

An Overview of Money Laundering in Pakistan and Worldwide: Causes, Methods, and Socioeconomic Effects

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ABSTRACT: Money laundering is the clandestine movement of cash from one region to another without notifying it to the government authorities with the purpose of evading taxes, disguising ill-gotten incomes, and converting illegally earned money into legitimate assets. Money laundering involves three steps: the placement of cash into a foreign bank, performing transactions as layers of cash, and then capitalizing the withdrawn cash into legitimate investments. The failure of financial institutions, including banks, in detecting the laundered cash is a major reason for money laundering. On the other hand, round tripping, cash structuring, bank controlling, N.G.O. funding, and foreign exchange agencies' illegal money transferring activities are some of the methods of performing money laundering, which in the long run cause disastrous effects to the economy, especially on the private sector and emerging

UNIVERSITY OF BOLOGNA LAW REVIEW

ISSN 2531-6133

[Vol.2:2 2017]

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markets. Money laundering also invites social costs, which expedite the elevation of other serious crimes such as drug trafficking, smuggling, arms trafficking, and the financing of terrorism. Through effective legislation and implementation of anti-money laundering laws, as well as cooperating with international anti-money laundering agencies, the illicit crime of money laundering can be prevented at both regional and global levels.

KEYWORDS: *Money Laundering; Anti-Money Laundering (A.M.L.); Drug Trafficking; Smuggling; Stages of Money Laundering; Round Tripping; Terrorism Financing; Tax Evasion.*

1. INTRODUCTION

Money laundering is the method used for transferring money earned through clandestine means¹ to or from a foreign land without paying the tax applicable on the transferred amount.² It can also be defined as converting illicit monetary assets into legitimate possessions.³ Money laundering is recognized as a crime in domestic law worldwide. It is also considered a thought crime.⁴ The United States Treasury Department has defined money laundering as disguising financial transactions and funds that are used by terrorists or other criminals for their illicit purposes.⁵ Money laundering can be carried out through several kinds of financial and commercial activities, for instance digital money transfers, cash transactions, credit card payments, offshore property building, and wire transfers, Money laundering can be carried out through several kinds of financial and commercial activities, which include supposedly legal actions such as digital money transfers, cash transactions, credit card payments, offshore property building and wire transfers.⁶ Money is also laundered through trading, drug trafficking, smuggling, etc., thus allowing Anti-Money Laundry (hereinafter A.M.L.) international financial and legal authorities to describe money laundering as an illegal activity⁷ that is intertwined with other serious crimes.⁸ Notably, the financing of terrorist and other criminal organizations is also conducted through the channels of money laundering.⁹

¹ Advocate Supreme Court of Pakistan.

² See JOHN MADINGER, *MONEY LAUNDERING: A GUIDE FOR CRIMINAL INVESTIGATORS* 5 (3rd ed, CRC Press 2016) (1999) [Hereinafter: Madinger].

³ See PAUL V. DALY, *THE SUPPLY OF ILLICIT DRUGS TO THE UNITED STATES: THE NNICC REPORT* 78 (1996).

⁴ See COLLEEN CROSS, *EXIT STRATEGY* (Slice Publishing 2014) (2011).

⁵ See MARK NESTMANN, *THE LIFEBOAT STRATEGY* (eBookIt.com 2011) (2003).

⁶ See JAMES R. RICHARDS, *TRANSNATIONAL CRIMINAL ORGANIZATIONS, CYBERCRIME, AND MONEY LAUNDERING* 44 (1999).

⁷ See IMF, *Staff Country Reports*, 19 (2009).

⁸ See ASIAN DEVELOPMENT BANK, *Manual on Countering Money Laundering and the Financing of Terrorism*, ADB.ORG (Mar., 2003), <https://www.adb.org/sites/default/files/publication/27932/countering-money-laundering.pdf>.

⁹ See BRIGITTE UNGER & DAAN VAN DER LINDE, *RESEARCH HANDBOOK ON MONEY LAUNDERING* (2013).

⁹ *Id.*

There are various ways to launder money, each method having a certain level of complexity associated with it.¹⁰ Nonetheless, money launderers almost always perform the following interlinked three steps: 1) placement, or structuring, of funds; 2) layering; and 3) integration.¹¹ The only exceptions include cases that involve non-cash funds that might already be present in the fiscal system.¹²

The methods and magnitude of money laundering, and its causes and effects, in different countries, including Pakistan, the United Kingdom (U.K.), and the United States (U.S.), will be elaborated in this paper, along with the measures for preventing the crime, regionally as well as internationally.

2. CAUSES, METHODS, AND EFFECTS OF MONEY LAUNDERING

2.1. CAUSES OF MONEY LAUNDERING

Several factors give rise to money laundering, and they may be present within a country or state, or might operate transnationally.¹³ Some of the most prominent factors that lead to money laundering are discussed below.

2.1.1. TAX EVASION

Tax evasion leads to the hiding of financial assets owned by a person or company—to evade taxes, people hide their assets and the sources of their earnings¹⁴ Generally, the rationale behind avoiding paying taxes is accumulating wealth. Moreover, some people do not give a portion of their wealth to the government, particularly if they feel that their tax money would not benefit their well-being or if they have no concern for the public good.¹⁵

¹⁰ See ERNESTO U. SAVONA, *EUROPEAN MONEY TRAILS* 15 (Routledge 2014) (1999).

¹¹ See JEROME BJELOPERA & KRISTIN FINKLEA, *ORGANIZED CRIME: AN EVOLVING CHALLENGE FOR U.S. LAW ENFORCEMENT* 14 (2012).

¹² See U.S. GOV'T ACCOUNTABILITY OFF., *GAO-03-813, COMBATING MONEY LAUNDERING OPPORTUNITIES EXIST TO IMPROVE THE NATIONAL STRATEGY* 7 (2003).

¹³ See KANNAN SUBRAMANIAN, *THE MONEY LAUNDERING AND FINANCING OF TERRORISM ECO-SYSTEM* (2016).

¹⁴ See Richard Waber, *Money Laundering*, U.S. ATT'Y BULL., Sept. 2007, at 21.

¹⁵ See LAWRENCE GITMAN, MICHAEL JOEHNK & RANDY BILLINGSLEY, *PERSONAL FINANCIAL PLANNING* 82 (3RD

Tax evaders might also perform manipulations of their tax forms by not reporting the correct amount of income that they get from different sources. Upon fearing that the authorities might track their concealed monetary and nonmonetary assets and earnings, they either transfer their money to foreign banks, or invest in property ventures furtively by hiding their identities and reassigning ownership of their nonmonetary assets and property into someone else's name, usually that of a family member without the will or capacity to control that asset independently.¹⁶ This constitutes tax evasion if the transferred property is not shown on income tax returns¹⁷ and can lead to money laundering if the cash or property is transferred to foreigners' accounts surreptitiously. This type of laundering is also performed by politicians, especially those who are in or seeking power. They hide their monetary and nonmonetary wealth assets¹⁸ or transfer them to foreign lands to avoid scrutiny by tax authorities.¹⁹ Hence, this crime is performed by the "will" of politically powerful elites, whose influence surpasses the authority of A.M.L. authorities and, thus, the practice continues until they lose their political influence or power.²⁰

2.1.2. WEAK FINANCIAL REGULATIONS

Another cause of money laundering is the weakness and inadequacy of financial regulations and relevant authorities within a country. For instance, if the tax department is not strong enough to question the politicians, elites, and general public about their earnings and "monetary and nonmonetary" assets, then it is not difficult for people to hide taxes and perform money laundering by buying property in relatively more stable but offshore economies.²¹

Money laundering and tax evasion are crimes which need to be curbed by the financial regulatory authorities and institutions. The financial

ED. 2014).

¹⁶ See MARK GOODFIELD, *Transferring Property among Family Members*, LINKEDIN (Sept. 23, 2014), <https://www.linkedin.com/pulse/20140923125602-8635921-transferring-property-among-family-members-a-potential-income-tax-nightmare>.

¹⁷ See ERNEST LARKINGS, *INTERNATIONAL APPLICATIONS OF U.S. INCOME TAX LAW* 380 (2003).

¹⁸ See ATO KWAMENA ONOMA, *THE POLITICS OF PROPERTY RIGHTS INSTITUTIONS IN AFRICA* 219 (2009).

¹⁹ See JOHN CASSARA, *TRADE-BASED MONEY LAUNDERING* 79 (2015) [Hereinafter: Cassara].

²⁰ MADINGER, *supra* note 1, at 3.

²¹ See MARY ALICE YOUNG, *BANKING SECRECY AND OFFSHORE FINANCIAL CENTERS* 12 (2013).

regulatory authorities in each country need to re-examine their policies and financial regulatory principles to check if they can be implemented effectively or if there are any loopholes that might allow politicians and the elite classes to conceal the details and sources of their assets, as well as destinations of money that they receive or transfer to foreign regions at any given time.

2.1.3. BRIBERY

Bribery is also linked to weak financial regulations as financial regulatory authorities or airport officials might be bribed by money launderers to allow them to transfer funds abroad without paying the applicable taxes and by not tracking down the sources or destinations of the money.²² This paves the way for secured money laundering facilitated by the officials of airport authorities.²³ As a consequence, the money illegally moves out of the country.

2.1.4. CORRUPTION

Corruption is unethical conduct aimed at gaining personal benefits by using either authority or bribery.²⁴ Politicians, statesmen, ministers, etc. hide the monetary and nonmonetary assets that they earn illegitimately, i.e., through means of corruption. For instance, they might take bribes and would prefer to transfer the bribe money into foreign banks or other investments.²⁵ They would thus avoid transferring it to local or personal bank accounts so that local financial auditing authorities do not discover the bribe amount.²⁶ Hence, their corruption causes a flow of cash to foreign banks or causes them to hide their financial assets as well as the sources of earning, which leads to money laundering. It is of paramount importance we curb corruption in order to prevent this form of crime

²² See IAN JEFFRIES, *THE NEW RUSSIA: A HANDBOOK OF ECONOMIC AND POLITICAL DEVELOPMENT* 88 (2002).

²³ *Id.*

²⁴ See COMMONWEALTH SECRETARIAT, *COMBATING MONEY LAUNDERING AND TERRORISM FINANCING* 66 (2006).

²⁵ See MARGARET E. BEARE, *ENCYCLOPEDIA OF TRANSNATIONAL CRIME AND JUSTICE* 37 (2012) [Hereinafter: Beare].

²⁶ *Id.*

2.1.5. FAILURE OF BANKS IN DETECTING LAUNDERED MONEY

Another reason for the untracked facilitation of money laundering is the failure of banks to detect and report the money in their reserves that is being laundered.²⁷ Huge sums of money are transferred by money launderers to foreign banks, and some accept without carrying out any effective inspection as to their source.²⁸

Unfortunately, there is no automated mechanism devised worldwide to accurately track down the source of money; neither do most banks usually pay any attention to it because of the costs associated with it²⁹. Furthermore, there is no incentive to use resources to investigate the money that has been placed in their financial reserves.³⁰ Therefore, the issue remains untouched and unrestrained, and causes banks not to perform sufficient scrutiny over the funds that reach their branches through wire transfers or any other means, which consequently encourages money launderers to transfer funds to foreign banks without any threat of being accountable for the actual source of the money.³¹ For example, in 2010 H.S.B.C. was convicted of being involved in money laundering as it did not scrutinize the movement of laundered cash that its different branches worldwide were receiving and transacting.³² Consequently, the bank was fined \$1.9 billion by the international financial regulatory and A.M.L. authorities.³³

2.1.6. NATURE OF BORDERS

Online financial transactions and the smuggling of cash through airports are not the only means of laundering money. Cash is also smuggled physically through borders, particularly in those countries where there is weak or no

²⁷ See 1 LAWRENCE SALINGER, *ENCYCLOPEDIA OF WHITE-COLLAR & CORPORATE CRIME* 78 (2005).

²⁸ *Id.* See also U.S. Dep't of State, *The Fight against Money Laundering*, *ECON. PERSPECTIVES*, May 2001, at 27.

²⁹ See STEVEN MARK LEVY, *FEDERAL MONEY LAUNDERING REGULATION: BANKING, CORPORATE AND SECURITIES COMPLIANCE* 1-17 (2nd ed. 2016).

³⁰ See MICHAEL TONRY, *THE OXFORD HANDBOOK OF CRIME AND PUBLIC POLICY* 375 (2009).

³¹ *Id.*

³² See FERNANDO SOTELINO & IRENE FINEL-HONIGMAN, *INTERNATIONAL BANKING FOR A NEW CENTURY* 202 (2015).

³³ *Id.*

vigilance over cross-border trafficking.³⁴ For instance, this practice is more common across the international borders of countries where the border area is either mountainous or too long to control and monitor strictly and continuously, e.g., across the Mexico–U.S. border³⁵ or the Afghanistan–Pakistan border.³⁶ ³⁷ The money launderers, in such a case, act as smugglers and either cross the border themselves or assign the chore to their loyal followers.³⁸ Drug lords prefer to launder money by smuggling cash in return for drugs and vice versa.³⁹ This is the quickest and safest mode of money laundering for them as they do not have to create any bank accounts and never have to show their identity during online transactions. They remain undercover and get money through furtive sources of money laundering.⁴⁰

This issue has affected the peace of the countries where the smuggling of cash and weapons is taking place across borders.⁴¹ There have been reported

³⁴ BEARE, *supra* note 25, at 37.

³⁵ *Id.*, at 38.

³⁶ See 2 BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT: MONEY LAUNDERING AND FINANCIAL CRIMES 149 (2011) [Hereinafter: Brownfield].

³⁷ Both, the Mexico–USA and the Pakistan–Afghanistan borders are spread across mountainous regions and they are very difficult to fully track and continuously monitor by the border security forces. For details, see BEARE, *supra* note 25, at 38. see also *Id.* .

³⁸ Brownfield, *supra* note 36, at 11.

³⁹ See WILLIAM BLAKE, A MANUAL OF PRIVATE INVESTIGATION TECHNIQUES 222 (2013).

⁴⁰ For instance, in Mexico and Afghanistan, smugglers and money launderers smuggle large sums of money as well as large quantities of drugs across international borders, because, here, Mexico and Afghanistan are the leading manufacturers and traffickers of illicit narcotic drugs. The drug dealers and manufacturers in these countries earn money through smuggling drugs to other countries and laundering cash profits in return. The Mexican drug dealers have the aim of smuggling drugs through the U.S. border in order to gain a higher return in U.S. currency by surreptitiously selling drugs there and to launder the earned dollar currency in Mexico. Similarly, the Afghan drugs manufacturers get laundered cash money by trafficking the drugs across the international borders of Afghanistan to the Balkan states, Iran, Central Asian republics, and through Pakistan to the Golden Triangle (Burma–Thailand–Laos), which is the center of drugs trafficking to East Asia, Australia, Canada, and Europe. The border with Pakistan becomes the gateway for Afghan drugs manufacturers for receiving of large sums of cash, which they earn from the Golden Triangle region's traffickers of drugs. Hence, the cash surreptitiously flows in the region in parallel to the clandestine drugs trafficking. For details, see Brownfield, *supra* note 36, at 11–149.

⁴¹ For instance, in certain states of the US, gun permit laws are in effect that legalize the sale and carrying of guns. The drug dealers, money launderers, smugglers, and criminals from Mexico acquire guns from these states and surreptitiously smuggle them to Mexico. In this way, the guns and weapons are being trafficked to Mexico. For details, see JESS T. FORD, FIREARMS TRAFFICKING: U.S. EFFORTS TO COMBAT ARMS TRAFFICKING TO MEXICO FACE PLANNING AND COORDINATION CHALLENGES: CONGRESSIONAL TESTIMONY, 3. (2009) . Arturo Santa Cruz and Brian Bow further elucidate in their book that drugs trafficking organizations (DTOs) earn money by acquiring weapons from U.S. firearms traders and selling the weapons to other criminal organizations in Mexico or in other regions. The money earned by these DTOs is, in fact, black money that they receive through laundering of cash. For details, see BRIAN J. BOW & ARTURO SANTA-CRUZ, THE STATE AND SECURITY IN MEXICO: TRANSFORMATION AND CRISIS IN REGIONAL PERSPECTIVE, 30 (2013).

cases in which the smuggled currency has been used for illegitimate purposes, i.e., mostly for financing terrorist and anti-state activities in these countries.⁴²

2.2. THE THREE STAGES OF MONEY LAUNDERING

Money is laundered in the following three steps.⁴³

2.2.1. PLACEMENT

The first step is related to depositing cash funds in foreign banks.⁴⁴ This step is called placement, as the funds are placed in foreign banks without drawing the attention of national authorities.⁴⁵

2.2.2. LAYERING

The second step is linked to carrying out financial transactions, cash withdrawals, wire transfers, etc. and hiding the original source of money.⁴⁶ This step is called layering, as the money launderer performs several financial transactions, which act as layers of cash.⁴⁷ Online transactions, notably wire transfers, are the quickest way of layering,⁴⁸ as multiple cash transactions can occur speedily through them.

2.2.3. INTEGRATION

The third step is related to the use of money for investment or any other action. This step is called the integration of funds, as the laundered money is actually used at this stage.⁴⁹ When money has reached this step, it becomes

⁴² Beare, *supra* note 25, at 37–40.

⁴³ See ROBERTO DURRIEU, *RETHINKING MONEY LAUNDERING & FINANCING OF TERRORISM IN INTERNATIONAL LAW: TOWARDS A NEW GLOBAL LEGAL ORDER*, 36–38 (474 ed. 2013).

⁴⁴ See SUNDER GEE, *FRAUD AND FRAUD DETECTION: A DATA ANALYTICS APPROACH* 254 (2015); See also ENID MUMFORD, *DANGEROUS DECISIONS: PROBLEM SOLVING IN TOMORROW'S WORLD* 187 (1999).

⁴⁵ *Id.*

⁴⁶ See KAROLINE SPIES & RAFFAELE PETRUZZI, *TAX POLICY CHALLENGES IN THE 21ST CENTURY* 258 (2014).

⁴⁷ *Id.*

⁴⁸ See JAMES BANKS, *ONLINE GAMBLING AND CRIME: CAUSES, CONTROLS AND CONTROVERSIES* 71 (2016).

⁴⁹ See MUMFORD, *supra* note 44.

difficult or almost impossible for the A.M.L. authorities to track the laundered money, unless a trial or investigation had started when the money was in the first or second stage.⁵⁰

All of the three steps are interconnected and must take place for the laundered money to be used in the foreign land.⁵¹ Nonetheless, if someone transfers large taxable⁵² sums of money to the foreign banks and does not withdraw the money there, i.e., if there is a placement of funds but no withdrawal or integration, then this would still be considered money laundering if the funds had been transferred without notifying the local government authorities and, in particular, if the amount had been transferred without paying tax on it.⁵³

2.3. THE METHODS OF MONEY LAUNDERING

There are also several methods that smugglers and money launderers use to perform the crime of money laundering without bringing it to the attention of any A.M.L. authorities

2.3.1. STRUCTURING OF MONEY

This method entails the division of large amounts of cash, which need to be laundered, into smaller amounts.⁵⁴ Each divided amount is then transferred, through money orders, online transactions, cash deposits, etc., to foreign

⁵⁰ See 1 ROBERT C. EFFROS, *CURRENT LEGAL ISSUES AFFECTING CENTRAL BANKS* 240 (1992); see also its Volume 2, 1994.

⁵¹ MADINGER, *supra* note 1, at 7.

⁵² In every country, national governments have allowed certain amount of cash that can be transferred or moved across international borders for every individual for any purpose. Any cash beyond that certain amount is a taxable amount of money. If the taxable amount of cash is transferred or moved across the international border without notifying the local financial regulatory authority, government, or tax authorities, then this will be considered money laundering. For details, see WORLD BANK (WB), *Combating Money Laundering and the Financing of Terrorism: A Comprehensive Training Guide* (Jun. 25, 2009), <http://documents.worldbank.org/curated/en/389491468331905743/pdf/499600v10PUB0C101OfficialUse0Only1.pdf>. In addition, to read about the taxable amount of a country, see the local laws and financial regulations of that country.

⁵³ *Id.*

⁵⁴ See PIERRE-LAURENT CHATAIN, ANDREW ZERZAN, WAMEEK NOOR, NAJAH DANNAOUI & LOUIS DE KOKER, *PROTECTING MOBILE MONEY AGAINST FINANCIAL CRIMES: GLOBAL POLICY CHALLENGES AND SOLUTIONS* 35 (2011).

banks. The nontaxable sum,⁵⁵ which can be legally traveled with, can also be taken to the foreign country by traveling legitimately. The scheme of dividing a sum of money into smaller portions and transferring the portions is also termed “smurfing.”⁵⁶ It generally includes the first stage of money laundering—the placement of funds in foreign banks—either through online transfers, wire transfers, money ordering, or traveling as a group but pretending to be individuals, with each person having the maximum but different amount of cash to legally travel with.⁵⁷

2.3.2. SMUGGLING

This method involves taking bulk cash to a foreign country by deceiving the airport or border authorities of the actual amount of money being displaced. This amount is then deposited into a bank of that foreign country, where the money laundering laws might be weaker or not strictly enforced.⁵⁸ This is considered to be the most common method of money laundering.⁵⁹

2.3.3. LAUNDERING THROUGH TRADE

Money laundering through trade happens when invoices are either undervalued or overvalued, depending upon the cash inflow/outflow or costs, respectively. Traders often accomplish this by providing fake invoices and accounts.⁶⁰

2.3.4. N.G.OS.

Founding a non governmental organization (hereinafter N.G.O.) and registering it in another country and providing funds to it can lead to money laundering if the N.G.O. is not making use of the funds for a noble cause for the

⁵⁵ The maximum amount of cash which it is legal to possess while traveling abroad.

⁵⁶ Zerzan et al., *supra* note 54.

⁵⁷ See PHILIP REICHEL & JAY ALBANESE, *HANDBOOK OF TRANSNATIONAL CRIME* 170–260 (2014).

⁵⁸ Beare, *supra* note 25, at 37.

⁵⁹ See Act of Mar. 31, 2002, Pub. L. No. 107–156, 2049.

⁶⁰ See RAYMOND W. BAKER, *CAPITALISM’S ACHILLES HEEL: DIRTY MONEY AND HOW TO RENEW THE FREE/MARKET SYSTEM* 25 (2005).

local public.⁶¹ Some businessmen create trust organizations and give their money to them as a charity payment so that the charitable amount is not taxed; this therefore avoids taxation.⁶² If such an N.G.O. or trust organization is working in another country and the funds are provided to it in the foreign land illegitimately, then it certainly constitutes money laundering.⁶³

On the other hand, ironically, some N.G.Os. have also been reported to be linked with terrorist or anti-state elements, and the funds are generated to such elements through N.G.Os.⁶⁴ For instance, in Pakistan, after the attack on the Army Public School children in Peshawar, several N.G.Os. were banned from Pakistan by the Interior Ministry because those N.G.Os. were reportedly involved in anti-state activities and were also diverting their funds to finance terrorism.⁶⁵ Similarly, “madrassahs” and educational trust institutes that were receiving laundered money from abroad were also shut down by the Pakistani government.⁶⁶

2.3.5. ROUND TRIPPING

Round tripping is used for money laundering,⁶⁷ as well as for tax evasion.⁶⁸ This is a technique through which a company sells its assets to another

⁶¹ This aspect was identified by the Bank Secrecy Act of U.S (1970). For details, see FED. FIN. INSTITUTIONS EXAMINATION COUNCIL, *BANK SECRECY ACT/ ANTI-MONEY LAUNDERING EXAMINATION MANUAL* 311 (2014).

⁶² This is a globally accepted principle that nonprofit charity organizations are not taxed in accordance with the laws in every country, generally. For details, see JOSEPH J. CORDES, ROBERT D. EBEL & JANE G. GRAVELLE, *THE ENCYCLOPEDIA OF TAXATION & TAX POLICY* 277 (2005).

⁶³ This is because the NGO is not working as a charitable organization as it is not performing any charitable nonprofit activity. It receives large cash flows that are, though taxable, not taxed owing to the charity label associated with that organization. Hence, such an NGO is showing a false appearance of itself, which itself is a crime in addition to the crime of money laundering that is associated with the cash it receives. For details, see MICHAEL BARNETT & JANICE STEIN, *SACRED AID: FAITH AND HUMANITARIANISM* 152–153 (2012).

⁶⁴ See EMILY JANSONS, FEMIDA HANDY & MEENAZ KASSAM, *PHILANTHROPY IN INDIA: PROMISE TO PRACTICE* 40 (2016). See also Bank Secrecy Act, *supra* note 61.

⁶⁵ For instance, see the statements by the former Interior Minister of Punjab Col. (Retd.) Shuja Khanzada at: IMRAN ALI, *Some NGOs involved in Pakistan terrorism – Shuja Khanzada*, STAYCONNECTING.COM (Apr. 11, 2015), <http://stayconnecting.com/some-ngos-involved-in-pakistan-terrorism-shuja-khanzad/>; See also the statements from the Federal Interior Minister Ch. Nisar Chaudhry at: IRFAN HAIDER, *Pakistan will not allow NGOs working against national interest: Nisar*, DAWN.COM (June 12, 2015), <https://www.dawn.com/news/1187773>.

⁶⁶ DAWN NEWSPAPER STAFF REPORTER, *Terror – linked madrassahs to face action: Khanzada*, DAWN.COM (Jan. 16, 2015), <http://www.dawn.com/news/1157389>.

⁶⁷ See LINDA M. AMBROSIE, *SUN & SEA TOURISM: FANTASY AND FINANCE OF THE ALL-INCLUSIVE INDUSTRY* 3 (2015).

⁶⁸ See ALAN R. KANUK, *CAPITAL MARKETS OF INDIA: AN INVESTOR’S GUIDE* (2011).

company and then, at the same time, signs an agreement to buy some or all of the same assets at the same price. The selling and buying of assets liquefies⁶⁹ the latter, facilitating their quick conversion into cash and vice versa. The cash can be moved abroad by labeling it as “foreign direct investment” (hereinafter F.D.I.) and is exempted from tax.⁷⁰ For instance, an individual or a company might hire a foreign law firm or any other organization and pay it for their services; it then cancels the agreement exactly at the time when the money (fee) has been sent.

2.3.6. BANK CONTROL

In this method, money launderers become major shareholders of a bank in a foreign or local region where there is weak scrutiny related to money laundering. Hence, by making an investment in the bank and gaining some shares, the money launderers try to gain influence over the bank and perform money laundering through it without scrutiny as it becomes a major client of that bank. This kind of money laundering is very rarely identified because the financial regulatory authorities consider the movement of currencies from the bank as usual cash proceeds.⁷¹ Nonetheless, examples of investigating banks for money laundering cases exist in recent history; for instance, H.S.B.C. was fined \$1.9 billion after conviction for money laundering.⁷²

2.3.7. CASH-ORIENTED BUSINESSES

Some enterprise organizations are involved in cash-oriented businesses, i.e., they deal with large sums of cash and have multiple operations, some of which are also linked to illegal activities, for instance gambling bars, casinos, and clubs. Such businesses do not specifically show their income earned through illegal means, neither do they record the destination of their funds.⁷³ They

⁶⁹ Liquefying the assets implies turning the assets into cash. A liquefied asset can be bought and sold at the same price.

⁷⁰ BEARE, *supra* note 25, at 37.

⁷¹ See LAWRENCE M. SALINGER, *ENCYCLOPEDIA OF WHITE-COLLAR & CORPORATE CRIME* 78 (2005).

⁷² See MERRILL SINGER & BRYAN PAGE, *THE SOCIAL VALUE OF DRUG ADDICTS: USES OF THE USELESS* 145 (2016).

⁷³ See BANKS, *supra* note 48.

depict the “dirty money”⁷⁴ as clean money that is included in their profit,⁷⁵ and this constitutes money laundering. For example, a person enters a casino with huge sums of cash earned through illegal means. He plays the game for a while and gives all the cash to the casino. This cash is represented by casinos as a profit amount earned through gambling wins.⁷⁶ However, it is not investigated whether the person who gave the cash to the casino might have originally worked for that casino or for a money launderer who is connected directly to the casino.

2.3.8. MONEY LAUNDERING THROUGH REAL ESTATE

Some criminals buy property with cash earned through illegal means and then sell the property to reacquire the cash, so as to justify it as legitimate money.⁷⁷ As the illegitimate money is converted into legitimate earnings, it is considered laundered money.⁷⁸ It is also possible that the price of that property may be underrepresented to reduce the taxable amount.⁷⁹ This hides the exact amount of money spent on buying the property, and it is mainly done to evade tax.

2.3.9. FOREIGN EXCHANGE

Uncertified and unregulated foreign exchange companies also have a presence in different regions of several countries. These companies also collect

⁷⁴ Money earned through illegitimate means.

⁷⁵ World Bank, *supra* note 52.

⁷⁶ See U.S. MONEY LAUNDERING THREAT ASSESSMENT 33 (2005)US DRUG ENFORCEMENT ADMINISTRATION – DEPARTMENT OF JUSTICE,National Money Laundering Threat Assessment, 33 (2005); See also BANKS, *supra* note 48.

⁷⁷ This process is also called “whitening of money.” The black money earned by the criminals is whitened by deceptively depicting the earnings as legitimate. For instance, if a person who earns black money and also owns a property, e.g., a restaurant or hotel, then he/she can persuade the tax authorities that the earnings are coming as profits from his/her restaurant or hotel property and are not from any illegal source. In this way, he/she can outwardly present his black money as legitimate. However, for this purpose, the launderer may need to perform or acquire services of a fraudulent audit of his/her money. He can perform this by bribing audit officials to list his black money as white money and earnings from his legitimate sources. For details, see JORIS D. KILA & MARC BALCELLS, CULTURAL PROPERTY CRIME: AN OVERVIEW AND ANALYSIS OF CONTEMPORARY PERSPECTIVES AND TRENDS 80 (2014).

⁷⁸ The black money has been converted to white money; however, it will still be considered laundered money because the conversion is illegal and surreptitious. The act of unlawful conversion or the act of hiding the actual source of money directly constitutes money laundering. For details, see VARUN CHANDNA, THE CURIOUS CASE OF BLACK MONEY AND WHITE MONEY: EXPOSING THE DIRTY GAME OF MONEY LAUNDERING! (2017).

⁷⁹ See US CONGRESS, CONGRESSIONAL RECORD, VOLUME 149, PT. 12, 16823 (2003).

remittances and then deliver the relevant amount of remittance to the families of the senders without notifying government authorities.⁸⁰ These foreign exchange companies have multiple currencies with them and they usually transfer funds abroad upon the requests of the locals. Meanwhile, the government never notices that the foreign exchange companies are transferring funds abroad or are collecting cash that is sent to them from people from foreign lands as remittances. Hence, the government is deprived of the collection of remittances, as well as the taxes that it can get from the cash that is sent abroad. As a result, this method of currency exchange or remittances, which is also related to Hawala⁸¹ or Hundi, is illegal⁸² in most countries.⁸³

2.4. EFFECTS OF MONEY LAUNDERING

The effects of money laundering are socioeconomic in nature.⁸⁴ Money laundering affects the nation's economy, as well as giving rise to several social costs.⁸⁵ On the one hand, it spoils the strength of the economy by causing a corrosive impact;⁸⁶ on the other hand, it acts as a social evil.⁸⁷ Some of the major impacts of money laundering are discussed below.

2.4.1. ECONOMIC IMPACTS

Money laundering reduces the control of government over economic policy. It also raises the risk of the potential failure of banks, businesses, and government to implement economic policies. Furthermore, due to globalization, the impacts reach international monetary systems and can

⁸⁰ For instance, read about the remittances coming to Pakistan and whitening of black money flowing from Pakistan at: RASHID AMJAD & SHAHID JAVED BURKI, *PAKISTAN: MOVING THE ECONOMY FORWARD* 15 (2015).

⁸¹ CASSARA, *supra* note 19, at 61.

⁸² See DAVID GOLD & SEAN COSTIGAN, *TERRORNOMICS* 58 (2016).

⁸³ See Mohammed El-Qorchi, *Hawala: Based on Trust, Subject to Abuse*, *ECON. PERSP.*, Sept. 2004, at 23.

⁸⁴ SUSANNE ROSNER, *MONEY LAUNDERING* 4 (2010). See also INTER-AMERICAN DEVELOPMENT BANK, *UNLOCKING CREDIT: THE QUEST FOR DEEP AND STABLE BANK LENDING*, 242 (2004).

⁸⁵ See John McDowell & Gary Novis, *The Consequences of Money Laundering and Financial Crime*, *ECON. PERSP.*, May 2001, at 8.

⁸⁶ *Id.*, at 6.

⁸⁷ *Id.* See also DONATO MASCIANDARO, *GLOBAL FINANCIAL CRIME: TERRORISM, MONEY LAUNDERING, AND OFF SHORE CENTRES*, 63 (2004).

adversely affect international currencies and economies, depending upon the volume of money laundering.⁸⁸

Vulnerable Emerging Markets

Money laundering also affects emerging markets in those regions where it is established. Emerging markets are more vulnerable to the impact of money laundering because financial regulatory authorities give more attention to well-established and strong markets than to emerging ones.⁸⁹

For instance, cross-border trade can be an emerging market if the relations between the bordering countries have been recently established, as peaceful and agreements of economic cooperation and trade development have been signed. In such a case, if the encouragement of trade is greater than the oversight over trade, then the smugglers, drug lords, and even terrorists will benefit from it by moving their black money, drugs, and arms across the border to support their criminal activities there.⁹⁰ Hence, the impacts of money laundering are both microeconomic and macroeconomic in nature.⁹¹

Damage to the Private Sector

Damage to the private sector is another adverse effect that the money launderers cause to the economy of a nation. Money launderers often act through front companies, which acquire their funds. By acquiring large amounts of funds they can lower the prices of their services or products to a large extent to penetrate the market. They gain competitive advantage when other companies are not able to match their prices.⁹² Hence, intense competition can devastate existing small and medium-sized private companies

⁸⁸ Novis & McDowell, *supra* note 85, at 7.

⁸⁹ Novis & McDowell, *supra* note 85, at 7.

⁹⁰ See WILLIAM BLAKE, A MANUAL OF PRIVATE INVESTIGATION TECHNIQUES, 222 (2013); SEE ALSO BARRY LEONARD, NATIONAL DRUG THREAT ASSESSMENT 2008 (2008).

⁹¹ Novis & McDowell, *supra* note 85, at 7.

⁹² Novis & McDowell, *supra* note 85, at 7.

because smaller companies usually lack sufficient capital to bear the brunt of price competition.⁹³

An example of this is the founding of a foreign exchange company, which may offer its services at a very low profit and then destroy the operations of other—certified—foreign exchange companies. Hence, that company will also proceed with money laundering activities without bringing it to the knowledge of the local government or by hiding the exact amount of the financial transactions that it carries out. Instances have occurred in the United States where money launderers have adopted this strategy, particularly for exchanging currencies of high international value with low-value regional currencies.⁹⁴

Failure of Banks and Financial Institutions

Money laundering can cause the failure of banks and financial institutions. For instance, if a large sum of money is transferred to a bank and then, after a short duration, that money is transferred to another bank, it may cause a liquidity problem to the financial assets of that bank.⁹⁵ The bank can go bankrupt if a large number of people start approaching it to withdraw their deposits upon knowing that a massive amount of money has been moved from that bank by money launderers.⁹⁶ There are many examples of such incidents in history; for instance, the failures of the Liberty Reserve Bank⁹⁷ and Bank of Credit and Commerce International (hereinafter B.C.C.I.)⁹⁸ are both cases where banks have failed owing to money laundering.⁹⁹

⁹³ See Maurice E. Stucke, *Is Competition Always Good?*, 7 J. ANTITRUST ENFORCEMENT 162 (2013).

⁹⁴ See 1 LAWRENCE SALINGER, ENCYCLOPEDIA OF WHITE-COLLAR & CORPORATE CRIME 78 (2005).

⁹⁵ See MARGARET BEARE, ENCYCLOPEDIA OF TRANSNATIONAL CRIME AND JUSTICE, 37 (2012).

⁹⁶ See THE LAW SOCIETY, *Chapter 11: Money Laundering warning signs*, LAWSOCIETY.ORG.UK (Oct. 22, 2013), <http://www.lawsociety.org.uk/support-services/advice/practice-notes/aml/money-laundering-warning-signs>.

⁹⁷ For details about the case of the Liberty Reserve Bank, see: PHILIP MULLAN, *THE DIGITAL CURRENCY CHALLENGE: SHAPING ONLINE PAYMENT SYSTEMS THROUGH U.S. FINANCIAL REGULATIONS* (2014). See also SUSAN ROSE-ACKERMAN & BONNIE J. PALFIKA, *CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM* (2ND ED., 2016).

⁹⁸ For details about the BCCI money laundering case, see: JOHN KERRY & HANK BROWN, *THE BCCI AFFAIR: A REPORT TO THE COMMITTEE ON FOREIGN RELATIONS* 202 (2012). See also JAMES R. RICHARDS, *TRANSNATIONAL CRIMINAL ORGANIZATIONS, CYBERCRIME, AND MONEY LAUNDERING* 44 (1999).

⁹⁹ See also ROBERT E. GROSSE, *DRUGS AND MONEY: LAUNDERING LATIN AMERICA'S COCAINE DOLLARS* 95 (2001).

Reputation

Money laundering tarnishes the reputation of financial institutions and the nation's economy especially when money laundering also causes the embezzlement of funds etc. In such a case, market confidence diminishes and investors lose interest in the local market.¹⁰⁰ Moreover, if the speculations of the ill reputation of the market reach abroad, then it also reduces the chances of F.D.I.¹⁰¹ This results in declining economic opportunities for the economy at both domestic and international levels. Hence, it eventually leads to weaker economic growth and it becomes harder to revive the economy.¹⁰²

Impact on Economic Policy

As money laundering tarnishes the reputation of the financial institutions of a country, it might also affect the related economic indicators and variables, for instance the interest rate, which can affect inflation, Consumer Price Index (hereinafter C.P.I.), and the value of the currency of that country. This can cause monetary instability and can also affect the prices of goods in the country.¹⁰³

Decline in Tax Revenues

Money laundering directly affects the government's tax revenue. As A huge sum of currency that could have been taxed is moved abroad. This loss of revenue must be covered by the government by collecting more taxes from other taxpayers by increasing the tax rate.¹⁰⁴ This hurts honest taxpayers, as well as making tax collection tougher for the government as the public may retaliate by protesting against the hike in tax rates.

¹⁰⁰ Novis & McDowell, *supra* note 85, at 8.

¹⁰¹ See I Wayan Nasa Nugraha, *The Impact of Corruption and Money Laundering on Foreign Direct Investment in ASEAN*, 6 J. EKONOMI KUANTITATIF TERAPAN 106, 109 (2013).

¹⁰² Novis & McDowell, *supra* note 85, at 8.

¹⁰³ Novis & McDowell, *supra* note 85, at 7.

¹⁰⁴ Novis & McDowell, *supra* note 85, at 8.

2.4.2. SOCIAL IMPACTS

Money laundering gives birth to a number of social costs and dilemmas.¹⁰⁵ It also affects the reputation of a country at the international level if it appears that the financial institutions of that country might be involved in money laundering.¹⁰⁶ Furthermore, it can expose or encourage the people of a country to smuggling, drug trafficking, etc. Money laundering can also contribute to other crimes, as criminals, drug lords, smugglers, black money owners, etc. have to hide their source of income; moreover, they have to employ money laundering techniques to conceal their black money under the cloak of legality or safety from law enforcement agencies.¹⁰⁷ Hence, money laundering gives a safe haven to criminals and terrorists to hide their illegally earned money and, therefore, motivates others to enter the criminal world as they might consider any of the methods of money laundering to be a promoter and cover to their criminal activities.¹⁰⁸ Thus, crime will spread in society, which has not only geographical but also international implications because the nature of the crime has become global in scope.

3. GLOBAL MAGNITUDE AND COMBATING OF MONEY LAUNDERING

3.1. MAGNITUDE OF THE PROBLEM

Several financial regulatory organizations have attempted to predict the overall scale of money laundering. Michel Camdessus, the former managing director of the I.M.F., predicted that the total volume of money being laundered has reached approximately 55% of the total gross domestic product (G.D.P.) of all the countries in the world.¹⁰⁹

¹⁰⁵ Novis & McDowell, *supra* note 85, at 8. See also DONATO MASCIANDARO, GLOBAL FINANCIAL CRIME: TERRORISM, MONEY LAUNDERING, AND OFF SHORE CENTRES 63 (2004).

¹⁰⁶ Novis & McDowell, *supra* note 85, at 8.

¹⁰⁷ See U.S. DEP.'T JUST., DRUGS, CRIME, AND THE JUSTICE SYSTEM, 8 (1992).

¹⁰⁸ See *supra* note 60.

¹⁰⁹ Address by Michel Camdessus, Managing Director of the International Monetary Fund at the Plenary Meeting of the Financial Action Task Force on Money Laundering: the Importance of International Countermeasures, (February 10, 1998).

Nonetheless, it is almost impossible to give an exact estimate of the total magnitude of money that is being laundered owing to the furtiveness associated with each of the money laundering methods.¹¹⁰ The Financial Action Task Force (hereinafter F.A.T.F.)¹¹¹ confirms this: “Overall, it is absolutely impossible to produce a reliable estimate of the amount of money laundered.”¹¹²

Similarly, researchers and scholars have also been unable to estimate the precise amount of money being laundered at the global level.¹¹³ Nonetheless, rough estimates still suggest that the overall global volume of money laundering might be in the billions of U.S. dollars.¹¹⁴

3.2. CURBING MONEY LAUNDERING

As explained in the first section of this paper, money laundering causes adverse effects to the economy and society of a country; therefore, there is a need to curb this crime by banishing and eliminating all of the conditions that support it. Most nations, including Pakistan,¹¹⁵ need to take serious but focused action immediately so as to rid this disease from and within society, particularly if the money laundering is widespread there. It is also notable to mention here that the curbing of money laundering will also cause a demise in other relevant criminal activities—for instance, drug trafficking, smuggling, and the financing of terrorism—because all of these crimes are financed by money laundering activities.¹¹⁶

¹¹⁰ See MARINELLA MARMO & NERIDA CHAZAL, *TRANSNATIONAL CRIME AND CRIMINAL JUSTICE*, 121 (2016). [Hereinafter Marmo & Chazal].

¹¹¹ The Financial Action Task Force (F.A.T.F.) is an international organization combating money laundering activities. To know more about F.A.T.F., see: OECD, *THE FINANCIAL WAR ON TERRORISM: A GUIDE BY THE FINANCIAL ACTION TASK FORCE* (2004). See also James K. Jackson, *The Financial Action Task Force: An Overview*, (CONGRESSIONAL RESEARCH SERVICE, 2012). JAMES K. JACKSON, CONG. RESEARCH SERV., RS21904, *THE FINANCIAL ACTION TASK FORCE: AN OVERVIEW* (2012).

¹¹² MARMO & CHAZAL, *supra* note 110, at 121.

¹¹³ See DIANA KENDALL, *SOCIOLOGY IN OUR TIMES*, 204 (2015).

¹¹⁴ See GEORGE WALKER & JOSEPH NORTON, *BANKS: FRAUD AND CRIME* 203 (2013).

¹¹⁵ In Pakistan, money laundering is pervasive, particularly in the elites; therefore, it needs to be given special treatment there. For details, see IMF, *Pakistan: 2009 Article IV Consultation and First Review Under the Stand-By Arrangement: Staff Report; Staff Statement; Public Information Notice and Press Release on the Executive Board Discussion; and Statement by the Executive Director for Pakistan*, IMF Country Report No. 09/123 (April 13, 2009).

¹¹⁶ ASIAN DEVELOPMENT BANK, *supra* note 7. See also BRIGITTE UNGER & DAAN VAN DER LINDE, *RESEARCH HANDBOOK ON MONEY LAUNDERING*, 41 (2013).

To end this disease from society, there are a few options—for instance, legislation, the judicious implementation of laws, strengthening the rule of law, the creation and collaboration of A.M.L. agencies at the national and international levels, strict security at airports and borders, enhanced accountability of politicians, and strict implementation of tax laws—that can be utilized.

3.2.1. INTERNATIONAL A.M.L. ORGANIZATIONS

There are several organizations that work to curb money laundering activities at the international level. The most prominent among them are mentioned below.

3.2.1.1. FINANCIAL ACTION TASK FORCE (F.A.T.F.)

In 1989, the G7¹¹⁷ countries founded the F.A.T.F., headquartered in Paris, France.¹¹⁸ At present, thirty-six countries are members of F.A.T.F.¹¹⁹ The main purpose of F.A.T.F. is to devise an intergovernmental response for curbing money laundering;¹²⁰ however, in October 2001, after 9/11, it took on another essential goal in order to accomplish the combating the financing of terrorism.¹²¹ It creates policies and strategies and gives advice to the governments for A.M.L. and Combating Financing Terrorism (hereinafter C.F.T.) laws and policy reforms.¹²² It also monitors the government's financial activities to track any misappropriation related to money laundering regulations and provides suggestions to the governments upon identifying any

¹¹⁷ The USA, Canada, the UK, France, Germany, Italy, and Japan.

¹¹⁸ See ERROL P. MENDES, *GLOBAL GOVERNANCE, HUMAN RIGHTS AND INTERNATIONAL LAW: COMBATING THE TRAGIC FLAW* 213 (2014).

¹¹⁹ *Id.* See also NORMAN MUGARURA, *THE GLOBAL ANTI-MONEY LAUNDERING REGULATORY LANDSCAPE IN LESS DEVELOPED COUNTRIES* 80 (2nd ed. 2016).

¹²⁰ See ANTHONY PAYNE & NICOLA PHILIPS, *HANDBOOK OF THE INTERNATIONAL POLITICAL ECONOMY OF GOVERNANCE* 171 (2014).

¹²¹ See COMMONWEALTH SECRETARIAT, *COMBATING MONEY LAUNDERING AND TERRORIST FINANCING: A MODEL OF BEST PRACTICE FOR THE FINANCIAL SECTOR, THE PROFESSIONS AND OTHER DESIGNATED BUSINESSES* xi (2006).

¹²² Cf. COMMONWEALTH SECRETARIAT, *supra* note 121, at xi.

irregularities.¹²³ It can also suggest financial sanctions against countries that do not obey international regulations and policies.¹²⁴

3.2.1.2. UNITED NATIONS OFFICE ON DRUGS AND CRIME

The United Nations Office on Drugs and Crime (hereinafter U.N.O.D.C.) maintains up-to-date data related to drug trafficking, smuggling, money laundering, and terrorism financing.¹²⁵ It was founded in 1997 to create a combined mechanism to curb money laundering and the illegal trafficking of drugs.¹²⁶ It also offers technical and financial assistance to governments to devise effective mechanisms for curbing money laundering.¹²⁷

3.2.1.3. FINTRACA

FinTRACA, Financial Transactions and Reports Analysis Centre of Afghanistan, was founded in 2004 as an A.M.L. agency.¹²⁸ It is a semiprivate organization that works within Da Afghanistan Bank.¹²⁹ Its core function is to prevent access to the Afghan financial system to money launderers and those who are suspected of using the money to finance terrorism.¹³⁰ It works as a financial intelligence unit (hereinafter F.I.U.), gathering information and performing data analysis to track down the sources and destinations of money that come to or leave the Afghan financial system.¹³¹ Upon tracking the illegal origins or destinations of money, it coordinates with security agencies and law

¹²³ See U.S. GOV'T ACCOUNTABILITY OFF., GAO-09-794, COMBATING ILLICIT FINANCING 9 (2010). See also MIGRATION AND DEVELOPMENT: PERSPECTIVES FROM SMALL STATES (Wonderful Hope Khonje ed. 2015).

¹²⁴ *Id.* See also FATF Documents on the Forty Recommendations (FATF, August 2006).

¹²⁵ See International Money Laundering Information Network (IMOLIN) Publications / References (IMOLIN, 2013).

¹²⁶ See U.N. Secretary-General, Organization of the United Nations Office on Drugs and Crime, ¶1, U.N. Doc. ST/SGB/2004/6 (March 15, 2004).

¹²⁷ *Id.*

¹²⁸ See CHRISTOPHER J. CUBBAGE & DAVID J. BROOKS, CORPORATE SECURITY IN THE ASIA-PACIFIC REGION: CRISIS, CRIME, FRAUD AND MISCONDUCT 13 (2016).

¹²⁹ Central Bank of Afghanistan.

¹³⁰ CUBBAGE & BROOKS., *supra* note 128.

¹³¹ CUBBAGE & BROOKS., *supra* note 128.

enforcement departments to curb illegal financing activities and to investigate whether the money is being used to finance terrorism.¹³²

3.2.2. INTERNATIONAL A.M.L. STANDARDS

There are several standards that are followed by several countries worldwide to form the basis of their policies to counter money laundering and the financing of terrorism. Some of the most prominent ones are mentioned below.

3.2.2.1. UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Originally passed in 1988–1989, this convention offers a legal mechanism to combat drug trafficking at an international level.¹³³ The United Nations implemented this policy mechanism in 1989 and made it compulsory for its member states to follow this set of rules for combating drug manufacturing, distribution, and trafficking, which join hands with money laundering.¹³⁴

3.2.2.2. UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Presented in 2000, this multilateral treaty is focused on curbing transnational organized crimes.¹³⁵ ¹³⁶ The General Assembly of the United Nations adopted this treaty, also named the Palermo Convention, on November 15, 2000.¹³⁷ It has three core purposes:¹³⁸

1. To thwart drug and human trafficking, particularly for women and children.

¹³² See IMF, *Detailed Assessment Report on Anti-Money Laundering And Combating The Financing Of Terrorism*, IMF Country Report No. 16/43 (February, 2016).

¹³³ See US GOVERNMENT PRINTING OFFICE, *UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES : MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING THE UNITED NATIONS CONVENTION 1-27 (1989)*

¹³⁴ *Id.*

¹³⁵ Crimes that are coordinated across borders and have global implications.

¹³⁶ United Nations Convention Against Transnational Organized Crime and The Protocols Thereto, 1 (U.N.O.D.C., 2004). [Hereinafter: U.N.O.D.C.].

¹³⁷ *Id.* See also JAMES M. SCOTT, RALPH G. CARTER & A. COOPER DRURY, *IR - INTERNATIONAL RELATIONS* 376 (2nd ed. 2015).

¹³⁸ UNODC, *supra* note 136.

2. To prevent the smuggling of migrants through all channels of traveling, i.e., sea, air, and land.

3. To prevent the illegal manufacturing of arms that might be used for terrorist activities.

These three purposes have been defined according to the contemporary international laws of money laundering and arms, drugs, and human trafficking.¹³⁹

3.2.2.3. UNITED NATIONS CONVENTION AGAINST CORRUPTION

This convention contains seventy-one articles and eight chapters.¹⁴⁰ It puts emphasis on curbing corruption, bribery, the misappropriation of funds, and money laundering.¹⁴¹ It also offers technical assistance, data exchange, and asset recovery mechanisms to the governments.¹⁴²

3.2.2.4. F.A.T.F. RECOMMENDATIONS

The recommendations provided by the F.A.T.F. in 1989 have also been considered the basis of the A.M.L. laws that have been enacted worldwide.¹⁴³ The forty recommendations are related mainly to curbing organized crimes, drug trafficking, money laundering, and smuggling.¹⁴⁴

3.2.3. CRITICISMS OF A.M.L. STANDARDS

The new regulations have also been criticized.¹⁴⁵ For instance, Yehudah Barlev, who has been a fraud investigator and is associated with an international

¹³⁹ See SCOTT ET AL. *supra* note 137.

¹⁴⁰ See UNODC's Action against Corruption and Economic Crime (UNODC, 2016).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ See PIERRE HAUCK & SVEN PETERKE, INTERNATIONAL LAW AND TRANSNATIONAL ORGANIZED CRIME 244 (2016).

¹⁴⁴ See FRANK HOLDER, INTEGRITY IN BUSINESS: DEVELOPING ETHICAL BEHAVIOR ACROSS CULTURES AND JURISDICTIONS 73 (CRC Press ed., 2nd ed. 2016). See also VALSAMIS MITSILEGAS, MONEY LAUNDERING COUNTER-MEASURES IN THE EUROPEAN UNION: A NEW PARADIGM OF SECURITY GOVERNANCE VERSUS FUNDAMENTAL LEGAL PRINCIPLES 48 (2003).

¹⁴⁵ For instance, the A.M.L. legislations in United States have been criticized a lot. For details, see

agency, Barlev Investigative Accounting, considers the newly implemented A.M.L. laws to be “short-sighted” and easily violable by money launderers.¹⁴⁶ Moreover, criminals are still pursuing their activities by bypassing A.M.L. regulations and they usually find new methods to violate A.M.L. laws.¹⁴⁷ For instance, ATMs provide safe opportunities for terrorists to withdraw funds that are transferred to their accounts. Al-Qaeda members have been found to be continually using this method.¹⁴⁸

In another instance, The Economist criticized the effectiveness of A.M.L. and C.F.T. regulations as “costly failures” because, on the one hand, they are causing huge costs for the implementation of A.M.L. and C.F.T. laws and, on the other hand, they have failed to prevent terrorists from receiving financing.¹⁴⁹ The Economist estimates that A.M.L. efforts cost the European Union and the United States. around \$700 million in the year 2000 and this cost reached \$5 billion within three years.¹⁵⁰

Moreover, for what concerns providing training to employees of financial institutions, the issue is that financial organizations will not provide training as they consider it costly, as well as risky because the employees might leave the organization if they find a better job. In such a case the firm would get no benefit from training the employees.¹⁵¹ Hence, the requirement to train employees in a financial organization becomes null and void.

3.3. NOTABLE INTERNATIONAL MONEY LAUNDERING CASES

In the past two to three decades, some cases of money laundering have grabbed the attention of the media owing to the unexpected identified criminal

PETER REUTER & EDWIN M. TRUMAN, CHASING DIRTY MONEY: THE FIGHT AGAINST MONEY LAUNDERING 55 (2004).

¹⁴⁶ See Camilla Berens, *Expert Spies a Hole in the Law: Criminals Will Easily Find a Way Round the Regulations*, 33 FIN. MGMT. J. 5 (2004).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ See *Efforts to Combat the Financing of Terrorism are costly and ineffective*, THE ECONOMIST (Oct. 20, 2005), http://www.economist.com/node/5056338?story_id=e1_vdvgppr.

¹⁵⁰ See *Banks must fight money-laundering, but they need some help*, THE ECONOMIST (Oct. 14, 2004), <http://www.economist.com/node/3292933>.

¹⁵¹ Berens, *supra* note 146.

and the high volume of money laundering evidence found in these cases. Some prominent cases are mentioned below.

Bank of New York

The incident of money laundering took place in the late 1990s,¹⁵² when Russian capital equivalent to U.S.\$7.1 billion was laundered through bank accounts that were in control of some executives of the Bank of New York.¹⁵³ Reportedly, one of the vice presidents of the bank was identified as guilty of transferring capital and was charged with offenses after a thorough investigation was completed.¹⁵⁴ Initially, the bank was not found guilty and the offense remained toward the employee side of the bank;¹⁵⁵ however, after further investigations, in 2005, the bank accepted its mistake of not following the recommended procedure of A.M.L. regulations and paid \$38 million in fines.¹⁵⁶

Bank of Credit & Commerce International (B.C.C.I.)

B.C.C.I. was found guilty of laundering money for drug traffickers in the mid-1980s.¹⁵⁷ The estimated amount laundered was in the billions of dollars.¹⁵⁸ As a penalty for such a huge contribution to the crime, the bank was forced to close and was liquidated in 1991 upon the proving of the money laundering charges.¹⁵⁹

¹⁵² See THOMAS W. GOLDEN, STEVEN L. SKALAK, MONA M. CLAYTON & JESSICA S. PILL, *A GUIDE TO FORENSIC ACCOUNTING INVESTIGATION* 515 (2nd ed. 2015).

¹⁵³ See KRIS HINTERSEER, *CRIMINAL FINANCE: THE POLITICAL ECONOMY OF MONEY LAUNDERING IN A COMPARATIVE LEGAL CONTEXT* 5-6 (2002).

¹⁵⁴ See *supra* note 145.

¹⁵⁵ See *supra* note 145.

¹⁵⁶ See MICHAEL PARENTI, *DEMOCRACY FOR THE FEW* 102 (Wadsworth Publishing ed., 9th ed. 2010).

¹⁵⁷ See John Kerry & Senator Hank Brown, *The BCCI Affair: A Report to the Committee on Foreign Relations*, 202 (LULU.COM, 2011).

¹⁵⁸ See JAMES R. RICHARDS, *TRANSNATIONAL CRIMINAL ORGANIZATIONS, CYBERCRIME, AND MONEY LAUNDERING: A HANDBOOK FOR LAW ENFORCEMENT OFFICERS, AUDITORS, AND FINANCIAL INVESTIGATORS* 92 (1998).

¹⁵⁹ See ROBERT E. GROSSE, *DRUGS AND MONEY: LAUNDERING LATIN AMERICA'S COCAINE DOLLARS* 95 (13th ed. 2001).

H.S.B.C.

H.S.B.C. was found to be involved in keeping laundered money and approving the transactions of drug traffickers, banned Iranian organizations, and terrorists from 2001 to 2010.¹⁶⁰ It was penalized in 2012 and paid around \$1.9 billion in fines.¹⁶¹

Standard Chartered Bank

Standard Chartered Bank was found guilty of laundering billions of dollars for Iran for a decade in the 2000s.¹⁶² It facilitated around 60,000 transactions for Iran and the total worth of these transactions was approximately \$250 billion.¹⁶³ The bank was fined \$340 million for its involvement in laundering money and facilitating illegal transactions.¹⁶⁴

Liberty Reserves Bank

The Liberty Reserves bank of Costa Rica was found to be involved in laundering around \$6 billion.¹⁶⁵ After the proving of the charge, the bank was suspended and closed by U.S. federal authorities.¹⁶⁶

Vatican Bank

The Vatican Bank in the Vatican City, known in Italian as Istituto per le Opere di Religione (I.O.R.),¹⁶⁷ was charged with facilitating monetary transactions found to be linked with money laundering.¹⁶⁸ The bank was investigated by the

¹⁶⁰ See LOUISE I. SHELLEY, *DIRTY ENTANGLEMENTS: CORRUPTION, CRIME, AND TERRORISM* 196 (2014).

¹⁶¹ See ORDE F. KITTRIE, *LAWFARE: LAW AS A WEAPON OF WAR* 159 (2016).

¹⁶² For details, see: ORDE F. KITTRIE, *LAWFARE: LAW AS A WEAPON OF WAR* 144 (2016).

¹⁶³ See PHILIPPA X. GIRLING, *OPERATIONAL RISK MANAGEMENT: A COMPLETE GUIDE TO A SUCCESSFUL OPERATIONAL RISK FRAMEWORK* (2013). See also RONALD J. BURKE & SUZY FOX, *HUMAN FRAILTIES: WRONG CHOICES ON THE DRIVE TO SUCCESS* 77 (2016).

¹⁶⁴ See NIR KOSOVSKY, MICHAEL D. GREENBERG & ROBERT C. BRANDEGEE, *REPUTATION, STOCK PRICE, AND YOU: WHY THE MARKET REWARDS SOME COMPANIES AND PUNISHES OTHERS* 193 (2012).

¹⁶⁵ See JOHN A. ROTHCHILD, *RESEARCH HANDBOOK ON ELECTRONIC COMMERCE LAW* 54 (2016).

¹⁶⁶ See CLARE CHAMBERS-JONES & HENRY HILLMAN, *FINANCIAL CRIME AND GAMBLING IN A VIRTUAL WORLD: A NEW FRONTIER IN CYBERCRIME* 160 (2014).

¹⁶⁷ Translated as the "Institute of the Works of Religion."

¹⁶⁸ See FAUSTO MARTIN DE SANCTIS, *CHURCHES, TEMPLES, AND FINANCIAL CRIMES: A JURIDICAL PERSPECTIVE OF THE ABUSE OF FAITH* 72-73 (2015).

Italian authorities and \$30 million were seized from the bank as a punishment for facilitating the money laundering transactions.¹⁶⁹

Previously, the Vatican Bank had also been found to be linked with a monetary scandal of around \$1.3 billion and the collapse of \$3.5 billion currency worth of the Banco Ambrosiano in 1982.¹⁷⁰ The Vatican Bank did not accept the charges, though it paid \$250 million in fines for the embezzlement of funds in the 1980s.¹⁷¹

3.4 A.M.L. LEGISLATION IN DIFFERENT COUNTRIES

The international community has given particular attention to curbing money laundering since 9/11. New laws, rules, and regulations have been made under the International Convention for the Suppression of the Financing of Terrorism.¹⁷² The F.A.T.F. in particular has played an effective role in implementing its A.M.L. approach by intervening in international cases of money laundering.¹⁷³

3.4.1. THE U.S.

The U.S. has been affected by money laundering to a very great extent. The hilly terrain along the Mexico–U.S. border makes it difficult for U.S. border security forces to keep watch over each part of the border. This unsafe border¹⁷⁴ has made it challenging for U.S. security agencies, particularly its southern border surveillance agencies, to track and prevent drug lords and smugglers from making their way to the United States. Smugglers also enter the United States from Mexico by digging hidden tunnels and thus crossing the border

¹⁶⁹See RACHEL DONADIO, *Money–Laundering Inquiry Touches Vatican Bank*, NYTIMES.COM (Sept. 20, 2010), <http://www.nytimes.com/2010/09/22/world/europe/22vatican.html>.

¹⁷⁰*Id.* See also: MAANOJ RAKHIT, SEED 8: BEWARE OF THIS AASURIC CULTURE 45 (2009).

¹⁷¹DONADIO, *supra* note 169.

¹⁷²See ANA SALINAS DE FRÍAS, KATJA SAMUEL, AND NIGEL WHITE, COUNTER–TERRORISM: INTERNATIONAL LAW AND PRACTICE 17 (2012).

¹⁷³See BRIGITTE UNGER, IOANA DELEANU, JORAS FERWERDA & MELISSA VAN DEN BROEK, THE ECONOMIC AND LEGAL EFFECTIVENESS OF THE EUROPEAN UNION’S ANTI–MONEY LAUNDERING POLICY 20 (2014).

¹⁷⁴See JEROME ROBERT CORSI & JIM GILCHRIST, MINUTEMEN: THE BATTLE TO SECURE AMERICA’S BORDERS 162 (2006).

furtively through the underground tunnels or mountains.¹⁷⁵ Recently, an 800 yard-long tunnel was discovered that connected the U.S. to Mexico across the border and half a mile underneath California.¹⁷⁶ An estimated two tons of cocaine were seized from the same tunnel.¹⁷⁷ As a result, money laundering and drug trafficking activities have been prevailing in that border region; its effects also reach the U.S., being felt more profoundly in particular regions, and have caused a constant worry for U.S. law enforcement and financial regulatory agencies.

The United States has placed a high importance on money laundering by regulating two areas: 1) preventive money laundering measures and 2) criminal offenses measures.

3.4.1.1. PREVENTIVE MONEY LAUNDERING MEASURES

The United States Congress has enacted various laws to prevent money laundering activities. The first law, the Bank Secrecy Act (hereinafter B.S.A.),¹⁷⁸ was passed in 1970, and since then a series of amendments as well as new Acts have been proposed, debated, and implemented. These laws regulate the activities of banks, brokers, and other financial institutions. These laws make it compulsory for financial organizations and individuals to report any suspicious money laundering activity to the U.S. Department of Treasury.¹⁷⁹ The FinCEN works as the U.S. F.I.U. and investigates these reports.¹⁸⁰ Banks have also been advised to provide training to their employees to identify and avoid the money laundering and suspicious transactions, as regulated by the Money Laundering and Financial Crimes Strategy Act of 1998.¹⁸¹

¹⁷⁵ See FELIA ALLUM & STAN GILMOUR, *THE HANDBOOK OF THE TRANSNATIONAL ORGANIZED CRIME* 194 (2012).

¹⁷⁶ See AZADEH ANSARI, *US-Mexico drug tunnel spanned 800 yards, held 2 tons of cocaine*, EDITION.CNN.COM (Apr. 21, 2016), <http://edition.cnn.com/2016/04/20/us/u-s-mexico-drug-tunnel>.

¹⁷⁷ *Id.*

¹⁷⁸ GEE, *supra* note 44.

¹⁷⁹ GEE, *supra* note 44.

¹⁸⁰ See JOHN ROLLINS, *INTERNATIONAL TERRORISM AND TRANSNATIONAL CRIME: SECURITY THREATS, U.S. POLICY, AND CONSIDERATIONS FOR CONGRESS* 36 (2010). *See also* : DAVID S. KERZNER AND DAVID W. CHODIKOFF, *INTERNATIONAL TAX EVASION IN THE GLOBAL INFORMATION AGE* 365 (2016). *See more details about F.I.U. at*: IMF, World Bank, *Financial Intelligence Units: An Overview*, IMF Publications (June 2004).

¹⁸¹ *See* U.S. CONGRESS, PUBLIC LAW 105-310 (1998).

However, attempts have also been made to violate this law. For instance, transactions that exceed \$10,000,¹⁸² must be reported,¹⁸³ but offenders violate this rule by breaking the total amount of cash transaction into amounts smaller than \$10,000 and then depositing, withdrawing, or transacting from different locations. This is still considered a legal violation in the United States because the actual amount of the transactions is kept hidden from the government and no information is provided about the original source of the money.¹⁸⁴

To keep a watchful eye on the transactions carried out by the customers of financial institutions, the B.S.A. authorizes financial institutions, including banks, to use the Know Your Customer (K.Y.C.) strategy.¹⁸⁵ This strategy entails adopting a thorough understanding of the nature of the customer's financial account, as well as their full name, address, and other details, and information on the origin of money that reaches the customer's account.¹⁸⁶ In the U.S., all bank accounts are scrutinized by software to audit financial transactions and flag any suspicious or misreported transactions.¹⁸⁷ If any suspicious transaction is found, it is included in a suspicious activity report, which is filed by the financial institution to the Department of Treasury.¹⁸⁸

In addition, the Department of Treasury devised a national money laundering strategy, which allowed the creation of a special task force with the name of High Intensity Financial Crime Area (hereinafter H.I.F.C.A.).¹⁸⁹ H.I.F.C.A. inspects, tracks, and curbs money laundering activities at every level,

¹⁸² The limit was originally \$5000 but as a result of demands from large business and trading companies, it was raised to \$10,000 by the Bank Secrecy Act. For details, see: 2 GYEOGOS C. HATONN, *PRIVACY IN FISHBOWL* 128 (1995).

¹⁸³ See 31 C.F.R. § 0-199 (2009) at 433.

¹⁸⁴ GEE, *supra* note 44.

¹⁸⁵ See GILL PEELING & TIM PARKMAN, *COUNTERING TERRORIST FINANCE: A TRAINING HANDBOOK FOR FINANCIAL SERVICES* 89 (2007).

¹⁸⁶ See, e.g., a case study related to the implementation of KYC Strategy: Linah Ottichilo & Robert Arasa, *Determinants of Know Your Customer (KYC) Compliance among Commercial Banks in Kenya*, 7 J. ECON. & BEHAV. STUD. 163 (2015).

¹⁸⁷ See DOUGLAS GREENBURG, JOHN ROTH & SERENA WILLIE, *Monograph on Terrorist Financing*, LIBRARY.UNT.EDU (Aug. 2004), http://govinfo.library.unt.edu/911/staff_statements/911_TerrFin_Monograph.pdf, 54-56.

¹⁸⁸ *Id.*

¹⁸⁹ See WILLIAM C. MICHAELS, *NO GREATER THREAT: AMERICA AFTER SEPTEMBER 11 AND THE RISE OF A NATIONAL SECURITY STATE* 91 (2007). See also JENNIFER E. LAKE, *SOUTHWEST BORDER VIOLENCE: ISSUES IN IDENTIFYING AND MEASURING SPILLOVER VIOLENCE* 32 (2010).

i.e., local, state, and federal.¹⁹⁰ The Intelligence Reform & Terrorism Prevention Act of 2004 relates to the prevention of terrorism financing by curbing money laundering by transferring currency across the border.¹⁹¹

3.4.1.2. CRIMINAL OFFENSES MEASURES

As per the U.S. Money Laundering Control Act of 1986, money laundering is a crime.¹⁹² The Act prohibits individuals from hiding the source of their financial earnings as well as receiving money that has been earned through crime.¹⁹³ Moreover, any action of transferring money, whether or not any financial institution is involved, is considered a financial transaction even if it is merely passing a bag of money from one person to another.¹⁹⁴ If that transfer is intended to conceal the source of the money, then it will be considered unlawful.¹⁹⁵

3.4.1.3. IMPACTS OF A.M.L. LEGISLATION

Financial institutions that fail to conform to the rules devised by the B.S.A. are fined and punished according to the severity level of their noncompliance.¹⁹⁶ For instance, Riggs Bank was prosecuted and then closed owing to its failure to follow the B.S.A. for applying A.M.L. rules to the foreign financial transactions that its customers were carrying out.¹⁹⁷ A number of institutions, including the Federal Reserve and the Office of Comptroller of the Currency, examine the transactions of banks and of all other financial institutions.¹⁹⁸ The F.B.I. also

¹⁹⁰ See FINANCIAL CRIMES ENFORCEMENT NETWORK, U.S. DEP'T OF TREASURY, WHAT IS A HICFA? (2014)

¹⁹¹ *Id.* See also ETHAN NADELMANN & PETER ANDREAS, POLICING THE GLOBE: CRIMINALISATION AND CRIME CONTROL IN INTERNATIONAL RELATIONS 192 (2006).

¹⁹² See RICHARD D. ATKINS, THE ALLEGED TRANSNATIONAL CRIMINAL: THE SECOND BIENNIAL INTERNATIONAL CRIMINAL LAW SEMINAR 224 (1995). See also BENTON GUP, BANKING AND FINANCIAL INSTITUTIONS: A GUIDE FOR DIRECTORS, INVESTORS, AND BORROWERS 238 (2011).

¹⁹³ See Stefan Cassella, *Money Laundering Laws*, U.S ATT'Y BULL., Sept. 2007, at 21–34

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ See USA PATRIOT ACT: ADDITIONAL GUIDANCE COULD IMPROVE IMPLEMENTATION OF REGULATIONS RELATED TO CUSTOMER IDENTIFICATION AND INFORMATION SHARING PROCEDURES: REPORT TO CONGRESSIONAL REQUESTERS 53 (2005).

¹⁹⁷ See Lester Joseph & John Roth, *Criminal Prosecution of Banks Under the Bank Secrecy Act*, U.S ATT'Y BULL., Sept. 2007

¹⁹⁸ See D. R. CARMICHAEL & LYFORD GRAHAM, ACCOUNTANTS' HANDBOOK, SPECIAL INDUSTRIES AND SPECIAL TOPICS (12th ed. 2012). See also : 1 CYNTHIA CLARK NORTHRUP, THE AMERICAN ECONOMY: A HISTORICAL ENCYCLOPEDIA 591 (2003).

becomes involved if it has to investigate the money laundering in relation to another crime.¹⁹⁹

To prevent cross-border cash smuggling, the U.S. government has criminalized any unreported transfer of cash exceeding \$10,000 across the border.²⁰⁰ To move such an amount for business or trade purposes, it has to first be filed on an International Transportation of Currency or Monetary Instruments Report (C.I.M.R.) or else it is considered money laundering.²⁰¹ Similarly, businesses such as automobile dealerships, which have to transport automobiles from one region to another and have to transfer a high amount of cash from one dealership to another, are required to file Form 8300 with the International Revenue Service²⁰² to describe and confirm the source of the cash.²⁰³

3.4.2. THE U.K.

The United Kingdom has enacted new laws for curbing the roots of money laundering from its territory. For instance, it passed three major laws immediately after the 9/11 attacks.²⁰⁴ These include:

- The Criminal Justice and Police Act 2001
- The Anti-Terrorism, Crime and Security Act 2001
- The Proceeds of Crime Act 2002
- The Serious Organised Crime and Police Act 2005
- The Money Laundering Regulations 2007

All of these Acts make it compulsory for the government to prevent money laundering activities and arrest as well as penalize those found to be involved

¹⁹⁹ See JANINE KREMLING & LARRY K. GAINES, *DRUGS, CRIME & JUSTICE: CONTEMPORARY PERSPECTIVES* 343 (3rd ed. 2013). See also : 7 EDWARD V. LINDEN, *FOCUS ON TERRORISM* 116 (2007).

²⁰⁰ See 31 C.F.R. § 0-199 (2009) at 433.

²⁰¹ U.S. SECURITIES & EXCHANGE COMMISSION, *Anti-Money Laundering (AML) Source Tool for Broker-Dealers*, SEC.GOV (Jan. 11, 2017), <https://www.sec.gov/about/offices/ocie/amlsourceool.htm#8>.

²⁰² Internal Revenue Service (I.R.S.).

²⁰³ See Forms and Publications: DEPARTMENT OF THE TREASURY, *Form 8300*, IRS.GOV (Aug. 2014), https://www.irs.gov/pub/irs-pdf/f8300.pdf?_ga=1.129197324.1049031876.1480449123.

²⁰⁴ See MARY MICHELLE GALLANT, *MONEY LAUNDERING AND THE PROCEEDS OF CRIME: ECONOMIC CRIME AND CIVIL REMEDIES*, 21-22 (2005). See also : Antonio Vercher, *The Alleged Transnational Criminal: The Second Biennial International Criminal Law Seminar*, 4 EUR. J. CRIME CRIM. L. & CRIM. JUST. 414 (1996).

in money laundering.²⁰⁵ Provisions have also been added that highlight the importance of providing training and knowledge to the general public.²⁰⁶ For instance, the Proceeds of Crime Act 2002 makes it mandatory for financial organizations to provide training and knowledge to their employees about preventing money laundering and identifying any activity that may constitute money laundering.²⁰⁷ If an organization or the relevant person in that organization fails to report a suspicious money laundering activity, a punishment of five years' imprisonment is levied on that organization/person.²⁰⁸ The punishment for carrying out money laundering offenses as an individual can amount to fourteen years' imprisonment.²⁰⁹ The same punishment was added in the Money Laundering Regulations 2003,²¹⁰ which was amended and replaced by the new Money Laundering Regulations in 2007²¹¹ and enacted as per EU directives 91/308/EEC, 2001/97/EC, and 2005/60/EC.²¹²

Not only does the action of transferring cash from abroad constitute money laundering, but tax evasion, hiding property liable to taxation, misappropriating tax records, embezzling funds in a financial organization, and helping someone perform money laundering are also included in the clauses of A.M.L. Acts in the United Kingdom.²¹³ The punishment for each case is determined by the courts according to the severity of the violation and the individual's contribution to the crime.²¹⁴

²⁰⁵ For details, see: IMF, *British Virgin Islands–Overseas Territory of the United Kingdom: Assessment of the Supervision and Regulation of the Financial Sector Volume II–Detailed Assessment of Observance of Standards and Codes*, Part A, IMF Country Report No. 04/93 (April, 2004).

²⁰⁶ *Id.*

²⁰⁷ Proceeds of Crime Act 2002, §334.

²⁰⁸ *Id.*

²⁰⁹ See NICHOLAS LORD, *REGULATING CORPORATE BRIBERY IN INTERNATIONAL BUSINESS: ANTI-CORRUPTION IN THE UK AND GERMANY* (2016).

²¹⁰ See BRIGITTE UNGER, DONATO MASCIANDARO & ELOD TAKATS, *BLACK FINANCE: THE ECONOMICS OF MONEY LAUNDERING* 116 (2007).

²¹¹ See MARK SUTHERLAND WILLIAMS & TREVOR MILLINGTON, *MILLINGTON AND SUTHERLAND WILLIAMS ON THE PROCEEDS OF CRIME*, 544 (2010).

²¹² PARKER HOOD, *PRINCIPLES OF LENDER LIABILITY* 116 (2016). For details about the directives, see MARIA BERGSTRÖM, THEODORE KONSTANDINIDES & VALSAMIS MITSILEGAS, *RESEARCH HANDBOOK ON EU CRIMINAL LAW 240* (2016).

²¹³ U.K. is a member of FATF, and the above-mentioned aspects are included in the recommendations provided by the FATF. Therefore, as a member of FATF, U.K. has to comply with FATF recommendations and consider these aspects into the categories of money laundering. For details, see CHRISTOPHER WESTPHAL, *DATA MINING FOR INTELLIGENCE, FRAUD & CRIMINAL DETECTION: ADVANCED ANALYTICS & INFORMATION SHARING TECHNOLOGIES* 144 (2008).

²¹⁴ See *Postulate 51 in: Great Britain Parliament and Joint Committee on Human Rights, The UN*

The A.M.L. statutes and their amendments have played an essential role in tracking the money launderers. After the A.M.L. Regulations of 2007–08, a number of reports have been submitted to the U.K. government by financial organizations regarding suspicious money laundering transactions. For instance, in 2009, approximately 228,834 reports were submitted to the government by organizations and employees.²¹⁵ This number increased in 2010, when 240,582 reports were provided.²¹⁶ The number increased again in 2011 to over 250,000.²¹⁷ Importantly, each year, 80% of the reports were provided by banks and financial institutions.²¹⁸ This gives an indication of how seriously financial organizations and individuals were reporting suspected money laundering activities to the government.

Although investigations were made and not all cases that were reported were considered money laundering offenses, the high level of reporting suggests that corporations, banks, and the general public have taken the need to avoid money laundering seriously.

4. MONEY LAUNDERING AND PAKISTAN

Money laundering has taken hold in Pakistan.²¹⁹ This crime has flourished over the last three decades through black money, which the political and elite classes possess alongside having political influence and power in the country.²²⁰ Unfortunately, no government during this period has been successful in effectively implementing laws to curb money laundering and its precursor crimes, such as drug trafficking, smuggling, and corruption;²²¹

Convention Against Torture (UNCAT): Nineteenth Report of Session 2005–06, Ev 72 (THE STATIONERY OFFICE, 2006). See also ALASTAIR R. MOWBRAY, *CASES, MATERIALS, AND COMMENTARY ON THE EUROPEAN CONVENTION ON HUMAN RIGHTS* 337 (2012).

²¹⁵ THE SERIOUS ORGANISED CRIME AGENCY, *THE SUSPICIOUS ACTIVITY REPORTS REGIME ANNUAL REPORT* (2010).

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ IMF, *supra* note 115, at 20.

²²⁰ CHRISTOPH SCHREUER, FEDERICO ORTINO & PETER MUCHLINSKI, *THE OXFORD HANDBOOK OF INTERNATIONAL INVESTMENT LAW* 586 (2008).

²²¹ MOEED W. YUSUF ET AL., *PAKISTAN'S COUNTERTERRORISM CHALLENGE* 165 (Moeed W. Yusuf ed., 2014). [Hereinafter Yusuf].

neither has the government devised any effective mechanisms to combat tax evasion. People try to evade taxes as tax laws are not strict enough to make them accountable for unpaid taxes.²²² Although new laws have aimed at curbing money laundering, they have lost effectiveness as the government has never discouraged the patterns in society that facilitate money laundering.²²³

4.1. CHANNELS OF MONEY LAUNDERING

Money laundering is carried out in Pakistan through different channels, as explained below.

4.1.1. DRUG TRAFFICKING

Pakistan is in the Golden Crescent region,²²⁴ an area where opium and its cultivation and trade are widespread,²²⁵ owing to its geographical location. Its neighboring countries, Iran, Afghanistan, and India, have a high volume of opium cultivation and trade origins.²²⁶ Drug trafficking within these countries, as well as across their boundaries, takes place regularly because the borders, especially the Afghanistan–Pakistan, Iran–Pakistan, and Iran–Afghanistan borders, are not strictly protected and monitored. Drug traffickers move the drugs across the border and get cash in return from the drug lords, who are pursuing their activities furtively in Pakistan as well as in its neighboring countries.²²⁷ The cash movement is usually unreported and is surreptitiously carried out, which is in itself money laundering.

Owing to the high prices of the drugs that are trafficked along the borders of Pakistan, the amount of cash moved is usually very high, sometimes in the hundreds of millions of Pakistani rupees. Thus, a high amount of currency is laundered by the drug traffickers as “black money” or “dirty

²²² See M. ALI KEMAL, A FRESH ASSESSMENT OF THE UNDERGROUND ECONOMY AND TAX EVASION IN PAKISTAN: CAUSES, CONSEQUENCES, AND LINKAGES WITH FORMAL ECONOMY 14 (2007).

²²³ YUSUF ET AL., *supra* note 221.

²²⁴ See VEENA KUKREJA, CONTEMPORARY PAKISTAN 193 (2003).

²²⁵ See KUSHRO FARAMURZ RUSTAJMI ET AL., POLICING IN INDIA IN THE NEW MILLENNIUM 658 (P.J. Alexander ed., 2002).

²²⁶ See Drugs Sub-Directorate: Heroin (INTERPOL, 2007).

²²⁷ See 1 BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT 353 (2010) [Hereinafter: Brownfield].

money” and stays unchecked, particularly if the drug traffickers have good contacts within the establishment or government as they can give bribes to the relevant authorities or can also use power to ensure their safe conduct.²²⁸

Pakistan’s northwestern border with Afghanistan is too long to have surveillance over and can be too costly for the government to keep a continuous check over it, whether using manual or automated surveillance systems.²²⁹ The absence of constant surveillance has assisted smugglers and drug traffickers throughout history and they have been successful in establishing their underground drugs and money laundering empire by smuggling merchandize and drugs in both directions across the border, and by moving cash in a similar fashion.²³⁰ This has strengthened the money laundering and untaxed trade, which has now emerged as a giant market that has the capability to rival the local market economy in Pakistan’s North–West Frontier Province.²³¹

4.1.2. SMUGGLING OF CASH

Cash is smuggled across the borders of Iran and Afghanistan,²³² as well as through airports. For this, smugglers try to evade the security checks to launder money and they also bribe authorities or someone in the surveillance team to let them move the cash abroad.²³³

²²⁸ See DAVID C. JORDAN, *DRUG POLITICS AND DEMOCRACIES* 152 (2016).

²²⁹ See *Addiction, Crime and Insurgency: The Transnational Threat of Afghan Opium*, UNODC (Oct. 2009), http://www.unodc.org/documents/data-and-analysis/Afghanistan/Afghan_Opium_Trade_2009_web.pdf.

²³⁰ *Id.* See also : 22 U.S.C. (2006), Suppl. 3, Volume 3, p. 42 (US GOVERNMENT PRINTING OFFICE, 2010). See also : ARVIND GOSWAMI, *3D DECEIT, DUPLICITY & DISSIMULATION OF U.S. FOREIGN POLICY TOWARDS INDIA, PAKISTAN & AFGHANISTAN* 112 (2012).

²³¹ For instance, as per the estimates of the World Bank in 2001, the trade at the Pakistan–Afghanistan border exceeded \$1 billion. Since then, the yearly trade volume exceeds a billion dollars. This is a huge amount for the economy of any country and cannot be neglected. For details, see BARNETT R. RUBIN, *AFGHANISTAN FROM THE COLD WAR THROUGH THE WAR ON TERROR* 375 (2015).

²³² Brownfield, *supra* note 227.

²³³ For instance, see DELILA AMIR ET AL., *TRAFFICKING AND THE GLOBAL SEX INDUSTRY* 67 (2006). See also : ARTHUR CONAN DOYLE, *THE ADVENTURES OF SHERLOCK HOLMES AND THE CABLEGATE FILES OF WIKILEAKS* 40 (2011). See also ALEC DUBRO & DAVID KAPLAN, *YAKUZA: JAPAN’S CRIMINAL UNDERWORLD* 255 (2012).

4.1.3. CORRUPT POLITICIANS AND ADMINISTRATORS

Regrettably, corrupt politicians and administrators are paving the way for major crimes to take hold in the country, for instance corruption, bribery, money laundering, and “whitening” black money.²³⁴ The corrupt officeholders are promoting these crimes either by becoming directly involved in money laundering, making offshore properties, drug trafficking, smuggling, corruption, misappropriation of funds, bribery, etc. or by taking bribes from those who are involved in such crimes.²³⁵ Reportedly, investigations have also been launched against some politicians accused of having contact with smugglers, money launderers, and drug lords.²³⁶

In this regard, it is not only politicians but also personnel in the administrative and anticorruption departments who have been found guilty of taking bribes from money launderers, who have been allowed to take huge amounts of cash out of the country and, in return, took bribes from them. Employees in the antinarcotics squads and airport authorities have assisted money launderers and drug traffickers in taking currency abroad.²³⁷ There is a need to keep a strict check on personnel, as well as on those who are working in such departments, where money launderers can entice someone by giving large bribes to allow their money laundering activities.²³⁸

4.1.4. REAL ESTATE BUSINESS

Some money launderers buy property using laundered or black money and then sell the property quickly for someone to buy it and give them the money, which will then be considered “legitimately earned.” This facilitates them in whitening their black money and leads to the crime of money laundering.²³⁹

²³⁴ See IBP INC., PAKISTAN: DOING BUSINESS AND INVESTING IN PAKISTAN: STRATEGIC, PRACTICAL INFORMATION, REGULATIONS, CONTRACTS 126 (2015). [Hereinafter: IBP].

²³⁵ *Id.*

²³⁶ Brownfield, *supra* note 227.

²³⁷ For instance, see AFP, *Report Unmasks Tax Evasion Among Pakistan Leaders*, *The Express Tribune* (Dec. 12, 2012), <http://tribune.com.pk/story/478812/report-unmasks-tax-evasion-among-pakistan-leaders>.

²³⁸ IBP INC. *supra* note 234.

²³⁹ See SHAHRAM HAQ, *Property Market Befuddled by Tax Measures*, *THE EXPRESS TRIBUNE* (Aug. 26, 2016), <http://tribune.com.pk/story/1170097/property-market-befuddled-tax-measures>.

4.1.5. TAX EVASION

Many elites in the country avoid paying taxes.²⁴⁰ For this, they usually bribe the tax office employees to either show their tax status as “paid” or to not notify the tax authorities of the fact that the tax has not been paid.²⁴¹ Usually, the bribe is a small chunk of the tax amount, which rich people never hesitate to give and the worker who receives it considers very good,²⁴² because the salaries of government workers are not sufficiently high to afford a fashionable lifestyle. A large number of incidences of bribery have led Pakistan to have the highest prevalence of bribery in South Asia.²⁴³

Money launderers also bribe officials of the relevant A.M.L. authorities to allow the transfer of large amounts of cash abroad and label the transfer as “clean” without paying the applicable tax on it, by either reporting an incorrect amount of transferred cash or not reporting it at all.²⁴⁴ Hence, money laundering proceeds in two ways, i.e., by evading taxes and by transferring cash to foreign banks successfully for the sake of getting property abroad, and the widespread culture of bribes plays an essential role in supporting this.

4.1.6. HUNDI

Hundi has been a major channel of money laundering in India and Pakistan.²⁴⁵ Through this method, overseas nationals send remittances to their relatives, friends, family, etc.²⁴⁶ It works as a credit transfer or IOU and transfers money without actually moving it from one region to another.²⁴⁷ As a result, neither

²⁴⁰ NICHOLAS GALASSO & RICARDO FUENTES-NIEVA, *WORKING FOR THE FEW: POLITICAL CAPTURE AND ECONOMIC INEQUALITY* 15 (2014). See also : *Tax in Developing Countries: Increasing Resources for Development*, Fourth Report of Session 2012–13 of House of Commons and Parliament of Great Britain, Vol 1, Ev 14 (THE STATIONERY OFFICE, 2012).

²⁴¹ Bribery to avoid tax is among the major problems of Pakistan causing low tax revenue for it. For details, see ANAS MALIK, *POLITICAL SURVIVAL IN PAKISTAN: BEYOND IDEOLOGY* 170 (2010).

²⁴² See WAHEED MUGHAL, *BEYOND LONDON* 162 (2010).

²⁴³ See TEHREEM HUSSAIN, *Bribery incidence in Pakistan much higher than rest of South Asia*, THE EXPRESS TRIBUNE (May 23, 2016), <https://tribune.com.pk/story/1108179/illegal-behaviour-corruption-anathema-society/>.

²⁴⁴ IBP INC. *supra* note 234.

²⁴⁵ See PETER LILLEY, *DIRTY DEALING: THE UNTOLD TRUTH ABOUT GLOBAL MONEY LAUNDERING*, INTERNATIONAL CRIME AND TERRORISM 142 (2003).

²⁴⁶ See JOHN CHIBAYA MBUYA, *THE PILLARS OF BANKING* 116 (2008).

²⁴⁷ The branch or representative person of Hundi in the foreign country takes the cash and asks the representative in the other country to give an equal or smaller amount of cash to the concerned person to whom the cash has to be sent.

the government nor the economy notices the transfer, which directly makes it a money laundering channel.

Although the government of Pakistan has made this method of money transfer illegal,²⁴⁸ there are still many Hundi operators working in the country surreptitiously and it might also be possible that some foreign exchange companies use this process to hide their taxable earnings from the government.²⁴⁹ In addition, a study indicated that the total volume of annual currency transfers through Hundi is around \$15 billion,²⁵⁰ which is a significant amount and indicates the strength of the Hundi channel for laundering money.

4.2. TERRORISM FINANCING

Terrorists require money to finance their activities.²⁵¹ The sponsorship is provided by their patrons, who are usually found to be money launderers and drug traffickers, and sometimes politicians and the elite of society, who support them in a disguised manner. Nonetheless, funding from foreign anti-state elements overshadows all other sources of terrorist funding, which establishes the pathways of money laundering.²⁵² Terrorist organizations have been found to be involved in money laundering.²⁵³ This has been found to be true particularly in Pakistan,²⁵⁴ where foreign intelligence agencies, namely RAW,²⁵⁵ Blackwater, and the CIA,²⁵⁶ have been found to be involved with terrorists and to have financed anti-state elements.²⁵⁷

²⁴⁸ See ARIF HASAN & MANSOOR RAZA, *MIGRATION AND SMALL TOWNS IN PAKISTAN* 40 (2009).

²⁴⁹ For instance, Human Rights Watch explains that each year the estimated remittances sent by overseas nationals to Pakistan are not the exact amount of remittances, because these do not include those remittances that are sent through informal channels, i.e., Hundi and Hawala. The remittances sent through Hundi remain untracked. For details, see HUMAN RIGHTS WATCH, "BAD DREAMS": EXPLOITATION AND ABUSE OF MIGRANT WORKERS IN SAUDI ARABIA 2004.

²⁵⁰ SHAHID IQBAL, *Annual Hundi, Hawala payments cross \$15 billion*, DAWN.COM (Dec. 31, 2015), <http://www.dawn.com/news/1229711>.

²⁵¹ US CONGRESS, *CONGRESSIONAL RECORD*, VOLUME 151, Pt. 12, July 14 to July 22, 2005, 16983-84 (2005).

²⁵² ARUN KUMAR, *THE BLACK ECONOMY IN INDIA*, 261 (2002).

²⁵³ *Id.*

²⁵⁴ IMF, *supra* note 115, at 20.

²⁵⁵ The *Research and Analysis Wing (RAW)* is an army intelligence agency of India.

²⁵⁶ Blackwater and the Central Intelligence Agency (CIA) are the intelligence agencies of the US.

²⁵⁷ ERIC DRAITSER, *The Politics of Terrorism in Pakistan*, NEO (Jul. 8, 2014), <http://journal-neo.org/2014/07/08/the-politics-of-terrorism-in-pakistan>.

For instance, the recent incident of arrest of an Indian Army intelligence officer, Kalbhushan Yadav, who was found to be commanding a strong terrorist network in Pakistan,²⁵⁸ is a clear instance of the Indian Army RAW's involvement in funding anti-state terrorist activities, which were pursued by Kalbhushan Yadav's network in different areas of Pakistan, particularly Quetta and Karachi.²⁵⁹ The tarnished peaceful situation of Karachi is also a consequence of that terrorist network's surreptitious financing by either foreign agencies or local people.²⁶⁰

Now, in such cases, all the money that the terrorists receive is actually "laundered" money, because it is kept hidden and neither its original source nor its destination are revealed to the government by the financiers.²⁶¹ Hiding the source and channels of money is essential for the terrorists to continue financing their activities without being traced by local law enforcement agencies. Hence, money laundering goes hand-in-hand with terrorist activities.²⁶²

4.3. PAKISTAN AND INTERNATIONAL A.M.L. STANDARDS AND ORGANIZATIONS

Pakistan has never exercised a leading role in any of the A.M.L. international standards or organizations,²⁶³ although Pakistan has been a member of them and has actively participated in the meetings of these conventions and organizations since their founding. Pakistan also gets support from the U.N.O.D.C. in terms of technical and advisory assistance for curbing the drug trade and money laundering through its northwestern border region.²⁶⁴

²⁵⁸ Kalbhushan Yadav has also confessed of managing and setting up terrorist networks in Baluchistan and Karachi. For details, see : *Govt Airs Video of Indian Spy Admitting Involvement In Balochistan Insurgency*, DAWN.COM (Mar. 29, 2016), <https://www.dawn.com/news/1248669>.

²⁵⁹ SYED ALI SHAH, *Arrested "RAW agent" trained separatists to target Pakistani ports: security official*, DAWN.COM (Mar. 27, 2016), <http://www.dawn.com/news/1248254>.

²⁶⁰ APP, *Transcript of RAW agent Kulbhushan's confessional statement*, DAWN.COM (Mar. 30, 2016), <http://www.dawn.com/news/1248786>.

²⁶¹ See Financing of such a terrorist network also coincides with money laundering, for instance, as explained by: PHILIP PURPURA, *TERRORISM AND HOMELAND SECURITY: AN INTRODUCTION WITH APPLICATIONS* 147 (2011).

²⁶² See ALEX J. BELLAMY, RICHARD DEVETAK, ROLAND BLEIKER & SARA E. DAVIES, *SECURITY AND THE WAR ON TERROR* 186 (2007).

²⁶³ For instance, see : KIMYET TUNCA CLIYURT & SAMUEL O. IDOWU, *EMERGING FRAUD: FRAUD CASES FROM EMERGING ECONOMIES* 94 (2012).

²⁶⁴ *Drugs & Precursors Identification Training for ANF & Pakistan Customs Officials*, UNODOC (Jul. 28, 2016), <https://www.unodc.org/pakistan/en/drugs-and-precursors-identification-training-for->

Moreover, Pakistan also has a cooperative relation with INTERPOL²⁶⁵ and can approach it for the arrest of any serious criminal who has escaped its law enforcement agencies but is pursuing criminal activities from a foreign land, or conversely INTERPOL can also inform Pakistan of the activities of a Pakistani person who is suspected to be involved in money laundering.²⁶⁶

As a result of legislation over the last ten years from Pakistan's parliament designed to combat money laundering, drug manufacturing and trading, and corruption, the international A.M.L. organizations have taken Pakistan off the list of countries that have a high prevalence of money laundering and drug trafficking.²⁶⁷ This has also given rise to a chance of establishing cooperation with international A.M.L. organizations with renewed vigor to combat money laundering and related crimes.²⁶⁸

4.4. PROMINENT CASES OF MONEY LAUNDERING IN PAKISTAN

Some prominent cases of money laundering have been reported over the last decade, and those occurring in Pakistan are mentioned below.

4.4.1. THE CASE OF THE KHANANI AND KALIA FOREIGN EXCHANGE COMPANY

The Khanani and Kalia Company, in Pakistan, operated foreign currency exchange and was involved in money laundering.²⁶⁹ Javed Khanani and Munaf Kalia were arrested and handed over to the F.I.A.²⁷⁰ Both were found guilty of

anf-and-pakistan-customs-officials.html.

²⁶⁵ INTERPOL is an international organization that facilitates intergovernmental police cooperation. For details, see: HOSSEIN BIDGOLI, HANDBOOK OF INFORMATION SECURITY, INFORMATION WARFARE, SOCIAL, LEGAL, AND INTERNATIONAL ISSUES AND SECURITY FOUNDATIONS 205 (2006).

²⁶⁶ For instance, INTERPOL informed Pakistan about Benazir Bhutto and Asif Zardari regarding their alleged money laundering back in 2007. For details, see: NAFISA HOODBHOY, ABOARD THE DEMOCRACY TRAIN: A JOURNEY THROUGH PAKISTAN'S LAST DECADE OF DEMOCRACY (2011).

²⁶⁷ *Pakistan has effective anti-money laundering laws: SBP*, THE NEWS INTERNATIONAL (Nov. 16, 2009), <https://www.thenews.com.pk/print/15696-pakistan-has-effective-anti-money-laundering-laws-sbp#>.

²⁶⁸ For instance, see: The UNODC and FIA stand committed to curb human trafficking and migrant smuggling in extended partnership with police and civil society (UNODC, 2015).

²⁶⁹ KHURRAM HUSSAIN, *Khanani pleads guilty to money laundering in U.S. court*, DAWN.COM (Nov. 7, 2016), <http://www.dawn.com/news/1294812>.

²⁷⁰ Federal Investigation Agency, Pakistan.

illegally transferring around \$10 billion out of Pakistan²⁷¹ and were charged according to the law by the F.I.A. upon the completion of investigations.²⁷² U.S. authorities also charged both with involvement in money laundering in United States and offshore regions.²⁷³

4.4.2. THE CASH SMUGGLING CASE OF AYYAN ALI

The Pakistani model Ayyan Ali was arrested at Islamabad Airport when U.S.\$506,000 were found in her bag, which she was reported to be taking to Dubai.²⁷⁴ This amount is far higher than the maximum cash limit allowed to be taken out of Pakistan, which was set at \$10,000 and \$60,000 a year.²⁷⁵ The amount that Ali had was ten times higher than that.

Legal action was taken against Ali, who was immediately sent to Adiala jail. Investigations were also held; however, Ali was granted bail²⁷⁶ and was released from jail after paying heavy fines of around 50.5 million²⁷⁷ (5.5 crore) Pakistani rupees²⁷⁸ for her violation of Pakistan's A.M.L. laws. As a punishment, her name was also added to the exit control list to prevent her from traveling again outside the country.²⁷⁹

²⁷¹ FARAZ KHAN, *Money Laundering Scam Worth \$10 billion*, DEFENCE.PK (Nov. 10, 2008), <http://defence.pk/threads/money-laundering-scam-worth-10bn.16074>.

²⁷² ZAIB HUSSAIN, *FIA Nominates Javed Khanani in Money Laundering Case*, THE NEWS INTERNATIONAL (Jan. 31, 2015), <https://www.thenews.com.pk/print/21394-fia-nominates-javed-khanani-in-money-laundering-case>.

²⁷³ ANWAR IQBAL, *Khanani group launders billions of dollars: U.S. report*, DAWN.COM (Mar. 4, 2017), <https://www.dawn.com/news/1318333>.

²⁷⁴ HASEEB BHATTI, *Ayyan indicated in currency smuggling case*, DAWN.COM (Nov. 21, 2015), <http://www.dawn.com/news/1220779> [Hereinafter: Bhatti].

²⁷⁵ MASHHUD, *Revised currency carrying limits: SBP seeks FBR's help for assistance*, CUSTOMNEWS.PK (Sept. 10, 2015), <http://customnews.pk/2015/09/10/revised-currency-carrying-limits-sbp-seeks-fbrs-help-for-assistance>.

²⁷⁶ BHATTI, *supra* note 274.

²⁷⁷ *Ayyan fined Rs. 50.5m by Customs Court*, THE NEWS INTERNATIONAL (Apr. 6, 2016), <https://www.thenews.com.pk/print/110693-Ayyan-fined-Rs505m-by-Customs-Court>.

²⁷⁸ *Customs court fines Ayyan Ali Rs. 5.5 crore*, ARY NEWS (Apr. 5, 2016), <http://arynews.tv/en/customs-court-i-rs-5-5-crore>.

²⁷⁹ JAWAD SHOAB, *Ayyan Ali's Name Remains on Exit Control List Despite SHC's order*, GEO.TV (Feb. 20, 2017), <https://www.geo.tv/latest/131719-Ayyan-Alis-remains-on-Exit-Control-List-despite-SHCs-order>.

4.5. A.M.L. LEGISLATION IN PAKISTAN

Although a very thorough body of legislation has already been made for curbing money laundering, its effectiveness is lost when law enforcement authorities do not put behind bars those money launderers who have political power or enough money to bribe law enforcement agencies' officials. This selective approach keeps the seed of corruption and money laundering alive. Similarly, the government can implement A.M.L. laws strictly to punish its opponents but it never repeats the same procedure against its own political party members. Nonetheless, the most prominent legislation made so far against money laundering includes the following:²⁸⁰

- Anti-Money Laundering Ordinance 2007
- Anti-Money Laundering Act 2010
- Anti-Money Laundering Rules 2010
- Anti-Money Laundering Regulations 2010
- Amendments to the A.M.L. Act 2010

All of these pieces of legislation have criminalized money laundering and have given the state the power to arrest and detain anyone who pursues this crime. Jurisdictions and validations of Acts have also been defined, along with the relevant procedures and conditions. In this regard, offenses by individuals, as well as by organizations, have been added to the same category.²⁸¹

4.6. EFFECTS OF A.M.L. LEGISLATION IN PAKISTAN

The effects have not been profound, though they have been enough to demonstrate that law enforcement agencies have taken measures to curb money laundering in Pakistan. For instance, the cases of Ayyan Ali, Dr. Asim, etc. are considered to have been major cases of offenses under the A.M.L. Acts.

²⁸⁰ For details, see Anti-Money Laundering Laws (EXECUTIVE UPDATING SERVICE, 2016).

²⁸¹ *Id.* For details, see the Anti-Money Laundering Act 2010 passed by the Senate of Pakistan, as Amended up to February 2016, at: http://www.senate.gov.pk/uploads/documents/1363266009_767.pdf; See also A Bill to amend A.M.L. Act 2010, as Passed by the National Assembly of Pakistan, http://www.na.gov.pk/uploads/documents/1449207682_201.pdf. These statutes provide the basis of criminalization of money laundering in Pakistan. Moreover, these laws also govern the relevant law enforcement agencies in pursuing their A.M.L. activities.

Recently, the Supreme Court of Pakistan has accepted the hearings against Prime Minister Nawaz Sharif for the charges of buying offshore property with laundered money. Such cases, if decided judiciously, can pave the way for the strict implementation of A.M.L. laws in Pakistan, which are still deficient in terms of their effective implementation.

5. CONCLUSION

Money laundering has been recognized as a major crime at the international level. Terrorists, drug traffickers, smugglers, black money owners, etc. use different money laundering methods to finance their activities, to traffic drugs, and to clean their illegitimately earned assets. Whichever method is implemented, the three steps of money laundering—placement, layering, and integration of funds—take place.²⁸² Although A.M.L. organizations in all countries have formulated certain mechanisms, rules, and policies for preventing and curbing money laundering,²⁸³ these policies have been insufficient, whose magnitude has increased to up to billions of U.S. dollars at the international level.²⁸⁴

Money laundering causes negative effects to the economy, such as devaluing capital, lowering the growth rate, affecting interest rates and the C.P.I., causing inflation, and defaming financial institutions, which leads to curbing opportunities for domestic and foreign direct investment.²⁸⁵ In addition, the social costs of money laundering are of an adverse nature as it can result in providing safe havens to criminals, i.e., the drug traffickers, terrorists, and other criminals who are benefitting from laundering cash.²⁸⁶ The primary reasons for the social costs of money laundering is found in the fact

²⁸² Jerome Bjeopera & Kristin Finklea. *Organized Crime: An Evolving Challenge for U.S. Law Enforcement*, 14 (CONGRESSIONAL RESEARCH SERVICE, 2010). JEROME BJELOPERA & KRISTIN FINKLEA, CONG. RESEARCH SERV., R41547, ORGANIZED CRIME: AN EVOLVING CHALLENGE FOR U.S. LAW ENFORCEMENT 14 (2010).

²⁸³ See LESLIE HOLMES, *TERRORISM, ORGANISED CRIME AND CORRUPTION: NETWORKS AND LINKAGES* (2007).

²⁸⁴ JOSEPH J. NORTON & GEORGE WALKER, *BANKS: FRAUD AND CRIME*, 203 (2nd ed. 2013).

²⁸⁵ BRENT BARTLETT, *The Negative Effects of Money Laundering on Economic Development*, ASIAN DEVELOPMENT BANK (May, 2002), <https://waleolusi.files.wordpress.com/2013/05/the-negative-effects-of-money-laundering-on-econom.pdf>.

²⁸⁶ US FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL, *BANK SECRECY ACT/ANTI- MONEY LAUNDERING EXAMINATION MANUAL 8* (2014).

See also U.S. Department of Justice, *supra* note 107, at 8.

that this crime is entwined with other serious crimes, i.e., tax evasion, smuggling, whitening of black money, corruption, terrorist financing, and trafficking of illicit drugs and arms.²⁸⁷ All of these crimes can cause deep adverse effects on the socioeconomic landscape of a society; furthermore, these crimes are considered among the main channels of money laundering, both in Pakistan and globally, as set out above. Therefore, it is essential for law enforcement agencies to curb the crime of money laundering by foiling the channels of money laundering and the tactics that criminals use for laundering cash.

For this purpose, law enforcement agencies need to devise effective strategies and mechanisms to increase cooperation at the domestic, regional, and international level to keep track of the activities that are directly or indirectly linked to money laundering. A continual and strict security on porous international borders and at airports will prevent smugglers and money launderers from moving cash from one region to another. Furthermore, by keeping a strict check on wire transfers and other methods of currency transfers, financial institutions can also play their role in tracking laundered money as well as the sources of the money, and consequently report any suspicious money transfer to the security agencies.²⁸⁸

In addition, tax authorities need to devise thorough and investigative auditing strategies in order to keep track of elites' incomes, so that no one can launder cash to avoid taxes. For this purpose, tax revenue departments should also be made independent and sufficiently powerful so that they may not be bribed or influenced politically by any powerful elite.²⁸⁹ Furthermore, corruption and bribery are other problems that accompany money laundering,²⁹⁰ because a corrupt person will prefer to hide money acquired

²⁸⁷ *Id.*

²⁸⁸ For instance, the Bank Secrecy Act in the U.S. makes it obligatory for financial institutions, including all private- and public-sector banks, to keep track of all suspicious cash transactions in order to trace down the sources of money laundering. *For details, see:* U.S. CONGRESS, PUBLIC LAW 105-310 (1998).

²⁸⁹ The independence and strength of tax authorities are essential, otherwise elites can avoid taxes by hiding their incomes and sources of their earnings, which leads to money laundering. *For details, see:* Waber, *supra* note 14, at 21. In addition, to know about the effects of weakness of tax authorities on money laundering, see MARY ALICE YOUNG, BANKING SECRECY AND OFFSHORE FINANCIAL CENTERS: MONEY LAUNDERING AND OFFSHORE BANKING 12 (2013).

²⁹⁰ For a detailed impact of money laundering in promoting bribery and corruption, see BRIGITTE UNGER & ELENA MADALINA BUSUIOC, THE SCALE AND IMPACTS OF MONEY LAUNDERING 148 (2007).

from bribes or corruption to avoid being tracked and penalized by law enforcement authorities.²⁹¹

²⁹¹ For details, see BEARE, *supra* note 95, at 37. To know more about the relationship between corruption and money laundering, see BRUCE ZAGARIS, INTERNATIONAL WHITE COLLAR CRIME: CASES AND MATERIALS 138 (2010). See also NORMAN MUGARURA, THE GLOBAL ANTI-MONEY LAUNDERING REGULATORY LANDSCAPE IN LESS DEVELOPED COUNTRIES 124, 144 (2016).