

Institution: Kingston University		
Unit of Assessment: 19 – Politics and International Studies		
Title of case study: Reforming the law on Anti-Money Laundering, Terrorist Financing and Proliferation Financing in Jamaica		
Period when the underpinning research was undertaken: 2014 – 2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name: Gauri Sinha	Role: Senior Lecturer	Period(s) employed by submitting HEI: Sept 2015 – Dec 2019
Period when the claimed impact occurred: 2016 – present		
Is this case study continued from a case study submitted in 2014? N		

1. Summary of the impact

Sinha's research examining the international context of financial crime and financial regulation led to direct uptake by the Jamaican Government, which has moved to harmonise implementation of United Nations Security Council resolutions 1267 and 1373 - related to anti-money laundering and counter terrorism financing - with its own domestic legislation. Implementing multiple recommendations made by Sinha, the Jamaican Government amended the country's 'Proceeds of Crime Act', the 'Terrorism Prevention Act', and its 'The Terrorism Prevention (Reporting Entities) Regulations'. Signed into Jamaican law in December 2019, the Government brought domestic legislation into conformity with international obligations, adopted a risk-based approach to due diligence, and is more able to successfully tackle financial crime.

2. Underpinning research

Sinha's research expertise lies in international law relating to anti-money laundering, terrorist financing, and proliferation financing. The laws in these areas are closely inter-related. Since appointment to Kingston University in 2015, Sinha has produced a body of work that builds on these themes. Following an internal research grant, she expanded her research [R1] to include an international comparative element that explored the interface between financial crime and financial regulation in the United Kingdom and United States. This subsequently resulted in an analysis around failures of regulatory institutions to successfully tackle financial crime [R2].

The Government of Jamaica recognised an urgent need to effectively implement United Nations Security Council Resolutions 1267 and 1373 regarding terrorist financing and financial sanctions in its domestic legislation. Both UN regulations stipulated international requirements for state action against terrorist organisations, brought into focus following Al Qaeda's attacks on the US in 2001, and the consequent US led war in Afghanistan. Following a 'Mutual Evaluation Report' conducted by the Financial Action Task Force (FATF), a global inter-governmental body responsible for developing policies around anti-money laundering and terrorist financing, several deficiencies were noted in Jamaica's financial legislation. The report related specifically to financial sanctions and asset freezing. This led Sinha to undertake research around compliance measures that financial and non-financial entities are required to undertake to prevent money laundering, terrorist financing and proliferation financing. Her research postulates that public-private partnership is a vital element to avoid compliance becoming a mere 'tick-box' exercise; a principle that was strongly adhered to in her work with the Jamaican Government [R2].

A key focus of Sinha's research is the risk-based approach that is applied in the anti-money laundering compliance regime in the UK. The true ethos of the risk-based approach is gradually fading and needs to be re-instated to fight crime effectively. This risk-based approach is based on the concept of 'suspicion' [R2]. It has been suggested that 'suspicion' as the cornerstone of anti-money laundering reporting significantly contributes to an inefficient risk-based approach. The objectives of the private and the public sector are not naturally aligned, which makes it harder to achieve the law enforcement objective that is thrust on the private sector [R2].

3. References to the research

R1 – Sinha, G. ‘Post-crisis regulation and prosecutions in financial crime: progress or paradox?’ in *The Financial Crisis and WhiteCollar Crime - Legislative and Policy Responses: A Critical Assessment* Ryder, Turksen and Tucker (eds.), Routledge 2017. DOI: [10.4324/9781315652009](https://doi.org/10.4324/9781315652009)

R2 – Sinha, G. ‘Risk-Based Approach: Is it the answer to effective Anti-Money Laundering Compliance?’ in *Assets, Crimes and the State: Innovation in 21st Century Legal Responses* (King, Walker and Benson (eds.)), Routledge 2019. DOI: [10.4324/9780429398834](https://doi.org/10.4324/9780429398834)

4. Details of the impact

Sinha’s research at the interface between financial crime and financial regulation in the United Kingdom and United States, influenced the Jamaican government to amend three legislative acts: the Proceeds of Crime Act; the Terrorism Prevention Act; and The Terrorism Prevention (Reporting Entities) Regulations

Invited by the Jamaican government, Sinha led high-level workshops, which included senior ministry officials, as well as members of the United Nations, and resulted in direct uptake of recommendations on how to harmonise Jamaican legal practice with international enacted by UNSC resolutions 1267 and 1373. The former Head of the Legal Unit at the Ministry of Foreign Affairs and Foreign Trade **[S1]** states ‘*Sinha provided invaluable advice on the amendment of existing legalisation.*’

At the first workshop, in April 2016, Sinha helped review both UN resolutions 1267 and 1373 and explored how the Jamaican government could harmonise these with the national constitution **[S2]**. Sinha’s involvement began through the Verification Research, Training and Information Centre (VERTIC) who provide support to governments on compliance mechanisms and national implementation measures. The International and Industry Liaison Unit of the Jamaican Customs Agency state how the Jamaican government, in collaboration with VERTIC, ‘*completed two workshops ... the first workshop, also organised with the Legal Affairs Unit in the Ministry of Foreign Affairs, in co-operation with the CARICOM-UNSCR 1540 Implementation Programme, was on the implementation of Financial Action Task Force Recommendation 7 through Jamaica’s 2013 United Nations Security Council Resolutions Act*’ **[S3]**. VERTIC summarise how ‘*Sinha took the participants through FATF Recommendation 7 ... and made recommendations on possible amendments to Jamaica’s UN resolutions implementing legislation to strengthen compliance with FATF Recommendation 7*’ **[S4]**. The recommendations were focused on implementing targeted financial sanctions to comply with both UNSR resolutions (highlighted above). Resolution 1267 established a sanctions regime associated with Al-Qaida and the Taliban; Resolution 1373 prevents and suppresses the financing of terrorist acts and associated money laundering. These resolutions require countries to freeze funds or other assets of any person or entity related to terrorism. Sinha’s recommendations focused on the implementation of these resolutions through a risk-based approach towards compliance.

The recommendations made by Sinha to the Jamaican Government aimed to integrate the risk-based approach as a successful mechanism in the domestic legislation of Jamaica. Also, the Financial Action Task Force (FATF), as the global standard-setter for money laundering and terrorism financing rules, include a risk-based approach as the first of the 40 Recommendations in their guidance. Although Sinha’s work had a UK focus, the same principles have been applied to the Jamaican legislation, thus giving her work international significance. Several suggestions made in **[R2]** to reform the law were used in the recommendations to the Jamaican Government.

Following this, in 2017, Sinha was invited directly by the Jamaican government to lead a second workshop – as the only expert in the room. At this second workshop, participants consisted of a wider group of stakeholders from central government, private financial institutions as well as non-financial regulated businesses and professions. The idea was to highlight the same issues against a wider canvas that included terrorist financing and anti-money laundering. **[S1, S5]**

The second workshop led to a more comprehensive list of 17 recommendations. These were to assist in the legislative review process that the Government of Jamaica needed to undertake. A key consideration for Jamaica was to harmonise the United Nations Security Council Resolutions (UNSC) Implementation Act 2013 with the sanctions and reporting requirements laid down in other relevant legislation requiring entities to carry out similar obligations. For this reason, amendments in the following pieces of legislation were suggested:

- The Proceeds of Crime Act (POCA) and Regulations 2007 and POCA Amendments 2013.
- The Terrorism Prevention Act, 2005 (TPA) and Amendments 2011, 2012, and 2013.
- The Terrorism Prevention (Reporting Entities) Regulations (TPRs), 2010.

‘This advice assisted in ensuring that the changes made met the constitutional requirements and could be implemented in a small developing state’ and ‘was also used to draft amendments to existing legislations’ [S1]. Speaking in October 2019, the Minister of Finance and the Public Service explained how the amendments would ensure Jamaica met global standards, enable targeted financial sanctions, enabling the country to *‘take a risk-based approach to due diligence’* and *‘empower law enforcement’* [S6].

The amended Acts and Regulations were signed into law in November and December 2019 [S7, S8, S9]. Amendments included the stipulation of businesses to establish a risk profile relating to its general operations regarding its products, distribution channels, and size and nature of its business environment, enhanced due-diligence for business relationships (such as verification of the sources of customers’ funds), and the imposition of duty on reporting entities to explain inability to conform to specified standards. These work to minimise the risk of terrorism financing. A further amendment made it a criminal offence (liable to a fine and/or imprisonment) to contravene the regulations.

This significantly changed the law around financial sanctions, asset freezing and terrorism financing, and improved Jamaica’s Anti-Money Laundering and Counter-Terrorist Financing regime [S1]. The recommendations have ensured that Jamaica’s financial regulations are in line with the Constitution of Jamaica and the UNSC resolutions, and so better meet international obligations and protect banking relationships with international partners. As the laws relate to compliance measures, they also directly affect both financial and non-financial institutions. This protects and maintains the integrity and reputation of the Jamaican financial system, thus having a positive impact on persons holding any amount of financial or monetary assets in Jamaica. In summary, the resulting 2019 Amendment Acts and Regulations *‘have been used successfully by the country to assert compliance with most of its obligations’* and have *‘had a positive impact on assessment of the country’s compliance with its PF [proliferation financing] obligations’* [S1].

In February 2020, The FATF stated that *‘since the completion of its MER [Mutual Evaluation Report] in November 2016, Jamaica has made progress on a number of its MER recommended actions to improve technical compliance and effectiveness, including by amending its customer due diligence obligations’* [S10]. This is a specific reference to the amendments to POCA, TPA and the TPRs, based on Sinha’s research.

These changes to Jamaican law have benefitted the economic situation of local Jamaicans as well as bring the country’s legal procedures in line with UNSCRS 1267 and 1373. Six commercial banks have eased account opening requirements for low-risk bank accounts. Using the risk-based approach, whilst remaining compliant, banks offered accounts to the highly informal segment of Jamaican society who previously could not pass the opening requirements (which were intended to deter terrorism financing rather than local Jamaicans). When COVID-19 reduced access to banks, the need for accessible bank accounts increased. A key benefit of this is that it has enabled individuals to receive the government ‘We Care’ grant and remittances from relatives overseas as soon as possible, thus avoiding financial pressures and debt. This was only achieved through the new, efficient risk-based approach, which allowed such accounts to be opened and thus increased financial inclusion in a time of great need [S11].

5. Sources to corroborate the impact

S1 – Testimonial from the former Head of the Legal Unit at the Ministry of Foreign Affairs and Foreign Trade

S2 – [Kingston University Press Release](#), 2016

S3 – Jamaican Customs Agency: [TradeBeat Volume 8 Issue 4](#), July 2016

S4 – [VERTIC Press Release](#), 2016

S5 – [Kingston University Press Release](#), 2017

S6 – [Ministry of Finance and Public Services Press Release](#)

S7 – [Proceeds of Crime \(Amendment\) Act, 2019](#)

S8 – [Terrorism Prevention \(Amendment\) Act, 2019](#)

S9 – [Terrorism Prevention \(Reporting Entities\) \(Amendment\) Act, 2019](#)

S10 – [FATF Update](#), 21 February 2020

S11 – [Jamaica Observer News Article](#), September 2020