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Legal Regime for Curbing Money Laundering: National and International Perspective

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Money laundering has the potential to transform an international financial center into a financial sanctuary. A real company will avoid doing business with a financial institution that has been determined to be involved in money laundering. "Operation Green Ice," which took place in 1992, demonstrated how current money laundering is fundamentally multinational. The legislation must be correctly read and applied in order to combat the problem of money laundering. Higher-level corruption has recently risen over the world, and public-sector corruption is inextricably related to money laundering. Terrorist groups use money-laundering networks to gain funding for weapons purchases. Money laundering could even include the use of legal cash for criminal objectives. Money laundering has the ability to turn a financial haven into a worldwide financial centre. A legitimate business will avoid dealing with a financial institution that has been shown to be involved in money laundering. The 1992 "Operation Green Ice" illustrated how today's money laundering is fundamentally international. To tackle the problem of money laundering, the legislation must be accurately read and applied. Corruption at the highest levels has recently increased over the world, and public-sector corruption is closely linked to money laundering. Terrorist organisations obtain funding for weapons acquisitions through money-laundering networks. Money laundering could also entail the use of lawful currency to achieve illegal goals. The legislation must be correctly read and applied in order to combat the problem of money laundering. The purpose of the Act should be "completely enforced," which is something that should be given due weight and priority. Money laundering has a long history in society and must be managed carefully.

Keywords: *money laundering, crime, terrorism.*

INTRODUCTION

The majority of crimes are motivated by a desire for money. Money laundering is the process by which criminals conceal the illegal sources of their riches and safeguard their asset bases to avoid law enforcement suspicion and avoid leaving a trail of damning evidence. Money laundering is the procedure by which criminals give the impression that the money they spend was earned legally. Terrorists and terrorist organizations rely on money to survive and carry out their acts of terrorism. Terrorists obtain money from a variety of sources, and while they are less concerned with concealing the source of the money, they are more concerned with concealing the destination and purpose for which it is collected. Terrorists and terrorist organizations use strategies to hide and disguise money that is similar to those used by criminal money launderers. The capacity to identify criminals and terrorists, as well as the underlying activity from which money is produced, is particularly successful when it comes to preventing and detecting money laundering. One method of discovering and interrupting terrorists' and terrorist groups' activity is to use intelligence and investigative tools. Financial organizations rely on a reputation for honesty and integrity because they deal with other people's money. The genuine business will avoid a financial institution that has been found to have helped in money laundering. Money laundering may turn an international financial center into an ideal financial haven. As a result of attracting "dirty money" as a short-term growth engine, developing countries may find it difficult to attract the kind of solid long-term foreign direct investment that wants stable conditions and strong governance and can help them sustain development and encourage long-term growth. Money laundering has the potential to destabilize a country's economy by altering cash demand and making interest and exchange rates more volatile, as well as driving up inflation in countries where criminal groups operate.

Money laundering not only supports corruption and organized crime, but it also allows corrupt public officials to launder bribes, kickbacks, public monies, and, on rare occasions, even foreign development assistance. The earnings of drug trafficking and commodity

smuggling are laundered by organized criminal organizations. Terrorist organizations utilize money-laundering networks to obtain funds to purchase weapons. Allowing these groups access to the ability to launder money can have severe social implications. One of the most effective ways to stop them in their tracks is to take the proceeds of their crimes from corrupt public officials, drug traffickers, and organized crime groups. Criminals are now taking advantage of the world economy's globalization by shifting funds across international borders swiftly. The international community has become increasingly conscious of the threats that money laundering poses in all of these areas in recent years, and governments around the world have pledged to take action. The UN and other international organizations are dedicated to assisting them in any manner possible.

THEORETICAL BACKGROUND

Money laundering is a crime that only gained popularity in the 1980s, primarily as a result of drug trafficking. The drive for governments to act against drug traffickers by creating legislation that would deprive them of their illicit riches came from increased knowledge of the vast profits generated by this criminal activity, as well as concern about the massive drug usage problem in Western culture. Governments also realized that drug-trafficking organizations may infect and corrupt state structures at all levels through their massive revenues. A review of Canadian money laundering police data revealed the transnational scope of the crime. They discovered that over 80% of all money laundering schemes included an overseas component. More recently, "*Operation Green Ice*" (1992) has shown how modern money laundering is essentially international.

MONEY LAUNDERING IN INDIA

Money laundering is an uncontrolled practice in India that has been going on for a long time. Even while other countries go forward in combating this behavior, our country's benign laws have only recently begun to recognize this economic threat. There are two dimensions to this dilemma in the Indian context. Money laundering, both within and beyond the country, is one component. As a result, India may have served as a shelter for foreigners seeking to launder

their illicit money. Furthermore, the government authorized the whitewashing of black money through periodic amnesty initiatives and bearer bonds. The second aspect of laundering money abroad requires the movement of money outside the country. On this front, the government's conservative policies in prohibiting all but permitted transactions in foreign exchange had helped in the past, to check the flight of tainted money. Thus, where criminals intended to move money outside the country for various reasons, including laundering, they had to overcome the restrictions imposed by the FERA on the banking channels. As a result, a parallel activity known as "hawala" in India and Pakistan has given an extra-banking avenue for shifting criminal proceeds, either as a prelude to laundering or as part of the laundering process. Money laundering in India, however, is not restricted to "*Hawala*". It's only a subset of this type of action. The USA and other countries mainly focused on the laundering of money through banking channels and also monitored "smurfing", which is the movement of money below the reportable limits. Western countries commenced focusing on trade-related payments only after the 9/11 experience. But, in this sense, Indian laundry-men have been far more advanced. For years together, By over-invoicing exports, India has been importing illicit money. The government hardly cared to check, except to prevent the exporters from incidentally taking undue advantage of export incentives such as duty-free licenses and duty drawback claims. The government barely glanced at other dimensions of over-invoicing. It is only as late as 2003 that the Parliament introduced provisions in the Customs Act, 1962, to define more export-related offenses and also provided for the prosecution of export-related offenses. One may find it surprising to note that there was no provision under which an export-related offense could be prosecuted in India unless it was a case of failure to realize the proceeds of export, liable to punishment under the FERA, 1948 and 1973.

PROBLEM OF STUDY

Money laundering is a multifaceted crime with global implications. It is a contemporary crime with social, political, and economic consequences. Money laundering on a large scale can lead to economic and even political instability in a country. Money laundering is vital to global crimes including drug trafficking, organized crime, and terrorism. Money laundering has

taken on a new dimension as a result of globalization and rapidly changing advancements in information and communication technology. Criminals' work of carrying out cross-border money transactions has become easier and faster than ever before, thanks to the rapid disintegration of economic and financial barriers among nations as a result of global trade liberalization in commodities and services. The metaphorical cleaning of money for its legal appearance is what is categorically termed as money laundering and the same has a circumstantial depiction in a Bollywood movie named '16th December'. The movie visualized how the money acquired by corruption is laundered by our politicians and how that Indian money was utilized for a terrorist attack on India. This is not far from reality, 9/11 was one such extreme manifestation. From ancient hawala transactions, money launderers have moved to cyber and wire transactions. Laundered funds are invested in emerging economies, and such investments can in turn destabilize the economy. Money laundering has given black money a color of legality and legitimacy and increased existing social disparities. Laundered money is, however, not used for the common good but for the commission of crimes of murder, extortion, smuggling, drug, a terrorist activity that destroy a nation. To hide their unlawful activity, money launderers use private banking, offshore banking, shell corporations, free trade zones, wire networks, trade finance, currency exchange houses, stock brokerage houses, gold dealers, insurance businesses, and trading companies. Money laundering is slowly becoming the underworld's standard operating procedure.

Money laundering might even entail the use of legal funds for illicit purposes. In India, it's known as hawala, hundi in Pakistan, and fei ch'ien in China. The first step in money laundering is placement, which refers to the physical disposal of large amounts of cash earned from unlawful activity. The second method is layering, which involves establishing multiple layers of financial transactions to separate illicit proceeds from their source. Last but not least, integration, which refers to the re-injection of the laundered revenues back into the economy in such a way that they re-enter the financial system as normal company cash, hide the audit trail, and offer anonymity. Money laundering jeopardizes a country's integrity and sovereignty. Money laundering proceeds may overwhelm government budgets in some emerging countries, causing the government to lose control over economic policies. In some

circumstances, the size of the laundered proceeds asset base can be utilized to corner markets or even tiny economies. Money laundering has the potential to cause inflation. It skews economic data and makes market behavior unpredictable, making it difficult to formulate economic policies. Money laundering has a significant negative impact on the economy. It may even result in a decrease in GDP. It diverts funds away from high-quality investments and into low-quality investments that conceal the proceeds. Construction and hotels were previously financed not by actual demand, but by the short-term interests of money launderers. Such investment affects economic growth. In addition, money laundering can discourage legitimate investment from entering a country and affect international trade. For example, certain transactions involving foreign investors, which are legal, can become less desirable as a result of an association with money laundering. It also undermines domestic capital formation. Money laundering can also be facilitated through trade liberalization and free trade zones. India has been importing dirty money for years by over-invoicing its exports. This might lead to the formulation of ineffective policies and, as a result, economic instability.

In the recent past, there was a steep rise in terror attacks and other organized crimes in India. Money laundering helps in perpetuating crime and gives criminals economic power also, which leads to further social and economical distortions in society. It results in the widening of socio-economic disparities. It allows them to acquire influential positions, create bigger problems, an example of the same being the Indian underworld. It redistributes income from good to bad. The money involved attracts a greater mass of people to indulge in criminal activities. Money laundering sometimes requires the commission of other crimes to effectuate money laundering, for example, counterfeiting invoices. Increased criminal activity raises government costs because it necessitates more law enforcement and healthcare spending to counteract the serious repercussions of criminal behavior. Our society faces a significant difficulty as a result of this. Higher-level corruption has recently increased over the world, and corruption of a public figure is de facto linked to money laundering. Money laundering is allowing corruption to flourish in the country.

RATIONALE OF STUDY

Money laundering is a crime that only gained popularity in the 1980s, primarily as a result of drug trafficking. Having felt the need for effectively curbing the menace of money laundering the global community has initiated several measures including the criminalization of money laundering. The rapid advancements in the field of Information and Communication Technology have enabled the movement of money across the world at a lightning speed. These new and efficient financial service products have provided new and speedy avenues to money launderers in cross-border money transactions. Thus, criminals are using these latest developments in the financial services industry and Information and Communication Technology to launder their ill-gotten money. The problem does not stop here and the money which is laundered is again used by these criminals and by their associates to commit further crimes. The argument that a close nexus exists between the criminals, law enforcers, and politicians for laundering the money cannot be denied. Money laundering is a wealth-creation magic trick that has grown out of proportion to the point where it is now the world's third-largest enterprise. According to a US assessment, Hawala money is used to fund terrorism in India. As a result, some actions to counteract money laundering are required.

CONCLUSION

An effort must be made to control the menace of money laundering because it is a victimless crime and the society at large is affected. After the money laundering process is completed, criminals enjoy the proceeds of crime without any interference. This gives wrong signals to society and may even encourage people to commit a crime for earning easy money. To tackle the problem of money laundering, the law must be properly interpreted and applied. The point that should be given appropriate consideration and importance is that the Act's goal should be "fully enforced." Money laundering has had a long-standing impact on society and must be carefully managed.