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# A Brief Overview of Money Laundering: A Crisis Affecting the Global Economy

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## Abstract

*Money laundering is probably as old as money itself. In the past, however, nobody looked at it as a crime as such. It was more the underlying crime that was looked at than what was done with the proceeds of that crime. The term Money Laundering is simply used to describe a process of laundering or washing black or illegal money into white or legal putting through a cycle of transactions. The term Money laundering is said to be coined in 1920s and it had first appeared in a judicial or legal context only in 1980s in U.S.A. Since then, the term has been widely accepted and is in popular usage throughout the world. However the criminalization of the act or attempted act of laundering of proceeds or the expression of money laundering is one of the fairly recent origin and its a modern concept in the field of criminal jurisprudence. Money laundering itself is not a main part of a crime but it is the byproduct of predicate offences which fuels corruption and organized crime and a danger to economic stability of a country. Due to clandestine nature of money laundering its actual impacts and amount laundered could not be possible to estimate accurately. In the present context, it has been developed as a transnational crime and emerging as a serious problem in Nepal also. This paper presents a glimpse of the basic concepts, origin and history, type nature and methods, and process of money laundering briefly.*

**Key words:** Money Laundering**,** organized crime, illegal money, black money, proceeds of crime.

## 1. Introduction

Money laundering is a global phenomenon that has been around for ages. In its basic form, it is the process of concealing of the source of illicit money. The problem with money laundering is that it encourages criminal activities, which allow money launderers to benefit from the proceeds of their criminal activities and threatens the soundness of the financial system.[1] It is not only as serious and highly sophisticated forms of crime but also as threats to human rights, democracy and the rule of law.

Money laundering is probably as old as money itself. In the past, however, nobody looked at it as a crime as such. It was more the underlying crime that was looked at than what was

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[1] ABDULLAHI USMAN BELLO, IMPROVING ANTI-MONEY LAUNDERING COMPLIANCE, Plagrave Macmillan, Cham Switzerland at.2 (2016).

done with the proceeds of that crime. It is undeniable that during the Prohibition period in the USA (1920–1933) enormous amounts of money had been laundered.[2] Evolution of technology is one factor that has contributed to the growth of Money Laundering and Terrorist Financing activities and deficiency in international cooperation and coordination is another factor to weaken the AML/CFT mechanism.

Money is the prime reason for engaging in almost any type of criminal activity. Money-laundering is the method by which criminals disguise the illegal origins of their wealth and protect their asset bases, so as to avoid the suspicion of law enforcement agencies and prevent leaving a trail of incriminating evidence. Money laundering is a modern concept in the field of criminal jurisprudence. The term money laundering is said to be coined in the 1920s when most of the people engaged in illegal earnings were found showing their source of income as earned from shops like washing and laundry in USA.[3] The term money laundering has been defined by some authors, international organizations and agencies in different ways.

According to Black's Law Dictionary (9th Ed.) Money-laundering is the act of transferring illegally obtained money through legitimate people or accounts so that its original source cannot be traced.[4]

*Prof. Frank Schmallenger* has defined it as; it refers to the process by which illegal gains are disguised as legal income. A more formal definitions has been offered by the National Institute of Justice (USA), which says that money laundering is "the process of converting illegally earned assets, originating as cash, to one or more alternative forms to conceal such incriminating factors as illegal origin and true ownership.[5]

*Butterworths International Guide to Money Laundering* has defined The term Money Laundering as; the process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises.[6]

INTERPOL has defined money laundering as: "any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources. Illegally obtained funds are laundered and moved around the globe using and abusing shell companies, intermediaries and money transmitters. In this way, the illegal funds remain hidden and are integrated into legal business and into the

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2 WOUTER H. MULLER & CHRISTIAN H. KALIN, ANTI MONEY LAUNDERING INTERNATIONAL LAW AND PRACTICE, John Wiley and Sons, Ltd Henley & Partners, England at.3 (2007).

3 Ranjit Bhakta Pradhananga & Balaram Prasad Raut, "*Nepalese experience of Organized Crime: An appraisal"* NEPAL LAW REVIEW, Nepal Law CampuS, vol.23, number 1&2,Year 36, at.19 (2011).

4 BLACK'S LAW DICTIONARY (9th ed), (2009) at 1097.

5 FRANK SCHMALLENGER, CRIMINOLOGY TODAY (4th ed.), Pearson Education Inc., New Jersey, USA, at.431 (2006).

6 TOBY GRHAM (General ed.), (2nd ed.), BUTTERWORTHS INTERNATIONAL GUIDE TO MONEY LAUNDERING, LAW AND PRACTICE, Butterworths LexisNexis, London. at.1 (2003).

legal economy.[7] UN Convention against illicit traffic in narcotic drugs and psychotropic substances (Vienna Convention), 1988 is the first UN convention which has criminalized money laundering.

Similarly, the financial action task force (FATF), recognized as the international standard setter for anti money laundering (AML) and combating of financing terrorism (CFT), defines the term "money laundering" as the processing of.....criminal proceeds to disguise their illegal origin" in order to "legitimize" the ill gotten gains of crime."[8] Nepalese Asset (Money) Laundering Prevention Act, 2008 has not defined money laundering separately but it has only defined the assets supposed to have laundered or the activities which are considered to be the offense of laundering.

## 2. Origin and History of Money Laundering

The phrase "Money Laundering" was first coined at the beginning of the 20th century. Money Laundry was first seen with individuals hiding wealth from the state to avoid taxation or confiscation, or a combination of both. The practice of disguising income derived from illicit activities can be traced back to the 13th Century B.C., when pirates were dominant and used the oceans and seas as international trade routes. The shipments were often purged and plundered for valuable commodities and assets. Pirates were arguably pioneers in the practice of laundering such articles as they and even the empires they served sought to profit from their treacheries in a way that did not attract any ramification.[9] However the criminalization of the act or attempted act of laundering of proceeds or the expression of money laundering is one of the fairly recent origin.

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 America in the case US V$4,255,625.39 (1982) F Supp. 314. Since then, the term has been widely accepted and is in popular usage throughout the world.[10] In spite of the fact that money laundering came to the world centuries back, however no industry level initiatives were taken until few decades ago. Banks over the worlds were having different practices at their entity level until anti money laundering guidelines came to effect post the Sept 11 attacks. Now the regulation of more than 100 countries has set up Financial

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7 **https://www.interpol.int/Crime-areas/Financial-crime/Money-laundering. (Access date 20 Aug, 2024).**

8 PRADHANANGA & RAUT *Supra* note 3, at.20.

9 Laxmi Prasad Mainali & Chandra Shekhar Khadka,"*Concept of Money Laundering and Nepalese Anti-Money Laundering Initiatives:An Insight*"NEPAL BAR COUNCIL LAW JOURNAL, Nepal Bar Council, Vol.XVII, at.17 (2018).

10 Gauri Bahadur Karki, *"Nepalese Experience in Money Laundering"*. SAMPATTI (ASSET) MONEY LAUNDERING JOURNAL, Vol 1, Year 1, Money Laundering Investigation Department, Thapathali, Kathmandu, at. 2 (2012).

Intelligence Units (FIUs) who are issuing guidelines to their stakeholders.[11] The international community has also put their hands together to formulate effective mechanism to combat money laundering and terrorist financing activities.

In recent time, money laundering has been much easier than what is used to be in the Pirate's time. The advent of information technology and sophistication in the global banking industry has eased the process in the twenty first century. Along with the technological progress and the geographic expansions of banking industry, crime has also become more global. Hence, criminals no longer desire to remain or limit their activities to one country. The international criminal organizations have mastered themselves at moving illegitimate proceeds from one country to another, taking advantage of the notoriously lax legislation existent in some countries that provides safe oasis for foreigners seeking to conceal their wealth. This has led to the situation where it is no longer sufficient for enforcement authorities to merely be aware of what is occurring within their own jurisdiction. Many of these countries provide "dead ends" for investigation who attempt to follow the trail left by the proceeds. Though criminal money may be successfully laundered without the assistance of the financial sector, the reality is that very huge amount of criminally derived money in laundered through financial institutions.[12] With the technological advancements and globalizations of financial markets; launders are constantly trying to find new ways of non financial channels to expand their activities.

## 3. Types, Nature and Methods of Money Laundering

Depending on the activities money laundering can be categorized into three types as; Fraud related money laundering ii.) Drug related money laundering and iii.) Terrorist financing. While considering the nature of money laundering generally there are three processes or functions like; i) Erase the link of crime and money ii) Erase the link of the money and the new owner and iii) Shelter the profits from possible confiscation.[13]

A striking feature of money laundering is the numbers of different methods used to carry it out some of the very common methods are:[14] Cash smuggling, Structured deposit, Casinos/bookmakers , Wire transfer, Credit cards advance payments, Legitimate business ownership, Shell companies , Purchase of high value goods, Real estate transactions,

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[11] Nil Saru, "*Combating Money Laundering in the Context of Nepalese Bank*". SAMPATTI (ASSET) MONEY LAUNDERING JOURNAL, Vol.5, Year 5, Money Laundering Investigation Department. Pulchowk, Lalitpur, at.160-161 (2017).

[12] *Ibid*

[13] Chudamani Sharma, *"Anti-Money Laundering Challenges for Nepal and Solution Measures"*. SAMPATTI (ASSET) MONEY LAUNDERING JOURNAL, Vol 4, Year 4, Money Laundering Investigation Department, Pulchowk, Lalitpur, at. 33-34 (2012).

[14] Durga Prasad Gnawali. "Money Laundering- At a Glance/ Money Laundering- An Overview". SAMPATTI (ASSET) MONEY LAUNDERING JOURNAL, Vol 5, Year 5, Money Laundering Investigation Department. Pulchowk, Lalitpur, at. 175-179 (2017).

Securities/share market and Other methods like false invoices/receipts, alternative remittance system/ hundi, accountants/ financial officers, offshore accounts, trusts etc.

## 4. Process of Money Laundering

There is no one way of laundering money or other property. It can range from the simple method of using it in the form in which it is acquired to highly complex schemes involving a web of international business and investments. Traditionally it has been accepted that the money laundering process comprises three stages: *Placement, Layering and Integration.*[15] These stages, while they can be separate and distinct, more often occur simultaneously or overlap. It all depends on the facilities of the launderer, the requirements of the criminals, and on the robustness, or otherwise of the regulatory and legal requirements linked to the effectiveness of the monitoring system of the financial or regulated sector.

Money laundering has often been characterized as a three stage process that requires;

i) Moving the funds from direct association with the Crime-*Placement*,

ii) Disguising the trail to foil Pursuit-*Layering*, and

iii) Making them available to the criminal once again with their occupational and geographic origins hidden from View-*Integration*.

## 5. Global Scenario of Money Laundering

The advent of sophisticated technologies in the global financial system of the world in one hand has been able to provide services per excellence to its customers but in the other hand, it has also made it more difficult to combat the anti-money laundering activities. The deeper "dirty money" gets into the international banking system; the more difficult it is to identify its origin.[16]

Rapid developments in financial information, technology and communication allow money to move anywhere in the world with speed and ease. This makes the task of combating money-laundering more urgent than ever. The deeper "dirty money" gets into the international banking system, the more difficult it is to identify its origin. Because of the clandestine nature of money-laundering, it is difficult to estimate the total amount of money that goes through the laundry cycle. The estimated amount of money laundered globally in one year is 2 - 5% of global GDP, or $800 billion - $2 trillion in current US dollars. Though the margin between those figures is huge, even the lower estimate underlines the seriousness of the problem governments have pledged to address.[17] According to new figures from Wealth insight, global spending on AML compliance is set to grow to more than $8billion by 2017.[18]

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[15] DOUG HOPTON, MONEY LAUNDERING A CONCISE GUIDE FOR ALL BUSINESS, Gower Publishing Limited, Hampshire, England, at.1 (2006).

[16] GRAHAM, *Supra* note 6, at. 2.

[17] http://www.unodc.org/unodc/en/money-laundering/globalization.html, (Access date 24 Aug,2024).

[18] SARU, *Supra* note 11, at. 163-164.

## 6. Effects and Necessity of Countering Money Laundering

Even though the practice of money laundering has apparently been around since ancient times, it was not unit 1986 that that it was criminalised. The main reason for criminalising it is because of the impact it has on the society especially in the early years when money laundering was largely synonymous with drug trafficking. One of the effects of money laundering is its threat to the legal economy. Money laundering can also "undermine the integrity and stability of financial institutions and systems, discourage foreign investment, and distort international capital flows.[19]Other effects, according to Unger and van der Linde (2013), include economic, social and political effects of money laundering. Money laundering and the financing of terrorism can occur in any country, they have particularly significant economic and social consequences for developing countries like Nepal, because those markets tend to be small and, therefore, more susceptible to disruption from criminal or terrorist influences. Some of the major effects are; it increases crime and corruption, international consequences and effect on foreign investment, weakens financial institutions, compromised economy and private sector and potential for monetary and economic instability and it damages privatization efforts etc.[20]

The economic effect involves unfair competition, price distortion and negative effect on investments. On the social side, they stated that it encourages corruption and bribery since disguising the origin of money may require compromising those that are responsible for operating a legitimate system of money transfer. The political effect is centered around having criminals using their ill-gotten money to gain political power and in the process further corrupting the system by laundering the proceeds of their crimes. Although it is believed that the effect of money laundering is huge, at least in the estimation of regulatory authorities, it is, however, difficult to estimate the actual extent of the effect on the economy despite the "courageous attempts" that have been made to estimate the magnitude of the problem.[21] There are various studies that have tried to measure the impact, but according to Masciandaro and Barone (2008 p. 9), "most literature on Money Laundering effects is pure speculation, or it is based on figures that are either wrongly cited, misinterpreted or just invented".[22] Therefore it can be said that due to the clandestine nature of Money Laundering its actual amount and effects cannot be easily measured.

A country's regime to counter money laundering and the financing of terrorism has three primary objectives. The first is to deter money launderers and terrorist financiers from using a country's financial system for illicit purposes. The second is to detect money laundering (ML) and terrorist financing (TF) when and where they occur, and the third is to prosecute and punish those involved in such schemes. There are varied reasons that an anti-money laundering (AML) and counter terrorist financing (CFT) regime is important

[19] BELLO, *Supra* note 1.p. 26.

[20] PAUL ALLAN SCHOTT, REFERENCE GUIDE TO ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM, The World Bank/IMF, Washington DC, USA, at.II-1(2006).

[21] BELLO, *Supra* note 1, at. 26.

[22] SCHOTT, *Supra* note 20, at. II-1.

in any country. The relevant stakeholders from a country's public sector are likely to have slightly different priorities because the stakeholders include policy makers from the legislative and governmental authorities, the judiciary, law enforcement agencies, the financial intelligence unit (FIU), and from financial regulatory and supervisory authorities. But, among other things, the reasons will encompass the need to advance the domestic agenda, will enhance safe-and-sound banking practices, and will avoid or minimize negative international implications. Political will is the most important prerequisite for achieving these three objectives. A national government demonstrates its clear political commitment to establish a robust AML/CFT regime by passing appropriate laws and regulations, by granting suitable powers, by dedicating necessary resources to relevant ministries and agencies, and by prosecuting cases and obtaining convictions.

An effective AML/CFT regime requires significant collaboration and cooperation from the country's stakeholders in the public sector. Also crucial to the success of the regime, however, are relevant stakeholders from the private sector, namely the financial institutions and designated nonfinancial businesses and professions (DNFBPs) subject to compliance obligations. These should also be included in the collaborative process.[23] Paul Allan Schott has listed three major benefits of an effective AML/CFT framework such as; fighting crime and corruption, enhancing stability of financial institutions and encouraging economic development.

## 7. Conclusion

The term Money Laundering is used to describe a process of laundering or washing black or illegal money into white or legal putting through a cycle of transactions. The term was first coined at the beginning of 20th century, for those individuals, avoiding taxation or confiscation, or a combination of both. The original sighting of the term was in the 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. Since then, the term has been widely accepted and is in popular usage throughout the world. However, the criminalization of the act or attempted act of laundering of proceeds or the expression of money laundering is one of the fairly recent origin. However, the practice of disguising income derived from illicit activities can be traced back to the 13th Century B.C., when pirates were dominant and used the oceans and seas as international trade routes. The shipments were often purged and plundered for valuable commodities and assets.

Money Laundering has been recently emerged transnational organized crime particularly as a multi-dimensional financial crime in the field of criminal jurisprudence. It is not a main part of a crime but it is the byproduct of predicate offences which fuels corruption and organized crime and a danger to economic stability of a country. Therefore, it has

[23] PIERRE-LAURENT CHATAIN & JOHN MCDOWELL, PREVENTING MONEY LAUNDERING AND TERRORIST FINANCING, The World Bank, Washington DC, USA at.3 (2009).

been considered that uncovering and preventing money laundering would be efficient instruments in combating organized crime.

Money laundering process having its clandestine nature its actual figure and effects is not possible to measure. It has been developed very rampantly worldwide threatening global economic stability. With the development of modern communication, technologies and globalizations of financial markets; launders constantly finding new ways and making use of new non financial channels and expanding their activities. Therefore, collaborative effort of international community is very necessary for combating this global problem. In the context of Nepal money laundering has been also emerging as a serious problem deeply rooted in the domestic economy challenging the effectiveness of the existing enforcement mechanism. Nepal has been trying to cope and comply with the international norms and standards related with Money Laundering and Terrorist Financing (ML/TF|) to fight against this recently emerged crime in the criminal jurisprudence.