but rather the sincere desire to obtain blessings from Allah. Finally, the sixth level is to develop guilt over the wrongs that one has done, so that they are not repeated (Ibrahim, 2015).

Going deeper into the principles of Hisbah, which is a holistic structure for monitoring, there are guidelines. First, one is monitored by Allah. The second principle holds that there must be proportionate reciprocation. One's behavior must reflect the principle of being able to hold trust. Finally, the individual must be able to abstain from doing ill deeds. According to Ibrahim (2015), negligence is simply not accepted in Islam; one must take the steps to take enough care that what needs to be accomplished can be done not only with the best of intentions, but the best of actions. Because this process is holistic and addresses all phases of one's life, there is no requirement in Islam for additional oversight and management. The participants simply does what he or she needs to do, in full faith and honesty, and Allah sees all (Ibrahim, 2015).

Hisbah is so deeply faith based that it is possible to see and understand why someone who adheres strictly to the Islamic faith would be offended to their core by an organisation or

government which sought to oversee their own government's oversight of the honesty, not to mention their personal morality and adherence to Islam. Such an offense would not be easily forgotten; indeed, *the very act of requiring this oversight would be interpreted as an overwhelming rejection of Islam*. Based on this level of offense the idea that actions of securitization and risk management regimes might backfire and cause greater problems than they solve seems less extreme.

The whole point of the Montreux Initiative was to develop cooperation “in removing unjustified obstacles for Islamic charities” and in so doing make it easier for other faiths and other governments to accept that it was possible for Islamic charities to function independently of charity organizations. The Swiss Federal Department of Foreign Affairs was quite blunt that the Montreux Initiative was “initiated as a reaction” (Swiss Federal Department of Foreign Affairs, 2005, p. 2) to removing or mitigating obstacles that the Islamic charities were citing in being able to provide humanitarian and charity services to victims of war or disaster. Their stated goal was to envision cooperation between the Western humanitarian community and the Islamic charities by developing ways that the Islamic charities could convince the Western community that they were not serving terrorists (Swiss Federal Department of Foreign Affairs, 2005).

Issues of human rights are involved in any discussion of provision of humanitarian services. As the Swiss Federal Department of Foreign Affairs (2005) pointed out, the Article 6 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, which was pronounced by the United Nations in 1981, recognizes the right to establish and maintain charitable organisations and humanitarian organisations consist with one's faith. This is consistent with the right to deeply held religious convictions or beliefs, and even with the right to freedom of thought. These rights should not be anathema to Western Nations;

they bear a striking resemblance, for example, to the Amendments to the Constitution of the United States.¹⁵

The conclusions that delegates to Montreux reached in 2005 were simple. The joint conclusions “defined the criteria for endorsement by Islamic charities – which should be treated no differently from all other charities” (Swiss Federal Department of Foreign Affairs, 2005). This wording, however, is somewhat suspect; any time a race, religion, or gender is singled out for notice, it becomes difficult to believe that they are *not* being treated differently, simply by virtue of the apparent need to point them out.

Other provisions of the agreement include the requirement to comply with whatever the local national definitions of charity are, and to maintain non-discrimination (the note above notwithstanding). Charities must agree to act for the benefit of *all* humanity and to treat everyone with human dignity. Again, there is a possible clash between what would be considered acting for the benefit of all humanity, and maintaining non-discrimination; the research conducted for this dissertation showed that many Islamic charities believe they are being discriminated against and are not allowed to help benefit ‘all’ humanity by being forced to exclude anyone that may be affiliated with a terrorist organization in even a periphery fashion. Participants agreed to commit to distinguishing between charity actions, and non-charity actions. Finally, the participants agreed to commit to transparency and accountability as well as what is termed “other aspects of international good practice” (Swiss Federal Department of Foreign Affairs, 2005, p. 3). Again, however, Islamic charities were singled out for discussion, and a separate code of conduct and

¹⁵ The first amendment is to have freedom of religion and speech. The fourth amendment to the Constitution guarantees the rights of people to be free from unreasonable search and seizures of personal items and personal papers. This could arguably be interpreted to mean that all organizations would need to be treated the same, in terms of reporting requirements. It would also prevent seizure of papers without additional court order. This is a point that also would partially explain why Islamic charity organizers get so angry at being required to prove and re-prove that they are not harboring or assisting terrorists.

good practice was recommended to Islamic charities, suggesting that all charities are not being treated equally. It also appears to be discriminatory to tell charities to act within the bounds of their national law, and then issue directives that define how the charity is to act (without regard to national law, and only for Islamic charities). Based on these findings and observations it appears that it should not be a surprise that there has been a backlash against this form of discrimination cloaked in security and management of risk.

4.9. Summary

The analysis of the above case studies of QACA and Montreux Initiative have shown how charitable organizations operations have been placed at great disadvantages because of the global war on terror. Islamic charities have faced increased scrutiny by the United States and other nations, and some have been forced to completely shut down as a result of governments actions related to the global war on terror. Most Islamic charities are not trying to aid terrorist organizations, but are still viewed as a threat by Western nations. Unfortunately, as Islamic charities have faced greater obstacles to engage in humanitarian work in conflict zones, the needs of those who suffer in conflict zones are not being met.

The case studies of organizations and initiatives aimed to reduce the burdens faced by Islamic charities because of the global war on terror have shown that such initiatives have expanded securitisation and risk management and exacerbated the challenges in front of Islamic charities further. Islamic charities continue to face many obstacles to carry out their humanitarian efforts. They continue to be viewed as potential sources of funds for terrorist organizations. Even more, anti-terrorism financing regulations, particularly those imposed by the United States, makes it possible to bar the activities of even legitimate charities if there is any concern that such activities might aid terrorist organizations. In the end, the efforts to reduce burdens on Islamic

charities have largely been ineffective and did not achieve the shifts in counter terror policies for the benefit of bona-fide and legitimate Islamic charities.

CHAPTER 5: Impacts of securitisation and risk management on polices

5.0. Introduction

The general issue presented in this dissertation involved the ability of Islamic charities to raise funds and to provide assistance to recipients in need given the constraints on funding and charitable activities created by the laws against terrorist financing in Western countries, Muslim majority countries and the activities of the FATF. At the same time as they strive to meet Western standards of conduct, the Islamic charities need to remain faithful to their customs and their mission, which may conflict with the requirements imposed by external governments and international organisations intended to reduce funding for terrorist activities.

The terrorist attacks on the United States in 2001 led to a profound change in the Western security frameworks and perceptions toward Muslims and Muslim Majority countries. Prior to the attacks, the United States and the other Western Nations had adopted a post-Cold War security perspective in which multilateral action was presumed to be sufficient to contain state actors engaged in aggressive acts, such as the containment of Iraq following its invasion of Kuwait in 1990. While the security perspective recognized the existence of non-state armed organisations, they were viewed as primarily politically motivated and containable through a mixture of military power and economic engagement to improve the standard of living in troubled areas. After the terrorist attacks on the United States, the perspective of the Western countries and public began to shift to consider the Middle Eastern region as posing a significant threat from non-state organisations such as Al-Qaeda (Levitt, 2003, p. 6). At the same time, the public and many political leaders began to view Islam as the source of the threat, and particularly the fundamental sects such as Salafism or Wahhabism that seek to return to medieval practices (Beranek, 2010, p. 128). After the terrorist attacks on the United States, a perception evolved that the belief system in

Islamic cultures was backward and represented an anti-modernity movement (Sorel, 2003, p. 367). At the same time, terrorist groups used the weapons of the modern world to maximise the harm they caused to Western societies. In part, the perception of the West towards Islamic culture was based on the concepts of orientalism embedded in Western society (Said, 1979, p, 54).

Suspicion of involvement in, or having links between Islamic charities and terrorists had existed in the United States prior to the attacks in 2001 (Peterson, 2012). The suspicion stemmed from inconclusive evidence linking Islamic charities to the first attack on the World Trade Centre in New York in 1993 and the attack on the American embassy in Kenya in 1998 (Peterson, 2012). The United States banned some Islamic charities from conducting activities in the United States, including fund raising. Other countries, such as the United Kingdom also banned the same Islamic charities from operating in their countries. Some of these charities were the Benevolence International Foundation, Holy Land Foundation for Relief and Development, and Jamat al Tabligh. In addition to the prohibitions of certain organisations, the United States and the European Union have developed policies to increase oversight and accountability of the Islamic charities operating in their jurisdictions; these policies were reiterated by the ‘agreement’ of Islamic nations to adopt anti-terror measures domestically and nationally. Some Muslim majority countries have also instituted laws to prevent misuse of charitable funds. As an example, the Kingdom of Saudi Arabia now prohibits the transfer of large amounts of funds from domestic charities without government approval (Peterson, 2012).

Another factor shaping the operating context of Islamic charities post 9/11 is the expectation that charitable organisations will play a more prominent role in fostering development in poorer nations (Peterson, 2014, p. 137). At the same time, governments and regulatory agencies outside the Islamic community expect faith-based charitable organisations to operate in a quasi-

secular manner providing humanitarian and social benefits while minimising the role of proselytising in the conduct of charitable activities. In contrast, many of the Muslim donors to Islamic charities have the expectation that the funds will be used to benefit Muslims in Muslim majority countries. Consequently, an inherent incompatibility exists between the expectations of secular governments and the expectations of donors concerning the objectives and operations of Islamic charities.

5.1. Securitisation impacts on the US policies and regulatory frameworks

Perhaps among the profound impacts of the September 11th attacks in 2001 was the great shifts in the American attitudes, perceptions, politics and general public views from Islam and Muslim citizens and neighbours within the U.S. borders. In the U.S. history there were horrific events such as the Japanese attacks on Pearl Harbor or the assassination of a great leader like Abraham Lincoln; however, the September 11th 2001 events undoubtedly had caused the shock doctrine or tectonic effects which changed dramatically the ways that Americans see the world. President George W. Bush in his famous speech opened a new chapter in foreign relations by inserting the divide "are you with us or with the terrorists" a polarized and divided world view was established. Jude Howell and Jeremy Lind (2009) described the context as being one of modernity, civilization, right, good, and freedom when compared to a backward, barbaric, wrong, evil, and oppressed world.

New notions of "better safe than sorry" attitude had impacted decision making circles. According to Ron Suskind (2004), Vice President Dick Cheney, in the mode of the "one percent doctrine" considered if there is even a small probability of one percent that a terrorist attack might take place, the United States must consider that very small probability as a certainty. Thus, considering a response to terrorism, it is "about our response not about our analysis". When Iraq invasion has took place, then certainly an assessment of a terrorist risk was drastically influenced with the one percent doctrine. It is within that mindset one might understand how U.S. relations have been affected with many major Islamic countries and groups, even if they have no relation with the Al-Qaida.

The war on terror clearly implied that the response to terrorism, couldn't just be restricted to military strikes or political talks. President Bush launched a strike on the financial foundations of the global terror network. Charities and Islamic foundations were largely affected as these were alleged to transfer fund to terror groups. The claim is not entirely true but despite the false claims, the U.S. Treasury has continued to freeze and block assets of charitable foundations and this seems to be one of the potent means to counter terror. The Wall Street Journal reported that Islamic charities were a major focus of U.S. authorities after 9/11 for alleged channeling of resources to terrorist groups. U.S. officials concluded at this point that charities played a large role in sustaining the infrastructure of radical Islamic groups. Thus a new set of laws in the U.S. froze the assets of several such groups and in the name of fighting terrorism even legitimate Islamic charities were restricted or denied financial liberties. Despite this move, there has been little evidence to suggest that Islamic charities are directly related to radical or terrorist groups and have been definitely funding terrorist activity. Muslim leaders and libertarians have alleged that the U.S. government has crossed the line when pursuing a mythical link between charities and terrorism.

The U.S. authorities declared that the fight against Al-Qaeda financing was as important as the fight against terrorism. U.S. financial strategy towards terrorism and tackling of terrorist agendas has changed since 9/11. According to the National Commission on Terrorist Attacks upon the United States (2015) and a monograph on terrorist financing, the focus of the U.S. government anti-terrorist agenda is to ensure that terrorist financing is completely choked off making it harder for terrorist operatives to finance or receive funds for terrorist activities. The new security frameworks and legal regulations following 9/11 have affected U.S. relationships with Saudi Arabia since most 9/11 hijackers were from Saudi Arabia (Spillus 2010).

The U.S. government's overall strategy has been set to identify terrorist operatives and sympathizers and locate their whereabouts and financing activities, close the channels of finance and communication and finally stop potential terrorist activity through military or political action. U.S. authorities have investigated Al-Qaeda financing and the country's focus has been to investigate how terrorists are financed in general. There have been some reports of massive 'insider trading' by Al-Qaeda affiliates that have been used to raise funding for September 11 attacks, although this is not backed by substantial evidential information. Terrorism has been described as a form of criminal activity as it involves forced killing and destruction of people and communities. Terrorism financing is thus also a criminal act as it is a form of supporting and facilitating criminal behaviour. The enforcement of stopping terrorism funding could need the support of the public. The International Convention for the Suppression of the Financing of Terrorism provides key standards for the control of money laundering. Although there is no internationally accepted definition of terrorism, global conventions on terrorism have dealt with specific terrorist acts. This could be hijacking of aircraft, suicide bombing, or mass terror attacks in public places. UN resolutions have referred to terrorism as the meaning of a term that describes both violence and perpetrated by individuals and non-state groups. Terrorism can happen in situations of conflict and also during peace. Terrorism would refer to politically or religiously motivated violence and the perpetration of violence could cause death or injury to civilians with the aim of intimidating people and instilling fear. Acts of politically or religiously motivated violence would constitute as terrorism and such violence could be perpetrated by groups which could see themselves not as terrorist groups, but as members of a liberation movement. For instance Jihad is seen by youngsters as a religious and social movement, rather than a part of terrorism. Terrorism is seen as a crime. Violence is a characteristic of terrorists and is perpetrated

usually by groups and the ambiguity of the use of the term terrorism could be solved to see how the term is applied to counter-terrorism legislation.

Terrorist financing is usually not an issue with intelligence collection agencies and the issue has long been undermined as intelligence officials are more focused on terrorist activity and movements rather than financing. U.S. authorities have been very keen to locate the financial channels of Al-Qaeda and identified the need to establish a coherent strategy for confronting the jihadist fund-raising problem. Terrorism financing provisions and regulations have been introduced only recently and each country's adopted measures against terrorism are available according to criminal laws, administrative measures and implementation procedures. Using existing standards of assessment, regional organizations and international financial institutions need to gather relevant information for combating terrorism financing.

In high-profile trials, most prosecutors have failed to definitely establish a link between Islamic charities and terrorist organisations. Charity leaders have claimed that money from American Muslims are sent to legitimate social and aid organisations in the Middle East and not to terrorists. In a book titled the 'The Price of Fear', Warde (2007) argued that the link between charities and terrorism is largely a myth and Islamic charities have suffered financial constraints because of a wrongful generalization that all charities support directly or indirectly fund terrorism. The financial aspects of the counter-terrorism activities in the United States are largely based on the International Emergency Economic Powers Act of 1977, which gives the President authority to block resources to a designated entity during time of war or other national emergency (Pantuliano et al., 2011 ,p. 4). After the attacks on the United States in 2001, presidential Executive Order 13,224 imposed restrictions on designated organisations based on the national emergency created by the attacks. In addition, the President invoked the national emergency to

override humanitarian exceptions because providing assistance on humanitarian grounds could lead indirectly to support for terrorist organisations. In addition, the Executive Order does not have a knowledge requirement, which can lead to sanctions against the charity even if funds or other type of support inadvertently benefits a terrorist organisation (Bell, 2008, p. 458). The U.S. Patriot Act of 2001 expanded the powers of the President to prevent funding or other types of support for terrorist organisations by eliminating any requirement for knowledge that the support will be used for terrorist purposes. The United States also required charitable organisations to enter into an agreement that no resources will be diverted to terrorist organisations as a condition of receiving USAID funding.

Grant Makers Without Borders, known as GWB (2008) came up with a report on how the war on terror has affected global charities and even crippled them from serving the people and communities they used to serve. GWB suggests that the U.S. counter-terrorism framework has failed when it comes to tackling issues related to the U.S. nonprofit sector. Laws and regulations in the U.S. have allowed the government to shut down charities and seize their assets and even close them indefinitely. Seven out of forty seven charities identified and shut down as supporting terrorism have been based in the U.S. and this sort of reaction seems to have long term consequences for the U.S. non-profit sector.

The negative impacts of curbing financing tend to harm charitable programs and the U.S. government reaction seems to undermine the financial independence of charities in the U.S. and worldwide. Since the link between charities and terrorism is a matter of national security, this has created a climate of fear among non-profit organisations. Three U.S. designated charities have faced criminal prosecution but have not been convicted because of a lack of evidence.

Chiquita Brands International is one example of a charity financing terrorist groups. Between 1997 and 2004, Chiquita paid \$1.7 million to two designated terrorist groups in Columbia, and in 2003 the Justice Department sent them a notice alleging them of violation of code of conduct and alleged links with terrorist groups. The investigation ended in 2007 without criminal charges, but the company paid a \$25 million fine, and continues to operate. None of its assets were seized, blocked or frozen. Chiquita Brands International is a good example of double standards.

There are voluntary guidelines available to non-profit organizations so that U.S. non-profit sector could follow these guidelines of best practice and stay away from financing terrorist activity (U.S. Dept. of Treasury, 2006). However following these guidelines have been problematic for program operations of these charities and its policies have been widely criticized.

Despite this, the U.S. Treasury continued to promote such policies and falsely characterizes non-profits with links to terrorist groups, although this may not be the case. The primary flaw of Treasury guidelines is that charities are not provided legal protection and simply alleged to transfer funds to terror groups which may or may not be true. Organisations could follow all rules, regulations and adopt every practice suggested but still have its accounts closed, assets frozen and operations shut down.

Since 2001, the Treasury's Office of Foreign Assets Control (OFAC) and the Justice Department have expanded their definition of prohibition of direct transfer of good and funds and this includes legitimate charitable aid so charities have become increasingly wary of the legal pitfalls and what constitutes legal aid and illegal behavior. Several researchers have claimed that the U.S. nonprofit sector operates in fear as even the slightest hint of funds transfer to an Islamic group could trigger shut down of their operations. The Holy land foundation in Texas was alleged

to have worked with the local zakat committees in Gaza strip and although these zakat committees were not on U.S. government terrorist watch list, the prosecution alleged that the foundation should have known that these groups were associated with Hamas, the terrorist outfit in Palestine (Boim v. Holy Land Foundation, 2008; U.S.AID, 2005).

The U.S. treasury has justified the financial crackdown on Islamic charities and the negative impact of the war on terror on global charities and claimed that the non-profit sector continues to remain a major source of funding for terrorist organisations. Although these are unsubstantiated claims, the fact remains that U.S. non-profit sector have been hugely affected by the damaged credibility of charities. Organisations that remain in close contacts with beneficiaries and grantees have been given the onus to create accountability for all services and the corresponding funds spent. It has been argued that there has been no evidence of a substantial source of domestic financial support or any kind of U.S. Islamic funding for the 9/11 attacks. The U.S. treasury has exaggerated data and findings on funds diverted to terrorism and charities and foundations account for 5.3% of blocked assets. There have been economic embargoes and sanctions against criminal money laundering, drug trafficking and organized crime and large funds transfer between groups are often scrutinized for these criminal categories. Even legitimate non-profit sector activities such as administration of disaster relief programs, making grants for aid and development tend to operate under state and IRS rules. Data have suggested that there are several barriers to aid as non-profit sector organisations are faced with increased scrutiny and financial restrictions. Humanitarian assistance, donations and aids from private individuals play an important role in stopping terrorist related activities and yet ironically U.S. regulations and laws have made it increasingly difficult for U.S. based relief and development organisations to operate in controlled and designated areas and obtain the required funding. Examples are designated

organisations in eastern Sri Lanka and their problems in securing aid after the 2004 tsunami disaster. It has been argued that it could be impossible to set up camps and hospitals and distribute food and water without violating laws that bar material support provided through certain means. Setting up hospitals or camps required transferring money abroad and some charities are unable to operate as they are stopped from doing politically neutral work and have to follow the laws laid out by the U.S. authorities. Funding is often slow, sometimes denied to charities abroad in the name of money laundering and this creates a major impediment for charities that work outside the U.S.

The U.S. non-profit sector has tried to undermine the alleged links between terrorism and charities and although the non-profit have tried to responsibly react to the potential dangers of terrorism and links with grant-makers, for the most part they tried to move forward with their work with as little distraction as possible hoping for a change of policies or behavior of law enforcement agencies. However the strategy of non-profits has failed as the courts have continued to uphold Treasury's absolute power that has continued to shut down charities.

Charity Security Network in the US welcomed the joint committee on the draft protection of charities bill has supported this view by calling on the government to undertake a review, in its recent report" (Bill of Rights Defense Committee, 2004).

U.S. and Kingdom of Saudi Arabia have been allies since very long time. The two countries have been allies since 1933, when they had diplomatic relations resumed. The Oil exploration in Saudi Arabia and the significance of Oil as strategic global commodity had even reinforced the strategic ties and bonding. Both countries have cooperated together in Afghanistan during 1980s of the last century to push the Soviet outside Afghanistan.

It has to be specifically mentioned that Al-Qaida and its members are primarily from Saudi

Arabia. Osama bin Laden was a Saudi national and so are most of the terrorists involved in the 9/11 attack. It is important to state that Saudi nationals has had a strong role in the instigation of global terror and hence the U.S. Saudi relations has been affected adversely . (Global Research, 2015). It has to be argued that that U.S. counter-terror measures seem to be primarily focused not on Saudi Arabia but rather on Afghanistan and Pakistan, where most terrorists are bred. Saudi Arabia being an affluent and influential nation in the Middle East, The U.S. has largely tried to maintain its prior diplomatic relations with Saudi Arabia, simply because it is an affluent and influential nation in the Middle East. The Saudi kingdom has mainly concentrated its counter-terror measures on Pakistan and Afghanistan (Coll, 2004). Several Al-Qaida affiliate terror groups such as Al-Shabaab, Afghan Jihadists, Laskar-e-taiba, and Islamic Mujahedeen have grown up in Asia and Africa, although these were primarily motivated by Al-Qaida. It was however assured by the Saudi kingdom that Al-Qaida operatives have found refuge in other parts of the Middle East and Asia, including Afghanistan. This has led to counter-terrorism focus being shifted to parts of Asia. The U.S.-Saudi foreign relations have been strained, yet the U.S. has perceived Saudi Arabia as an ally in its global war on terror (Hart, 1998).

Syria on the other hand has aligned itself against the U.S. government. The and the Syrian foreign minister recently claimed that there is an international conspiracy, against Syria, and this is led by the United States. The conspiracy has been sustained by the European Union and regional countries, including Turkey, and Arab countries, and members of the [Persian] Gulf Cooperation Council. The conspiracy, as explained by the minister has targeted Syria's position of resistance against aggressive Israeli plans and the United States' hegemony, whose priority in the region is to serve the Israeli' security interests. The Syrian foreign minister was evidently referring to U.S. interests in the region and its relations with Israel as it is generally perceived that

U.S. continue to support Israeli interests and security measures even jeopardizing Palestine's legitimate claims to security.

U.S. relations with Israel seem to be a primary bone of contention although U.S. relations with Saudi Arabia has been very positive in recent years. Saudi Arabia is seen as disapproving of violent extremists and the U.S. perceives Saudi Arabia as a force for regional stability. Saudi Arabia has in fact led the fight against global terror from the Middle East and is seen as one of United States' strongest ally in its war on terror (CBC news, 2015). However in a recent report, U.S. legislators have pushed for more information on the alleged Saudi role in 9/ 11 as most terrorist in the event were from Saudi Arabia.

Despite this, it may be necessary to ask why Islamic charities, even if they are based in Saudi Arabia, face extreme scrutiny in their operations. It is hypothesized by U.S. and U.K. authorities that Saudi Arabia may well be the mediating factor in the transfer of funds between the Western donors and terrorist organisations operating in Asia and Africa. This may be a reason for which Saudi Arabia is still under scrutiny and all charities working from Saudi Arabia are also examined for possible role in diversion of aid (Spillus, 2010). Although Saudi Arabia does not seem to play a significant role in terrorism in recent times, some of its organisations are still perceived as playing the mediator role (Spillus, 2010).

5.2. Securitisation impacts on polices and regulatory frameworks in the UK

In the United Kingdom, the counter-terrorism legislation predates the terrorist attacks on the United States in 2001. The laws were developed to combat terrorism in Northern Ireland and include the Terrorism Act 1974 that was renewed each year until it was made permanent in 2000 (Pantuliano et al, 2011, p. 3). Under this legislation any type of fund raising or transmission of funds to a terrorist organisation is illegal. In addition, support of terrorist organisations is

prohibited with support not confined to only the provision of money or property. The individual or organisation is also liable under the law if there is reasonable cause to suspect that the activity will provide support to the terrorist organisation. The Terrorist Asset-Freezing Act 2010 provides additional powers to the government to freeze the assets of terrorist organisations, which can include charitable organisations if they directly support terrorism (Keatinge, 2014, p. 34). The cooperation of the government of the United Kingdom with other governments has led to the development of international controls on the movement of funds in specific regions such as Somalia or Syria, which can limit the ability of an Islamic charity to conduct even legitimate operations in these areas (Metcalf-Hough, Keatinge, & Pantuliano, 2015, p. 7).

Registered Islamic charities from the U.K. and U.S. working in conflict zones are in the process of losing finances and funding help from abroad that makes them unable to fulfill humanitarian needs of people trapped in conflicts or natural disasters (HPCR, 2011). The Middle East and African regions are the most affected by financial sanctions against charities. This is a major issue, as millions of pounds and dollars have been held up by banks over fears that these charities and organisations might end up financing terrorism (Donohue, 2008). International banks such as HSBC, NatWest, UBS have frozen accounts of charities and many legitimate international non-governmental organisations have been affected. The organisations have mainly been working in Syria, Gaza and Iraq. ODI has warned that counter-terrorism legislation has caused overly risk averse action and U.K. charities in conflict zones are mostly affected (ODI 2003).

5..2.1 The Charity Commission in the U.K.

If the public continues to support charities, it is necessary for all governments to ensure that the public and charity sector is well regulated even if there are rare instances of unethical activities, criminal behavior and other misuse of funds that have to be dealt with. The regulators

and governments that work on this charity sector, especially the Charity Commission in the U.K. should operate effectively and use necessary powers to carry out important activities and act in an important role to regulate the use and transfer of funds across borders. There have been sustained criticisms of the Commission's work, especially as it seemed that the Commission failed to regulate funds transfer. Parliamentary committees have also criticized the Commission, and have produced legislation in November 2014 so that the Charity Commission has extra powers to strengthen its investigation unit and its enforcement and regulatory work (Bill of Rights Defense Committee, 2004).

The new regulations give the government power to remove loopholes in the current regulatory process and framework as well as the funds donation and transfer process. The regulatory processes have been established to disqualify individuals with a criminal record or history of money laundering, bribery or perjury or terrorist offences from obtaining funds from charitable organisations; they can no longer become trustees of these organization.

The Charity Commission in the U.K. has been given the power to disqualify trustees who may be working in self-interest, and trustees may be asked to step down to avoid sanctions against the charity. Generally the focus seems to be shifting not to the funds, but to the people and the connections of an organisation. When organisations are found to be associated with people of dubious reputation and criminal record, they are primarily blocked from sending or receiving funds. The new regulations suggest that the case would be closed if the individual with dubious history stepped down, and the charity would be allowed to continue to operate. These are some of the new provisions that have been introduced to stop illegal transfer and use of funds through charitable organisations. Some of the new powers given to the commission include the power to issue a formal warning to a charity to disqualify one of its trustees.

The reputation of charities is very important; a charity with a fallen reputation will not be able to get any funding from public or government sources and would eventually become dysfunctional. The U.K. government has focused on the need to safeguard the reputation of charities and the safeguards include providing a warning to charities that their reputation may be in danger. The Commission is now required to give a prior notice to a charity before it issues a warning. Once a warning is issued, the Commission will allow a reasonable period within which the warning can be heeded and changes in the organisation can be made. It is also now mandatory that all charities have to be registered with the government in order to obtain funding.

The Charity Commission has recognised that along with reputation, the confidence in charities is vital in the continuation of charitable efforts of people and organisations worldwide. The Commission in the U.K. has taken on extra responsibility to register all charities in England and Wales. Charities with an annual income below £5,000 and donations below £100,000 are exempt from registering (Malik, 2015). The Commission has also digitised the charitable donation process, making it easier to track donations and funds transfer. Charities can also register quickly through this digital service, without extra costs.

The Charity Commission in the U.K. has strived to become an effective regulator, but regulation and implementation will have to complement the legislation. The Commission has to ensure a proactive approach to legislation and its implementation in cooperation with umbrella bodies and should make the best use of resources. However, the Charity commission, the charities and the draft bill have continued to remain affected by the laws related to counter-terrorism.

One of the instances cited is the case of Syrian extremists and their alleged financing by Al-Fatiha Global. Al-Fatiha Global is an Islamic charity based in the United Kingdom. It is suspected that British taxpayers have paid millions of pounds in donations to the organisation, for charitable and philanthropic activity. There have been claims that the organisations have channeled the funds to support terrorist and extremist activities in Syria. Al-Fatiha Global is one of the U.K. based Islamic charities that have been alleged as supporting extremism, jihad and other forms of terrorism and it was suggested by the organisation that ‘some goods were distributed to beneficiaries in Syria’. There are many such Islamic organisations that have faced similar charges of supporting jihad globally.

5.3. Securitisation impacts on policies and regulatory frameworks globally

Under international humanitarian law, any act of violence perpetrated by an individual or entity designated as terrorist is per se unlawful. Consequently, labelling an act as terrorist during an armed conflict moves the individual or organisation responsible for the act into the realm of criminal law and therefore no longer subject to the provisions of international humanitarian law. The ability to call any type of armed conflict or action terrorism is also in accordance with Security Council Resolution 1373 because of the lack of definition of terrorism (Pantuliano et al., 2011, p. 2). In addition, many nations refuse to acknowledge that there are non-international armed conflicts occurring with their country, classifying the rebel groups as terrorists (International Committee of the Red Cross, 2011, p. 5). The terrorist classification limits the amount of humanitarian assistance permissible for the organization under international law.

After the 2001 terrorist attacks in the United States, Qatar became one of the first countries in the Middle East to implement a legal framework for combating terror financing. The most important legal provision in Qatar is the Money Laundering and Terrorist Financing Law, which

allows Qatari authorities to seize the assets of suspected terrorist organizations and individuals. In addition, Qatar's financial and antiterrorist intelligence services are actively involved in collaboration efforts with international agencies to improve the fight against money laundering. Towards the end of 2014, Qatar implemented a new law aimed at improving financial transparency among charitable organizations operating in the country. Presently, the ministry of labor and social affairs issues licenses to charitable organizations and requires that these organizations submit to the ministry for vetting before receiving any funds from abroad (Realuyo, 2015, p. 3-12). Despite Qatar's strong anti-terror financing framework, the country lags behind in terms of judicial enforcement and implementation of laws. It has been alleged that there are suspected Islamic charities and other charitable organizations engaged in facilitation of funds transfer to terrorist groups inside and outside Qatar. Qatar's proximity to the conflict-prone Middle East and home of many terrorist organizations means that the country must step up its efforts in the fight against terrorism (Realuyo, 2015, p. 3-12). The neighboring country of Oman also has a framework for combating terror financing. Between 2002 and 2007, the country enacted several terror-related laws. In 2010, an anti-terror financing and anti-money laundering law was passed, which sought to unify previous legislations about financial crimes. Through the central bank, the government of Oman maintains a high degree of oversight over movement of money through its financial systems. The central bank requires banks and other financial institutions to put in place measures to fight financial crimes (especially terror financing) in accordance with regional and international standards. Since 2002, alternative money remittance systems such as hiwalas are not permitted in Oman, and this has helped to cripple terror financing operations. In early 2014, Oman established a commission for overseeing money laundering and terrorism financing activities. The commission works closely with other law enforcement agencies and apparatus in Oman and other

countries to stem outlawed financial activities. This demonstrates the Arab country's commitment to fighting terrorism and financing of terrorism activities (Realuyo, 2015, p. 3-12). Another regional country that has developed a robust framework for combating terror financing is Kuwait. The small Gulf country passed comprehensive anti-money laundering and terror financing legislation in 2013. The legislation provides more powers and new mandates to the government to act on criminal financial activities. Among these powers is the criminalization of terror financing and the requirement for the public to report suspected terrorism financing activities. The government also has powers to freeze accounts of suspected terrorist organizations and individuals, streamline the financial intelligence unit and ensure that financial institutions upgrade their systems to proactively monitor suspicious financial activities. In accordance with the FATF guidelines, Kuwait has taken impressive steps in the fight against terror financing. To fight financial crimes in the charitable sector, Kuwait's ministry of labor and social affairs has the mandate to monitor and supervise licensed charitable organizations. The mandate includes enforcing total ban on all forms of cash transfer involving charitable organizations except during the holy month of Ramadan. The government has implemented an enhanced cash receipt system for any cash donations made to charities during the month of Ramadan. However, there have been increased reports of fraudulent financial activities by Kuwait based charities and their foreign partners. In particular, Kuwait-based charities have been accused of channeling funds to Islamism and terrorist groups in Syria, Libya and other countries (Realuyo, 2015, p. 3-12).

Similarly, Saudi Arabia has developed a comprehensive legal framework for countering terror financing. Being a victim and target of terrorist activities, Saudi Arabia continues to play an important regional role in the fight against terror financing. In 2011, Saudi Arabia joined regional countries and the international community to form the Global Counterterrorism Forum. The forum

is a multilateral organization whose mandate is to reduce the vulnerability of states to terror and related activities by effectively monitoring, combating, prosecuting and preventing terrorist activities. Recognizing that majority of terrorist organizations hide behind charities and humanitarian agencies and often thrive on illegal sources of funding, Saudi Arabia has put in place a stringent financial control system. The objective of such a system is to prevent financial resources from being channeled into the accounts of terrorists (Realuyo, 2015, p. 3-12).

The perpetrators of the 9/11 attacks were Saudi nationals, leading the government of Saudi Arabia to affirm commitment to establish itself as a regional leader in fighting terror financing. The government has made it mandatory for financial institutions operating in the country to implement important FATF recommendations regarding financing of terrorism and money laundering. Under Saudi laws, collection of cash donations in public places or mosques is strictly prohibited. Additionally, the government has increased control over the financial sector to curb smuggling of cash from donors and charities. Through the Saudi Arabian Monetary Agency, the government offers training programs to train investigators, prosecutors and judges in legal issues involving terrorism financing. Additional training is also provided on various methods used by terrorists to exchange financial information as well as strategies for effecting financial secrecy (Realuyo, 2015, p. 3-12).

As part of its commitment to the global fight against terror, Saudi Arabia is working closely with regional and international state partners to combat the threat of terror financing. In particular, Saudi Arabia has maintained strong anti-terror ties with the United States, the European Union, Australia, Canada and other countries. Through these collaborations, Saudi Arabia has given a clear indication of its commitment to deter terror groups from abusing its financial system and charities to cause heinous activities. The country imposes stiff penalties for individuals and

organizations that contravene its counterterrorism laws (Realuyo, 2015, p. 3-12).

Another regional country that plays a leading role in the fight against terror financing is Bahrain. In recent years, Bahrain has been a victim of major terrorist activities and related social and political unrest. Accordingly, Bahrain has enacted various measures to prevent terror financing. Recognizing the role Bahrain plays as a regional financial capital, its financial systems are frequently targeted by terrorist organizations for funds transfer. This has made Bahrain extremely vulnerable to terrorism in scales unparalleled in regional countries. Specifically, large cash flows destined for terrorist groups are channeled through Bahraini banks. Accordingly, charity fundraising laws have been strengthened to impede promotion of terrorism in the country (Realuyo, 2015, p. 3-12).

In North America, regional countries have implemented various frameworks for anti-terror financing. In Canada, the Anti-Money Laundering and Anti-Terror Financing (AML/ATF) framework was established in 2001 to address terror financing and related crimes in the country and beyond. Through the Proceeds of Crime and Terrorism Financing Act, Canada has created a system for reporting suspicious financial activities, certain prescribed transactions and large-scale cross-border money transfers. The Act also establishes an institution for collecting and analyzing reported financial transactions and disclosing crucial information to intelligence and law enforcement agencies. Overall, Canada's AML/ATF regime is responsible for monitoring, detecting and deterring financing of terror-related activities and facilitating investigations about these activities (Tom, Tom & Miller, 2011, p. 32).

It can be noted that the core product of Canada's AML/ATF regime is case specific information obtained through financial intelligence. Through the AML/ATF legislations, Canada's law enforcing agencies and their operational partners are well situated to provide strategic

intelligence about trends and typologies of terror-related financing and money laundering. Considering that terror financing activities are always transactional in nature, and because AML/ATF's role is to facilitate exchange of information with similar bodies in other countries, Canadian laws are also strategically placed to provide a critical understanding from the international perspective. Currently, Canada has signed several information exchange agreements with various countries including the United States, Gulf Council countries and the European Union countries. Through these agreements, Canada is able to provide and receive financial intelligence from its counterparts, which is crucial in investigation of cases involving international transfer of money to finance terrorist activities (Kohlman, 2004, p. 35-37). Australia has a robust counter-terror financing framework which is a result of close cooperation between law enforcement agencies, international partners, Australians businesses and other domestic partner agencies. The Financial Transactions Reports Act of 1988 provides a solid foundation for Australia's regulatory agencies to detect and deter potential terrorism financing activities. The legislation applies to a wide range of services provided by all financial institutions including banks, bullion dealers, gamblers and remittance service providers. Under the Australian law, these financial institutions are required to conduct adequate customer verification, as well as transaction monitoring and ongoing due diligence (Kohlman, 2004, p. 35-37). They are also required to report suspicious activities such as bulk remittances and money laundering. The neighboring country of New Zealand implemented the Terrorist Suppression Act in 2002 in accordance with the provisions of the UNSC resolutions 1373 and 1276, as well as under other international treaties to which New Zealand is a signatory. Under the 202 Act, New Zealand laws prohibit financing of terrorism. Like Australia, New Zealand has signed joint agreements with other countries to cooperate in combating terror financing especially in cross-border movement of funds (Fradkin,

2005, 12-23).

In Japan, support for terrorism is punishable under criminal provisions of the country. In 2002, Japan passed a new law which criminalizes collection or provision of funds for the purpose of facilitating intimidation of the public. This includes acts of terror and financing of terror. In 2007, the Asian country passed another law which makes it illegal to transfer criminal proceeds such as charity funds for financing terrorism. Japan has also amended its laws to conform to international treaties for the prevention of terrorism and terror financing. The law also criminalizes failure to report suspected terror financing as well as provision of misleading information regarding terrorist activities. In line with the UN Security Council resolutions, Japan maintains a sanctions regime against individuals, organizations and states suspected of supporting terror financing (Jalali, 2003, p. 174-185).

Immediately after the 2001 attacks, Turkey implemented all the UN Security Council sanctions regarding terrorism and terror financing. In addition, the government issued an asset freezing decree targeting terrorist organizations. Turkey maintains a list of designated terrorist groups, which includes the Kurdistan Workers Party, Al Qaeda, the Revolutionary People's Liberation Party-Front and Hezbollah. These organizations have been described by the Turkish police as the most important terrorist groups operating in the country. The list is updated regularly and new groups may be added. In 2013, a new law on the prevention of terror financing came into effect in Turkey. Under this law, it is prohibited to collect or provide funds or any other resources for use in facilitating terror activities (Pieth, Thelesklaf and Ivory, 2009, p. 84).

Although Australia criminalizes associating with outlawed criminal groups, it excluded circumstances where the association is for the sole purpose of providing emergency humanitarian assistance (Linda, 2008, p. 16). For many countries, however, there are government policies rather

than the laws which prohibit contact with terrorist groups. Where designated terrorist groups control large territories, their activities are likely to be so pervasive that charitable organizations working there are likely to have contacts with them, most likely extending to provision of logistical arrangements. Depending on the definition of terror financing, these arrangements may be interpreted to mean violation of terror financing law (Nancy 2006, p. 36).

The UN counter terrorism task force indicates that effectiveness of combating terrorism financing should be assessed by considering the number of prosecutions, investigations, convictions, amount of assets and proceeds being frozen or confiscated under terrorism financing criminal laws (CSN, 2012). An assessment of the effectiveness of combating terrorism should also include an evaluation of legal tools that have yet been used or not used effectively. It was acknowledged that Al-Qaeda fundraising was a hard issue for investigation, simply because it may be difficult to track sources and actual utilization of finances. The UN Global Counter Terrorism Strategy was implemented in 2006 and highlighted the importance of addressing financing of terrorism and the need to implement comprehensive measures to stop terrorist financing. The Counter-terrorism implementation task force of the UN has established a working group on tackling the financing of terrorism (CTITF, 2009). The working group examined the components for tackling financing of terrorism for increasing the effectiveness of implementation. The Working Group has also tried to establish the standards of combating financing of terrorism in accordance with the International Convention for the Suppression of Financing of Terrorism as specified by the World Bank and IMF (CTITF, 2009). New ideas on the effective implementation of standards for combating terrorist financing have been solicited from a range of experts.

The UN report indicates that substantial progress has been achieved in understanding the phenomenon of terrorism financing in implementing the measures that are necessary to address it. Terrorism financing incorporates several distinct activities of fund raising such as investments and trading, storing and concealing funds, using funds to sustain terrorist organisations and infrastructure and transferring funds to support and carry out specific terrorist attacks. Funds that are used to support terrorism could be generated through legal or illegal means and even legitimate businesses and organisations can unknowingly and unintentionally channel and transfer funds that may be used for terrorism.

Financial transactions yield valuable intelligence available from various sources, yet detecting illegal financial transactions and money laundering for possible terrorist activity is difficult. However it has been suggested that targeted financial sanctions and restrictions against certain individuals such as freezing of assets and bank accounts have proven effective, although individual financial crackdown needs to be balanced with global fund movement for terrorism purposes to assess the scope of terrorist networks. The financing of terrorism has remained a legal, institutional, political and human rights issue and finding solutions to terrorism as a social or political issue has remained central to the effectiveness of the government security machinery. The UN counter terrorism unit has emphasized that authorities must be cautious not to introduce laws and regulations that would burden private and public stakeholders and organisations with financial stress in the name of countering financial support of terrorism. It is necessary to clearly distinguish funding that is definitely used to support terrorist activities and funding that may be channeled for more constructive purposes. However this may be difficult to achieve as it is difficult to identify financial transactions used for terrorism. The crackdown on terrorism funding has meant that all funding channeled for Islamic charity activities are subject to increased scrutiny

and restrictions.

The criminalization of terrorism financing has been addressed through the International Convention for the Suppression of the Financing of Terrorism and in 1999 the International convention criminalized the financing of terrorism and defined it as a legal offence separate from the actual terrorism act. The identification of financing of terrorism as an actual criminal act and a legal offence gives authorities great powers to prevent terrorism. Money laundering issues are recognised by the Security Council resolution 1617 (2005) and the Plan of Action of the General Assembly resolution 60/288 (2006). There have been proposals for a comprehensive set of measures for an effective national regime to help fight money laundering and terrorism financing. In accordance with the International Convention for the Suppression of the Financing of Terrorism, money laundering for funding terrorism has been identified as a criminal act so these rules and laws have successfully justified the “criminalization of the financing of terror”.

Considering the flaws and vulnerabilities in the wire transfer system, it is difficult to detect money laundering through banking transactions. Funding of terrorists related activities could be facilitated by cash couriers that allow the transfer of cash through individuals by hand. Border control agents should be trained better in detecting money laundering when large amounts of cash are carried by cash couriers. The cash could be split among several terrorist operatives and cash may be difficult to detect, especially when transferred within a country or even internationally. States should also help ensure risk assessment measures are effective and that terrorist operatives are better detected so that their financial transactions could be closely monitored.

In order to understand which countries have taken effective steps in combating financing of terrorism, an inventory should be made on the available criminal laws, administrative measures against terrorism and implementation of monitoring and criminal prosecution of terrorists (Thomson Reuters, 2015). Various regional and international financial organisations have been gathering relevant information on the States' measures to combat terrorism financing. There could be many ways of effective countering and combating financing of terrorism and these would be closer checks on bank to bank money transfer systems, regulations that would help bring more uniformity in banking transactions so all banks would be required to have similar information on wires that would ease the tracing of source of funds, and tighter border control and security measure so cash couriers and send of cash through human terrorist operatives are minimized.

Putting a check on terrorist financing would mean closely monitoring not just financial transactions between certain suspected individuals, but also would require monitoring individual and group activity and especially activities of possible terrorist affiliates. Groups such as Taliban, Al-Qaeda, Hizbullah, Jamaiyat Islamiyah, and Laskar-e-taiba need to be actively monitored for terrorist activity and financial transactions. The operatives of these groups are largely absconding, in hiding, and working surreptitiously rather than openly and legally and thus it is difficult to trace their finances and other details. These groups work in association with smaller terrorist groups in local areas and with individual terrorists and Islamic organisations.

Considering the threat of large-scale money laundering and transfer of illegal funds to maintain these groups and organisations, U.S., UN and other governmental organisations worldwide have become increasingly vigilant of money transfer and financial transactions between organisations based in Pakistan, Afghanistan and parts of India and Indonesia. The primary focus seems to be Islamic nations and groups and financial restrictions and sanctions are increasingly in place to restrict the ease of transferring funds between international Islamic groups.

The suspicions that have been raised have adversely affected the transfer of funds to Islamic charities and other philanthropic organisations. Money sent to Islamic charities is largely held in suspicion. In most cases there are many steps to the process of scrutiny and transaction may be delayed, reversed or denied altogether. The extreme restrictions on financial transactions between Islamic charities and individual groups have meant that all or most Islamic groups are generalized as having some connections to money laundering and global terrorism and smooth financial operations have been continuously restricted.

The world has been witnessing the emergence of global donors including Saudi Arabia, UAE and Qatar (Bradley, 2005). The number of donors increased after 2008, in response to the global financial crisis. It is vital that the war on global terror is fought while Islamic charities are part of the solution and not continue to be seen as part of the problem. Hence the research attempts to recommend and inform global relevant polices how the debate could be shifted to effectively win the war on global terrorism.

Giraldo and Trinkunas (2007) discussed how Islamic groups such as Al Qaida, Hizbullah, Jemaah Islamiyah, and the Taliban raise, transfer and spend funds in regions of East Africa, Europe, Latin America, the Middle East, and South East Asia. The effectiveness of government

response to stop funding and the response of international organisations in countering methods employed by terrorists to fund their operations is required to be studied further more effectively.

Interviews and research in Pakistan and Afghanistan show how the Taliban and Al-Qaeda succeed in a financial revival after the September 11 terrorist strike. The Taliban has gradually transformed itself into a criminal network and earns half a billion dollars from illegal trading of opium and heroin labs are run by the Taliban commanders with money laundering extensively spreading across Karachi and Dubai. Gretchen (2009) argued in their book that the Taliban must be cut off from terrorism financing through drug trade and it is necessary to defeat them in Afghanistan and Pakistan to create a new political dynamic and new economy that will lead the country forward by breaking the cycle of extreme poverty, violence, extremism and illegal drug trade. Some members of Afghanistan's elite, even in politics benefit from the drug trade, changing Afghanistan completely may be difficult to achieve (Coll, 2004).

An analysis by Vittori (2011) highlighted the fact that various means are used to meet the needs of terrorist financing. Vittori discussed how terrorism financing has evolved over the years and how terrorist resourcing affects a group's operational autonomy. Wittig (2011) has presented a comprehensive framework on how terrorist groups finance their activities in Europe, Africa, South Asia and the Middle East. Fund raising activities could range from donations, criminality, investment to legitimate enterprises and business ventures. There could be varying costs of different types of terrorist activities, although large scale Al-Qaeda like operations will have to be planned across a global terrorist network and would thus require large amounts of global funds transfer and money laundering. Counter terrorism financing regimes may need to closely monitor the illicit economic activities of terrorist groups. This is because many unsuspecting individuals and organisations or enterprises could contribute to the funding of global terrorism.

5.4. Securitisation impacts experienced by Islamic Charities

Muslim groups have argued that they have been disproportionately targeted by authorities and governments with most statutory investigations in the U.K. and U.S. directed towards Islamic organisations. Charities are facing the impact, from foregoing large donations to delayed wages of charity workers due to funds blockage implemented by banks. One of the charities used as an example is the Joseph Rowntree Trust that was put under pressure as regulators investigated the funding of a large amount of money to an activist group that had contact with militant jihadists.

The ODI humanitarian policy group suggested that in most cases, charities will simply have to enhance and improve their due diligence capabilities. The director of the group suggested, . “We have seen this a lot when you had many new charities popping up to support work in Syria. Five hundred appeared in a matter of months.” She suggested that U.K. terror legislation was extremely broad and that charities had to act if they had “suspicions that fundraising was used for terrorism” (Guardian, 2014).

There have been allegations and suspicions that non-profit sector has been abused by terrorists as terrorist use this route to get their funding and this is almost simultaneous to setting up of charities for work in conflict zones. People and communities may not know where their cash ends up; it is important that charities conduct a thorough check of the beneficiaries involved. The FATF (Financial Action Task Force) was set up to track money going to fund terrorism and cited a number of cases in which charity funding was abused to promote terrorism. There are usually reports of funds diversion in these cases (Thomson Reuters, 2015). The Director and Head of Disasters Emergency Committee suggested that “There is clear evidence that banks are de-risking in response to counter-terrorism legislation, and this is having an impact on the humanitarian sector. The effect is greatest on organisations and country programmes that are perceived to be a

higher risk.” (Guardian, 2014). The U.K. government needs to particularly work with Washington as the U.S. extra-territorial reach has affected bank decisions and issues related to risk aversions even in the U.K. (Guardian, 2014). It has been alleged without much evidence that Islamic charities and foundations are the core financial centres of terrorism as these charities and humanitarian groups participate in money laundering and financing of terrorist activities (Vittori, 2011). The U.S. governments have focused not just on military strikes on terrorist networks, but also sought to understand how terrorist networks survive and from where they secure their funding for terrorist activities. Following the global terror network and well-coordinated financial networks identified among terror groups, it has been suggested that it is necessary to identify and cripple the basic financial structure and networks of these terror groups.

The U.S. government has cracked down on charities and foundations in the U.S. that may have some ties with charities in the Middle East and Asia, alleging that charities could divert funds to terrorists. These charities have been restricted from working independently, their finances have been frozen and their international networks weakened. This thesis will consider a range of literature and research papers to identify the causes or justification of restrictions imposed on Islamic charities, the legislation involved and the road ahead for global Islamic charities if they continue to encounter financial sanctions in the U.S. and Middle East. Global war on terrorism has an overarching impacts beyond Islamic charities such the impact on foreign aid assistance agenda of Western donors and the new roles of military including humanitarian aid distribution in Conflict zones. Also, the way opposition political parties conflated with terrorist groups in order to delegitimize opponents through terrorism labeling and sanctions.

Islamic charities in the Middle East have become completely deprived of resources needed to run the charities and continue with the charitable projects (Thomson Reuters, 2015). The actions of the Financial Action Task Force (FATF) and Middle East Financial Action Task Force (MENA FATF) have affected the situation greatly as the groups are considered among the key players for the influencing regulations of charities funding. Charity funding has been curtailed due to terrorism challenges in Somalia, Sahel Countries and Nigeria. The presence of Al Qaida, Al-Shabaab and Boko Haram in certain regions have represented the greatest challenges for Islamic charities' work.

Glen Simpson (2008) wrote in the Wall Street Journal (WSJ) that counter-terrorism in the U.S. and Middle East have shut down or restricted operations of several Islamic charities that have been accused of financing terrorist activities. Some charities that continue to operate after a crackdown on Islamic charities in 2001/2002 have been allegedly raising funds for terrorist groups operating in Iraq, Palestine and other conflict areas. U.S. authorities have said that Muslim fund raisers have moved donor files from one group to another, thus continued to obtain the funding, despite ban on organisations. The donor list continues to exist and even if charities are closed, the donors are sought and found by other Islamic charities, so the process continues. The U.S. treasury has frozen the assets and bank accounts of several Islamic groups, charities, individuals who they think may have alleged links with terrorist groups.

There has been cutting down of finances to Islamic charities in the U.K. although the government has assured active steps to ensure that the legitimate charities get the funding they need. Economic Secretary to the Treasury Andrea Leadsom, said: "The Government is committed to ensuring that U.K. consumers, charities and businesses are able to access the banking services they need. Financial inclusion is essential for economic and social development at home and

abroad.”

There have been deep and growing concerns on the long-term consequences of stopping the funding mechanism of Islamic charities. There is however little media attention and the public is largely unaware of the plight of these charities, the problems they face when they need to work abroad and the continued crippling of the non-profit sector. There is an urgent need for policy changes so that the non-profit sector can get out of its quagmire and start being productive as it is meant to be. It is necessary to maximize the positive role of the non-profit sector and help promote national security and welfare among the common people.

The U.S. enforcement regimes and regulations have applied counter measures to the organized crime to charities and foundations. In the U.S. all charities are potentially connected to criminal groups and this sort of myopic view has been largely responsible for the crippled existence of U.S. non-profits. Despite of the important role played by charities in the security of humanity, the voluntary sector in the U.S. has been completely made dysfunctional. The volunteers can no longer contribute to the service of humanity and charities in the U.S. are without money, power and independence. The negative impact of U.S. laws and crackdown on U.S. charities have has started becoming apparent. Seven U.S. charities have been shut down and the foundations had no avenue for appeal. The existing charities have continued to encounter unnecessary barriers in their operations abroad that impede the delivery of humanitarian aid to regions that are politically sensitive, war-torn or Muslim dominated (Benthall, 2003). Charities are required to go through several unnecessary administrative procedures and checks and are subject to extreme scrutiny and even charity workers are not spared from extreme border control checks. Charities have been diverting resources from the most urgent programs due to administration and legal difficulties involved in transferring material and financial resources.

Non-profit activities are subject to increased administrative and bureaucratic difficulties and these charities have found it increasingly difficult to work in the U.S. Recommendations for new laws to ease the charitable process have not met with a great response from the U.S. government and the charities themselves seem to be rather passive and have not aggressively pushed for legal and administrative reforms so that they can actually begin to work.

The non-profit sector is not just adversely affected in the U.S., but globally. Several U.S. Islamic foundations and charities work in collaboration with charities in the Middle East and Asia and since these regions are politically sensitive or are hub of terrorism, U.S. Islamic charities find it almost impossible to transfer funding for locally targeted social or public welfare programs in Asia and the Middle East.

It is necessary to focus on the humanitarian and legal aspects of counter terrorism laws and the impact this could have on humanitarian action. The provisions to criminalize the transfer of resources to terrorist groups could exist in all cases irrespective of the humanitarian character of such groups and actions and even with the absence of any intention to actually support such terror acts. In fact most charitable organisations and foundations work strictly for charitable purposes and for the good of humanity and yet their intentions could be subject to misinterpretations and criminalization of their humanitarian actions is highly possible (Benthall, 2003).

Humanitarian funding from donor governments have been made conditional and the list of beneficiaries have to be properly indicated (ODI 2003). Greater security checks are placed on local partners who share the funding and humanitarian action could often be related to counter-terrorism efforts and the U.S. laws do not have protection for such charities either, so these counterterrorism efforts are thwarted due to U.S. counter-terrorism laws. Counter-terrorism laws

have increased operating costs of charities and slowed down operational response and humanitarian projects as well as partnerships with charities in Asia and the Middle East (Benthall, 2003).

The U.S. counterterrorism laws have prevented direct access to financial assistance and altered the coordination of assistance as financial assistance is no longer easily available and financial resources are not quickly shared among charities and foundations. There is a need for dialogue between NGOs, humanitarian donors and governments so that counterterrorism laws and objectives do not undermine the efforts of humanitarian workers, and humanitarian commitments by governments and organisations (ODI 2003; Benthall, 2003). Donors also need to be briefed about the situation and should have greater clarity on how counterterrorism laws and measures could be applied to help or hinder humanitarian projects.

As pointed out by several researchers, Islamic charities have been unnecessarily targeted by the U.S. authorities as these charities are generally more useful to society as these are focused on providing humanitarian aid and relief to people in the most troubled regions of the world (Mackintosh, 2010). Islamic charities have made great contributions to humanitarian activity throughout history and it is unfortunate and they are no longer recognised for their efforts but severely restricted in their operations, primarily as most Islamic organisations are seen as linked to some terrorist outfit. This is generally a myth as no evidence has been obtained to suggest that Islamic charities in the West and the Middle East have direct links with or fund terrorist groups. A few Islamic businesses and enterprises have been found to have some links with Al-Qaeda affiliates. Bin Laden's own business income has financed some of Al-Qaeda's agenda.

By restricting Islamic charities and freezing their accounts and assets, the U.S. and the governments in the Middle East have defeated their own purpose as no non-profit group would be able to counter terrorism due to problems with financial transactions and restrictions imposed on them.

5.4.1. De-risking of Islamic charities by major banks

A Jordan-based Arab bank was found to have transferred money from donors in Saudi Arabia to backers of Palestine suicide bombers who killed Americans in Israel between 2000 and 2004. The Arab bank was asked to pay \$1billion USD in damages. The ODI (2003) said: “Civil suits, such as against Arab Bank, have been pursued through the U.S. courts, further sensitizing banks to U.S. regulations. The demonstrated extra-territorial reach of the U.S. authorities in pursuing banks has had a chilling effect on risk appetite globally.”

The ODI (2003) further stated “Since 9/11, the U.S. has taken advantage of the central role of the U.S. dollar in global finance to influence the actions of banks that have operations in the U.S. – wherever they happen to be in the world. Access to the U.S. market is critical and thus banks’ decision-making will very often be overshadowed by U.S. regulations, even when the decision in question has nothing to do with the U.S. market.”

The ODI report shows that there is a lack of guidance from the U.K. government and that banks need to respond to counter-terrorism law more discreetly rather than randomly, so that legitimate charity funds are not blocked. The counter-terrorism has affected the smooth transaction and transfer of funds through charities to the degree that charity work in conflict zones and Middle Eastern regions has been largely hindered, stopped or severely slowed down. Counter-terrorism laws have affected charity work in the Middle East.

As summed up by Head of Policy at the Charity Finance Group, “We are hearing consistently from charities that the current counter-terrorism infrastructure is putting humanitarian operations at risk in conflict areas such as Syria. We believe that governments, banks and charities have to work together to resolve this” (Guardian, 2014). “Banks need to put more resources into understanding their clients and the procedures that they have put in place to safely transfer money, as well as give fair warning of any changes to bank policy (Quigley and Pratten, 2007). Charities need to take a more proactive approach in building relationships with their banks and take responsibility for ensuring that they are meeting the rules” (Guardian newspaper 2014).

Banks have continued to fear breaching British or U.S. counter-terrorism laws and this has hindered the work of charities that have been trying to provide aid to people in Syria and the Middle East. Banking regulations have delayed funds transfers and accounts have been frozen or closed resulting in complete dysfunction of the charity non-profit framework. Internal bank actions have delayed payments and salaries to suppliers, workers and forced abandoning of projects.

The ODI (2003) reported "Tens of thousands of people in conflict areas such as Syria, Somalia and Gaza are depending on the life-saving assistance provided by U.K. charities, but these are precisely the locations that present the highest risks to banks under the counter-terrorism legislation." Some evidence of funds being blocked and the consequent impact on charities have come from reports discussed in ODI statements and the statement made by the Islamic Relief group. The Group asserted that it had to forego 2 million pounds of donations and many of its donors had blocked accounts at the Swiss banks. British Muslim charities that have been working in danger zones of Syria, Gaza and Palestine, where militants are present, have also shown similar concerns on problems with funds transfer.

The Muslim Charities Forum (MCF), an umbrella organisation of Muslim charities, said that it has faced continued suspicions and doubts about its intent since the terrorist attacks of 9/ 11 (Arnold, 2015). The Muslim Charities spokesperson suggested that "...Muslim charities can bring an added value to the aid sector, often working in areas other charities are unable to access due to an understanding of faith and local culture" (Arnold, 2015).

The ODI stated that better guidance should be provided by governments on how banks , credit card companies and internet or online payment services should comply with counter-terrorism laws without hurting or affecting legitimate services and agencies. The Charity Commission has registered 11,659 charities and these charities are mainly engaged in overseas aid, famine and disaster relief efforts.

The ODI and Muslim Charities have provided evidence on how the charities have been adversely affected by new counter-terrorism legislation to the extent that there is a complete break-down of the non-profit sector in conflict zones where people need aid , such as Syria and Gaza (Arnold, 2015). Organisations such as Islamic Relief have reported that funds have been blocked, donor's money sent back or accounts frozen. Transfers from U.S. or U.K. banks to Syria, Middle East and other regions have been delayed, reversed or held up indefinitely. These delays cause extreme problems to charities working in conflict zones (RT.com, 2015) and to the populations they serve.

Evidential information available from charities and ODI has shown how charities have suffered from U.S. and U.K. counter-terrorism regulations and evidential information have also suggested how funding organisations have unknowingly aided terrorist groups through diversion of aid. Despite this, when evidence from both sides are weighed, it could be suggested that there is a definite overreaction in the way the governments and authorities block funds and restrict

transactions of charities in the Middle East (RT.com, 2015). Although there has been some instances of money being used for terrorism purposes, the restrictions are more large scale and over-reactive and cannot be justified considering the small scale of financial and funding abuses that have taken place. Most funds collected as donations by Islamic charities are used for legitimate purposes and are meant to reach genuine beneficiaries, people who have been displaced by war and conflict or disasters in Syria, Gaza and the Middle East.

The Guardian and Reuters U.K. have reported that in recent times, banks including HSBC and NatWest have been closing or freezing bank accounts that have been held by U.K. charities that have been working in the conflict zones of Africa and the Middle East. Many of these charities send out the funding to Islamic charities and have been accused of financing terrorism. Banks have feared that they will be held responsible for supporting the financing of terrorism and have moved to close or freeze accounts of such organisations. One charity reported that it could not accept donations worth £2 million in the last 12 months as funds and access to accounts were blocked by the bank. It is clear that post 9/11, U.S. and U.K. banks have made it difficult for charities to work and banks have been guided by the changing U.K. and U.S. laws that requires many elaborate procedures to finance charity related work in Middle East, Africa and Asia (NCTAU.S., 2005; Greenberg et al., 2002).

The lack of guidance on how banks should respond to the counter-terrorism laws by the government and what seems to be unnecessary overreaction and overly risk-averse actions that may be misguided and incorrectly implemented as banks have also placed restrictions on respectable charities as claimed by the Overseas Development Institute (ODI, 2003). Salaries paid to overseas charity workers living outside the U.K. or the U.S. have been delayed or blocked by banks as banks continued to restrict transactions by charities having any links with people or

organizations in the Middle East or Africa. According to Dominic Laurie (2014) from the BBC News Corporation, HSBC Bank in London has closed the accounts of Mr. Anas Al Tikriti, director general of Cordoba Foundation a London based think tank advocates mainly on issues of Islamophobia, Palestine and Muslim affairs in the U.K. and Europe wide. HSBC claimed that Al Tikriti falls outside its "risk appetite". Ironically when the U.K. Charity Commission was approached whether they have opened an inquiry about the Cordoba foundation activities, they responded by saying they have not. This shows clearly that Banks have considered Islamic Charities as quite risky. As reported in the Guardian, Tom Keatinge, an independent researcher for the ODI (2003), said: "Tens of thousands of people in conflict areas such as Syria, Somalia and Gaza are depending on the life-saving assistance provided by U.K. charities, but these are precisely the locations that present the highest risks to banks under the counter-terrorism legislation." This suggests the entire conflict between increased humanitarian needs and legislation as need for funding seems to be highest in areas that face restrictions according to counterterrorism laws and banks have worked as mediators in stopping funds from reaching the most deprived regions, creating even more problems in these areas. The ODI has recommended that the U.S. and U.K. treasury must provide more guidance on how credit card companies, banks and donation websites should use their internet payment services and how they could comply with counter-terrorism laws and yet do not fall into the trap of getting adversely affected by these laws that would deter or hinder their legitimate aid activities (ODI, 2003).

It has been recommended that U.K. charities should have adequate risk management and due diligence processes in line with financial and administrative standards and U.K. charity law as also these charities should follow the guidelines provided by the U.K. Charity Commission and charities should be especially alert that funds are adequately and continually safeguarded from

reaching wrong hands and are in no way responsible for financing terrorism (Greenberg et al., 2002). The Treasury Secretary in the U.K. has assured that the U.K. has been leading international efforts, especially through the G20, to prioritise work that addresses the global trends to stop funding to charities in the Middle East. These activities could range from banks withdrawing accounts and other services from a range of sectors or blocking of salaries sent to charity workers abroad.

The U.K. Treasury Secretary suggested the following: "...we secured even greater progress with the U.K. successfully encouraging the Financial Action Task Force (FATF) to undertake further international work to understand and address this important issue. We will continue to play an active role in driving this work forward over the coming months, and at the next meeting of the FATF." This assurance would suggest that the FATF has been formed to address the issue of global funds transaction and blocks and sanctions on this transfer and how this may be affected charities worldwide. The FATF addresses issues related to funding blocks within Islamic charities and how this affects legitimate charity work in the Middle East and other war-torn, conflict affected regions in the world. It was indicated by several government departments that if charity funds are taken from the public, this should not be misused or used to finance terrorism. All public-donated funds must be well regulated and strictly under government control. This has led to several misinterpretations as guidelines provided by the government were done according to law and these laws could be applied even in case of legitimate charities sending out funds for legitimate causes. Yet all charities, good and bad came under the hammer after the change of laws and procedures related to funds regulation. Recommendations for funding procedures are provided by a joint committee for draft protection of charities in the U.K. and new draft bill has been designed to remove loopholes in the current framework and to allow funds

transfer more easily.

5.5. Securitisation impacts beyond Islamic Charities

The 1990s had witnessed the involvement of military forces roles in humanitarian aid distribution in conflict zones. This led to a mixture of foreign aid with military, security and counter terrorism agendas. The immediate effects of civil military coordination in aid distribution in conflict zones post September 11th 2001; was greatly experienced by Western NGOs staff in conflict zones. NGOs personnel were either killed or kidnapped for ransom purposes due to the thinking by armed groups such as Taliban that Western NGOs are mere continuation of the same invading powers agendas. In summary blurred lines between humanitarian aid and military were already created (McGoldrick, 2011).

In countries such as Afghanistan, Iraq and Pakistan, the highest priorities for funding have been on counter terrorism and not poverty reduction or good governance (Howell, 2010). Fragility has been a widely new terminology used in foreign aid assistance circles to describe vulnerabilities or inability to withstand compounded range of social, economic, political and even security challenges. Many governments in many parts of the world had conflated political opposing forces parties with terrorists groups through using the same saga, "global war on terrorism" yet for different ends. For example the UAE reactions toward Muslim Brotherhood was not only to support the Egyptian Military coup in July 2013 but also extended to approve a conflated terrorist list including well respected and recognized Islamic NGOs such as "Islamic Relief Worldwide" along Al Qaida and ISIL (Emirates News Agency, 2014). Islamic charities have been among the victims in post Arab spring world. For example charities in Egypt have been closed or frozen because simply they are part of or associated to The Muslim Brotherhood.

5.6. Perspective of Controlling Islamic Charities

Following the terrorist attacks in 2001, the United States, the United Kingdom, and other nations created a representation of the threat posed by radical Islamic terrorist groups. Part of the representation involved the use of some Islamic charities to provide funding and material support for terrorist organisations (Leavitt, 2003, p. 4). The representation led to collective security actions that were intended to address the threat using the means available to the countries believing they were at risk (McDonald, 2008, p. 564). The approach was based on the use of highly restrictive laws curtailing the activities of Islamic charities, which the governments assumed were sufficient to control the transfer of funds and support. The effort focused solely on controlling the flow of funding and other support without considering the overall impact of the actions on achieving the long-term objectives of the war on terror.

The UN and the Western governments believe that it is possible to reduce the risk that a particular charitable organisation is involved with terrorist organisations by criminalising activities that lead to the transfer of fund or other types of support to terrorist organisations (CTITF, 2009, p. 5). The approach, however, is effective primarily at the national level for controlling the use of Islamic charities for terrorist financing. Difficulties persist in international cooperation because of factors such as differences in national laws and the lack of an effective international enforcement mechanism beyond possible sanctions on a nation by the FATF (CTITF, 2009, p. 9). The national response can be viewed as regional because it primarily involved Europe and North America and affects another region in the Middle East. The effect is consistent with the societal security framework because the restrictions on Islamic charities have an ancillary effect on issues such as economic and political security in both regions.

In the United Kingdom, the Charity Commission is responsible for monitoring charitable organisations to assess the risk that they are involved with terrorist activities. The Charity Commission is an independent government department that registers and regulates charities operating in the United Kingdom, (Keatinge, 2014, p. 36). The Charity Commission requires that charitable organisations to report incidents of suspected terrorism or involvement with terrorist organisations (Comptroller, 2013, p. 23). The Commission is also concerned with counter-terrorism activities such as preventing the charity from operating as a conduit to divert legitimate funds to terrorist activities. The Commission ensures that the charitable organisation does not misuse its position for a charitable purpose, which includes "charity links with or support for terrorism financial or otherwise, support for proscribed organisations, and the misuse of charity to promote criminal extremism" (Charity Commission, n.d., 9. 7).

Although a threshold of evidence must be met for the Commission to take regulatory action, it can closely monitor the activities of the charitable organisation based on merely suspicion of some type of terrorist link. Consequently, the monitoring of the organisation can have a chilling effect on donations and other activities. In addition, the Commission can prevent individuals who are named on terrorist watch lists from becoming members of the trustees of a charitable organisation. In practice, however, the Charity Commission has not been effective for monitoring the charitable organisations in the United Kingdom. The evidence suggests that the Charity Commission relies primarily on information from sources within the charity when a concern develops, which reduces the ability to obtain objective information about the organisation. The Commission has removed no trustees between 2009 and 2013 (Ricketts, 2013, p. 1). An investigation by the Charity Commission, however, can lead to a reduction in contributions to a charity even if the Commission takes no action against the charity. Donors often require

assurances that the funds will not be used by the charity to promote terrorist activities (Metcalf-Hough, Keatinge, & Pantuliano, 2015, p. 5).

In the United States, the Office of Foreign Assets Control (OFAC) of the Treasury Department is responsible for monitoring the operations of international charities with potential links to terrorist organisations. The role of OFAC is to determine if a charitable organisation should be identified as a specially designated global terrorist, which makes it subject to asset seizure and other sanctions. Prior to issuing the designation concerning a charity, OFAC prepares an evidentiary statement that is reviewed by the Department of Justice to ensure that there is legal sufficiency for the designation (Bell, 2008, p. 459). The approach to controlling the charity functionally involves the disbanding of the organisation by depriving it of all assets. Because of the draconian measures used by OFAC, many legitimate Islamic charities operating in the United States tend to distance themselves from programmes that can result in an investigation of their activities (Donohue, 2008, p. 651). In addition, foreign banks refusing to provide information about a charitable organisation in response to an OFAC inquiry risk having their assets in U.S. jurisdictions frozen. Because of the increased administrative burden to maintain the records required under U.S. law, some international banks are reluctant to conduct business with Islamic charities (Donohue, 2008, p. 656). Another approach to controlling Muslims as well as Islamic Charities is the implementation of tracking approaches for cash transfers that take place in the event of humanitarian emergencies (Global Humanitarian Assistance, 2012, p. 3). A substantial amount of humanitarian assistance involves cash transfers that can take the form of unconditional grants, conditional grant with restrictions on how the money is spent, and vouchers that can be exchanged for goods. Although charities involved with cash transfers take administrative precautions to ensure that the funds are used for legitimate purposes, there can be no guarantee

that the cash will not ultimately benefit a terrorist organisation.

5.7. Potential use of Islamic Charities as modes of conflict transformation

A general belief exists among the U.S. and other governments as well as multinational organisations such as the UN that conflict transformation is the most effective strategy for countering radical extremism that leads to terrorism (Chatham House, 2010, p. 2; Dudouet, 2011, p. 4). The approach is based on the assumption that non-state armed actors often represent the legitimate grievances of ethnic or social groups. Consequently, the use of military and security forces to suppress the armed groups is unlikely to lead to redress of the grievances and a permanent solution.

Conflict transformation involves engaging with non-state armed actors in a variety of ways that decreases their desire and incentives to engage in armed conflict, which is a proactive component of societal security approaches to terrorism (Brimmer, 2006, p. 26). The approach relies heavily on soft-power dialogue and diplomacy, which involves negotiation and the provision of benefits to society that are separate from any military or security actions intended to contain or eliminate militarised groups. Constructive dialogue with non-state armed groups is also necessary to attempt some resolution to the conflict (Chatham House, 2010, p. 3).

The conflict transformation approach, however, is significantly hampered by the lack of humanitarian exemptions under existing counter-terrorism laws and policies (Burniske et al., 2014, p. 9). In the United States, for example a very narrow exemption to the prohibitions affecting funding and material support exists only for medicine and religious items. In addition, the criminalisation of actions such as providing food to regions controlled by terrorist organisations during times of famine create animosity among Muslims towards Western nations that prevent dialogue with organisations that the Western nations designate as terrorist. The legislation in the United Kingdom also does not allow for mediation or negotiation with non-state armed groups (Chatham House, 2010, p. 5).

Some evidence from the literature suggests that efforts to use charitable organisations as part of conflict transformation in nations such as Afghanistan blurs the distinction between a humanitarian charity and the military (Mitchell, 2015, p. 2). The approach used by the U.S. military operating in the region is to develop a provincial reconstruction team (PRT) that consists of members of the military and the aid workers from non-governmental organisations operating in the nation. The nominal purpose is to provide protection for the workers from insurgent groups. At the same time, the military in the PRT indirectly monitors the activities of the aid organisation, which ensures that the activities do not provide support for terrorist groups. The approach may be counterproductive for conflict transformation because it increases suspicion among terrorist groups that the charities are not neutral entities. At the same time, a pattern exists in the literature of organisations designated as terrorists providing social services to populations as a means of gaining support (Lynch, 2014, p. 1). The pattern implies that the way that social services are delivered is critical for influencing the opinion of Muslim populations. Independent Islamic charities that neither supports the terrorist organisations nor their enemies are the best vehicle to

accomplish this objective.

5.7.1. Charities as security strategies

The general security strategy adopted by international organisations such as the UN and Western governments with respect to Islamic charities is to criminalise any action that results in the transfer of funds or other material support to an organisation designated as terrorist. The strategy often places the burden of proof on the charity to demonstrate that its actions have not provided a benefit to a terrorist group. The approach has been codified in both international and national laws (Burniske et al., 2014, p. 3). The foundational international agreement that forms the rationale for anti-terrorist legislation at the national level is UNSC Resolution 1373, which was adopted on 28 September 2001. The Resolution does not define terrorism, which is left to the individual member states. The Resolution however does require member states to refrain from providing any type of support for terrorist organisations (Pantuliano et al., 2011, p. 2). The Resolution also specifically mentions that any person or organisation involved in the financing of terrorism should be brought to justice.

5.8. Development of Policy

Developing a counterterrorism policy requires a working definition of the nature of terrorism and the factors motivating people to use terrorism to achieve their objectives (Kundnani, 2015, p. 9). Because the definition of terrorism is not universally accepted, a process takes place in which the concept is defined by both state and non-state actors using discourse representing a specific group as terrorists posing a threat to a value or norm that is fundamental to society (Schlantz, 2010, p. 6). Connecting the concept of security to the discourse concerning terrorism creates legitimacy for the representation of the object external to normal society as terrorism and as a threat. Presenting the threat as outside of normal society and originating from an external

source reduces potential questioning of the validity of the representation of the object as a threat. The process can be described as securitisation of an object by linking the object with terrorism and the need to maintain security against the threat. In practice, the claim made by a state actor that an incident involves national security becomes the rationale for the use of force or other extraordinary measures. Consequently, the state actor mobilises resources or exercises extraordinary power not acceptable but for the emergency created by the claimed threat to national security (Robinson, 2010, p. 850). From this perspective, a working definition of the concept of securitisation is an event or incident leading to the use of force as a means of providing security to prevent a future occurrence of the event. Consequently, securitisation is a process with three components of a representation of an external threat, a demand to take action to mitigate the threat, and actions outside the normal social or political rules (Bonacker et al. 2009, p. 3).

2.9. Summary

This chapter discussed and analysed the securitisation impacts on polices in the US, UK and across the globe. It has also analysed the impacts of such polices on Islamic charities in many countries including the de-risking by major banks. Securitisation has impacted policies development however such process has been faced with many challenges at the international level.

CHAPTER 6: CONCLUSIONS AND SUGGESTIONS FOR THE FUTURE

6.0. Introduction

Terrorist acts have exacerbated the Global War on Terrorism (GWOT), and this could be explained via the use of different securitization models, as well as risk management. One of the main securitization models is the Copenhagen Securitization School Theory Framework (CSSTF). According to Does (2013), it provides an approach for understanding the means by which securitisation and de-securitisation of an issue occurs. Also, it can be derived that securitisation is a process via which actors, including political actors, characterise an issue as a threat to fundamental values and institutions of a country and demand extraordinary powers to contend with the purported threat (Stritzel, 2007). Terrorism is considered a threat in the globe, especially by Western countries. The thesis used CSSTF in conjunction with Risk Management security theory to explain how the Global War on Terrorism (GWOT) influenced the securitisation of Islamic charities. The CSSTF and risk management theories were essential for the research as they informed the processes by which Western countries construct a dialectic narrative that significantly creates a clash of identities between Western and terrorist organisations, as well as charities, that are connected to terrorism financing. In essence, the narrative that concerns the threat posed by terror organisations as well as the measures taken by Western government to manage the risk of terrorism are foundational for explaining how Islamic charities have been securitised by Western governments based on the construction of Islamic charities as funding conduits for terrorism.

6.1. Conclusions

In light of the CSSTF and risk management theory, since 9/11, many countries, spearheaded by the Western governments, including the U.S. and the U.K., have joined forces to

combat the global terrorism menace. The primary focus of the war against global terrorism was to interdict and destroy non-governmental organizations that used terrorist methods to achieve a political objective. The majority of the governments in the Western and industrialized nations have subsequently joined the war against global terrorism. As part of the effort to suppress terrorism, the national governments, as well as their allies, have identified many non-state armed groups as terrorist organizations. The general approach used in these countries is to pass legislation criminalizing actions that can provide support or assistance to terrorist organizations. Examples of the legislative approach include the Anti-Terrorism, Crime and Security Bill in the United Kingdom and the Common Position 931 in the European Union.

The research revealed that through banks and other conventional financial systems, funds from charities are channeled to terrorist groups through informal value transfer systems. These are networks that facilitate the transfer of money outside the traditional regulated financial systems. The informal value transfer systems have been used extensively to facilitate tax evasion, money laundering, capital flight and most importantly terror financing and the most prevalent of these systems is the *Hiwala* system which plays a key role in the remittance of funds overseas. However, in general terms, terrorism financing can be construed in two main levels – financial support and revenue generating activities.

Financial support for terrorism occurs in the form of various fundraising initiatives such as donations and community solicitation. This form of financing can be obtained from individuals, charity groups, not-for-profit organizations and sometimes states. On the other hand, revenue generating activities involve both lawful and unlawful engagements through which terrorist organizations get funds to support their activities. These engagements include smuggling, fraud, money laundering, legitimate commercial enterprises, extortion and drug trafficking and human

trafficking. Real estate investments and trade on precious metals are some of the legitimate economic activities conducted by terrorist groups. All of these things need to be considered in the fight against terrorism. It is unreasonable to place undue control over humanitarian groups on the unlikely chance that they have been infiltrated, when many of the economic activities of terrorists continue unabated. In many cases, nothing more than a birth connection connects a terrorist with a humanitarian group. These ties cannot be undone; even if a family disowns a terrorist, they are still related on paper and the trail is still there for the various governments to discover. It does not mean the humanitarian groups are harboring terrorists; it merely means that a terrorist is related to someone in the group, by virtue of blood or marriage.

One must consider, for a moment, the lessons that history has to teach. Throughout history, groups of people have faced extinction because of an undue prejudice against them by one power group or another. The most notable examples in modern times are perhaps the extinction of millions of Jews and gypsies in World War II, or the genocide in Ethiopia. In both of these cases, large groups of people were eradicated. In both cases, individuals and groups attempting to provide humanitarian aid for demonized and even killed, merely for trying to prevent hundreds of thousands of unneeded deaths. Although the scale is a smaller one, the concept is the same: individuals and groups attempting to provide humanitarian aid are being stopped, simply by virtue of some type of tie or relation to an enemy of the state. Whether the state was Germany, or Eritrea, the net effect is the same: people are dying because they need aid.

Those most in need of charities in the Muslim areas have been affected the most negatively by the regulations put in place post 9/11. Islamic charities engaged in fund-raising or partnering with other agencies that deliver aid to conflict areas have a high risk of being designated as a terrorist organization, even if they are engaged in strictly bona fide charity work

and have been following the toughest securitization and risk management regulatory regimes. The effort of Western governments and Muslim nations to suppress terrorism has backfired and is hurting those most in need, by working under the assumption that Muslim charities are guilty, until proven innocent.

6.2. Looking to the Future

In the Islamic conceptions of community and faith, all Muslims are linked to each other through obligations to God. One of these obligations is support for the needy. To Muslims, charitable acts are not mere acts of faith. Rather, they symbolize one's commitment to Islamic solidarity. Humanitarian and charitable acts represent the process of building a strong community. The concept of charity contributes greatly to Muslims' emphasis on social justice, both as an individual responsibility and an obligation of the society, including that of the government. It is for this reason that in many Muslim countries, governments put a great deal of emphasis on the process of charity contribution. Governments achieve their humanitarian goals by encouraging people to give as well as by providing necessary mechanism for collecting the contributions.

It is widely presumed among Muslims that Islamic practices have been consistent from the time of the Prophet, but the rules about charity (like many other aspects of Islam) have varied greatly over time and across Islamic societies. One aspect of variation has been along zones of Islam. There are seven major distinct zones of Islam – Arabic, Turkish, African, South Asian, South East Asian, Iranian and Diaspora (countries where Muslims are not the majority). These zones significantly differ in religious practices and interpretation of Islamic teachings. Another aspect of variation relates to the schools of jurisprudence. Shafii, Hanafi, Maliki and Hanbali are the primary schools of taught in Sunni jurisprudence. The various schools are based on the works of scholars who lived during the first three centuries of Islam (between 650 and 850 AD). Among

these schools, there are considerable variations in practices and rules governing charitable acts. Generally, the variations tend to be in details as opposed to principles; the schools of Islam tend to agree in most of their content.

Despite the traditional differences in the practices of charity, modern Islam has seen an emerging trend towards orthodoxy and homogenization of practices. The trend is being driven by a combination of several factors including advances in travel and communication technologies as well as proselytization efforts from Arab countries. With the growing importance of mass communication technologies such as TV, radio and internet, Islamic preachers have emerged who target global audiences. These preachers proclaim to know what the correct Islamic practice is. Their word reaches beyond the local cities or countries. One of the biggest effects has been on the impact on the development of charitable practice. The desire to take care of one's people has always been deeply ingrained in the Islamic faith and peoples in the Arabic regions, but as Islam has spread to the Western world, these practices have not always been transmitted to the new groups of worshippers. The spread of internet and television has resulted in homogenization that did not exist before, and in the spread of a consistent practice of zakat and humanitarian aid. As Napoleoni (2004, p. 177) argued, the convergence of Islamic traditions and practices with regard to charity is now unifying factor despite wide differences among the various schools of thought in Islam. Beyond this, however, the world of Islam has also been exposed to humanitarian practices of various churches and NGOs. The net effect is a renewed energy devoted to humanitarian actions, which has been unfortunately met with suspicion by the Western governments simply do to the close proximity of the relationships of the Islamic peoples.

Islamic charity is able to transcend the boundaries of religion, culture or ethnicity. The practice is widely regulated through an objective criterion in which political economic and

emotional interests are overlooked in the process. It is on this ground that Islamic charity is frequently given to followers of other religions, even those who are strongly opposed to Islam. During major catastrophic disasters happening in any part of the world, Muslims and waqfs give humanitarian aid regardless of whether the affected people are Muslims or not. This is a strong indication that Islam as a religion is focused on fostering the humanity of man, and not merely the humanity of Muslims.

The Quran makes specific provisions on how zakat can be used and who can receive it. The Quran states bluntly that zakat can be distributed among eight categories of recipients, and the one of the prime directives is that zakat be distributed to the poor. While the Quran allows the distribution of those zakat to those fighting for the religion (i.e., just cause for Allah), the emphasis has, and will always be, on giving to the poor, those who are in need, and those who are seeking their freedom. In the view of many non-Muslims, it is believed that zakat is primarily used for those who fight in support of Islam through the operation of terrorists. As a result, in the view of these individuals, and especially of many Western societies, paying zakat or any form of Islamic charity to support jihad is a gross violation of the law. It is for this reason that some of the largest and well-known Islamic charities in the world have been blacklisted by Western governments as financiers of terrorism. We must work together as a global people to ensure that humanitarian needs of all peoples are met, without regard to their religion or their national origin. A first step is to acknowledge that most Islamic charities are honorable and are not seeking the furtherance of jihad, nor supporting terrorists. The belief that Islamic charities feed terrorism is a sad side effect of securitisation, and this belief must be conquered.

6.3. Summary

The conclusion of this research is that Muslim charities and humanitarian efforts are, to

some extent, discriminated against. While it is possible that these charities are used by terrorists, internal guards are in place to prevent this from happening. The Islamic religion has very strict rules relating to humanitarian acts and works of charity, and imposing the needs of the West on the charities of Islam is unfair, impractical, discriminatory, and largely makes no difference in the results.

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