

The advent of outsourcing industry, offering huge employment opportunities to the poverty stricken developing countries like, India. These opportunities are in the areas of insurance, law, finance and health sectors. In order to benefit out of the modern outsourcing business such as, BPO, medical transcription, legal transcription *etc.*, and to enhance our business relations with the developed countries, it has become inevitable for India to take privacy protection measures especially to evolve data protection laws immediately without any further delay. Any indifference and delay on our part, resulting in loss of mass employment opportunities is inexcusable for a country that suffer from a massive unemployment problem like India.

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PROBLEM OF MONEY LAUNDERING – SOCIO-LEGAL DIMENSIONS

By

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Money laundering is an organized crime. It has become an international business round the clock with a global impact. 'Money laundering' is simply, cleaning the dirty money, just like our dirty clothes are cleared by laundry man. It is called dirty money, because it is procured through illegal activities. These illegal activities include, hawala transactions, corruption, drugs smuggling and sale, organizing prostitution rings, illegal sale of arms in violation of Arms Act, offences under the Wild Life Protection Act *etc.* Thus illegally gained dirty money is subjected to numerous transactions by using banks and financial

institutions because the illegal money cannot be used officially, legitimately as there will be every possibility of being caught by the Government Authorities especially the Income tax Department and the police *etc.* The person possession such assets has to account the source as to how he has gained such money. This may lead to disclosure of the illegal source from which they are originated, hence this money laundering activity. Therefore, this process is attempted by all the launderers to give the dirty money a clean shape and to hide its illegal source of origin. Money launderers try to distance such money from

its source to the maximum possible extent so that it cannot be detected.

The United Nations defined the money laundering as “the conversion or transfer of property knowing that such property is derived from an offence, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence to evade the legal consequences of his actions”.

This entire process involves three stages.

1) Placement 2) Layering and 3) Integration stage.

1. *Placement Stage:-* This is the first stage, wherein the illegal money is introduced into the financial system. This is done by breaking the larger sums in to smaller sums which are deposited into a bank account or purchasing the financial instruments like, cheques and DD's etc., is done. These are collected and deposited into fictitious accounts at another location.
2. *Layering stage:-* This is the second stage. This stage involves a number conversions or movements of funds to investment instruments or wire transfer of funds to multiple accounts in various banks across the globe. These transactions are aimed at avoiding the audit trials and hide its origin.
3. *Integration Stage* is the third and the last stage. During this phase, the cleaned up money is brought back to the economy as if they are legitimate funds. These laundered funds are used officially by them without any fear that they are caught, because their source almost becomes obscure. It becomes difficult for the law enforcement authorities to detect its source at this final stage.

Why Money laundering is a problem?

We all aware and experience the ill effects of terrorism all over the world including

India today. The September 11, attack on World Trade Center in USA in the year 2001 brought the issue to the fore hence, it has become a matter of discussion today. The reason is, the US Authorities have confirmed the link between the money laundering and the terror attack. The laundered funds are used to finance the terrorism which is an established fact today. The narco-terrorists are the people named after the activity they are involved in *i.e.*, drug smuggling. This clearly establishes the link between the terrorist activities and the money laundering.

IMF estimates (1996) already confirmed that about 3 to 5 % of the World's Gross Domestic Product is involved in the money laundering activities. This money is supposed to be with the Welfare Governments of the modern democratic nations which would otherwise be spent on welfare programmes meant for the poor. Income tax payment is also avoided as such money is illegal and cannot be accounted. Thus the money laundering not only exposes the countries to terrorists attacks but also disturbs and destabilizes the economies of the many countries all over the world. It is also having adverse impacts both globally and locally in various nations.

Money laundering affects the economy negatively as it diverts resources to less productive activity. Laundered money is used in sterile investments such as real estate, purchases of jewellery and luxury automobiles which generate little productivity for the broader economy. It disturbs the exports and imports. It also leads to inflation leading to price rise that affect the people very badly. Since it is easily gained money, it is offered as bribes to the public officials to get their works done in their favour. This undoubtedly increases corruption among the public officials. Slowly, this process influence the overall Government machinery, which finally ruin the entire social fabric of a nation.

Background of the Problem:-

There were sufficient evidences to show that, many Nazi military officers used Swiss

Banks to hide the plundered money. Although the money laundering was in existence from 1930's, it attracted international attention only when western countries enacted anti-money laundering laws in general and with the 9/11 episode in particular. Its origin can be linked to the Drug Mafia of USA where nearly 80% of US money laundering was identified as flowing from the large-scale drug trade by the drug cartels.

Cyber Money laundering

The Internet resultant e-commerce and WTO stipulated free trade among the countries of the world facilitated the task of money launderer very simple. Because, it facilitates the speed and ensures anonymity to the person involved in. 'Cyber jurisdiction' is the technical defect of I T which is taken advantage by these criminal syndicates. Use of plastic money in the form of ATM Cards, Smart Cards and electronic fund transfer, online purchase of goods using credit cards has become most popular in this global village promoting e-commerce cutting the transnational barriers. This internet facility aggravated the problem further, resulting a peculiar situation, wherein, the task of the money launders has become very simple while the task of the law enforcer has become an herculean task. Prior to emergence of internet, international transfer of funds were used to be controlled by the Central Banks (such as RBI) in various countries. With the advent of internet, the fund transfer is taking place at uneven speed with accuracy ensuring anonymity to the sender of money. Many international banks have set up ATM centers in various countries across the globe enabling the customers to withdraw money anywhere in the world provided the ATM outlets exist.

Dual role of Money Launderer

The criminals are now setting up the fictitious online commerce companies (that do not exist in reality) by creating a beautiful and attractive website accepting online purchases made in their website. Here, the

money launder just sitting before a P.C, connected to internet within four walls is resorting to all fraudulent activities like these. The launderer, first procures maximum number of credit cards in the names of fictitious persons from the customer friendly banks in the countries where, liberal and weak anti-money laundering measures prevail. With the help of credit cards procured like this, the launderer make purchases from his own website. Then the web based system sends an invoice to the customer's (launderer himself) bank. The bank pays money to the company's account. Thus, the internet provides a safe and anonymous opportunity by its faceless, nameless transaction to the offenders in money laundering transactions. It is also observed that, criminal syndicates are starting front companies and organize these nefarious activities on large scale by hiring the few cyber experts. These people use 'cryptography' technique to hide their transactions. In this method, the message is sent and received in a secret code which is not understood by the ordinary people.

Institutions Targeted by the Money Launderers

Financial institutions and banks are generally most vulnerable to these illegal activities. These banks mostly are in the countries like, Switzerland, Cayman Islands, Cypress, Luxemburg and are treated to be safe for such activities. The advantage of holding accounts in these banks is that, they ensure complete anonymity for all their customers activities with regard to their name, amount of transaction *etc.*, thus providing them a safe zone for such activities to flourish. Multinational banks are much prone to these activities. Mind-boggling revelations are made known wherein, it was found during investigations that BCCI Bank had 3000 criminal customers involving in illegal activities. The Mafia controlled Hawala activity has also taken advantage of the internet facility in their cyber transfers. Just with the click of a

mouse, unlimited amount is being transferred from one corner of the world to the other corner, crossing the international borders with much ease than ever before within few seconds.

Money laundering in India

Owing to international pressure, the Government of India has made the “*Prevention of Money Laundering Act-2002*” (PMLA) which came into operation from 2005 dealing with money laundering activities in India. This legislation is having many lacunae as given under which requires to be reformed.

(1) List Approach

The PMLA 2002, in its schedule, contain ‘five Acts attached at the end in addition to some provisions of Indian Penal Code 1860. These Acts include, Wild Life Protection Act 1972, Arms Act 1959; Narcotic Drugs and Psychotropic Substances Act 1985, Immoral Traffic (Prevention) Act 1956 and Prevention of Corruption Act 1988. Under the PMLA 2002, the offences committed under any of the above five laws alone are punishable, leaving all other offences from its purview. Thus, it provides a narrower and limited scope, uncovering most of the offences which are connected to money laundering offences.

(2) Only Predicate Offences, not substantive offences.

Punishing the offenders is under PMLA is also not that easy, because all the offences committed under PMLA are treated as predicate crimes and not as the substantive offences. In other words, the punishment under PMLA is possible only when conviction under the above five laws is done. Hence, a conviction under PMLA depends on the outcome of the trial proceedings of the above five enactments.

(3) Monetary ceiling limit

This is one of the greatest mistake done under the PMLA 2002. In order to punish a

money launderer under this enactment, the offence must involve a minimum of rupees thirty lakhs value or above. Transactions involving lesser than rupees 30 lakhs amount is not covered by this Act. This upper ceiling limit facilitates the intelligent offenders to maintain their transactions below this limit only, so that they easily escape from the clutches of law.

(5) Non-coverage of popular ‘Hawala transactions’

Though Hawala transactions today are the major source of money laundering, it is not covered under PMLA. The recent amended bill 2008 also did not provide for this. This is a major lacunae as the Mafia controlled hawala transactions are the most popular form of money laundering. Thus, the vast networked Mafia is running parallel economies in many countries including India. Unless this is covered, all our efforts to contain this problem prove futile.

(6) Certain categories of professions such as lawyers, real estate agents, dealers in gold and gems are not covered. These professions are required to be covered as per the stipulations of ‘*Financial Action Task Force*’ an international and inter-governmental body governing anti-money laundering policies at global level. Still, India is not a full-fledged member in FATF. It has only an observer status as it did not fully comply with the FATF recommendations as stated above.

(7) There is an ambiguity with regard to the investigation as to who will investigate whether the Central Government or the State Government is not clearly defined in the 2002 Act.

(8) FEMA (Foreign Exchange Management Act) 1999 should have been attached in its list along with other five enactments. It is because, false invoicing *i.e.*, over invoicing of exports and under invoicing of imports is one of the popular technique applied by the money launderers in India.

(9) Finally, it is suggested that, strong commitment on the part of the politicians is needed. Measures should be taken both in letter and spirit to root out the problem. Namesake measures owing to international pressures does not serve the intended purpose. International co-operation is also inevitable to contain this problem effectively.

If we do not revamp our strategy in the light of above lacunae and the changing scenario, we utterly fail in our attempt to contain the problem of money laundering. There is every possibility for the recurrence of the incidents like, 9/11 WTC attack, Indian Parliament terror attack (2001) and 26/11 Mumbai terror attack (2008) in future. Treating it merely as a law and problem and taking measures will not suffice. A comprehensive strategy to root out the problem is need of the hour.

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DHARMA – KARMA – SAMSARA: THE SYSTEM OF COSMIC JUSTICE

Science of reincarnation
Karma – the law behind reincarnation
Dharma – cosmic ethics
Sanatana-dharma: higher aspect of dharma

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Every civilized society has a system assuring its smooth work and protecting it from various negative influences. This system is known as law-giving (parliament), executive (police and Courts) and penitentiary (jails) departments.

We can see this system at work, and therefore we know that society is maintained

and controlled by someone. Its maintenance and running are very demanding and it is not possible that it would appear and work by itself.

Not everyone however knows that similar system works also on the cosmic scale. In comparison with our limited systems it is much more complex and errorless. Its three