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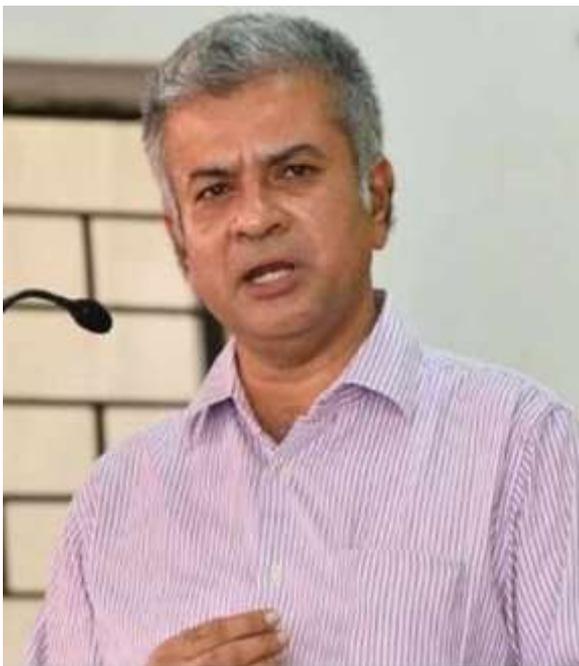
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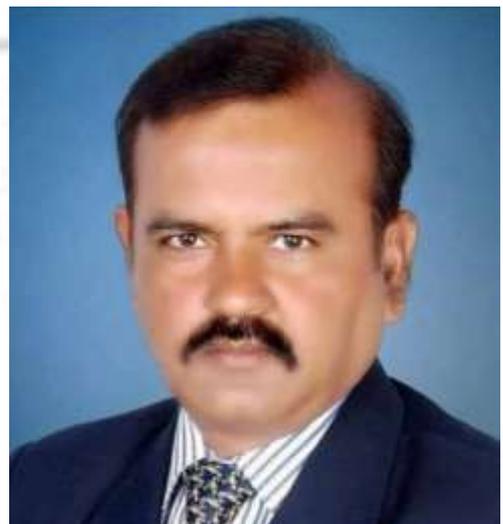
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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **MONEY LAUNDERING: REGULATORY FRAMEWORK**

AUTHORED BY - SHRIYA A JAIN

## **INTRODUCTION:**

Money laundering is a process that involves disguising the origins of illegally obtained funds by converting them into legitimate sources of income. The practice has been prevalent for centuries, with the rise of international trade and modern financial systems making it more prevalent than ever. It has been estimated that money laundering accounts for up to 5% of global GDP or approximately \$2 trillion annually. The process of money laundering typically involves three stages: placement, layering, and integration. In the placement stage, the funds are introduced into the financial system, often through cash transactions or wire transfers. Once the funds are in the system, the launderer will use various techniques to obscure their origins, including transferring them between multiple accounts or countries, creating complex financial transactions, and using shell companies or offshore accounts. This is known as the layering stage. Finally, the funds are re-introduced into the legitimate economy in the integration stage, often by purchasing assets or investments. Money laundering poses a significant threat to the stability and integrity of the global financial system. It can finance criminal activities such as drug trafficking, terrorism, and human trafficking. It also allows individuals and organisations to evade taxes and sanctions, making it a significant concern for governments and law enforcement agencies worldwide.

Governments and financial institutions have implemented various measures to combat money laundering, including increased regulation, greater transparency, and enhanced enforcement mechanisms. Many countries require financial institutions to conduct due diligence on their customers, monitor their transactions for suspicious activity, and report any suspicious activity to the relevant authorities. Advanced technologies such as artificial intelligence and machine learning are also becoming more prevalent in the fight against money laundering. In conclusion, money laundering is a complex and evolving practice that poses a significant threat to the global financial system. While governments and financial institutions are working to combat it, more must be done to ensure illegal funds cannot be disguised and introduced into the legitimate economy. The continued development of new technologies and regulatory frameworks will be

essential in the ongoing fight against money laundering.

### **PRACTICAL ASPECT:**

The practical aspects of money laundering involve several steps designed to conceal the illegal source of funds. There are three steps namely:

- 1. Placement:** Illegal funds are introduced into the financial system. This is often done through cash deposits, wire transfers, or other means that can obscure the source of the funds.
- 2. Layering:** Once the funds are in the system, the launderer will use various techniques to layer or hide the funds, such as transferring the money through multiple accounts or jurisdictions or creating complex financial transactions.
- 3. Integration:** Finally, the launderer will integrate the funds into the legitimate economy by purchasing assets, making investments, or conducting other financial transactions.

To gather evidence of money laundering, law enforcement agencies and financial institutions must look for patterns of suspicious activity, including substantial transactions, frequent transfers between accounts, and transactions that do not fit the regular business of a particular customer. This information can be gathered through real-time transaction monitoring systems, which detect unusual or suspicious activity.

In addition to transaction monitoring, law enforcement agencies may use other tools to gather evidence of money launderings, such as wiretaps, surveillance, and undercover operations. These methods may be used to gather evidence of the initial placement of funds and the layering and integration stages.

Once evidence of money laundering is gathered, law enforcement agencies may use civil or criminal forfeiture laws to seize the assets used in the scheme. These laws allow authorities to take assets used in or derived from illegal activities, even if the individual or organisation has not been convicted of a crime.

Gathering evidence of money laundering requires a combination of advanced technology, sophisticated analysis, and careful investigative techniques. It is a complex and ongoing process that involves cooperation between law enforcement agencies, financial institutions, and

government regulators.

### **LEGAL FRAMEWORK:**

The legal framework of money laundering in India is primarily governed by the Prevention of Money Laundering Act (PMLA) of 2002. The act was enacted to prevent money laundering and provide for confiscating property derived from or involved in money laundering.

Under the PMLA, money laundering is defined as the "concealment, acquisition, possession, or use of proceeds of crime". The act applies to all persons, including individuals, companies, and partnerships, who engage in money laundering or assist in such activities. The act provides for establishing the Financial Intelligence Unit (FIU) to receive, analyse, and disseminate information relating to suspicious transactions. Financial institutions are required to report suspicious transactions to the FIU, and failure to do so may result in penalties.

The PMLA also provides for the creation of special courts to try money laundering cases. The act empowers these courts to order the confiscation of property derived from or involved in money laundering and impose fines and imprisonment. In addition to the PMLA, several other laws and regulations in India are relevant to money laundering. These include the Foreign Exchange Management Act (FEMA), the Income Tax Act, the Customs Act, and the Benami Transactions (Prohibition) Act.

Overall, the legal framework of money laundering in India is comprehensive and designed to prevent and punish money laundering activities. The government has taken several steps to enhance the framework's effectiveness, including using technology to detect and investigate suspicious transactions and establishing international cooperation mechanisms to combat cross-border money laundering.

### **CASE LAWS:**

Several high-profile cases of money laundering in India in recent years have led to significant legal action and convictions. The popular scam **Vijay Mallya**<sup>1</sup>, the businessman and former owner of Kingfisher Airlines, were charged with money laundering in connection with loans taken from banks. He fled the country in 2016 and lived in the UK, where the Indian government

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<sup>1</sup> <https://indiankanoon.org/doc/144009523/>

seeks extradition. Another case was the **P. Chidambaram scam**. The former finance minister was arrested in 2019 on charges of money laundering and corruption in connection with the INX Media case. He was released on bail in 2020. The **Bhushan Steel scam** is also noteworthy. The Enforcement Directorate (ED) filed a money laundering case against Bhushan Steel in 2018 concerning alleged loan fraud. The case resulted in the seizure of assets worth over Rs. 4,000 crores. Similarly, **Hasan Ali Khan scam**<sup>2</sup>, where the businessman was arrested in 2011 on money laundering and tax evasion charges. He was accused of stashing away \$8 billion in Swiss banks. The case resulted in the seizure of assets worth over Rs. 12,000 crores. **The NSEL scam**<sup>3</sup>, The National Spot Exchange Ltd (NSEL) scam, which came to light in 2013, involved trading commodities without actually possessing them, resulting in losses of over Rs. 5,000 crores. Several people were arrested on money laundering charges in connection with the scam. These cases highlight the seriousness of money laundering in India and the government's commitment to acting against those involved in such activities. The legal framework for combating money laundering in India is robust and continuously strengthened to prevent and punish such activities.

### CONCLUSION:

Money laundering poses a severe danger to the financial systems of all nations and undermines their sovereignty and sense of identity. The extent of money laundering has given the fight against it an urgent push at both the national and international levels. Especially with regard to the funding of terrorist actions, assumptions have started to be made. Just as it is challenging to determine the scope of money laundering, it is also challenging to quantify the detrimental economic impacts of money laundering on economic development. However, it is evident from the evidence at hand that allowing money laundering activity to continue unchecked is not the best course of action for economic development because it harms the financial institutions that are essential to economic growth, lowers productivity in the economy's real sector by diverting resources and encouraging crime and corruption, and can negatively affect the economy's global trade and capital flows for long term economic development. Money laundering is increasingly taking centre stage in all countries as a result of the measures being undertaken to tackle it. A government has to concentrate on the hot topics of black money and money laundering.

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<sup>2</sup> <https://indiankanoon.org/doc/1806625/>

<sup>3</sup> <https://www.livelaw.in/>

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