PREVENTION AND CONTROL OF MONEY LAUNDERING IN INDIA: ISSUE TO PONDER

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INTRODUCTION

" Money laundering and the financing of terrorism are financial crimes with economic effects. They can threaten the stability of a country's financial sector or its external stability more generally. Effective anti-money laundering and combating the financing of terrorism regimes are essential to protect the integrity of markets and of the global financial framework as they help mitigate the factors that facilitate financial abuse. Action to prevent and combat money laundering and terrorist financing thus responds not only to a moral imperative, but also to an economic need."

– Min Zhu, Deputy Managing Director of the IMF[i]

By its very nature, money laundering is an illegal activity carried out by criminals which occurs outside of the normal range of economic and financial statistics. The United Nations Office on Drugs and Crime (hereafter UNODC) estimates money laundering around 2 to 5% of global GDP, or $800 billion - $2 trillion US dollars per year.[ii] This is not only posing threat to the economy to the nations but it is flowing into financing to the criminal activities like terrorism and corruption etc. too.

The term "money laundering" is said to have originated from drugs mafia in the United States. These drugs mafias were earning huge money in cash from extortion, prostitution, gambling and bootleg liquor. They needed to show a legitimate source for these monies. One of the ways in which they could have legitimated their illicit money was to purchase some outwardly legitimate businesses and to mix their illicit money with the legitimate earnings out of such legitimate business. Laundromats were chosen by these drug mafias because they were cash businesses and had great advantage to disguise criminal origin of dirty money.[iii] The act of money laundering has, which started in US through business of Laundromats, reached to its optimum height, today. It has become largest economy in the world posing threat to the economy of the countries, both developed and developing, and its flow in financing terrorism is another curse.

Adequate and dynamic definition of money laundering would not be possible due to its constantly changing paradigms. Article 3 (1) (b) to the Vienna Convention, 1988 outlines money laundering, without using the same term, as “(i) intentional conversion or transfer of property derived from any offence or offences related to narcotic drug or psychotropic substance, or from an act of participation in such offence or offences to conceal or disguise the illicit origin of the property or to assist any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions; (ii) intentionally concealing or disguising true nature, source, location, disposition, movement, rights with respect to, or ownership of property derived from an offence or offences related to narcotic drug or psychotropic substance, or from an act of participation in such an offence or offences."[iv] This convention spells its limitations. It encompasses only those money laundering offences which are related to illicit traffic in narcotic drugs and psychotropic substances, not others. Its direct legal implication would be leaving scot-free to the criminals falling outside to this predicate list of offences, such as for theft, robbery, kidnapping, tax evasion, etc. This gap seems to have been filled by the Palermo Convention broadening the ambit of predicate offences for money laundering to include serious crimes too.[v] Article 6 to this convention criminalizes laundering of proceeds of crime thereby expands ambit of money laundering and includes within its meaning intentional conversion or transfer of criminal proceeds to conceal or disguise its illicit origin or helping any person involved in the commission of the predicate offences to evade the legal consequences of his or her action[vi] and intentional concealment or disguise of the true nature, scope, location, disposition, movement or ownership of or right with respect to criminal proceeds.[vii] Its protocol[viii] of 2003 offers globally agreed definition of trafficking in persons to criminalize it in all municipal legislations. Thereby, it includes criminal proceeds arising out of trafficking in person within the meaning of money laundering. Further, its protocol[ix] of 2004 adds criminal proceeds arising out of smuggling of migrants by land, sea and air and another protocol[x] of 2005 adds criminal proceeds arising out of illicit manufacturing of and trafficking in fire arms etc. within the meaning of money laundering.

The Financial Action Task Force (FATF)[xi] has appeared to have adequate definition of "money laundering". According to which it is any action that process criminal proceeds to disguise its illegal origin to legitimize the ill-gains of crime. It is, including terrorist financing, any action that involves transmitting, transferring or depositing funds collected by criminal activities or actions aimed at concealing or falsifying the nature of those funds in an attempt to pretend that such funds are generated from legitimate sources. [xii] It is concealing the unlawful source of money by transferring cash or other funds from illegal activities through legitimate channels, such as markets, banks and other financial institutions. The objective of money laundering is to disguise illegal (dirty) money and turn it into legal (clean) money.[xiii] It appears no more than fine tuned version of definition of money laundering set out in the Vienna Convention, 1988. In 2012 the FATF revised the *International Standards on Combating Money Laundering, the Financing of Terrorism and Proliferation* and included tax crimes to the list of predicate offences to money laundering.[xiv]

These definitions could serve the traditional aspects of money laundering not the modern. Categories of predicate offences of money laundering are widening day to day. Currently, in most of the cases money laundering doesn't simply entail laundering of money rather encompasses things valuable to money such as computer programs, intellectual properties and secret information etc. Most of the instances show that criminals are trying to distant themselves from the crimes as far away as possible by creating a complex web of transactions in order to evade detection of the illegal proceeds from their origin. Thus keeping into consideration the modern trends, the term money laundering can be sum up that it occurs at every transaction or relationship which involves any form of property of benefit derived, whether tangible or intangible, from criminal activities.

This research inquires is divided into five sections. Section I is introduction of money laundering, wherein the term money laundering has been broadly defined. Section II examines stages of money laundering. Section III covers International legal instruments for prevention and control of money laundering. Section IV discusses Indian legal instruments for prevention and control of money laundering. Section V is conclusion and suggestions.

STAGES OF MONEY LAUNDERING

On the face, it is clear that the underlying process of money laundering is the misrepresentation which is in three main stages- placement, layering and integration.[xv] It is notable that these stages often blurred in cyber laundering and tax evasion. These three stages are traditional and are not closed list of money laundering process. A brief of these stages are as below-

(a) Placement- It is the initial process of money laundering. It includes the placing of funds generated from illegal activities into the financial institution for the purpose of removing those funds from where they were originally generated to legitimate location so as to avoid detection.[xvi] In doing so, the money launderers, usually, possess fair knowledge of national laws, regulations and rules.[xvii] They may do currency smuggling from one State to other. In doing so, they are illegally moving funds physically from one State to other. Thereafter placing dirty money in the financial or non- financial institution of that country. Another method of placing is exchange of currency. In this method of placement of dirty money, the launderers are moving their dirty money through currency exchanges resultant from various business transactions. They could do this inside the State or outside. Some banks are also involved in this process. It happens when financial institutions are owned and controlled by launderers. In such case placement of dirty money becomes very easy. Securities brokers may also facilitate money laundering through structuring large amount of funds in a way that disguises the original source. Blending of funds is also a smart route of placement of dirty money. Herein funds from illegal activities are used to set up front business entities which enable those funds to be hidden in legal transactions.

(b) Layering- It is second key stage to the money laundering process. It involves creation of complex layers of financial transaction to conceal proceeds of illegal activities and disguise from their original sources.[xviii] It involves making a series of financial transactions to resemble it with legitimate financial activity. It involves the wire transfer or movement of funds placed into a financial or banking system by way of numerous accounts in an attempt to hide the funds' true origins. The frequent method of layering is wire transfer of funds through offshore-banking. Offshore-banking havens for wire transfer of funds are the Cayman Islands, Panama, The Bahamas, the Netherlands Antilles, Pakistan and Chile. Common methods of layering[xix] are- (i) Cash converted into monetary instruments through using banker's drafts and money orders, and (ii) Buying assets with cash and then selling them locally or abroad in a way that makes the assets difficult to trace.

(c) Integration: It is the final stage of money laundering and involves integration of the illicit-funds into the legitimate economy and financial system in such a way that they appear to be normal business funds.[xx] Most common methods of integration[xxi] are property dealing (real estate), false import/ export transactions and established business entities and false loans. Real estate is soft zone for the launderers. They are integrating dirty money into the financial system through purchase and sale of properties. They are using false invoices for the purpose of overvaluing the import documents to eventually justify the deposit in domestic bank and the funds received from export. The money launderers who own established business entities could easily lend themselves their own laundered money in apparently legitimate transactions.

It is notable that the integration process takes place in two sub stages- justification and investment, it is as below-

(c a)Justification of Integration[xxii]

To integrate illicit-funds into the legitimate economy or financial systems first and foremost it is required to justify the same. Thus, illicit-funds are always being integrated with the legitimate funds through the mechanisms which may show such illicit-funds to be originated from the apparent legal sources. Launderers are justifying integration of illicit-funds with legitimate-funds by doing business with their own selves to disguise source of illicit-funds. They are showing such illicit-funds as capital gains of their business and loan to their own business.[xxiii] They are disguising ownership of assets purchased from illicit-funds i.e. purchase of property in the name of some unknown person in the form of Benami Property.[xxiv] They are also transacting such illicit-funds to third parties.[xxv]

The money launderer creates an apparent legal origin of the money by fabricating transactions (invoices, bookkeeping and agreements), with the use of false and fabricated documents such as invoices, reports, contracts, agreements, deeds as well as written or spoken statements.[xxvi] Some justification methods of integration of illicit-funds are:

i. Fabricating a loan: loan-back or back to back,[xxvii]

ii. Fabricating a rise in net worth: buying and selling real estate and other items, fabricating casino winnings, lottery prizes, inheritance, etc.,[xxviii]

iii. Disguising the ownership of assets and interest in businesses (constructions with foreign legal entities, e.g. offshore companies or relatives as legal owner),[xxix]

iv. Price-manipulating (over- and under-invoicing),[xxx]

v. Manipulating turnover/sales by commingling illicit and legal sources of income.[xxxi]

(c b) Investment of Integration[xxxii]

Once integration of illicit-fund has been justified by the criminal showing it to have originated from legitimate origin, illicit-funds become legal one and get ready for investment. In this stage, criminal proceeds are being utilized for personal benefits. Cash or electronic money can be used for:

i. Safekeeping of cash in hand,[xxxiii]

ii. Consumption of money for day to day expenditures, maintenance, purchasing costly goods, vehicles, jewellery, arts and aircrafts, etc.,[xxxiv]

iii. Investing money in bank accounts, real estate, stocks, securities, receivables, funding of legal and illegal business activities.[xxxv]

As far as money laundering stages are concerned this section describes it briefly and clearly. Above discussed stages of money laundering adequately demonstrate that how criminals disguise criminal origin of illicit proceeds and convert them in legitimate money circumventing evil of legal consequences and avoiding detection by the tax or law enforcement authorities.

I. International Legal Instruments for Prevention and Control of Money laundering:

The anti money laundering regulations originated at municipal legal realm. In the beginning municipal laws were tending only to control money laundering activities through recommending certain measures to be followed by the financial and non- financial organizations and imposing symbolic fines, latter on declared it crime. Some municipal legal instruments are being discussed as below:

(a) United States - Economy of United States had grave threat of money laundering, consequently US Congress enacted the Currency and Foreign Transactions Reporting Act commonly known as the Bank Secrecy Act, 1970 (here after BSA).[xxxvi] It was regulating money laundering activities in US instead of repressing or preventing it. It was first legal instrument for anti money laundering. This Act has established requirements for recordkeeping and reporting by private individuals, banks and other financial institutions.[xxxvii] It has designed mechanisms to identify the source, volume, and movement of currency and other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions.[xxxviii] This Act required banks (1) to report cash transactions over $10,000, by an individual or on his / her behalf in a day, using the Currency Transaction Report (here after CTR) to the designated branch of Treasury Department of US.[xxxix] Violation of this requirement constitutes felony and punishable by imprisonment of a period not exceeding five years or a fine not exceeding $ 2,50,000 or both[xl]; (2) to properly identify persons conducting transactions;[xli] and (3) to maintain a paper trail by keeping appropriate records of financial transactions.[xlii] It has necessitated to every financial and non-financial institutions to maintain records pertaining to the identity of the customers through 'Know Your Customer' principle, which has latter on become corner stone of all anti money laundering (AML) legal instruments. Likewise, it has placed obligations on the persons transporting money or monetary instruments into or out of the US in excess of $ 10, 000 to report such activity on a Currency and Monetary Instrument Record (Here after CMIR) to the U.S. Department of the Treasury, failure to file CMIR would lead to forfeiture.[xliii] These records enable law enforcement and regulatory agencies to pursue investigations of criminal, tax, and regulatory violations, if warranted, and provide evidence useful in prosecuting money laundering and other financial crimes.[xliv] It is notable that CMIR applies to physical transfer of money not to the wire transfers but it applies to foreign currencies.

The BSA was amended in 1982 and 1984 to include other non-traditional financial institutions in its reporting requirements and to impose much greater penalties for noncompliance. The Bank Secrecy Act, 1970 became more effective after the Money Laundering Control Act, 1986, which added interrelated provisions to the Federal Deposit Insurance Act (FDIA) and the Federal Credit Union Act (FCUA). These provisions were equally applicable to the banks of all charters.[xlv] It has established money laundering as a federal crime precluding circumvention of BSA requirements by a person or financial institution structuring transactions to evade CTR filings. [xlvi] It has introduced civil and criminal forfeiture for BSA violations and directed banks to establish and maintain procedures to ensure and monitor compliance with the reporting and recordkeeping requirements of the BSA.[xlvii] As a result, on January 27, 1987, all federal banking agencies issued essentially similar regulations requiring banks to develop programs for BSA compliance.[xlviii] Anti-Drug Abuse Act, 1988 added into it and expanded definition of financial institutions to include businesses such as car dealers and real estate closing personnel and required them to file reports on large currency transactions and required the verification of identity of purchasers of monetary instruments over $ 3,000.[xlix] Annunzio-Wylie Anti-Money Laundering Act, 1992 strengthened the sanctions for BSA violations and the role of the U.S. Treasury requiring Suspicious Activity Reports and eliminated previously used Criminal Referral Forms and verification and recordkeeping for wire transfers as well as established the Bank Secrecy Act Advisory Group (BSAAG).[l] Two years later, the US Congress passed the Money Laundering Suppression Act of 1994 (MLSA), which further addressed the U.S. Treasury's role in combating money laundering.[li] It made compulsory to the banking agencies to review and enhance training, and develop anti-money laundering examination procedures and to review and enhance procedures for referring cases to appropriate law enforcement agencies.[lii] It made mandatory to get registered each Money Services Business (MSB) by an owner or controlling person and declared operation of an unregistered MSB a federal crime.[liii] It mandated to every MSB to maintain a list of businesses authorized to act as agents in connection with the financial services offered by the MSB. It streamlined CTR exemption process and recommended that States to adopt uniform laws applicable to MSBs.[liv]To curb the money laundering through training to the banking personnel and empowering to law enforcement agencies the US Congress has enacted the Money Laundering and Financial Crimes Strategy Act, 1998.[lv] But 9/11 terrorist attack over US in 2001 has brought drastic shift in the approach of US Congress. They linked money laundering with the terrorist financing and to curb it enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, 2001 (USA PATRIOT Act).[lvi] Besides other things, it criminalizes the financing of terrorism and augmented the existing BSA framework by strengthening customer identification procedures, prohibits financial institutions from engaging in business with foreign shell banks, requires financial institutions to have due diligence procedures (and enhanced due diligence procedures for foreign correspondent and private banking accounts), improves information sharing between financial institutions and the U.S. government by requiring government-institution information sharing and voluntary information sharing among financial institutions, expands the anti-money laundering program requirements to all financial institutions, increases civil and criminal penalties for money laundering.[lvii] It has provided the Secretary of the Treasury with the authority to impose "special measures" on jurisdictions, institutions, or transactions that are of "primary money laundering concern."[lviii] It facilitates records access and required banks to respond to regulatory requests for information within 120 hours and requires federal banking agencies to consider a bank's AML record when reviewing bank mergers, acquisitions, and other applications for business combinations.[lix] To empower Secretary of US Treasury to issue regulations to fight against terrorist financing, US Congress has enacted the Intelligence Reform & Terrorism Prevention Act, 2004.[lx] If the Secretary determines that to aid in the fight against money laundering and terrorist financing it is "reasonably necessary" that financial institutions doing cross-border electronic transmittals of funds should report to the determined reporting agencies of the US Treasury then he can issue regulations to concerned financial institutions.[lxi]

(b) Switzerland- Corresponding to US-BSA certain anti-money laundering laws were enacted in Switzerland and UK.[lxii] To maintain its banking credibility nationally and internationally,[lxiii] the Swiss Bankers Association (SBA) and other banking institutions entered into an agreement named Agreement on Due Diligence (CDB) in 1977. It is a set of self-regulation guidelines and is generally revised and updated every five years.[lxiv] It has laid down the obligations on banks with regard to the identification of clients and beneficial owners. In addition, it prohibits active assistance in the flight of capital and tax evasion. The statutory bank auditors are commissioned by the banks and Financial Market Supervisory Authority (FINMA) to verify bank compliance with this Agreement. Special investigators and a CDB Supervisory Board assess breaches of the Agreement. In the event of a breach of the CDB, a fine of up to CHF 10 million may be imposed on the bank in question, which will subsequently be used by the SBA for a non-profit purpose.[lxv] The CDB is expanding and has included anti money laundering provisions in the Swiss Penal Code (Art. 305bis and 305ter StGB), the Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector (AMLA) and a corresponding Ordinance of the Swiss Financial Market Supervisory Authority (FINMA) on the

Prevention of Money Laundering and Terrorist Financing (FINMA Anti-Money Laundering Ordinance, AMLO-FINMA).[lxvi] Swiss laws are broadly complying with the international recommendations of Financial Action Task Force (FATF) named forty recommendations and keep revisiting to correspond with the revisited recommendations of FATF.[lxvii]

(c) UK - Likewise UK enacted the Drug Trafficking Offences Act, 1986 [lxviii]and the Prevention of Terrorism (Temporary Provisions) Act, 1989[lxix]. The former law is the first legislative effort of the UK to recover the proceeds of drug trafficking associated money laundering and administration of controlled drugs while latter is controlling flow of laundered money to finance terrorism.

(d) Till 1989, the issue of money laundering had been dealt at municipal scale only, though menace of money laundering was visible internationally. It has been regulated at international plane, first and far most, by the Financial Action Task Force (FATF)[lxx] in 1989 after the convention of economic summit in Paris. The FATF has become the leading organization in setting standards for fighting against money laundering and financing terrorism. In 1990, it has issued 40 recommendations known as 'FATF 40 Recommendations' in respect of prevention of money laundering.[lxxi] FATF 40 Recommendations were classified under three major categories: (1) Legal System: creating a legal framework for fighting against money laundering, (2) Measures to be taken by financial institutions, non-financial institutions and professions to prevent money laundering and terrorist financing, and (3) Institutional and other measures in systems for combating money laundering and terrorist financing. In 2001, FATF issued nine special recommendations on terrorist financing, they are: (1) Ratification and implementation of UN Instruments, (2) criminalizing the financing of terrorism and associated money laundering, (3) freezing and confiscating terrorist assets, (4) reporting suspicious transactions related to terrorism, (5) International Cooperation, (6) Alternative remittance, (7) wire transfers, (8) Non-profit organizations, and (9) cash couriers.[lxxii] Based on UN Security Council Resolutions, the FATF has put in place a global framework of standards to combat the financing of terrorism.[lxxiii] On December 14, 2015, at Paris, in three days long meeting, focused on combating the financing of ISIL, their affiliates, and other terrorist groups, the Financial Action Task Force (FATF) concluded that it will adapt its strategy in order to better understand and reflect the changing nature of the terrorist financing risks, including by strengthening the existing measures, and enhancing operational information sharing to help counter these risks.[lxxiv] In order to develop an up-to-date understanding of the risks and to share that knowledge with the private sector it will (1) provide an up-to-date picture of ISIL-related finances to better understand the impact of all the actions taken and the evolving risks (2) develop up to date terrorist financing indicators to share with the private sector.[lxxv] Prevention and disruption of terrorism is possible, it felt, through stopping hinder terrorist financing.[lxxvi] To achieve this Better information sharing is required between operational agencies, including domestically between national authorities, internationally between agencies and between the public and private sector.[lxxvii] In order to achieve this FATF will (1) conduct an immediate analysis across all members in order to review their understanding of the risks, the challenges faced in sharing information, and how countries have responded to those challenges (2) work together with the Egmont Group to overcome information sharing obstacles and consider updating the international standards on effective information sharing and (3) also take immediate actions to improve information exchange between government authorities, between countries, and with the private sector.[lxxviii] For example, FATF calls on all jurisdictions to issue advisories to the private sector on the latest terrorist financing risks as soon as possible and calls on all members to update Interpol's foreign terrorist fighters database.[lxxix] In order to ensure that the FATF standards, which are the international benchmark for frameworks for combating terrorist financing, be adhered to and that standards keep up with evolving risks it will (1) initiate special follow-up measures for countries which have not criminalized terrorist financing or do not apply targeted financial sanctions and (2) discuss if there are areas where the FATF Standards can be strengthened, such as better reflecting the United Nations Security Council Resolutions dealing with terrorist financing.[lxxx]

Besides endeavors of FATF there are certain other international efforts to clutch the money laundering and financial flow to the terrorism. In 2001, the United Nations enacted the United Nations Convention against Transnational Organized Crimes (known as Palermo Convention).[lxxxi] It required to the members to amend their national laws to include the following four offences- (1) Money laundering, (2) Participate in an organization criminal group, (3) Obstruction of Justice and (4) Corruption.[lxxxii] The United Nations Office on Drug Crime (UNODC) mandated to help the countries in carrying out enactment of anti-money laundering legislation to ensure that there may not be flaws in the International Laws. The UNODC has established the Global Program against Money Laundering (GPML), focusing on training and supporting financial investigations and improving practitioner tools.[lxxxiii] In 2001, the International Monetary Fund (IMF) issued an announcement asking all members to fully comply with the United Nations instructions to counter terrorism. In 2002, the IMF and World Bank started a program to assess the international standards established by the FATF.[lxxxiv] During 2003 and 2004, the World Bank and IMF assisted more than 100 countries to establish appropriate directive to fight money laundering and terrorist financing.[lxxxv]

INDIAN LEGAL INSTRUMENTS FOR PREVENTION AND CONTROL OF MONEY LAUNDERING

India is also not free from the menace of money laundering. Like other countries, there is also big market of illicit-money. It is parallel economy in India. Launderers are integrating their dirty money into legitimate money. The recent activity in money laundering in India is taking place through political parties, corporate companies, share markets, real estate business and hawala. According to Government of India, out of the total tax arrears of Rs.2480 billion (US$37 billion) about Rs.1300 billion (US$19 billion) pertains to money laundering and securities scam cases.[lxxxvi] To combat money laundering India has criminalized it in the Prevention of Money Laundering Act, 2002 (here after PMLA), amended in 2005 and 2009, and the Narcotic Drugs and Psychotropic Substances Act, 1985 (here after NDPS Act), amended in 2001. The PMLA has established investigating agencies for investigation of money laundering offences. It is investigated by the Enforcement Directorate and Indian Income Tax Department.[lxxxvii]

These two Acts curtail money laundering in two distinct fields of crimes. The money laundering provisions under the NDPS Act only relate to predicate drug offences. The PMLA applies to a much broader range of predicate offences, including narcotics as well. These Acts are faithful transportation of money laundering provisions of the Vienna and Palermo Convention. These Acts include an individual and all forms of companies, firms, associations and legal persons within the meaning of person.[lxxxviii]

The PMLA puts several obligations on the banking companies, financial institutions and intermediaries.[lxxxix] In the event of failure to comply with these obligations by any responsible authority, the director is empowered to impose fine on the defaulter authority.[xc] The authorities are empowered to issue summons to the persons, do search and seizures of the subject matter of money laundering crimes under section 3 of this Act.[xci] Special courts have been established for the trial of money laundering offences. The sanctions for money laundering under the PMLA are rigorous imprisonment for three to seven years and a fine of up to Rs. 500,000. Money Laundering predicated by Schedule Part A, par. 2, narcotic offences carries a higher maximum penalty, namely 10 years imprisonment.[xcii] However, the maximum penalty for money laundering under the NDPS Act is only six months, regardless of the amount laundered.[xciii] In its Mutual Evolution Report on Anti Money Laundering and combating the financing of terrorism in India, the FATF has proposed vibrant mechanism helpful to disrupt and prevent financial flow in terrorism as India is a drug-transit country due to its strategic location between the countries of the Golden Triangle and the Golden Crescent. FATF has recommended special measures for India to be taken in this regard.[xciv]

CONCLUSION AND SUGGESTIONS

The money laundering offences in India are deeply rooted. The Indian legal instruments are rendering inadequate for the prevention and control of money laundering. There are two potent laws for the prevention and control of money laundering. These are the Prevention of Money Laundering Act, 2002 and the Narcotic Drugs and Psychotropic Substances Act, 1985. Nonetheless these laws have their own areas of operation. They are not covering all areas of money laundering. For example the Prevention of Money Laundering Act, 2002 prevents and controls offences of money laundering only for the predicate offences connected to the 'proceeds of crimes', and the Narcotic Drugs and Psychotropic Substances Act, 1985 operates only for the offences related to narcotic drugs and psychotropic substances; whereas the domain of money laundering is much broader. Notwithstanding its limitations, the Prevention of Money Laundering Act, 2002 have been made to cover other sources of money laundering too. Nonetheless, there requires amendment in these two laws to curb menace of money laundering offences in several other areas such as real estate, securities, fake business and wire transfers.

BIBLIOGRAPHY

- Prevention of Money Laundering Act, 2002
- Narcotic Drugs and Psychotropic Substances Act, 1985.
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (The Vienna Convention).
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2003,
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, 2004,
- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, 2005,
- The Financial Action Task Force (FATF)
- United Nations Convention against Transnational Organized Crime, 2000.
- History of money laundering; International Money Laundering Information Bureau
- Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA);
- FATF Recommendations, 2013 under designated categories of offences which have included tax crimes (direct taxes and indirect taxes).

- Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD
- Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2010
- Drug Trafficking Offences Act, 1986 and the Prevention of Terrorism (Temporary Provisions) Act, 1989.
- Prevention of Terrorism Act, 1997.
- http://www.imf.org/external/np/exr/facts/aml.htm
- https://www.unodc.org/unodc/en/money-laundering/globalization.html
- http://www.imlib.org/page1_hist.html
- https://www.unodc.org/pdf/**convention_1988**_en.pdf
- https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf
- http://www.tagi.com/UploadFiles/AML%20Guide.pdf
- http://www.tagi.com/UploadFiles/AML%20Guide.pdf
- http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf
- http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf
- http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf
- https://www.unodc.org/documents/corruption/WG-Prevention/Art_14_Prevention_of_money-laundering/USA.pdf
- http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf
- https://www.fincen.gov/news_room/aml_history.html
- https://www.fincen.gov/news_room/aml_history.html
- http://www.swissbanking.org/en/geldwaeschereibekaempfung.htm
- http://www.swissbanking.org/en/geldwaeschereibekaempfung.htm#sthash.4kSS1b7Z.dpuf
- http://www.legislation.gov.uk/ukpga/1986/32/contents
- http://www.legislation.gov.uk/all?title=Prevention%20of%20Terrorism%20%28Temporary%20Provisions%29%20Act%2C%201989
- http://www.fatf-gafi.org/publications/fatfgeneral/documents/importance-urgent-action-to-implement-fatf-standards-counter-terrorist-financing.html
- http://www.fatf-gafi.org/publications/fatfgeneral/documents/fatf-leads-renewed-global-effort-to-counter-terrorist-financing.html
- http://www.fatf-gafi.org/publications/fatfgeneral/documents/fatf-leads-renewed-global-effort-to-counter-terrorist-financing.html
- https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf
- http://www.outlookindia.com/news/article/recovery-of-arrears-from-hasan-ali-not-possible-fin-min/782833
- http://web.archive.org/web/20120426044056/http://www.directorateofenforcement.gov.in/functions.html

[i] Accessed from http://www.imf.org/external/np/exr/facts/aml.htm ; visited on 15.11.2015 at 8:19 AM

[ii] Accessed from https://www.unodc.org/unodc/en/money-laundering/globalization.html

[iii] History of money laundering; International Money Laundering Information Bureau; Accessed from http://www.imlib.org/page1_hist.html

[iv] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (The Vienna Convention). The Convention was adopted by the General Assembly of the United Nations on 7 December 1987, and it came into force on 11 November 1988. Accessed from https://www.unodc.org/pdf/**convention_1988**_en.pdf

[v] Article 2 of the United Nations Convention against Transnational Organized Crime, 2000. It was adopted by the General Assembly of the United Nations on 15 November 2000, and came into force on 29 September 2003 after satisfaction of requisites prescribed in its Article 36. Accessed from https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf

[vi] Article 6 (1) (a) (i) of the United Nations Convention against Transnational Organized Crime, 2000. Ibid

[vii] Article 6 (1) (a) (ii) of the United Nations Convention against Transnational Organized Crime, 2000. Ibid

[viii] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2003, supplementing the United Nations Convention against Transnational Organized Crime, 2000, is legally binding instrument. Ibid

[ix] The Protocol against the Smuggling of Migrants by Land, Sea and Air, 2004, supplementing the United Nations Convention against Transnational Organized Crime, 2000. Ibid.

[x] The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, 2005, supplementing the United Nations Convention against Transnational Organized Crime, 2000. Ibid.

[xi] The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a "policy-making body" which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[xii] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA); P.1, Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[xiii] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA); P.1, Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[xiv] See page no. 112 of the FATF Recommendations, 2013 under designated categories of offences which have included tax crimes (direct taxes and indirect taxes). Accessed from http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

[xv] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA); Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[xvi] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA); P.1, Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[xvii] Ibid.

[xviii] P.2, Id.

[xix] Ibid.

[xx] Ibid.

[xxi] Ibid.

[xxii] Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD; P. 13; Accessed from http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf

[xxiii] Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD; P. 13; Accessed from http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf

[xxiv] Ibid.

[xxv] Ibid.

[xxvi] Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD; P. 13-14; Accessed from http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf

[xxvii] Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD; P. 14; Accessed from http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf

[xxviii] Ibid.

[xxix] Ibid.

[xxx] Ibid.

[xxxi] Ibid.

[xxxii] Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors; OECD; P. 14; Accessed from http://www.oecd.org/tax/exchange-of-tax-information/43841099.pdf

[xxxiii] Ibid.

[xxxiv] Ibid.

[xxxv] Ibid.

[xxxvi] 31 USC 5311 et seq., 12 USC 1829b, and 1951 – 1959. Also refer to 12 USC 1818(s) (federally insured depository institutions) and 12 USC 1786(q) (federally insured credit unions); as quoted in Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2010, p. 9; Accessed from http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf

[xxxvii] Ibid.

[xxxviii] Ibid.

[xxxix] Accessed from https://www.unodc.org/documents/corruption/WG-Prevention/Art_14_Prevention_of_money-laundering/USA.pdf

[xl] 31 USC 5322(a). (As quoted in Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2005, p. 16) Accessed from http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf

[xli] Accessed from https://www.fincen.gov/news_room/aml_history.html

[xlii] Accessed from https://www.fincen.gov/news_room/aml_history.html

[xliii] Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2005. Accessed from http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf

[xliv] Ibid

[xlv] 12 USC 1818(s), 1829(b) and 1786(q). (As quoted in Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2005, p. 10) Accessed from http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf

[xlvi] Ibid.

[xlvii] Ibid.

[xlviii] Ibid.

[xlix] Accessed from https://www.unodc.org/documents/corruption/WG-Prevention/Art_14_Prevention_of_money-laundering/USA.pdf

[l] Ibid.

[li]Bank Secrecy Act/ Anti-Money Laundering Examination Manual; Federal Financial Institutions Examination Council, 2005, p. 10. Accessed from http://www.schwartzandballen.com/pdf_aml/BSA%20Examination%20Manual%20062305.pdf

[lii] Supra Note 98.

[liii] Ibid.

[liv] Ibid.

[lv] Ibid.

[lvi] Supra Note 98. Title III of the USA PATRIOT Act is referred to as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001

[lvii] Supra Note 98.

[lviii] Ibid.

[lix] Ibid.

[lx] Id.

[lxi] Id.

[lxii] The Drug Trafficking Offences Act, 1986 and the Prevention of Terrorism (Temporary Provisions) Act, 1989. The Act of 1989 was repealed and replaced with the Prevention of Terrorism Act, 1997.

[lxiii] Vide preamble of Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB 16); Accessed from http://www.swissbanking.org/en/geldwaeschereibekaempfung.htm

[lxiv] See more at: http://www.swissbanking.org/en/geldwaeschereibekaempfung.htm#sthash.4kSS1b7Z.dpuf

[lxv] Ibid

[lxvi] Ibid

[lxvii] See more at: http://www.swissbanking.org/en/geldwaeschereibekaempfung.htm#sthash.4kSS1b7Z.dpuf

[lxviii] See more at: http://www.legislation.gov.uk/ukpga/1986/32/contents

[lxix] See more at: http://www.legislation.gov.uk/all?title=Prevention%20of%20Terrorism%20%28Temporary%20Provisions%29%20Act%2C%201989

[lxx] It is a global money-laundering watchdog organization created by seven industrial democrats; Anti-Money Laundering Guide for Auditors and Accountants, P. 16; Tala Abu-Ghazaleh & Co. International (TAGI) and Arab Society of Certified Accounts (ASCA); Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[lxxi] Ibid.

[lxxii] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) AND Arab Society of Certified Accounts (ASCA), P. 17; Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[lxxiii] Je-Yoon Shin, FATF President, at Special Session of the United Nations Security Council meeting of Finance Ministers, New York, Thursday 17 December; for more detail see: http://www.fatf-gafi.org/publications/fatfgeneral/documents/importance-urgent-action-to-implement-fatf-standards-counter-terrorist-financing.html

[lxxiv] Accessed from http://www.fatf-gafi.org/publications/fatfgeneral/documents/fatf-leads-renewed-global-effort-to-counter-terrorist-financing.html

[lxxv] Ibid.

[lxxvi] Ibid.

[lxxvii] Ibid.

[lxxviii] Ibid.

[lxxix] Ibid.

[lxxx] For more detail see: http://www.fatf-gafi.org/publications/fatfgeneral/documents/fatf-leads-renewed-global-effort-to-counter-terrorist-financing.html

[lxxxi]Accessed from https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf

[lxxxii] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) AND Arab Society of Certified Accounts (ASCA), P. 19; Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[lxxxiii] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) AND Arab Society of Certified Accounts (ASCA), P. 20; Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[lxxxiv] Ibid.

[lxxxv] Anti-Money Laundering Guide for Auditors and Accountants; Tala Abu-Ghazaleh & Co. International (TAGI) AND Arab Society of Certified Accounts (ASCA), P. 20-21; Accessed from http://www.tagi.com/UploadFiles/AML%20Guide.pdf

[lxxxvi]For more detail see: http://www.outlookindia.com/news/article/recovery-of-arrears-from-hasan-ali-not-possible-fin-min/782833

[lxxxvii] For more detail see:http://web.archive.org/web/20120426044056/http://www.directorateofenforcement.gov.in/functions.html

[lxxxviii] Vide section 2 (s) of the Prevention of Money Laundering Act, 2002 and section 8A of the Narcotic Drugs and Psychotropic Substances Act, 1985.

[lxxxix] Vide chapter IV of PMLA

[xc] Vide section 13 of PMLA

[xci] Vide chapter V of PMLA

[xcii] See the Prevention of Money Laundering Act, 2002

[xciii] See the Narcotic Drugs and Psychotropic Substances Act, 1985.

[xciv] For more detail see: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20India%20full.pdf