

**Financing International Crimes and Its Impact on the Attribution of
Criminal Responsibility in Light of International Criminal Law**

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Received: 08/02/2026 Accepted: 15/06/2026 Published: 03/07/2026

Abstract

This study examines the financing of international crimes as conduct that may appear remote from the physical commission of the crime, yet may in practice constitute a decisive factor in sustaining criminal capacity and enabling perpetrators of genocide, crimes against humanity, war crimes, and, within a narrower scope, the crime of aggression, to obtain the funds, equipment, means of transport, and financial and logistical services necessary to carry out a criminal project. The study proceeds from the central premise that the Rome Statute does not establish an autonomous offence called ‘financing international crimes’; rather, it permits responsibility to be attributed to a financier when his or her conduct can be brought within a mode of individual criminal responsibility, particularly aiding, abetting, or otherwise assisting, including providing the means for the commission of the crime under Article 25(3)(c), or intentionally contributing to the activity of a group acting with a common purpose under Article 25(3)(d), subject to the intent and knowledge requirements of Article 30. The study explores the limits of the material element of financing, the degree of nexus required between the funds and the crime, and the mental standard necessary to establish that the financier was not merely a neutral financial actor, but knew of the criminal purpose or intended to facilitate it. It also distinguishes the financing of international crimes from terrorist financing and money laundering, and explains the evidentiary relevance of the financier’s professional capacity—particularly in the case of corporate and financial-institution officials—without treating that status itself as a basis of liability. The study concludes that financing can provide a factual and legal basis for attributing international criminal responsibility when it goes beyond ordinary commercial dealings and becomes a knowing and purposeful contribution to the provision of means that enable the commission of the crime. It further emphasizes the need to develop financial-tracing rules and national and international judicial cooperation in order to bridge the gap between the financial structure of international crimes and mechanisms of criminal accountability.

Keywords: financing of international crimes, individual criminal responsibility, aiding and abetting, contribution to crime, Rome Statute, intent and knowledge, financial evidence.

Introduction

Major international crimes are no longer necessarily committed by a single perpetrator or an overt military apparatus. In many cases, they are the product of interconnected networks of decision-making, execution, support, financing, transportation, and supply. Consequently, restricting prosecution to those who physically carry out killing, displacement, torture, or direct attacks may overlook persons who enabled the crime to continue by providing funds, credit, equipment, or operational resources. Modern international criminal law has therefore focused on the individual responsibility of natural persons and has made clear that accountability is not confined to the principal perpetrator, but also extends to ordering, instigating, assisting, and contributing to a

crime. This is evident in Article 25 of the Rome Statute, which broadens the modes of responsibility to include aiding, abetting, or otherwise assisting, including providing the means for the commission of the crime¹.

Financing is especially significant because it may precede the physical commission of the crime, coincide with it, or follow it where its purpose is to sustain criminal capacity or provide the means for continued operations. Money is legally neutral in itself; its legal characterization changes according to the purpose for which it is allocated, the knowledge accompanying its provision, and the nature of the connection between the financing transaction and the crime. Responsibility therefore cannot be presumed merely from the existence of a financial transfer or a commercial transaction with an entity that has committed international crimes. Rather, a material element linking the financing to the criminal project and a mental element revealing the financier's intention or knowledge of the criminal purpose must be established. This distinction simultaneously preserves the effectiveness of criminalization and the principle of legality, which prevents the expansion of criminal responsibility by analogy².

The importance of the topic is also heightened by the existence of an advanced international legal regime criminalizing terrorist financing, whereas the Rome Statute contains no separate provision entitled financing genocide or financing war crimes. Rules on combating terrorist financing may usefully inform the definition of funds and techniques of concealment, tracing, and freezing, but they do not permit the elements of that offence to be automatically transferred to crimes within the jurisdiction of the International Criminal Court. The International Convention for the Suppression of the Financing of Terrorism adopts a broad definition of funds and links responsibility to their provision or collection with the intention that they be used, or with knowledge that they are to be used, in specified acts³. This structure is useful for comparative purposes, but it remains distinct from the modes of responsibility set out in the Rome Statute.

The issue becomes more complex when financing is carried out through a commercial institution, bank, or corporation with legal personality, because the International Criminal Court's jurisdiction under Article 25 is directed at natural persons. Responsibility before the Court is therefore not attributed to the corporation as such, but to the persons who made the decision, authorized the transfer, established the financing mechanism, or maintained it while the legal requirements were satisfied. Arabic legal scholarship on individual criminal responsibility has emphasized that the shift in international law from responsibility of the State alone to responsibility of the individual lies at the heart of the development of international criminal justice⁴.

First: Significance of the Research

The significance of this research derives from two interrelated dimensions. The first is theoretical and concerns identifying the legal position of financing within the doctrine of international criminal responsibility, while avoiding confusion between financing as an autonomous offence in the field of counter-terrorism and financing as a form of assistance or contribution to international crimes. The second is practical: large-scale crimes often require continuous financial and logistical resources, and financial investigations may therefore reveal organizational structures that cannot be uncovered through direct testimony alone. Arabic scholarship has shown that international crimes are often characterized by organization, multiple contributors, and a distribution of roles, making the rules governing participation in crime centrally important⁵.

Second: Research Problem

¹ International Criminal Court, Rome Statute of the International Criminal Court, Arabic version (1998), p. 19.

² Ali Abd al-Qadir Al-Qahwaji, *International Criminal Law: Major International Crimes and International Criminal Courts* (Beirut: Al-Halabi Legal Publications, 2001), p. 109.

³ United Nations, *International Convention for the Suppression of the Financing of Terrorism*, General Assembly Resolution 54/109, Arabic version (1999), pp. 3–4.

⁴ Amjad Haykal, *International Individual Criminal Responsibility before International Criminal Justice: A Study within the Framework of International Humanitarian Law*, 2nd ed. (Cairo: Dar Al-Nahda Al-Arabiya, 2009), p. 109.

⁵ Muhammad Abd al-Mun'im Abd al-Ghani, *International Crimes: A Study in International Criminal Law* (Alexandria: Dar Al-Jami'a Al-Jadida, 2001), p. 504.

The research problem is expressed in the following central question: when does financing change from conduct that appears to be lawful financial or commercial activity into a criminal contribution on the basis of which responsibility for an international crime may be attributed to the financier? This raises related questions concerning the material standard required to link the money to the crime, the mental standard necessary to prove purpose or knowledge, whether the continuation of financing after reliable information concerning the commission of crimes has emerged may be sufficient, the effect of intermediation by companies or financial institutions, and the limits of the responsibility of directors, employees, and decision-makers.

Third: Research Questions

- What is meant by the financing of international crimes, and how does it differ from terrorist financing and money laundering?
- What is the legal basis under the Rome Statute for attributing responsibility to a financier?
- Is knowledge that the beneficiary is committing crimes sufficient, or must a purpose to facilitate the crime or an intention to further criminal activity be established?
- How does the effect of financing vary according to the nature of the international crime and the role of the financier?
- What are the principal means of proving financing, and what are the main practical obstacles to tracing and prosecution?

Fourth: Research Objectives

The study aims to construct a legally precise concept of the financing of international crimes, identify the modes of responsibility most capable of accommodating financial conduct, analyze the material and mental elements, define the boundary between lawful dealings and criminal contribution, and propose practical means to strengthen financial investigations and international cooperation. It also seeks to show that responsibility does not depend on the size of the amount alone, but rather on the function of the financing within the criminal project and on the mental state of the person who provided or administered it.

Fifth: Research Methodology

The study adopts an analytical method through analysis of the provisions of the Rome Statute and the principles of individual criminal responsibility, together with a comparative method to the extent necessary to draw on instruments concerning terrorist financing and money laundering without merging them into the legal regime governing international crimes. It also draws on specialized Arabic scholarship on international criminal justice and recent studies concerning assistance, contribution, and financial support, while maintaining the study's focus on the criminal responsibility of natural persons rather than the international responsibility of States.

Sixth: Scope of the Research

The study is limited to crimes falling within the subject-matter jurisdiction of the International Criminal Court, namely genocide, crimes against humanity, war crimes, and the crime of aggression, with particular attention to how responsibility may be attributed to a financier through forms of participation, assistance, and contribution. Terrorist financing is considered only as a comparative and technical framework for understanding the nature of funds and tracing mechanisms, not as part of the Court's subject-matter jurisdiction.

Chapter One

The Conceptual and Legal Framework of Financing International Crimes

This chapter establishes the conceptual and legal foundation for examining financing as a basis of international criminal responsibility. It first clarifies the meaning and forms of financing and distinguishes them from related

financial offences, then turns to the legal bases through which financial conduct may be attributed to an individual under the Rome Statute.

Section One: The Concept of Financing International Crimes and Its Distinction from Related Concepts

Before addressing the specific forms of financing, it is necessary to define the concept in functional terms and to distinguish it from adjacent legal categories. This distinction determines the applicable legal framework and prevents the analytical confusion of international-crime financing with terrorist financing or money laundering.

Subsection One: The Concept and Forms of Financing International Crimes

The Rome Statute does not provide a technical definition of the expression ‘financing international crimes’. The concept must therefore be derived from the function performed by money within the crime and from the applicable modes of criminal responsibility. It may be defined as any direct or indirect provision, collection, management, allocation, or transfer of funds, assets, or economic benefits that contributes to providing the means or operational capacity necessary to commit or attempt an international crime, where accompanied by the purpose or knowledge required under the applicable mode of responsibility. This definition does not equate financing with the underlying crime; rather, it treats financing as contributory conduct that may give rise to responsibility when the requirements for attribution are satisfied.

Financing is not limited to the delivery of cash. It may take the form of a loan, the opening of a line of credit, payment of transportation and supply costs, purchase of fuel and equipment, payment of wages to armed units, financing detention facilities used in the context of a widespread or systematic attack, purchasing communications and surveillance equipment, or paying for services that facilitate the commission of the crime. Financing may also be indirect where funds pass through intermediary companies, associations, multiple accounts, or digital assets. In its own context, the International Convention for the Suppression of the Financing of Terrorism confirms the broad concept of funds, encompassing tangible and intangible assets, rights, documents, and instruments in their various forms. This approach may be used technically to understand the range of assets subject to tracing⁶.

A distinction must be drawn between general financing provided to a political or commercial entity and functional financing directed toward a criminal project. Payment for a civilian good or performance of an ordinary contractual obligation does not become a criminal contribution merely because the counterparty is accused of committing crimes. The position changes, however, if the funds or assets are clearly earmarked to provide criminal means, or if financing continues after the financier has become aware that the contribution forms part of organized activity aimed at committing crimes. The focus of the analysis is therefore not only the source of the money, but also its destination, purpose, function, and the circumstances surrounding its provision.

The notion of ‘means for the commission of the crime’, expressly stated in Article 25(3)(c) of the Rome Statute, is particularly important here. Money does not itself kill, but it may purchase a weapon, a means of transport, a detention facility, or technology that makes the commission of the crime possible or easier. Financing therefore falls squarely within this form of responsibility where it is proved that it was provided for the purpose of facilitation. Arabic scholarship on international criminal law confirms that forms of participation do not invariably require presence at the crime scene; it is sufficient that the contribution have a legally relevant connection to the criminal act and that the required mental state be established⁷.

Subsection Two: Distinguishing the Financing of International Crimes from Terrorist Financing and Money Laundering

⁶ United Nations, International Convention for the Suppression of the Financing of Terrorism, pp. 2–3.

⁷ Sawzan Tamarkhan Bakka, Crimes against Humanity in Light of the Provisions of the Statute of the International Criminal Court (Beirut: Al-Halabi Legal Publications, 2006), p. 94.

The financing of international crimes differs from terrorist financing in both its legal basis and the nature of the underlying offence. The 1999 International Convention for the Suppression of the Financing of Terrorism requires States to criminalize the provision or collection of funds in specified circumstances connected with terrorist acts, and in that regime financing constitutes an autonomous offence whose completion, in certain forms, does not depend on the terrorist act actually occurring. By contrast, the Rome Statute contains no autonomous offence bearing this name; financing must therefore be linked to a crime within the Court's jurisdiction through one of the recognized modes of individual responsibility. Iraqi studies have noted that the criminalization of terrorist financing in domestic law is designed to cut off resources before the terrorist act occurs, or regardless of whether it is completed⁸.

Money laundering differs in that its essence ordinarily lies in concealing or disguising the illicit origin of proceeds, transferring them, or integrating them into the lawful economy, whereas funds used to finance an international crime may be lawful in origin. Money generated by legitimate commercial activity may, for example, later be allocated to purchasing means used to commit a war crime; in that situation the problem lies not in the source of the funds, but in their use and the purpose for which they were provided. Financing and money laundering may overlap where concealment techniques are used to obscure the path of funds allocated to the criminal project, but each has an independent legal structure.

Comparison with terrorist financing is more useful in the field of financial proof than in transferring substantive legal elements. Anti-financing legislation has developed tools for monitoring and reporting suspicious transactions, freezing assets, identifying beneficial owners, and tracing layered or sequential transfers. Such tools may be valuable in investigations of international crimes, especially where the crimes are large-scale and depend on long-term institutional financing. Their use as criminal evidence before a court nevertheless remains subject to requirements of proof, jurisdiction, and the conditions governing individual responsibility.

Recent Arabic studies have treated terrorist financing as a complex activity connected to financial networks and modern technologies, emphasizing that effective criminalization is inseparable from the ability to trace funds and the links between the financier and the beneficiary⁹. The same insights may assist investigations of international crimes, while preserving the fundamental distinction that responsibility before the International Criminal Court does not arise from a breach of financial-compliance rules alone, but from a person's contribution to a specific international crime or to collective activity directed toward its commission.

Section Two: The Legal Basis for Treating Financing as a Form of Criminal Responsibility

Once the concept is clarified, the analysis must identify the legal rules that can transform financial support into a basis of individual criminal responsibility. The following subsections therefore examine the applicable modes of participation and the mental requirements governing attribution, while preserving the principle of legality.

Subsection One: Modes of Individual Criminal Responsibility Applicable to Financial Assistance

Article 25 is the cornerstone of any analysis of the financing of international crimes. It first establishes the Court's jurisdiction over natural persons, then sets out modes of responsibility including individual or joint commission, ordering, soliciting or inducing, aiding, abetting or otherwise assisting for the purpose of facilitating the commission of the crime, and contributing in any other way to a crime committed by a group acting with a common purpose. The expression 'in any other way' allows non-traditional forms of assistance,

⁸ Niyan Jaafar Hassan Ahmad, "The Crime of Financing Terrorism in Iraqi Legislation: A Comparative Study," *Journal of the University of Babylon for Humanities* 29, no. 5 (2021): 240–253, pp. 242–243.

⁹ Ruhollah Akrami and Hussein Kalilan Taher Al-Mousawi, "Foundations for the Criminalization of Terrorist Financing," *Kufa Journal of Legal and Political Sciences* 16, no. 57 (2023): 948–964, p. 952.

including financial support, to be accommodated, provided that the limits of the text and its mental requirements are respected¹⁰.

Article 25(3)(c) provides the most direct route for attributing responsibility for financing because it expressly refers to providing the means for the commission of a crime. Financing allocated to the purchase of weapons or transport, the preparation of detention sites, or support for logistical infrastructure may constitute ‘providing the means’ even though the financier never personally handles a weapon. The provision, however, adds the requirement that the assistance be given ‘for the purpose of facilitating the commission of such a crime’. Mere abstract knowledge that the beneficiary has a bad reputation may therefore be insufficient if the specific purpose required by this mode of responsibility is not established. This requirement protects the principle of personal responsibility and prevents general economic dealings from being automatically converted into international criminal responsibility.

Article 25(3)(d), by contrast, addresses contribution to a crime committed by a group acting with a common purpose. It requires the contribution to be intentional and to be made either with the aim of furthering the criminal activity or criminal purpose of the group, or in the knowledge of the group’s intention to commit the crime. This mode may be particularly suitable for institutional or repeated financing that cannot be linked transaction by transaction to a specific act of execution, but can be shown to form part of the support provided to a group pursuing a known criminal project. Arabic scholarship has described Article 25 as one of the Statute’s most important provisions because it brings together multiple modes of individual attribution rather than confining responsibility to the direct perpetrator¹¹.

International criminal law has long recognized the responsibility of persons who contribute to a crime without personally carrying out its material element. Arabic scholarship on international crimes distinguishes the principal perpetrator from forms of participation and contribution, and stresses that the nature of international crimes requires attention to the criminal network as a whole rather than only to the final act¹². Financing is therefore not an exception to the general doctrine of contribution; it is a contemporary application of that doctrine where money becomes a necessary means or a knowing form of assistance to the criminal project.

Subsection Two: The Mental Element and the Principle of Legality in Attributing Financial Responsibility

A material contribution alone is insufficient, because Article 30 of the Rome Statute establishes intent and knowledge as the general rule for the mental element unless otherwise provided. In relation to conduct, intent exists where a person means to engage in the conduct; in relation to a consequence, it exists where the person means to cause that consequence or is aware that it will occur in the ordinary course of events. Knowledge means awareness that a circumstance exists or that a consequence will occur in the ordinary course of events¹³. Assessing a financier therefore requires examination of what the person knew at the time of the transfer, what purpose he or she intended to achieve, and what indicators surrounded the transaction.

The required mental element varies according to the mode of attribution. Under Article 25(3)(c), assistance is characterized by a purpose to facilitate, whereas under Article 25(3)(d) contribution to a group may be established either by an aim to further the criminal activity or by knowledge of the group’s intention. These standards cannot be merged, nor may negligence or a failure to inquire be treated as sufficient unless another

¹⁰ International Criminal Court, Rome Statute of the International Criminal Court, p. 19.

¹¹ Mamdouh Hassan Mane‘ Al-Adwan, “The Scope of Individual Criminal Responsibility under Article 25 of the Statute of the International Criminal Court: An Analytical Study,” *Journal of Law and Business*, no. 68 (2021): 86–103, pp. 90–92.

¹² Abd al-Wahid Muhammad Al-Far, *International Crimes and the Authority to Punish Them* (Cairo: Dar Al-Nahda Al-Arabiya, 1996), p. 40.

¹³ International Criminal Court, Rome Statute of the International Criminal Court, p. 20.

applicable legal rule so provides. Legal scholarship has emphasized that international criminal responsibility is personal and requires proof of the mental connection between the individual and the criminal act¹⁴.

The principle of legality requires precise interpretation of the modes of responsibility. Financing may be morally or politically condemnable without reaching the threshold of international criminal responsibility if the statutory requirements are not established. This is particularly important in banking and commercial transactions that may have dual uses, where one must distinguish knowledge of general risks from knowledge of a specific criminal purpose, and a desire to make profit from a purpose to facilitate the crime. Arabic legal writing has stressed that the gravity and breadth of international crimes do not justify abandoning the general principles of legality and the mental element¹⁵.

At the same time, these requirements should not be interpreted so rigidly that organized financing is always insulated from accountability. Intent and knowledge may be proved through circumstantial and objective evidence, including the nature of the beneficiary, the repetition and timing of transactions, the existence of warnings or reports, the nature of the goods financed, concealment efforts, explicit internal instructions, and the continuation of support after a known pattern of crimes has emerged. In this way, a financial investigation moves beyond merely tracking the movement of funds and becomes a means of proving the individual's mental state.

Chapter Two

The Impact of Financing on the Attribution of Individual Criminal Responsibility

This chapter examines how financing affects the legal attribution of responsibility to an individual once the conceptual and statutory foundations have been established. It analyzes financial assistance as a material contribution, the purpose required for facilitation, contribution to collective criminal activity, and the significance of causation and the weight of the contribution.

Section One: Financing as Aid, Assistance, or Provision of the Means for the Commission of a Crime

Financial support may acquire criminal relevance when it functions as aid, assistance, or the provision of means for the commission of an international crime. The analysis therefore requires separate consideration of the material contribution and the mental requirement that accompanies it.

Subsection One: The Material Element of Financial Assistance

The material element of financial assistance requires a positive act or conduct attributable to the financier that is capable of facilitating the crime or providing a means for its commission. The funds need not be the sole cause of the crime, since complex international crimes result from the accumulation of multiple contributions. The connection, however, should not be so weak or remote that responsibility becomes liability for the mere existence of a commercial relationship. Relevant considerations therefore include the scale of the support, its timing and allocation, the degree to which the criminal project depended on it, and whether it was provided in a manner that enabled its direct use in execution.

Clear examples include financing the purchase of ammunition or vehicles used to transport forces carrying out attacks against civilians; paying the operating costs of a detention facility in which systematic torture is practiced; or providing funds to purchase devices used to track members of a group for the purpose of targeting them. In such situations, financing is not merely a remote economic benefit but becomes an operational means.

¹⁴ Abd al-Fattah Bayoumi Hijazi, *The International Criminal Court: A Specialized Study in International Criminal Law* (Alexandria: Dar Al-Fikr Al-Jami'i, 2005), p. 321.

¹⁵ Al-Qahwaji, *International Criminal Law*, p. 177.

Arabic scholarship has argued that assistance in international criminal law may consist of providing the means or facilities necessary to execute the crime, an approach consistent with the wording of the Rome Statute¹⁶.

Dual-use goods and services present greater difficulty, because financing fuel, communications, or vehicles may serve both civilian and military purposes. The surrounding facts relating to actual allocation must therefore be examined, including the receiving entity, the benefiting unit, accounting records, purchase orders, correspondence identifying the intended use, and the effect of prior restrictions or warnings. Responsibility cannot be inferred from the nature of the goods alone; it must be proved that their financing was connected to the crime in a manner satisfying the required form of assistance.

Financing may sometimes take the form of failing to stop an existing financial facilitation where the person has effective control over the flow of funds and is subject to specific duties. Converting an omission into a basis of responsibility, however, requires a clear legal foundation and cannot be presumed under Article 25(3)(c) in every case. The safer basis is therefore to prove a positive act of authorization, approval, direction, arrangement of financing, or adoption of a policy that allows the financing to continue with the required purpose.

Subsection Two: The Requirement of a Purpose to Facilitate

The most exacting aspect of Article 25(3)(c) is that assistance must be provided ‘for the purpose of facilitating’ the commission or attempted commission of the crime. The question is therefore not only whether the money helped the crime to occur, but also why the person provided it. If the only apparent motive was to complete a lawful transaction, proving a purpose to facilitate may be difficult. By contrast, if correspondence, meetings, or the manner of allocation show that the financing was intended to enable criminal operations to be carried out, the mental element becomes more readily established.

A person may have several motives. Profit does not necessarily exclude a purpose to facilitate if it is established that the person accepted or intended the financing to perform its criminal function. It is therefore necessary to distinguish ‘motive’ from ‘legal purpose’. Motive may be profit, influence, or the preservation of a political relationship, whereas the purpose contemplated by the provision concerns an intention to make the commission of the crime easier. Accumulated circumstantial evidence can help reveal this purpose, particularly where the financing is linked to specific operational requirements of the crime.

This requirement narrows the responsibility of neutral service providers, but it does not confer immunity on financial intermediaries who knowingly design special structures to conceal payments earmarked for international crimes. Where a person intervenes to split transfers, establish shell companies, arrange secret accounts, or alter payment descriptions in order to conceal their true purpose, such acts constitute strong indications that ordinary dealings have been exceeded and replaced by knowing participation. Those indications must nevertheless be linked to a crime within the Court’s jurisdiction, not merely to a breach of anti-money-laundering rules.

Arabic scholarship has noted that individual international criminal responsibility is determined not by official status but by the person’s conduct and actual role in the criminal project, and that individuals who do not personally execute the principal act may nevertheless incur responsibility if they contribute to its occurrence in a manner corresponding to a recognized form of participation¹⁷. This logic allows a financier to be held responsible where the financial function is transformed into an operational instrument of the crime.

Section Two: Financing as a Contribution to the Activity of a Group Acting with a Common Purpose

Financing may also be linked to crimes committed through organized collective activity, even where a particular transfer cannot be tied to a single act of execution. This requires examining the financier’s intentional

¹⁶ Haykal, *International Individual Criminal Responsibility before International Criminal Justice*, p. 225.

¹⁷ Mahmoud Cherif Bassiouni, *The International Criminal Court: An Introduction to the Study of the Provisions and National Enforcement Mechanisms of the Statute* (Cairo: Dar Al-Shorouk, 2004), pp. 165–166.

contribution to the group and distinguishing such participation from the more demanding concept of co-perpetration.

Subsection One: Intentional Contribution to the Group

Article 25(3)(d) is particularly important in crimes carried out through an organized group, where financing is linked less to an isolated event than to the continuation of the group's criminal activity. The financier may not know which specific operation will occur on a particular day, but may know that the group has adopted a criminal plan or policy and continue to provide general resources enabling it to pursue that project. In such a case, financing may be examined as an intentional contribution to collective action, subject to one of the two mental alternatives specified in the provision.

The first alternative is that the contribution be made with the aim of furthering the group's criminal activity or criminal purpose. Here, the financier's intention is clearly directed toward strengthening the criminal project. The second is that the contribution be made with knowledge of the group's intention to commit the crime. This alternative may be more suitable for repeated financing where there is no evidence that the person personally shared the criminal purpose, but strong evidence exists that he or she knew of the group's intention and continued to support it.

The phrase 'contributes in any other way' should not become a gateway to unlimited responsibility. Legal doctrine generally links contribution to some degree of factual connection with the collective project, taking into account the type, duration, and significance of the assistance and the context in which it was provided. Analysis of individual responsibility in international criminal law shows that the plurality of modes of attribution is intended to reach the different links in the criminal project without erasing the distinctions between perpetrator, participant, and assistant¹⁸.

Continuous monthly financing of an armed group with knowledge that it is implementing a policy of forced displacement may therefore provide a stronger basis for attribution than a single commercial payment made before any information about the crimes emerged. Likewise, financing exclusively allocated to a unit or apparatus known to practice torture is more probative than financing a general budget serving mixed purposes. The standard is contextual and rests on the totality of the facts rather than a single factor.

Subsection Two: Financing and Participation in Crime Compared with Co-Perpetration

A question may arise whether a financier can be treated as a co-perpetrator rather than merely an assistant. In theory, where financing forms an essential part of a common plan and the financier has a decisive role in controlling the resources necessary for its execution, the prosecution may consider co-perpetration under Article 25(3)(a). Such characterization, however, requires elements beyond the mere provision of money, such as participation in the common plan, the capacity to influence its execution, and a qualitative role that makes the contribution part of the control over the crime.

Care must be taken not to elevate every substantial financial contribution to the level of co-perpetration. The size of the financial contribution is not equivalent to legal control over the crime. A small amount earmarked for a direct purpose may be more probative than a very large amount having multiple uses, and a financial decision-maker may remain far removed from designing the criminal plan despite his or her economic importance. Legal characterization should therefore proceed from the person's actual role rather than financial or political status.

Arabic scholarship has examined the distinction between commission and participation within the doctrine of international crime and has emphasized that legal characterization requires identifying the person's position in the criminal plan and the nature of the contribution, rather than merely his or her proximity to power¹⁹. This

¹⁸ Abd al-Ghani, *International Crimes*, p. 504.

¹⁹ Hijazi, *The International Criminal Court*, p. 124.

leads to an important conclusion: financing may ground responsibility in different forms and degrees, ranging from assistance to contribution to collective activity and, potentially, co-perpetration, depending on the factual structure of the case.

The possibility that financing may be accompanied by other conduct—such as issuing orders, directing, instigating, or coordinating—must also not be overlooked. If the financier is also the person who identifies targets and allocates resources to the implementing units, the money may become part of a broader leadership role. In such circumstances, financing should not be isolated from the rest of the conduct; it must be assessed as part of the person’s overall role in the criminal project.

Section Three: Causation and the Significance of the Contribution

Responsibility for assistance does not require proof that the crime would not have occurred at all but for the financing, because such a requirement is inconsistent with the nature of collective crimes involving multiple causes and contributions. A reasonable factual relationship must nevertheless be established between the financing and the facilitation of the crime. This may be shown by identifying what the financing actually made possible: purchasing equipment, paying wages, transporting persons, operating a system, providing a facility, or sustaining a specific collective activity.

The significance of the contribution is relevant to the weight of the evidence and to distinguishing marginal support from support that performs a genuine criminal function. International doctrine and jurisprudence have debated whether assistance must be ‘substantial’ or ‘significant’, but the precise formulation differs according to the legal regime and the tribunal. Within the Rome Statute framework, it is therefore preferable not to invent a requirement that does not appear in the text, but to assess the significance of the financing as evidence of its connection to facilitation and of the financier’s mental state.

In practice, a single payment may be sufficient where it is directed toward the purchase of a specific means used in the crime, whereas a repeated pattern of transfers may be needed to establish a general contribution to the activity of a group. The chronology then becomes important: when did the crimes begin? When did the financing arrive? Did the transfers increase after the crimes occurred? Did the financier receive warnings? Did the method of payment change after exposure? These questions transform causation from an abstract concept into an evidentiary structure capable of presentation before a court.

Studies on the investigation of international crimes emphasize the importance of connecting contextual evidence with individual evidence and of not merely proving that an international crime occurred without also proving the accused person’s connection to it. The Iraq Supplement to the International Protocol has highlighted the need to identify modes of responsibility and to link the individual to the conduct, intent, and supporting evidence²⁰.

Chapter Three

The Scope of Responsibility According to the Type of Crime and the Status of the Financier

This chapter considers whether the legal assessment of financing changes according to the underlying international crime and the institutional position of the financier. The analysis therefore moves from the crime-specific requirements of genocide, crimes against humanity, war crimes, and aggression to the attribution of responsibility within companies and financial institutions.

Section One: Financing Genocide and Crimes against Humanity

Genocide is characterized by a specific intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. In examining the responsibility of a financier, it is not enough to prove that he or she financed

²⁰ Institute for International Criminal Investigations, *Iraq-Specific Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Guidelines for Practitioners in Iraq* (2018), pp. 23–24.

an entity that committed acts of killing or serious harm; the applicable mode of responsibility and its mental requirements must also be identified. If responsibility is attributed as assistance, the purpose of facilitation must be proved in addition to knowledge of the context that makes the acts part of the genocide. If the contribution is analyzed within a group acting with a common purpose, the elements of Article 25(3)(d) must be applied while taking account of the specific intent required for the underlying crime.

The seriousness of financing in the context of genocide is particularly apparent where funds are directed toward operations requiring extensive organization, such as establishing detention centers, transporting populations, purchasing means of execution, or financing security bodies implementing a policy of targeting the group. Arabic scholarship has discussed the particular nature of genocidal intent and the need to infer it from patterns of conduct and surrounding circumstances, because an express declaration of intent is rare in practice²¹. In relation to the financier, the nature and repetition of the allocation and knowledge of the criminal pattern may constitute important indications.

Crimes against humanity require the relevant act to form part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack. Financing is therefore particularly significant where it is directed toward supporting an apparatus or policy that forms part of the attack, such as financing a detention network, forced-transfer operations, or interrogation centers in which torture is systematically practiced. Bakka has explained that the contextual element distinguishes crimes against humanity from ordinary crimes and makes knowledge of the attack a central element of attribution²².

A distinction must be drawn between financing a public institution whose members commit some crimes incidentally and financing an activity or apparatus that forms part of the policy underlying the attack. The more specifically the financing is allocated and directed toward the structure carrying out the attack, the stronger the nexus becomes. General financing with a remote connection requires additional evidence of purpose and knowledge so that mere economic or political affiliation does not become a basis of responsibility.

Section Two: Financing War Crimes and the Crime of Aggression

In war crimes, the armed-conflict context is an essential element. It is therefore necessary to prove a connection between the financed conduct, the armed conflict, and one of the crimes listed in Article 8. Financing may take the form of purchasing weapons or ammunition with knowledge that they will be used to target civilians, financing units engaged in widespread pillage, or providing equipment to detention centers in which cruel treatment is practiced. International humanitarian law provides the substantive framework governing conduct during armed conflict, while the rules of individual responsibility determine who bears criminal responsibility for the violation.

It is not sufficient that the financing be connected to military operations that are lawful in themselves; financing an army or military unit is not, by itself, a crime. Responsibility arises where the contribution is linked to a specific war crime or to collective criminal activity and the required mental state is established. This point is particularly important for banking and commercial sectors dealing with governments or armed forces, because the law does not criminalize economic activity in armed conflict as such; it criminalizes knowing and purposeful contribution to serious violations.

The crime of aggression has an additional particularity because the Rome Statute limits responsibility for it to persons in a position effectively to exercise control over or direct the political or military action of a State. An ordinary external financier therefore does not become responsible for the crime of aggression merely by providing money unless the special leadership requirement is met. If the financier is among senior decision-makers who exercise control or direction, the financing may form part of a broader leadership role, but

²¹ Montasser Saeed Hamouda, *The International Criminal Court* (Alexandria: Dar Al-Jami'a Al-Jadida, 2006), pp. 106–109.

²² Bakka, *Crimes against Humanity in Light of the Provisions of the Statute of the International Criminal Court*, pp. 258–259.

attribution then depends on the person's position in the decision to commit aggression rather than on the financing alone.

It follows that the type of crime affects the conditions of attribution. Financial assistance cannot be analyzed in isolation; it must be linked to all the specific elements of the underlying crime. Arabic scholarship has emphasized that the International Criminal Court does not apply a single theory of responsibility detached from the elements of each crime; the general rules must be combined with the crime-specific elements²³.

Section Three: The Status of the Financier and the Responsibility of Corporate and Financial-Institution Officials

The Rome Statute does not recognize direct criminal jurisdiction over legal persons, because Article 25 concerns natural persons. This means that an investigation into financing carried out through a company or bank must move from the entity to the individuals who made the relevant decisions. These may include board members, executives, treasury officials, compliance personnel, or intermediaries, depending on who possessed decision-making authority, knowledge, and the capacity to implement the decision. A job title alone is insufficient; a personal act and personal mental state must be proved.

Corporate structure may sometimes fragment decision-making in a way that makes the responsible person difficult to identify. The chain of approvals should therefore be traced: who proposed the transaction? Who knew the identity of the beneficial owner? Who received the warning? Who authorized continuation? Who designed the concealment mechanism? Who had the power to stop the transaction? These questions help move the analysis from abstract corporate responsibility to individual responsibility. Arabic scholarship has stressed that the principle of individual responsibility is intended to prevent persons from hiding behind the State, an organization, or official status²⁴.

The existence of formal compliance systems does not exclude responsibility if it is proved that a decision-maker intentionally bypassed them or used them as a façade. Conversely, the absence of a compliance system does not by itself prove a purpose to facilitate. The value of compliance is evidentiary: it may reveal early awareness of risks, internal warnings, or deliberate attempts to conceal information. Investigators should therefore read financial records together with emails, meeting minutes, risk reports, and contracts.

The responsibility of a technical employee with limited authority differs from that of a manager who controls the decision. If an employee automatically executes a transfer without knowledge of its true purpose, the mental element may be absent. If, however, the employee receives clear information about the criminal purpose and helps circumvent restrictions in order to complete the financing, the result may differ. This reflects the principle that criminal responsibility is personal and cannot be presumed from a person's position in the institutional hierarchy²⁵.

Chapter Four

Proving Financing, Practical Challenges, and International Cooperation

This chapter shifts from substantive attribution to proof and enforcement. It examines the evidentiary value of financial records, the difficulties of distinguishing commercial risk from criminal intent, the role of international cooperation and preventive mechanisms, and a structured test for assessing whether financing can support individual criminal responsibility.

Section One: Financial Evidence and Proof of the Nexus between Financing and the Crime

²³ Al-Qahwaji, *International Criminal Law*, p. 295.

²⁴ Ali Youssef Al-Shukri, *International Criminal Justice in a Changing World* (Amman: Al-Radwan for Publishing and Distribution, 2014), p. 27.

²⁵ Hijazi, *The International Criminal Court*, p. 321.

Financial investigations can provide objective evidence that may be less vulnerable to the problems of memory and fear that affect witnesses. Important forms of evidence include account statements, transfer records, payment instructions, contracts and invoices, beneficial-ownership information, internal correspondence, audit records, and device and communications data where connected to the transaction. Such evidence should be arranged chronologically and linked to stages in the commission of the crime so that the function performed by the funds becomes visible, because the existence of financial movement alone does not always reveal whether it constituted a contribution to a crime or part of lawful economic activity.

Presenting a chain of financial transfers to a court without explaining its significance is insufficient. The prosecution should show what each payment or group of payments financed, who made the decision, what information was available to that person at the time, and how the implementing entity benefited from the funds. Financial experts may be useful in explaining accounting structures, the flow of funds, and links between accounts, but expert opinion must not replace the court in determining the legal characterization or inferring criminal intent.

International crimes require financial evidence to be integrated with contextual evidence. If documents show that a person or company transferred funds to a particular unit, the unit's connection to the crime or collective plan must first be established, followed by proof of what the person who authorized the financing knew or the purpose he or she pursued. The Iraq Supplement to the International Protocol on investigation and documentation emphasizes the need to identify modes of individual criminal responsibility and to link each accused person to the conduct, mental elements, and supporting evidence²⁶.

Timing is an important evidentiary factor. Continued financing after reliable reports, judicial decisions, or internal warnings concerning the commission of crimes may indicate knowledge, particularly where accompanied by changes in the method of transfer, the use of shell companies, or the splitting of payments. Such indications do not, however, relieve the prosecution of proving purpose or knowledge under the selected mode of responsibility; they are inferential tools that accumulate to form a coherent picture of the financier's role.

Section Two: Evidentiary Difficulties and the Distinction between Commercial Risk and Criminal Intent

The first difficulty lies in distinguishing knowledge of risk from knowledge of an intention to commit an international crime, or from a purpose to facilitate it. Financial institutions and companies operating in conflict areas may face high levels of political and security risk, but this does not in itself mean that they embrace the crimes or intend to facilitate them. The expression 'should have known' therefore cannot automatically replace the intent and knowledge required by Article 30 or the specific purpose required under Article 25(3)(c).

A second difficulty arises from multiple intermediaries and layers of financial transactions. Funds may pass through correspondent banks, holding companies, suppliers, and agents before reaching the ultimate beneficiary, with different levels of knowledge at each stage. It is therefore necessary to identify who possessed actual information about the purpose and beneficiary, who performed a purely technical role, and who knowingly intervened to conceal the truth or bypass control procedures. A single level of responsibility cannot be attributed to every link in the chain.

Civilian and military resources may also be mixed, or the same institution may be used for both lawful and criminal purposes. Financing an entity's general budget therefore does not automatically justify the conclusion that the financier contributed to every crime committed by members of that entity. An investigation should identify the closest possible point of connection between the money and the criminal activity, and then test the

²⁶ Institute for International Criminal Investigations, Iraq-Specific Supplement to the International Protocol, pp. 18, 23–24.

financier's mental state. Legal scholarship has emphasized that the mental element is a central safeguard against shifting from personal responsibility to presumed or objective liability²⁷.

A further issue concerns indirect economic benefit. A company may profit from the existence of a conflict or occupation, or from coercive changes in the market, but benefit alone is not equivalent to financing the crime. Such benefit may acquire evidentiary value if combined with deliberate payments or financial arrangements involving perpetrators and with evidence of knowledge or purpose, but on its own it is insufficient to establish international criminal responsibility.

Section Three: International Cooperation and Preventive Measures

Because financing often crosses national borders, successful investigations depend on judicial cooperation and access to banking records, corporate information, and beneficial-ownership data. Anti-money-laundering and counter-terrorist-financing regimes have developed practical tools for information exchange, freezing, and tracing that may be used in investigations of international crimes, provided that the substantive basis of international criminal responsibility remains distinct and a regulatory violation is not transformed into an international crime in itself.

Enhanced due diligence in conflict-affected areas can help reduce the risk that the private sector contributes to serious violations. This includes verifying the identity of the beneficial owner, the nature of the receiving entity, the purpose of the financing, the goods or services financed, and indications that they may be used in grave violations. These measures remain preventive and administrative mechanisms, however; a criminal conviction always requires proof of the elements of responsibility prescribed by law.

At the legislative level, States can incorporate clear provisions into domestic law criminalizing intentional financial assistance to genocide, crimes against humanity, and war crimes, while defining the required mental element and preserving the guarantees of legality. This is particularly important in light of the principle of complementarity, under which national jurisdiction remains the primary forum for prosecution where a State is able and willing genuinely to act. Bassiouni has emphasized the importance of domestic enforcement mechanisms in making the International Criminal Court system effective and preventing international provisions from remaining isolated from national legislation²⁸.

Financial investigation should also be integrated from the beginning of an investigation into an international crime rather than added only after the field-crime case file has been completed. Mapping the flow of funds may reveal the chain of command, organizational links, the degree of control, and relationships between implementing and supporting entities; it may also lead to previously unknown witnesses and documents. Financial tracing thus becomes not merely a tool for asset recovery, but a central means of constructing a theory of responsibility.

Section Four: A Proposed Test for Attributing Responsibility for Financing

A five-stage analytical test may be proposed to assess whether financing can serve as a basis for international criminal responsibility. The first stage identifies the underlying international crime, its elements, and the context in which it occurred. The second identifies precisely the financial act attributed to the person: a transfer, financing a purchase, a loan, a guarantee, payment of wages, or another financial arrangement. The third examines the function performed by the financing in the commission of the crime or in the activity of the group. The fourth selects the appropriate mode of responsibility under Article 25, while the fifth establishes the mental element specific to that mode.

²⁷ Salem Mohammed Suleiman Al-Awjali, Provisions Governing Criminal Responsibility for International Crimes in National Legislation (Misrata: Al-Dar Al-Jamahiriyah for Publishing, Distribution and Advertising, 2000), p. 134.

²⁸ Bassiouni, The International Criminal Court, p. 34.

This test avoids two opposite errors. The first is impunity merely because the financier was not physically present at the crime scene, even though he or she may intentionally have provided a means necessary for execution. The second is over-expansion of criminalization so that every financial transaction with an accused entity becomes a criminal contribution. Geographic distance does not negate legal proximity where purpose is established, just as economic proximity does not create responsibility where the criminal nexus and mental element are absent.

The test also extends to modern methods of financing, including digital assets and electronic payment systems, because the means by which value is transferred does not change the core legal question. What matters is who controls the asset, to whom it is directed, what function it performs, and what the person knew or intended. Existing rules can therefore be applied to new forms of financing without judicially creating an offence that is not provided for in the Statute.

The principle of legality remains the ultimate constraint on any expansion of accountability. An independent offence called ‘financing international crimes’ cannot be created by interpretation where the Statute does not provide for it. Attribution must remain within the recognized modes of responsibility and the elements of the underlying crime. Arabic scholarship has emphasized that precise interpretation of international criminal provisions is an essential safeguard for balancing the fight against impunity with the protection of the rights of the accused²⁹.

Chapter Five

Contemporary Procedural and Economic Considerations in Attributing Responsibility to the Financier

This chapter addresses contemporary procedural and economic questions that arise when financial support is embedded in complex institutional structures. It focuses on the degree of connection between financing and the crime, the identification of decision-makers in companies and banks, the evidentiary role of compliance mechanisms, asset-tracing measures, and the operation of complementarity.

Section One: Degrees of Financial Connection to an International Crime and Their Effect on Legal Characterization

The legal characterization of financing depends in part on how closely the funds are connected to the underlying criminal activity. It is therefore useful to distinguish direct and earmarked financing from indirect or general financial support, because each form presents different evidentiary challenges concerning nexus, purpose, and knowledge.

Subsection One: Direct and Earmarked Financing for the Commission of the Crime

Direct or earmarked financing is among the clearest forms of financial support capable of affecting the attribution of international criminal responsibility because it permits the nexus between the money and the crime to be identified more precisely than in cases of general support. This occurs where funds or assets are directed toward purchasing a particular means, covering the expenses of a specific operation, or equipping a facility or unit involved in acts falling within the jurisdiction of the International Criminal Court. In such a case, the analysis focuses not merely on the existence of a financial relationship but on whether the financing performed a clear operational function within the criminal project. Allocation, the final destination of the funds, and the timing of the transfer are therefore among the most important elements in establishing the material element of assistance, particularly because Article 25 of the Rome Statute accommodates the provision of means, aid, and assistance when its legal conditions are fulfilled³⁰.

The connection becomes clearer where the financial decision expressly describes the purpose for which the funds or assets are allocated—for example, financing the transport of persons to a detention facility used in a

²⁹ Al-Qahwaji, *International Criminal Law*, p. 328.

³⁰ International Criminal Court, *Rome Statute of the International Criminal Court*, p. 19.

systematic attack, purchasing equipment for a particular unit committing war crimes, or covering the operating costs of a means directly used to carry out prohibited acts. In such cases, the financial decision can be compared with events on the ground to establish that the financier's contribution was not merely remote economic support. This nexus nevertheless does not dispense with proof of the mental state, because responsibility in international criminal law does not rest on the material consequence alone; purpose or knowledge must also be established according to the chosen mode of attribution³¹.

The funds need not cover all the costs of the crime, nor must financing be the sole cause without which the acts would not have occurred. International crimes by their nature may depend on multiple resources and roles, with financial, logistical, organizational, and military contributions overlapping. The more important question is whether the financing actually facilitated execution or provided an instrument or resource that played a role in the criminal plan. Legal scholarship has emphasized that forms of criminal contribution are not limited to presence at the crime scene but extend to those who provide means or facilities connected to the crime in a manner satisfying the elements of responsibility³².

Precise legal characterization requires a distinction between earmarked financing and financing absorbed into the beneficiary's general budget. In the first case, the use of funds is easier to trace; in the second, additional evidence is needed to show that the general funds formed part of known criminal activity or were provided with the intention of furthering it. This difference does not place general financing outside the scope of responsibility. It simply means that the burden of proving the nexus and mental element is usually more complex because the money may serve lawful and unlawful activities simultaneously.

Subsection Two: Indirect Financing and General Financial Support

Indirect financing takes many forms, including the use of intermediaries, subsidiaries, layered accounts, or the payment of expenses that appear commercial on their face but ultimately support criminal activity. The difficulty lies in the fact that the financier may not deal directly with the perpetrator, but with an intermediary involved in transferring resources. The mere presence of an intermediary does not sever the legal nexus. The relevant question is whether the person intended or knew the function performed by the financing in the criminal project, and whether the contribution was intentional where the rule on contribution to the activity of a group acting with a common purpose applies³³.

Caution is required when evaluating general financing provided to a political, military, or security entity because such financing may serve multiple purposes. Where the entity performs lawful civilian functions alongside criminal acts, it cannot be presumed that everyone who provides it with money has contributed to crimes committed by some of its members. The conclusion may differ, however, if it is established that the financier knew the group pursued a specific criminal purpose and that the financing was intended to strengthen its capacity to carry out that purpose, or was provided with knowledge of its intention to commit the crime. Article 25(3)(d) is therefore important as a framework for analyzing intentional contribution to collective criminal activity³⁴.

From an evidentiary perspective, a pattern of repeated financing may be particularly significant. A single payment may admit of several explanations, whereas continued transfers after a clear pattern of crimes has emerged, or after explicit warnings have been received, may indicate a higher degree of knowledge. The inference becomes stronger where accompanied by a change in payment method, the use of new fronts, the splitting of amounts, or concealment of the beneficial owner. These facts must nevertheless remain evidentiary indications to be assessed together with other evidence, rather than becoming an automatic presumption of

³¹ Hijazi, *The International Criminal Court*, p. 321.

³² Bakka, *Crimes against Humanity in Light of the Provisions of the Statute of the International Criminal Court*, p. 94.

³³ Al-Adwan, "The Scope of Individual Criminal Responsibility under Article 25", pp. 90–92.

³⁴ International Criminal Court, *Rome Statute of the International Criminal Court*, p. 19.

responsibility, because Article 30 continues to require intent and knowledge within the limits established by the Rome Statute³⁵.

The distinction between direct and indirect financing is important because it assists in selecting the appropriate mode of responsibility. The more specifically money is allocated to a particular means or event, the closer the analysis comes to direct assistance; the more general and repeated the support provided to a group pursuing a known criminal project, the more important the analysis of contribution to collective activity becomes. This flexibility does not permit the requirements of different modes to be mixed. Rather, it requires the prosecution to identify from the outset the legal basis on which it relies and to prove its elements independently.

Section Two: Financial Decision-Making within Companies and Banks and Its Attribution to Natural Persons

When financing is provided through a company or bank, the institution's legal personality does not by itself identify the individual who may bear criminal responsibility. The inquiry must therefore reconstruct the internal decision-making process and assess the evidentiary significance of compliance and due-diligence mechanisms in relation to each natural person involved.

Subsection One: Identifying the Decision-Maker and the Financial Approval Process

One of the most complex financing problems arises when a decision passes through a legal person such as a company or bank. The jurisdiction of the International Criminal Court concerns natural persons, and therefore it is not enough to prove that an institution provided money, issued a letter of credit, or financed a transaction. The person or persons who made the decision or contributed to it in a manner satisfying a recognized mode of responsibility must be identified. This requires examination of the institution's structure, chains of delegation and approval, meeting minutes, emails, and risk reports in order to determine who possessed actual authority to authorize the transaction and who had the relevant information³⁶.

The process may be distributed among several persons: an employee prepares the request, a compliance officer reviews the risks, a manager approves an exception, and a board of directors adopts the general policy. Such administrative participation does not mean that everyone bears the same criminal responsibility. An employee who performs a technical procedure without knowledge of the criminal purpose is different from a person who receives clear information about the crime and then orders controls to be bypassed or the transaction to be rerouted. Attribution must therefore remain personal, and each individual's own conduct and mental state must be proved rather than inferred from job title or proximity to the center of decision-making³⁷.

Examining the approval process can also reveal deliberate fragmentation of responsibility within an institution. Some structures may be designed so that no single employee possesses all relevant information, or so that the transaction passes through several units in order to obscure the real decision. Such organization is not sufficient to exclude responsibility if the evidence shows that certain individuals combined decision-making power with knowledge of the purpose. Investigators must therefore reconstruct the overall picture from dispersed documents and communications rather than relying only on the company's formal governance model.

Subsection Two: Compliance and Due Diligence as Evidentiary Elements

Compliance and due-diligence rules are preventive tools intended to identify financial risks, determine the identity of the customer and beneficial owner, and understand the nature of the activity. In the context of international crimes, these rules may have evidentiary value because they show what information was available within the institution at the time of decision-making. If a compliance system records a warning that the

³⁵ International Criminal Court, Rome Statute of the International Criminal Court, p. 20.

³⁶ Haykal, International Individual Criminal Responsibility before International Criminal Justice, p. 109.

³⁷ Bassiouni, The International Criminal Court, pp. 165–166.

beneficiary is linked to a unit accused of serious violations, and a responsible person then overrides the warning without justification and continues the financing, that may form part of the circumstantial evidence relating to knowledge or purpose, although the remaining elements of responsibility must still be proved.

Conversely, weak compliance or inadequate due diligence cannot be treated as conclusive evidence of criminal intent. An institution may be negligent or organizationally ineffective, but responsibility for an international crime requires a more demanding standard than administrative failure. A distinction must therefore be drawn between regulatory responsibility arising under domestic law and international criminal responsibility, which is tied to a particular mode of participation and the mental element required by the Rome Statute³⁸.

Compliance is also relevant to proving whether a person took genuine steps to prevent funds from being used in prohibited activity. A balanced investigation does not search only for incriminating evidence; it also examines decisions restricting financing, verification efforts, requests for clarification, and the refusal or suspension of transactions when new information emerges. Such conduct may be relevant to assessing whether the financing had a legitimate commercial purpose or was directed toward facilitating the crime. Compliance documents therefore form part of the evidentiary record; they are not a substitute for analyzing the elements of the crime.

Section Three: Tracing, Freezing, and Confiscation of Assets as Supporting Tools of Accountability

The importance of financial tracing is not limited to proving responsibility. It also extends to preserving assets and preventing their transfer or concealment during an investigation. A provisional measure affecting property, however, differs in nature and function from a final criminal judgment: freezing is intended to keep the asset available to the competent authorities, while conviction requires independent proof of conduct and the mental element. The presence of frozen funds or a suspicious financial transaction should therefore not lead to a presumption that the owner is responsible for an international crime without satisfying the applicable evidentiary requirements.

Experience accumulated in combating terrorist financing and money laundering offers useful technical tools in this field, such as identifying beneficial owners, analyzing account activity, linking dispersed transfers, and detecting shell companies. The International Convention for the Suppression of the Financing of Terrorism demonstrates the broad range of funds and assets that may be traced, while domestic practice has developed monitoring and freezing mechanisms³⁹. The use of these tools in international-crime cases must nevertheless remain separate from substantive legal characterization: financial suspicion is a starting point for investigation, not a final judgment of responsibility.

Tracing becomes even more significant where it connects financial flows to command structures. Records may show that particular resources were regularly directed to a specific unit or apparatus and that the decision to finance it came from a person with real authority who knew the nature of its activities. In that situation, financial evidence does more than prove the existence of money; it reveals organizational links, functional hierarchy, and the level of control. Methodologies for investigating international crimes therefore emphasize linking individual evidence to the broader context and to the mode of responsibility attributed to the person⁴⁰.

Section Four: The Principle of Complementarity and the Role of National Courts in Prosecuting Financing

National courts have particular importance in prosecuting financing connected to international crimes because the International Criminal Court does not replace national systems but operates within the principle of complementarity. States generally have broader tools for accessing banks, companies, tax records, and

³⁸ Al-Qahwaji, *International Criminal Law*, p. 177.

³⁹ United Nations, *International Convention for the Suppression of the Financing of Terrorism*, pp. 2–4.

⁴⁰ Institute for International Criminal Investigations, *Iraq-Specific Supplement to the International Protocol*, pp. 23–24.

commercial registries. They may also criminalize specific forms of financial assistance or participation in international crimes at the domestic level, provided that the principle of legality is respected and strict or objective liability is not created. Legal scholarship has emphasized that the effectiveness of the international criminal justice system depends on the degree to which national legislation is harmonized with international standards and on the capacity of national systems to investigate and prosecute⁴¹.

Complementarity enables a practical division of tasks. National courts may be better placed to collect domestic financial evidence, summon officials, and seize records, while the international framework provides the legal characterization of core crimes and rules of responsibility that prevent impunity based on official status or the remoteness of the place of execution. Combating the financing of international crimes should therefore not be understood as the task of a single international court, but as a system depending on cooperation among national judiciaries, financial authorities, and international bodies.

Such a system requires precise legislation allowing the prosecution of a person who provides financing for the purpose of facilitating an international crime or intentionally contributes to a collective criminal project, while empowering authorities to trace funds, preserve evidence, and exchange information. It should also contain safeguards against expanding criminalization solely on the basis of commercial relationships. This balance is necessary if anti-financing tools are to contribute to accountability without becoming a punitive system based on suspicion or general risk rather than proof of conduct and intent.

It therefore becomes clear that the effect of financing on the attribution of responsibility does not end at the moment the money is transferred. It extends to a network of issues concerning identification of the decision-maker, the degree of resource allocation, the nature of the beneficiary group, the level of knowledge or purpose, the integrity of the evidence, and cooperation among authorities. The more these elements are analyzed within a single framework, the more accurately the law can distinguish between a financier carrying out a lawful transaction and one who converts financial resources into a knowing instrument for facilitating an international crime. This approach reflects the need to combine effective accountability with respect for personal responsibility and the principle of criminal legality⁴².

Conclusion

The study demonstrates that the financing of international crimes is not merely a marginal economic issue. In practice, it may be one of the factors that gives a criminal project the capacity to be carried out and sustained. Its practical seriousness does not, however, alter the legal structure of the Rome Statute: financing is not an autonomous offence within the jurisdiction of the International Criminal Court, but it may generate individual responsibility where the conditions of a recognized mode of attribution are satisfied, particularly aiding, assisting, or providing the means for the commission of a crime for the purpose of facilitating it, or intentionally contributing to the activity of a group acting with a common purpose. Correct characterization therefore requires proof of the underlying crime, identification of the function performed by the money, attribution of that function to a natural person, and proof of the mental element specific to the selected mode of responsibility. The study also shows that financial investigation is most valuable when integrated with field context and institutional decision-making documents, and that rules developed to combat terrorist financing and money laundering provide important technical tracing tools without replacing the rules of international criminal responsibility.

First: Findings

- The Rome Statute does not contain an autonomous offence entitled financing international crimes; financing therefore becomes a basis of responsibility through the modes of attribution set out in Article 25.

⁴¹ Bassiouni, *The International Criminal Court*, p. 34.

⁴² Al-Qahwaji, *International Criminal Law*, p. 328.

- Article 25(3)(c) provides the most direct basis where financing constitutes aid or a means for the commission of the crime, provided it is proved that the assistance was given for the purpose of facilitating the crime.
- Article 25(3)(d) may encompass repeated or institutional financing of a group acting with a common purpose where the contribution is intentional and is made with the aim of furthering criminal activity or with knowledge of the group's intention.
- The size of the amount alone is insufficient to establish responsibility; allocation, timing, the actual function of the financing, and its connection to the crime must be analyzed.
- Financing international crimes differs from terrorist financing: the latter is regulated as an autonomous offence in a specific international instrument, whereas the former is governed by the law of contribution to international crimes.
- Funds used to finance an international crime may be lawful in origin; the concept of financing therefore does not coincide with money laundering.
- The jurisdiction of the International Criminal Court extends to natural persons; accordingly, decision-makers within companies and financial institutions, rather than the legal person itself, are the persons who may be held responsible before the Court.
- Negligence or a general 'should have known' standard is insufficient to establish financial assistance. Purpose, intent, and knowledge must be applied according to the relevant mode of responsibility.
- Financial investigation can contribute to proving both conduct and the mental element through timing, allocation, warnings, concealment attempts, and the chain of decision-making.
- The requirements for attribution vary with the underlying crime: genocide involves a specific intent, while the crime of aggression is subject to the leadership requirement of control over or effective direction of State action.

Second: Recommendations

- Integrate financial investigation from the outset into investigations of genocide, crimes against humanity, and war crimes.
- Develop domestic legislation that precisely criminalizes intentional financial assistance to international crimes while respecting the principle of legality.
- Strengthen cooperation among financial intelligence units, prosecutors, and bodies specializing in international crimes within legal frameworks that safeguard defense rights and privacy.
- Require enhanced due diligence by financial institutions and companies operating in conflict-affected areas or dealing with high-risk entities.
- Improve access to beneficial-ownership information and corporate records in order to prevent legal persons from being used as a shield to conceal responsible individuals.
- Train investigators, prosecutors, and judges to analyze banking and accounting evidence and connect it to the elements of crimes and modes of responsibility.
- Do not automatically equate regulatory breaches in financial compliance with responsibility for an international crime, while allowing such breaches to be used as circumstantial evidence within a broader evidentiary record.
- Develop faster mechanisms for mutual legal assistance, asset freezing, and preservation of digital evidence connected to financing.
- Encourage specialized Arabic research on economic and financial support for international crimes in order to address the shortage of direct treatment of the topic in Arabic legal scholarship.

- Prepare practical guidance for prosecutors distinguishing ordinary commercial financing from financing earmarked or intended to facilitate an international crime.

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