



## “ROLE OF BANKS IN PREVENTION OF MONEY LAUNDERING IN INDIA: AN ANALYTICAL STUDY”\*

**Abstract:** *The “Role of Bank s in Prevention of Money Laundering in India : An Analytical study ” divided in to Six Chapters. The research work is laid out in six chapters to represent the study in detailed and systematic manner. In this research work it has been tried to present an analytical picture of Role of Banks and preventions of Money laundering in India. The present research work “Role of Bank in prevention of Money Laundering in India: An Analytical Study” is based on the hypothesis as we know that corruption is an evils menace to our society. We find it in each and every sector of today’s world especially in our Economic Sector. Corruption in the implementation of the Role of Bank in preventing Money Launderings and there is need of positively implementation of their act for the development of bank in India, the laws, provisions, framework, safeguards and other guidelines are adequate enough to meet the global standards in regulating the offences of money laundering, or needs to be strengthened. So the present research work is valid.*

**Key Words:** *Banks, Money Laundering, prevention, corruption etc.*

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## Chapter: I: Introduction:

*“Capital as such is not evil  
It is its wrong use that is evil,  
Capital in some form or other will always be needed”*

*-Mohandas K. Gandhi,<sup>1</sup>*

Money is the prime reasons for engaging in almost any type of criminal activity .Every year huge amount of funds are generated from illegal activities such as drug trafficking, tax evasion, people smuggling, theft, arms trafficking and corrupt practices. These funds are mostly in the form of cash. The criminals who generate these funds need to bring them in to the legitimate financial systems without raising suspicion. The conversions of cash in to other forms make it more useable. Money Laundering is the name given to the process by which illegally obtained funds are given the appearance of having been legitimately obtained.

Money Laundering is the generic term used to describe the process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source. Money laundering involves taking criminal proceeds and disguising their illegal source in anticipation of ultimately using the criminal proceeds to perform legal and illegal activities. Simply put, Money Laundering is the process of making dirty money look clean.

The processes by which criminally derived property may be laundered are extensive. Through criminal money may be successfully laundered without the assistance of the financial sectors, the reality is that hundreds of billions of dollars of criminally derived money which is laundered through financial institutions annually.

The ability to prevent and detect Money Laundering demands highly effective's means of identifying criminals and the activity from which Money is derived.

Money Laundering is a global phenomenon, both in the developed and developing countries. Developed and developing countries are all facing the menace of Money Laundering through drug trafficking, narcotics deals, terrorist activities, corruption and subversive use of ill-gotten Money.

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<sup>1</sup> Mohandas K. Gandhi (1869–1948), Indian political and spiritual leader. Harijan (28 July 1940).

Indian Parliament has established Prevention of Money Laundering Act, 2002 to offer impact to the said determination. In 1996, Ministry of Finance delegated an Inter ecclesiastical board, which presented its report and suggested for a far reaching enactment on the issue. Therefore, in 1998, Prevention of tax evasion Bill was presented in twelfth Lok Sabha. What's more, after it is being passed; it was referred to a Select Committee by the administrator of the Rajya Sabha for its examination and endorsement. The Select council presented its report in 2000 and the Prevention of Money Laundering Act came to be instituted in 2002 yet the same came into constrain just by first July, 2005.

### **Objectives of the Study:**

The objectives of the present research work are as follows:

1. Made an attempt to understand the concepts of Money Laundering.
2. Made an attempt to identify the weaknesses in the banks that encourages Money Laundering and financing of terrorism.
3. Made an attempt to understand about the Prevention of Money Laundering Act 2002.
4. Made an attempt to identify the role of RBI in preventing Money Laundering.
5. Made an attempt to analyse the provisions relating to confiscate and seize the property obtained from the laundered Money.
6. Made an attempt to study any other issue connected with Money Laundering in India.
7. Made an attempt to make suggestion for prevention and control of Money Laundering.

### **Hypothesis:**

Banks in India are not well equipped to curb the problem of money laundering.

### **Research Methodology:**

The Methodology adopted in the study is Doctrinal. The present research work has been carried out through the Doctrinal research. The researcher tries to discover, explain, examine, analyse and present in a systematic form, facts development, principles, and provisions concepts relating to the study. To pursue the study, archival method among the historical methods has been applied to analyse and find out a conclusive statement.

The study is based on historic-analytical method of research. Historical Method helps to know the origin, development and role play by Bank in prevention of Money Laundering in India and also various facts and figures pertaining to the research work. This approach is necessary to this study because historical records, information, document, files, reports etc. are considered as the basis of the research work. Analytical methods helps in critically analysing historical and other facts collected for the purpose of the study. Analytical approach has been followed throughout work to analyse the various aspects of the research work.

The source material for the research work is basically collected from the secondary sources. Secondary sources used for the present research work includes relevant statutes published books by eminent authors , Article published in Journals, News Paper , officials reports, Magazine , websites and published and unpublished works related to the subject were also used. Indian case laws judgment passed by the Supreme Court and High Court and materials collected from various international conventions and covenants' has been referred. Most current developments have been collected from various websites .In addition to major sources of secondary data have been used to analyses the research work.

## **Chapter II: Understanding the Concepts of Money Laundering:**

### **Meaning of Money Laundering:**

Money Laundering is the processing of the proceeds of criminal acts to disguise their illegal origin. When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved.

Laundering means concealing/hiding the origins of money that are obtained through illegal means, violating the laws of land. It often involves transfers to/from foreign banks or legitimate businesses to hide the illegal nature of the money, and make it appear as obtained from legitimate source<sup>2</sup>.

### **Origin and Historical Evolution of Money Laundering:**

The original sighting was in newspapers reporting the Watergate scandal in the United States in 1973. The expression first appeared in a judicial or legal context in 1982 in

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<sup>2 2</sup> R.N, Chaudhary , “Banking Laws” 2nd Edition.(Allahabad: Central Law Agency 2012) P. 11

America. Money Laundering as a crime only attracted interest in the 1980s, essentially within a drug trafficking context.

The word "Money" is believed to originate from a temple of Hera, located on Capitoline, one of Rome's seven hills. In the ancient world Hera was often associated with money. The temple of Juno Moneta at Rome was the place where the mint of Ancient Rome was located. The name "Juno" may derive from the Etruscan goddess Uni (which means "the one", "unique", "unit", "union", "united") and "Moneta" either from the Latin word "monere" (remind, warn, or instruct) or the Greek word "moneres" (alone, unique).

Money Laundering has fairly benign origins in the hawala and hundi systems of South Asia, which were informal financial systems which allowed people to execute financial transactions in confidence and secrecy.

In India Money Laundering is popularly known as Hawala transactions. It gained popularity during early 90's when many of the politicians were caught in its net. Hawala is an alternative or parallel remittance system. The Hawala Mechanism facilitated the conversion of money from black into white. "Hawala" is an Arabic word meaning the transfer of money or information between two persons using a third person the need for improved multilateral cooperation to fight these criminal activities. The word 'Money Laundering' was reported in newspapers reporting the Watergate scandal in the United States in 1973. The expression first appeared in a judicial or legal context in 1982 in America.<sup>3</sup>

#### **Phases or process of Money Laundering:**

The process or phases of Laundering the proceeds of illegal activities is completed in three stages<sup>4</sup>:

***Placement ⇒ Layering ⇒ Integration***

**Placement Stage or Smurfing:** Placement Stage involves placing or presenting the illicit money before banks or financial institutions or smuggled out of the country.

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<sup>3</sup> D.S.Rawat , Jyoti P Gadia: Money Laundering and Its Fall-out, Available at <http://resurgentindia.com/wpcontent/uploads/research/BANKS/Money%20Laundering%20and%20its%20fallout.pdf> retrieved 21st Feb.2017 ,at 4.00 pm.

<sup>4</sup> Arvind Giriraj and Prashant Kumar Mishra, :Money Laundering: An Insight Into The Modus Operandi With Case Studies Available at [http://www.skoch.in/images/stories/security\\_paper\\_knowledge/Arvind%20Giriraj%20and%20Prashant%20Kumar%20Mishra%20-%20Money%20Laundering.pdf](http://www.skoch.in/images/stories/security_paper_knowledge/Arvind%20Giriraj%20and%20Prashant%20Kumar%20Mishra%20-%20Money%20Laundering.pdf) retrieved on 24th Feb 2017 ,at 7.00 pm.

Placement of huge sums of money in most cases, attracts attention, arouses suspicion and may lead to reporting to law enforcement agencies.

**Layering Stage or Stacking or washing:** Layering stage involves the creation of complex web of transactions aimed at dissociating the illegal monies from their criminal origin. Such transactions not only prevent any audit trail being left but also conceal the source and ownership of fund.

**Integration stage or Recycling:** Integration stage of the process involves the introduction of the funds into the legitimate economic and financial system. This stage provides apparent legitimacy to the criminality derived wealth as nobody would ever suspect its criminal origin. This stage is also referred to as “spinning”, “repatriation”, or “re-integration.

### **Chapter III: Prevention of Money Laundering International Perspectives:**

There are various international instruments and treaty discuss about it.

#### **1. The Vienna Convention:**

It was the first major initiative in the prevention of Money Laundering held in December 1988. This convention laid down the groundwork for efforts to combat Money Laundering by obliging the member states to criminalize the Laundering of Money from drug trafficking. The 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the fruit of the experience of nearly a century in drug control, is the first convention to have laid the foundations of the new strategy to combat drug trafficking organizations<sup>5</sup>.

#### **2. The Council of Europe Convention:**

This convention in 1990 establishes a common policy on money laundering. It sets out a common definition of money laundering and common measures for dealing with it. The Convention lays down the principles for international cooperation among the member states, which may also include states outside the Council of Europe. One of the purposes of this convention is to facilitate international cooperation as regards investigative assistance, search, seizure and confiscation of the proceeds of all types of

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<sup>5</sup> The Vienna Convention – 19th December 1988. Available at [http://untreaty.un.org/english/treatyevent2003/Treaty\\_7.htm](http://untreaty.un.org/english/treatyevent2003/Treaty_7.htm) (retrieved on 25th Feb.2017,at 8.15pm)

criminality, particularly serious crimes such as drug offences, arms dealing, terrorist offences etc. and other offences which generate large profits.<sup>6</sup>

### **3. Basle Committee on Banking Regulations and Supervisory practice 1999:**

The Basel Committee was formed in 1974 by ten Central Banks or other supervisors and despite not having any legal power it draws best-practices and guidelines to the bank industry. It supplies expertise in several areas such as accountability, compliance or risk management. The first document issued by the Basel Committee related with Money Laundering, The Prevention of Criminal Use of the Banking System for the Purpose of Money-laundering focused on the integrity of the banks and the necessity to prevent the usage of banks channels for illegal acts.<sup>7</sup>

### **4. UN Convention Against Illicit Traffic in Narcotic Drugs Convention and Psychotropic Substances:**

This UN Convention was one of the historic conventions inasmuch as the parties to the Convention recognized the links between illicit drug traffic and other related organised criminal activities which undermine the legitimate economies and threaten the stability security and sovereignty of States and that illicit drug trafficking is an international criminal activity that generates large profits and wealth, enabling transnational, criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial businesses and society at all levels.<sup>8</sup>

### **5. The Financial Action Task Force (FATF):**

The FATF is an inter-governmental body established at the G7 summit at Paris in 1989 with the objective to set standards and promote effective implementation of legal, regulatory and operational measures to combat money laundering and terrorist financing and other related threats to the integrity of the international financial system. The FATF has developed a series of Recommendations that are recognized as the international standards for combating money laundering and the financing of terrorism.

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<sup>6</sup> The council of Europe convention 1990: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:344:0090:0092:EN:PDF>

<sup>7</sup> December 1988. Available at < <http://www.bis.org/publ/bcbasc137.pdf>>retrieved on 6th March 2017,at 1.30 pm

<sup>8</sup> Available At ([http://untreaty.un.org/english/treatyevent2003/Treaty\\_7.htm](http://untreaty.un.org/english/treatyevent2003/Treaty_7.htm)) retrieved on 6th March 2017,at 2.00pm

The International legal framework has been largely shaped by the 40 recommendations of the Financial Action Task Force (FATF) created by the 1989 G7 Summit.<sup>9</sup>

#### **6. United Nations Global Programme Against Money Laundering :GPML):**

The Global Programmed against Money Laundering (GPML), 2000 is the key instrument of the United Nations Office on Drugs and Crime in this task GPML was established in 1997 with a view to increase effectiveness of international action again money laundering through comprehensive technical cooperation services offered to Governments<sup>10</sup>.

#### **7. The Strasbourg Convention:**

The Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime was opened for signature on November 8, 1990. The Convention adopts the definition of money-laundering established by the Vienna Convention, as well as the provisions on international cooperation in the area of seizure, confiscation and mutual judicial assistance in investigations. However, it extends the field of its intervention to all the proceeds of crime, defining them more broadly as "any economic advantage from criminal offenses."<sup>11</sup>

#### **8. The Convention for the Suppression of the Financing of Terrorism:**

This Convention, whose negotiation was launched at the initiative of France in 1999, is a precursor of the international strategy against the financing of terrorist activities. In response to the September 11, 2001 sad event, the UN adopted this Convention, which came into force in April 10, 2002, with 132 countries as signatories and 112 countries ratifying it. This Convention prohibits any direct or indirect, unlawful and wilfully making available or accepting funds with the intention of using them for any act of terrorism as provided in the annex. Member states are obligated to criminalize these offenses under its domestic law and if committed.<sup>12</sup>

#### **9. United Nation Security Council Resolution 1373:**

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<sup>9</sup> FATF-GAFI, Financial Action Task Force on Money Laundering. "Basic Facts about Money Laundering", see Available at <[www.oecd.org/fatf](http://www.oecd.org/fatf)>( retrieved on 1st March 2017, at 9.00pm).

<sup>10</sup> UN Security Council Resolutions 1267(1999), 1373(2001), 1540(2004), 1566(2004), and 1624(2005) call on UN Member States to combat terrorism, including financing of terrorism. GPML has capacities and a special mandate to assist Member States in ratifying and implementing the international standards related to money laundering and financing of terrorism.

<sup>11</sup> The Strasbourg Convention 1990: Available at <http://conventions.coe.int/treaty/en/Treaties/Html/141.htm> (retrieved on 23th March 2017, at 3.30pm)

<sup>12</sup> The Convention for the Suppression of the Financing of Terrorism, 1999.

The Security Council Resolution of 1373 adopted on September 28 2001 obligating its member countries to criminalize terrorist financing in addition to denying all forms of support for terrorist groups, including acting as a safe haven for terrorists and terrorist acts. It also prohibits active or passive assistance to terrorists and requires banking sectors to extend cooperation to other countries in criminal investigations and share information on planned attacks. This Resolution also established the Counter Terrorist Committee (CTC) as monitoring machinery to member states whom are expected to give detailed report to this committee on how they have variously implemented the resolutions in combating terrorism and it's financing<sup>13</sup>.

#### **10. The Palermo Convention Against Transnational Organized Crime:**

Another important Convention of the UN is the International Convention Against Transnational Organized Crime (2000) also known as The Palermo Convention which member states are obligated to implement by criminalizing money laundering whether committed in or outside the country. The United Nations Convention against Transnational Organized Crime is the first instrument of criminal law designed to combat the phenomenon of transnational organized crime. It is a multi-purpose instrument supplemented by three additional protocols bearing respectively on the treatment of individuals, trafficking of migrants over land, air and sea and the illegal manufacture and trafficking of firearms.<sup>14</sup>

#### **Chapter IV: Prevention of Money Laundering Indian Perspectives:**

##### **Prevention of Money Laundering Act 2002 –Indian Initiatives: Legal set up in India:**

In India, before the enactment of Prevention of Money Laundering Act, 2002 (PMLA) the major statutes that incorporated measures to address the problem of Money Laundering. The objective of the Act is to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto. This Act came into force on 1st July 2005 with view to preventing money laundering. The Act is being a comprehensive in nature

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<sup>13</sup> United Nation Security Council Resolution 1373

<sup>14</sup> The Palermo Convention 2000

and it has been amended in 2005, 2009 and recently in 2011. The Act (PMLA) was amended in the year 2011 to bring it at par with that of the FATF provisions.

### **Scheme of the Act:**

The Act consists of 10 chapters containing 75 sections and 1 schedule divided in 5 parts. Chapter I contain section 1 and 2 which deals with short title, extent and commencement and definitions. Chapter II contain section 3 and 4 which provide for offences and punishment for money laundering. Chapter III has sections 5-11 which provide for attachment of property, adjudication and confiscation. Chapter IV has sections 12-15 which deals with obligations of banking companies, financial institutions and intermediaries. Chapter V has sections 16-24 which relates to summons, searches, seizures, retention, presumptions etc. Chapter VI has sections 25-42 which deals with the establishment, composition, qualifications, powers and procedures etc of the Appellate Tribunal. Chapter VII has sections 43-47 which deal with Special Courts and Chapter VIII has sections 48-54 which provide for various authorities Under the Act their appointment, powers, jurisdiction etc. Chapter IX has sections 55-61 which deals with reciprocal arrangement for assistance in certain matters and procedure for attachment and confiscation of property. Chapter X has sections 62-75 which deals miscellaneous provisions including punishments, cognizance of offences, offences by companies etc.<sup>15</sup>

The following various Legislations upholding the preventions of Money Laundering.

#### **a. The Income Tax Act, 1961:**

This Act to consolidate and amend the law relating to income tax and super tax be it enacted by parliament in the twelfth year of the republic in India.

#### **b. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA):**

This Act consists of total 14 sections. An Act provide for preventive detention in certain cases for the purposes of conservation and augmentation of foreign exchange and prevention of smuggling activities and for matters connected therewith. Under this Act the maximum period for which a person shall be detained in pursuance of any detention order is one year from the date of issue

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<sup>15</sup> Paridhi Saxena, NLU, Raipur: Money Laundering in India, Available at [http://www.nja.nic.in/4.1.%20Paper-%20Money%20Laundering\\_1\\_%20Paridhi%20Saxena.pdf](http://www.nja.nic.in/4.1.%20Paper-%20Money%20Laundering_1_%20Paridhi%20Saxena.pdf) (retrieved 22nd Feb 2017 ,at 4.30 pm)

of such order. However, in certain cases, the detention can be extended to a period of two years.

**c. The Smugglers and Foreign Exchange Manipulators Act, 1976 (SAFEM):**

This Act consists of total 27 sections. Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1976 (a) Under subs. (2) of Section 2 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1976, the property of a person can be forfeited, if such person is

- convicted under the Sea Customs Act 1878 (8 of 1878), or the Customs Act 1962 (52 of 1962), of an offence in relation to goods of a value exceeding 1 lakh rupee; or
- convicted under the Foreign Exchange Regulation Act 1947 (7 of 1947), or the Foreign Exchange Regulation Act 1973 (46 of 1973), of an offence, the amount or value involved in which exceeds 1 lakh rupee; or
- having been convicted under the Sea Customs Act 1878 (8 of 1878), or the Customs Act 1962 (52 of 1962), has been convicted subsequently under either of those Acts; or
- having been convicted under the Foreign Exchange Regulation Act 1947 (7 of 1947), or the Foreign Exchange Regulation Act 1973 (46 of 1973), has been convicted subsequently under either of those Acts;

**d. The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPSA)**

This Act consists of total sections 83 and six chapters. Narcotic Drugs and Psychotropic Substances Act 1985.

**e. The Benami Transactions (Prohibition) Act, 1988**

This Act consists of 10 sections. Sections 10 repeal and savings. An Act to prohibit benami transactions and the right to recover properly held Benami and for matters connected therewith or incidental thereto. Benami Transaction Act 1988 Under the Benami Transaction Act 1988, forfeiture of property can be ordered by the Competent Authority if a person holding title to such property is unable to explain the sources from which he acquired such property.

**f. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988**

This Act 1988 Under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988, similar provisions are available to detain persons, to prevent them from engaging themselves in illicit traffic in narcotic drugs and psychotropic substances

**g. The Foreign Exchange Management Act, 2000, (FEMA):**

This Act total 49 sections .The Foreign Exchange Management Act 1999 (FEMA) was passed by Parliament and received the assent of the President of India on 29th December, 1999 and it came into effect on 1st January, 2000.FEMA 1999 As a prelude to liberalisation in trade/industrial policies and for creating a more conducive climate for attracting foreign direct investment, the law was amended through an ordinance on 8th January, 1993. The ordinance was replaced by the Foreign Exchange Regulations (Amendment) Act 1993. The Foreign Exchange Regulation Act (FERA) 1973 was rescinded and in its place two Bills were introduced in the Parliament, viz. the Foreign Exchange Management Bill 1998 and the Prevention of Money Laundering Bill 1998.

**Judicial pronouncement-Recent High profile cases:**

**a) 2G Spectrum Allocation Scam in India:**

In this case the 2nd generation (2G) Spectrum allocation scam, under the ruling of the Congress party-led United Progressive Alliance (UPA) government, was arguably one of the historically largest corruption scams in India. Under this scam, senior government officials were accused of issuing over 1,230 spectrum licences to approximately 85 telecom companies at artificially discounted prices.

**b) Siv Kant Tripathi v. State of Uttar Pradesh :**

The judgement in this case gives us an example that the Court keep a strict check and control over the actions of the Authorities under the PMLA and direct them to do the acts which they are duty bound to do.<sup>16</sup>

**c) Subrot Roy Sahara IN connections with non-payment to its depositors:**

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<sup>16</sup> 2013 (6) ADJ 672.  
Volume 5

In 2014 Enforcement Directorate registered case against Sahara group under prevention of Money Laundering Act 2002 in connections with non-payment of crore of rupees to the depositors as proved by the capital market regulator ,SEBI.<sup>17</sup>

**d) Vijay Mallya in default of payment of Rs 900 crore of IDBI Bank:**

In 2015 the case Enforcement Directorate has file charge sheet against vijay Malya the owner of Kingfisher Airlines on the rep-ort of CBI in connection with default of payment of Rs 900 crore of IDBI Bank.<sup>18</sup>

**Chapter V: Role of Banks and Financial Institutions in Preventions of Money**

**Laundering:**

**An Overview of the Banking System in India:**

A bank is a financial institution that provides banking and other financial services to their customers. A bank is generally understood as an institution which provides fundamental banking services such as accepting deposits and providing loans. Banks are a subset of the financial services industry.

A banking system also referred as a system provided by the bank which offers cash management services for customers, reporting the transactions of their accounts and portfolios, throughout the day. The Banks are the main participants of the financial system in India. The Banking sector offers several facilities and opportunities to their customers. All the banks safeguards the money and valuables and provide loans, credit, and payment services, such as checking accounts, money orders, and cashier's cheques

**Role of Banking in India's Developing Economy:**

One of the major considerations that led to the nationalization of the fourteen major commercial banks of India in 1969 was the fact that banks, in general, had been negligent of the vital priority sectors of the economy, viz., agriculture and small-scale industries. The commercial banks had remained largely indifferent to the credit needs of the farmers for agricultural operations and land improvement. A handful of people were able to exploit the bank finance to serve their own individual interests and convenience. Very often, they used bank funds for the hoarding of essential articles and for

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<sup>17</sup> Subrata Roy Sahara v. Union of India (2014)8 SCC 470

<sup>18</sup> AIR 2016  
Volume 5

specialization, thus nurturing anti-social elements. Nationalization brought about a major policy shift in the working of these banks.

The economic development of our country depends more on real factors like the industrial development, modernization of agriculture, organization of internal trade and expansion of foreign trade, especially exports, and less on the monetary factors contributed by banking. Economic planning like laying down of specific targets and allocating particular sums of money that constitute the economic policy of the government also plays a significant role.

### **Role of Banks in Money Laundering:**

Banks are a major prey of money laundering activities and other financial crimes because they provide a number of financial services, through which the real source of money can be easily concealed. A person with criminal motives can very easily misuse (especially through Internet banking) the services provided by the bank. To check this, banks are provided with some guidelines to give due diligence to their customer's accounts and their conducts. The important steps being taken by the banks to curb money laundering are as follows.

- a. Know your customer
- b. Know your employee
- c. Preserve information
- d. Maintenance of records
- e. Reporting to Financial Intelligence Unit India:

**Aadhar Card:** Aadhar card is a 12-digit unique identity number issued by the Unique Identification Authority of India (UIDAI) is a central government agency of India to each resident. It is considered the world's largest national identification number project. Aadhar is an important document which is linked with the citizens basic crucial information like biometric prints, Iris scan, Address, Date of birth and other details. Aadhar cards can be used for a variety of services like LPG connection, opening a bank account etc. Now it can also be used for getting passport much faster than before. A resident Indian can apply for the Aadhaar number and card by submitting the existing proof of identity (passport, PAN card, driving license, etc.) and proof of address

(phone/ power bill, bank statements, etc.) and by undergoing biometric profiling (fingerprints and iris scan) at any Aadhaar centres<sup>19</sup>

### **Demonetizations' in India:**

"Demonetization is the act of stripping a currency unit of its status as legal tender".

Demonetization is necessary whenever there is a change of national currency. The old unit of currency must be retired and replaced with a new currency unit. The demonetisation of high value currency denominations featuring Rs 500 and Rs 1,000 notes were banned effective 8 November midnight by Prime Minister Narendra Modi in a televised announcement. Demonetization refers to an economic policy where a certain currency unit ceases to be recognized or used as a form of legal tender. In other words, a currency unit still loses its legal tender status as a new one comes into circulation. Demonetization of currency means discontinuity of the particular currency from circulation and replacing it with a new currency. In the current context it is the banning of the 500 and 1000 denomination currency notes as a legal tender. **History**

### **of Demonetization:**

On the evening of 8th November 2016, the Prime Minister of India announced one of the boldest moves in the history of India's socio-economic scene **demonetization** of old Rs. 500 notes and Rs. 1000. Soon after, new notes of Rs. 500 and Rs. 2000 notes were pumped into the economy.

Although the history of demonetization in India dates back to the time when various rulers ruled this country, the freshest and most significant instances of demonetization in India are:

- 1) On **12th January 1946**, Rs. 500, Rs. 1,000 and Rs. 10,000 notes were declared invalid as legal tender.
- 2) New notes of Rs. 1000, Rs. 5000 and Rs. 10,000 came into economy in **1954**.
- 3) On **16th January 1978**, the Morarji Desai led-Janata Party demonetized banknotes of Rs. 1000, 5000 and 10000. Note that, the finance minister at that time was H.M. Patel.

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<sup>19</sup> What is aadhar card: Available at [www.aadharcardkendra.org.in](http://www.aadharcardkendra.org.in) retrieved on 9<sup>th</sup> April 2017, 10.30pm

- 4) RBI introduced a new banknote of Rs. 500 into the economy in **1987** to contain inflation.
- 5) On **8th November 2016**, the old banknotes of Rs. 500 and Rs. 1000 were barred from being legal tender and new notes of Rs. 2000 were soon introduced.

### **Chapter VI: Concluding Observations:**

Thus one can safely conclude that Money Laundering is global problem and must attract global concerns. Without international cooperation money laundering cannot be controlled. The criminals outsmart the enforcing agencies and deploy a team of experts like chartered accountants, attorneys, bankers' mafia, to disguise their illicit money and masquerade it as legitimate income. These experts charge fee between 10 to 15% of the sum involved. The nexus between white-collared criminals, politicians, enforcing agencies and mafias cannot be rules out. Bankers play the most prominent role and without their connivance the operation cannot be carried out. Development of new high-tech coupled with wire transfer of funds has further aggravated the difficulties to detect the movement of slush funds. The international nature of money laundering requires international law enforcement cooperation to successfully investigate and prosecute those that instigate these complex criminal schemes. Money laundering must be combated mainly by penal means and within the frameworks of international cooperation among judicial and law enforcement authorities. Last but not the least it is vitally important to keep in mind that simple enactment of Anti-Money Laundering Laws are not enough, the Law enforcement Community must keep pace with the ever changing dynamics of money Launderers who constantly evolves innovative methods which helps them to stay beyond the reach of law. Finally it can be safely concluded money laundering poses a serious threat. In recent years there has been a growing awareness in the fight against the laundering of money which has been derived from criminal activity, especially the money derived from drug trafficking. In the past traditional law enforcement methods concentrated on establishing evidence to link a suspect to a crime. This practice resulted in investigators concentrating solely on recovery of the stolen property and paying little or on attention to the wider proceeds of the crimes such as large bank balances, luxurious mansions, expensive education for

children and other items of value which a successful criminal could flaunt or conceal. However, this situation has changed and it's continually changing as a result of initiative taken at the international level. Many countries around the world are already engaged in a concerted effort to combat international money laundering laws, bilateral and multilateral agreements to globally counter the negative economic effect of Money Laundering.

### **Findings of the research work:**

In the light of conducting the research it has been found that certain lacunas have arose. Throughout the whole process of research work I am founding certain findings to prevent Money Laundering and its impacts in Banks. Findings of research work can be described as followings:

1. It has been found that Role of Bank in preventing the money laundering can be checked through the system of monitoring terrorist financing done on quarterly basis within the territory of India.
2. It is reveals that Banks have a pivot role to keep check money laundering in the whole territory of India.
3. During the course of conducting the study it was found that the consequences of enacted laws on Money Laundering and its relationship between consequences of Anti-Money Laundering laws with public awareness, legal punishment and technology is not properly implemented from time to time.
4. During study it was found that to identify the role of Reserve Bank of India guidelines 'Key Your Customer (KYC) policy in preventing Money Laundering.
5. It was found that to have effective anti-money laundering measures there need to be a proper coordination between the Centre and the State.

### **Justifications of Hypothesis:**

During the course of research the investigator started the observation that the justification of hypothesis is -The Banks are not in a position to curb the problem of Money laundering in and around the territorial jurisdictions of India. It is formulated through hypothesis the statement is positive but null and void in certain cases. From Today Scenario every country are facing problem related with money laundering. Due

to Money Laundering a lots of black Money is being converted in to white Money. It is also boosting crimes and terrorisms in the world. Many country has enacted various strict legislations to protect from Money Laundering .In India there is a need to not only effectively implement the anti-money laundering operations but also to ensure that there is a constant review of the anti-money laundering programme and timely up gradation as well. Banks need to strictly adhere to the demonetizations, Adhar Card, KYC, guidelines set up by the RBI. It is justified that Money Laundering poses a serious threat to almost all the economics of the world and India being a fast growing economy country the condition is most vulnerable. A very important initiative has been taken by the govt of India by enacting the Prevention of Money Laundering Act 2002. Therefore the hypothesis is proved to be true and the investigator has decided the hypothesis to be positive. I am trying to establish my hypothesis by illustrating the following case laws till present date. With the help of establish facts and evidence i am here by pointing the ratio decendi of the following cases.In this case 2G Telecom Spectrum case : The fact of the case senior government officials were accused of issuing over 1230 spectrum licences to approximately 85 telecommunication companies at artificially discounted prices. According to the comptroller and Auditor general report the spectrum scam is believed to have caused nearly 40bn of loss to the exchequer. Charges under the prevention of Money Laundering Act and Foreign Exchange Management Act were filed for this scandal and several major arrests were made. The Enforcement Directors of India has claimed that the 2G Scam money trail is linked to around 10 countries and the case has international ramifications.The court held that decided judgement:

1. Phone conservation were digitally encrypetived.
  2. Greater mobile phone penetration level were increase.
  3. It introduced Data services for mobile and started with SMS text messages.
- In this case Subrot Roy sahara v. Union of India in connections with non-payment to its depositors.In 2014 Enforcement Directorate registered case against Sahara group under prevention of Money Laundering Act 2002 in

connection with non payment of crore of rupees to the depositors as proved by the capital market regulator in security Exchange Board of India.

Another important case law is that Vijoy Mallya in default of payment of rupees 900 crore of Industrial Development Bank of India in 2015 the Enforcement Directorate has file charge sheet against vijoy mallya the owner of Kingfisher Airlines on the report of CBI in connection with default of payment of rupees 900 crore of IDBI Bank.

From the above case laws it has been observed that Vijoy mallya case help in bringing in a new image in curbing money laundering problem. Therefore the hypothesis is proved to be true and the investigator has decided the hypothesis to be positive.

**Suggestions:**

1. This study recommends that policies and program need to be developed to nurture in increasing the awareness of compliance measures should be adopted.
2. There should be implementation of the preventive measures so as to monitor the occurrences of money laundering and terrorist financing in India.
3. It is suggested that organisations must provide significant financial support for many of the anti-money laundering by investing adequate level of resources for Information Technology infrastructure.
4. There is a need to sensitize the Private Sector about their role in anti-money laundering activities.
5. The laws should be implemented at the level of State Governments and it should not wholly rely on the responsibility of Central Government.