

CRITICAL ANALYSIS OF THE ANTI-MONEY LAUNDERING JARGON: FAILURE AND FUTURE STEPS**¹Dr. Pallavi Baghel and ²Lakshya Tewar**¹Assistant Professor, Lloyd Law College²B.A.LL.B. (2019-24) Student, Lloyd Law College**ABSTRACT**

White-Collar Crimes are one of the most rampant problems faced by the countries across the globe. It is one of the most major problems of the 21st century, as it not only causes injury to the victims, but also to the national as whole. This menace has caused insurmountable loss to India and to various other nations across the globe, leaving the economies to collapse. The expression 'white-collar crimes' covers in its ambit various kinds of crimes, wherein, the end goal is economic advantage to the offender. Money laundering can be considered as the most injurious of all the crimes, that are covered under the ambit of white-collar crime. The menace of money laundering requires utmost attention because the legalization of illegal money causes destruction of the economy. There have been various efforts taken by the international assimilation as well as by the Indian legislature to curb this menace. India has Anti-Money Laundering regime- Prevention of the Money-Laundering Act, 2002 and Directorate of Enforcement as the authority for putting a restraint to this menace but they are not updated with new emerging trends in the process of commission of the crimes. Further upon evaluation, one may find, that the steps taken have not been lucrative enough. Moreover, with respect to India, the statistics, and data reflect, the loose ends against this menace. Therefore, various steps are required, to effectively start a rampage against money-laundering. The reports of Federal Bureau of Investigation, Swiss Bank, National Crime Records Bureau and International Monetary Fund are examined for conducting this research study. This research paper discusses in depth, the various reports and research studies to effectively discover the problems with the Anti-Money Laundering regime in India. Moreover, the required prima facie steps are also been discussed in this paper for the legislature (Indian Parliament) to effectively curb the menace, and for conducting further research.

Keywords: White-Collar Crimes, Money Laundering, Anti-Money Laundering and Directorate of Enforcement.

I. INTRODUCTION

"Accumulation of wealth at one pole is at the same time accumulation of misery, agony of toil, slavery, ignorance, brutality, mental degradation, at the opposite pole."

: Karl Marx¹

Offences may be divided into various kinds, with respect to the injury it causes to the victims, and the advantages, if any, it provides to the offenders. Similarly, the offences committed solely for the purpose of economic advantages are termed as 'White Collar Crimes'. The perpetrator of these crimes, as a result, acquires the money, upon which he has no right. White-collar crimes are not the traditional kinds of crime. These crimes are much more complex and require strategies and organised functioning of the offender(s), for its successful conclusion.

The expression white-collar crime was coined by American sociologist Edwin H. Sutherland, in the year 1939. The expression runs homogeneously for offenders in private, public, and governmental sectors. Moreover, Sutherland opines that the perpetrator of these offences are the upper-class people of the society, but this may be debatable in certain cases. These people steal resources, which are well within their reach. Sutherland further pens as follows:

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“White-collar crimes violate trust and therefore create distrust, which lowers social morale and produces social disorganization on a large scale. Other crimes produce relatively little effect on social institutions or social organization.”²

Further, the Federal Bureau of Investigation describes the expression as: *“These crimes are not violent, but they are not victimless. White-collar crimes can destroy a company, wipe out a person's life savings, cost investors billions of dollars, and erode the public's trust in institutions.”³*

Moreover, white-collar crimes are considered as severely heinous, as these offences precisely hampers the economic strength of a nation.⁴ Moreover, while differentiating white-collar crimes with general crimes, the apex court observed, that white collar crimes are committed after proper strategy and cool calculation, unlike the conventional or general crimes which may be committed in the heat of the moment.⁵

Upon deducing the above-mentioned definitions, it may be inferred, that white collar crimes are non-violent crimes, committed by upper class, resourceful, and well-connected individuals mostly, who illicitly acquire resources and assets belonging to others. Further, white-collar crimes are of many types but the aim of each one of them is to acquire maleficent economic advantage. Fraud, forgery, art theft, antiquities theft, siphoning of money, money laundering, cyber fraud, insider trading, securities and commodities fraud, embezzlement of money etc., are the examples of white-collar crimes.

This research paper is divided into eight segments and the crime of money laundering is thoroughly analyzed along with the measures taken against it with the help of various research studies and reports. The report of the United Nations Office on Drugs and Crimes is deeply examined to delve into the problems with the implementation of the Anti-Money Laundering (hereinafter as AML) regimes which are enumerated in the following sections of this research. The steps taken by the Indian Government namely the passage of the Prevention of the Money-Laundering Act, 2002 (PMLA), establishment of Directorate of Enforcement (ED) and failure of AML is explained by deeply exploring them. International authorities as, Financial Action Task Force (FATF) and reports of International Monetary Fund (IMF) and Swiss Bank are also evaluated in this research work.

To the menace of money laundering, it is suggested by the researchers that the reporting of the offences by the statistical agencies such as, National Crime Records Bureau (NCRB) should be done in a more comprehensive manner for targeting the menace, enforcement authorities should be updated with new emerging trends in the process of commission of the crimes and the existing AML regimes should be evaluated at regular intervals both nationally and internationally for keeping the law sound and dynamic.

II. MONEY LAUNDERING

The offence of money laundering is set under the large ambit of white-collar crimes. As already discussed above, white-collar crimes are committed by resourceful and well-connected people. The offence of laundering, if discussed in layman's terms, is an offence in which tainted or illegal money, is reflected as untainted or legal money. Also, the oxford dictionary definition of the above-mentioned expression is as follows:

² Edwin H. Sutherland, *White-Collar Criminality*, 5, ASR, 5-10 (1940).

³ FEDERAL BUREAU OF INVESTIGATION, <https://www.fbi.gov/investigate/white-collar-crime> (last visited Apr. 22, 2023).

⁴ Ram Narain Poply v. Central Bureau of Investigation, AIR 2003 SC 2748.

⁵ *Id.*

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“Crime or a single crime that is committed by a person who works in an office or a similar place, usually by a professional person (= a person who has the type of job that involves a high level of education and training) in connection with their work.”⁶

Money laundering helps the offenders to accumulate large wealth through illegal means and hide its illegal source. The main aim of this crime is to not to leave any trail behind, and to separate any ties between the source and wealth. This is done to project the wealth so acquired by the offender as untainted.

Moreover, the United Nations Office of Drugs and Crimes (hereinafter as UNODC) defines the offence of money laundering as a criminal act, wherein, anyone converts or transfers, or helps to convert or transfer, any property for disguising or concealing the origin of the property.⁷ The origin of the property is illicit for which it is required to be disguised. It further states that the person doing such act of conversion or transfer must have knowledge about the source of illicit property or should be aware that the property has been derived through an offence. Thus, giving emphasis upon the importance of ‘*mens rea*’ or guilty intention.

Moreover, upon interpreting the Prevention of Money Laundering Act, 2002 (hereinafter as PMLA, 2002), one may find a similar definition of the expression ‘money laundering’ in the Indian laws as well. But firstly, it is of prime importance to understand the definition of ‘proceeds of crime’. The expression ‘proceeds of crime’ is defined under Section 2(1)(u) of the PMLA, 2002.⁸ Section 2(1)(u) envisages that, ‘proceeds of crime’ are any property, that has been derived or obtained as a result of the criminal activity. The property may be obtained directly or indirectly. The criminal offence so committed shall be, or relating to, or shall be relatable to a scheduled offence, so that the assets so accumulated therein, to be termed as proceeds of crime. The provision also explains that proceeds of crime may be the property or the value of such property held in the country, regardless of the place, where the property in relation to ‘proceeds of crime’ is being held.⁹

Now, the definition of the expression ‘money laundering’ is mentioned under Section 2(1)(p) of the act. But it has the same meaning as assigned to it under Section 3.¹⁰ Section 3 states that anyone who directly or indirectly indulges or assists in any in any process or activity in respect to ‘proceeds of crime’ he commits the crime of money laundering. Moreover, the provision mentions the words and expressions such as ‘attempts to indulge’ or ‘knowingly assists’ or ‘knowingly takes part in any activity in relation to proceeds of crimes.’ Such expressions signify the presence of *mens rea* or “guilty intention” has been made an integral element of this offence, by the legislature, that is to be fulfilled to prove the offence beyond any reasonable doubt. Hence, it can be said that the people unaware of their enjoyment of “proceeds of crime” shall not be punished because they are unintentionally enjoying a property derived from a criminal activity.¹¹

Also, the explanation clause states that any activity such as concealment, possession, acquisition, use, projection or claiming of the property as untainted property, in relation to proceeds of crime makes a person guilty of money

⁶ OXFORD UNIVERSITY PRESS, <https://www.oxfordbibliographies.com/display/document/obo-9780195396607/obo-9780195396607-0020.xml> (last visited, Apr. 20, 2023).

⁷ UNITED NATIONS OFFICE ON DRUGS AND CRIMES, <https://www.unodc.org/unodc/en/money-laundering/overview.html> (last visited, Apr. 23, 2023).

⁸ Prevention of Money Laundering Act, 2002, § 2, No. 15, Acts of Parliament, 2002 (India).

⁹ *Id.*

¹⁰ Indian Bank v. Govt. of Ministry, Dept. of Revenue, Directorate of Enforcement, (2012) 4 CTC (Mad).

¹¹ Prevention of Money Laundering Act, 2002, *Supra note* 8, §3.

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laundering.¹² Further, the intention of the legislature has always been to punish the offenders if they are enjoying the proceeds of crime.¹³

Moreover, the crime of money laundering is not just crime against few people but against the economy of the nation as it is a threat to any financial system.¹⁴ It may also be contended that, the tainted money or the black money is a risk to nation and to state which is accumulated in foreign banks.¹⁵

In the words of the Hon'ble Supreme Court, "*Tainted money breeds discontent in any society and in turn leads to more crime and civil unrest in the society*".¹⁶ Also, the crime of money laundering is one of the biggest sources of terrorist financing,¹⁷ and it is a proven fact that, the home-grown extremist who are helped by the international criminal network, rely upon accounted money or black money.¹⁸

III. STAGES OF MONEY LAUNDERING

Money laundering is not just a single act of hiding the money, whereas, it is a process of concealing and legitimizing the illegitimate money. The crime of money laundering is generally committed in three stages. For an accused to hide his illicit asset, there are three different stages required. The three stages of money laundering, in order of the commission, are, (i) Placement, (ii) Layering, (iii) Integration.¹⁹

1. **Placement:** The stage of placement is the first step or the first stage in the crime of money laundering. In this stage the direct ties from the illegitimate source of money are cut-off and the illicit money is placed under a clean financial system.²⁰ There are many ways for placing the illegal or illicit money into financial systems such as invoice fraud, offshore account deposits, blending of funds, smurfing etc. But the main goal of each activity is to place the illegitimate money into legitimate financial systems. The intention of the accused is to detach every trail relation or connection between the money and the illegitimate source from where it is obtained.
2. **Layering:** In this stage the offender tries to disguise the trail of the acquired illegitimate asset to foil pursuit.²¹ It means that through this stage the offender successfully tries to evade the trails that may link him and the money with the crime. The basic feature of layering is to make such transactions wherein, the trail between asset and source is lost and the existing asset with the accused cannot be linked with its illegitimate source. This may be done by multiple transactions, by depositing the money into various bank accounts, investments, gold, bonds, stock market, and such other legitimate sources of obtaining money. This further helps in severing ties with the crime so committed.

¹² B. Rama Raju v. Union of India, 2011 SCC Online AP 152.

¹³ Vijay Madanlal Chaudhary v. Union of India, AIR 2022 SC 633.

¹⁴ *Id.* p 47.

¹⁵ Ram Jethmalani v. Union of India, (2011) 8 SCC 1.

¹⁶ Vijay Madanlal Chaudhary Case, *Supra note* 13, at 47.

¹⁷ FEDERAL BUREAU of INVESTIGATION, <https://www.fbi.gov/news/stories/combating-the-growing-money-laundering-threat> (last visited Apr. 22, 2023).

¹⁸ P.B. Gajendragadkar, *Forty-Seventh Report on The Trial and Punishment of Social and Economic Offences*, LCI (1972).

¹⁹ *Supra note* 13.

²⁰ Vijay Madanlal Chaudhary Case, *Supra note* 13, at 37.

²¹ Vijay Madanlal Chaudhary Case, *Supra note* 13, at 44.

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3. **Integration:** This is the final stage of money laundering wherein the money is returned to the offender from a source which appears and disguises the authorities as a legitimate source. Now the offender is free to use the wealth so obtained. At this juncture, since the money is shown as legitimate, it becomes very difficult for the investigating authorities to differentiate between the legitimate and the illegitimate wealth of the suspect or offender. This further frustrates the proceedings initiated against the offenders and causes a great harm to the nation.

Money laundering as mentioned above contains various stages for its complete commission. The Finance Act, 2019 added clause(ii) to the explanation under Section 3 of the PMLA Act, 2002. This newly added clause to Section 3 makes the offence of money laundering a continuing offence. The definition of the expression “continuing offence” has been defined by the Hon’ble Supreme Court in the case of *Sankar Dastidar v. Banjula Dastidar*²², wherein the apex court said that the expression ‘continuing offence’ means an offence which is a continuing source of injury and which makes the offender liable for the continuing liability. The act of obtaining illegal money might just be for once, but its after effects can be seen upon the victims and nations as a whole.

II.II. INJURY CAUSED

The highest amount of money that is been laundered outside of India is because of corruption. Moreover, the money of the Indian leader rests in the most secure vaults of Swiss banks whereas, the common public is dying because of hunger. According to a report by the Swiss Bank itself, it has been revealed that the Indian money kept has increased to 2.55 billion Swiss francs, amounting to Rs. 20,700 Crore.²³ This shocking report also revealed that this increased amount is the highest in the last 13 years where from the past 2 years there was a declining trend for the same.²⁴

Further, in a report by the RBI, it has been revealed that, in the FY 2022 also, a fraud of more than Rs. 36,000 Crore was committed upon the banks.²⁵ These numbers mentioned in the frauds look fictional, but going internationally, one may find that these figures are the starting line, since, across the globe more than \$2 trillion of money has been laundered.²⁶

III. COUNTER MEASURES

The crime of money laundering is one of the gravest offences that could be done against any economic system. Realizing the vicious offence and the injury it causes, the international assimilation has taken steps to curb it. Both internationally and on the national level the steps have been taken to curb this menace, but the impact and the effectiveness of the organisations and associations so made is what remains in question. There are two main organisations which will be dealt further namely, the Financial Action Task Force or FATF and the Indian Investigation Agency- Directorate of Enforcement or ED, whose primary function is the enforcement of the PMLA, 2002.

IV. FINANCIAL ACTION TASK FORCE

The most encouraging step of the international relations was the formation of the Financial Action Task Force (hereinafter as FATF). The FATF was formed in the year 1989 by the G7 with an objective of fighting against the

²² (2006) 13 SCC 470.

²³ INDIA TODAY, <https://www.indiatoday.in/business/story/indian-black-money-swiss-bank-accounts-latest-estimate-1816211-2021-06-17> (last visited Apr. 25, 2023).

²⁴ *Id.*

²⁵ THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/industry/banking/finance/banking/4071-banking-fraud-cases-involving-rs-36342-cr-reported-during-h1-fy2022-rbi-report/articleshow/88549386.cms> (last visited Apr. 25, 2023).

²⁶ *Supra note 7.*

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money laundering. It was originally comprised of the European Commission, the G7 countries including 8 other member nations.²⁷ Moreover, in the year 2001 the mandate of the organisation was expanded to terrorist financing as well.²⁸

India has been an observer of the FATF since 2006, until it became its 34th member nation on 24th June, 2010.²⁹ There are several functions that the FATF performs including:

- 1. Identifying Methods and trends:** The FATF identifies new trends and techniques that are being used by the criminals and observes new threats that may come into light. Also, the organisation monitors as to how the offenders move the money across the globe, and legitimize it, for it to become untraceable. Similarly, it also monitors the menace of terrorist financing, its growth, and the new trends emerging in these crimes.³⁰
- 2. Setting Standards:** In its one of the most major function the FATF identifies crimes and ensures global coordinated action against it. Moreover, the FATF takes initiatives to stop illicit fundings that help the menace of money laundering and terrorist financing to grow.³¹ Further, the FATF also address and identifies any new risks, due to change in technology and other factors, such as in field of block chain, virtual currency etc.
- 3. Assessing implementation:** The FATF, being comprised of various member nations, checks upon the implementation of lucrative steps taken up by the individual member nation against the offences. Moreover, the FATF as an organisation, also makes recommendations to its member nations, with respect to the action taken against the crime, and for the future ahead.³²
- 4. Identifying Risk:** The organisation while performs its functions also observes and verifies various countries and jurisdictions who are at a higher risk as compared to other nations. This is basically done so that the international relations are maintained and there no disruption of harmony, while the nations deal with each other. It also identifies the nations who do not take actions with respect to the recommendations given and compliance made by the FATF.³³

V. DIRECTORATE OF ENFORCEMENT

The Directorate of Enforcement (hereinafter as ED) is the prime investigation authority against the menace of money laundering in India, and has exclusive jurisdiction over it.³⁴ Formerly known as “Enforcement Unit” the ED was established in the year 1956 as an investigative authority for violation of Foreign Exchange Regulation Act, 1947, under Ministry of Finance, having itself renamed as “Enforcement Directorate” in the year 1957. After the enactment of PMLA, 2002, the ED was entrusted with its enforcement since 1st July, 2005.³⁵ Further, the ED

²⁷ FINANCIAL ACTION TASK FORCE, <https://www.fatf-gafi.org/en/the-fatf/who-we-are.html> (last visited, Apr. 19, 2023).

²⁸ *Id.*

²⁹ DEPARTMENT OF ECONOMIC AFFAIRS, <https://dea.gov.in/pressrelease/indias-membership-financial-action-task-force> (last visited, Apr. 21, 2023).

³⁰ FINANCIAL ACTION TASK FORCE, <https://www.fatf-gafi.org/en/the-fatf/what-we-do.html> (last visited, Apr. 19, 2023).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Binod Kumar v. Sate of Jharkhand, (2011) 11 SCC 463.

³⁵ DIRECTORATE OF ENFORCEMENT, <https://enforcementdirectorate.gov.in/history-ed> (last visited, Apr. 20, 2023).

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is also entrusted with the enforcement of the Foreign Exchange Management Act, 1999 and Fugitive Economic Offenders Act, 2018.³⁶

The authority provisionally attaches the property of the offenders under the PMLA, 2002 under Section 5 of the act, to check that the proceedings are not frustrated. It also investigates into the matters relating to the money laundering and other violations in relation to economic offenders. Also, the ED investigates to trace the assets that are being derived out of the “proceeds of crime” or which might have its ties to any of the scheduled offences.³⁷

Moreover, in case of *Anil Sharma v. CBI*³⁸, designating the arrest done by ED as non-bailable, it was held that, the anticipatory bail cannot be granted in the case of money laundering, as it may frustrate the investigation if the accused knows that the courts order support him. This verdict increased the power of the ED. Further, in a recent judgment, the Supreme Court upheld the powers of the ED in relation to arrest, attachment of property, seizure, and search while giving significant importance to *P. Chidambaram case*³⁹, *Ashok Kumar Jain case*⁴⁰, and *Anil Sharma case*⁴¹, where a similar stance by taken.⁴²

VI. THE PROBLEM

The discussion above may be deduced to the fact that, on papers the regime against money laundering and black money in India is well structured and comprehensive. On the other hand, it will not be wrong to state that, still the cases of money laundering are neither decreasing nor at hold. Talking about last year’s major scams, the alleged value of the scams and the generation of “proceeds of crime” if more than 100 crores.

Recently, in the year 2022, the West Bengal School Service Commission Scam came into light, wherein, bribes amounting to Rs. 100 Crore has been paid for the vacant posts, allegedly.⁴³ Also, in another scam namely, the Jammu & Kashmir Cricket Association Scam, allegedly, Rs. 43.69 Crores of funds have been misappropriated.⁴⁴ Considering only the above-mentioned figures reported, more than Rs. 140 Crore of money has been misappropriated and laundered.

But these reports are not the only point of concern. Considering the names involved, prima facie, in the above-mentioned cases, it can be said that the Indian Anti-Money Laundering regime looks good on papers but it may be miserably failing against the politics. This can also be seen from the statistics and data that is been calculated by various organisations. According to the annual report 2021-2022, published by ED, out of 4637 cases, whose investigation has been completed, only in 907 the offenders have been prosecuted.⁴⁵

³⁶ *Id.*

³⁷ *Supra* note 35.

³⁸ (1997) 7 SCC 187.

³⁹ 2019 SCC Online Del 9703.

⁴⁰ (1998) 2 SCC 105

⁴¹ *Supra* note 38.

⁴² *Vijay Madanlal Chaudhary Case, Supra* note 13.

⁴³ INDIA TODAY, <https://www.indiatoday.in/india/story/teachers-recruitment-scam-tmc-mla-tapas-saha-summoned-to-cbi-office-2364441-2023-04-25> (last visited Apr. 15, 2021).

⁴⁴ TIMES NOW, <https://www.indiatoday.in/india/story/teachers-recruitment-scam-tmc-mla-tapas-saha-summoned-to-cbi-office-2364441-2023-04-25> (last visited, Apr. 19, 2023).

⁴⁵ Ministry of Finance, *Annual Report 2021-22*.

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Also, examining the National Crimes Records Bureau (hereinafter NCRB), neither the offence of money laundering is mentioned under heads of economic offences nor any of the part, of a 3-volume report, mentions this expression. Considering the data given for economic offences as well, the conviction rate in economic offences is 29.4%, which is low for the value of tainted money in possession of the offenders.⁴⁶

Furthermore, change in governmental regime, if occurs, after 2024 general elections, the bureaucracy, including the ED, might function in a different speed and with a different approach. Also, with respect to India, a report by private organisation contends that the Indian agencies use only 12% of the analysing tools to mark out the potential red flags in cases of fraud.⁴⁷

But the above-mentioned is just the start of the problems. A report further suggests that criminals and syndicate across the globe have found a new way of dealing with proceeds of crime. The market of art and antiquities has become a new path for successfully hiding the proceeds of crime.⁴⁸ This attraction is becoming more rampant because there is nothing suspicious about old artefacts and these assets can be liquidated easily. Moreover, in the recent reports published by FATF, pertaining to mutual evaluation of countries, regarding Anti-Money Laundering Techniques, the name of India marked its absence.

VII. CONCLUSION

Money Laundering as a crime is much more heinous than murder, as it not only injures a person or a group of persons, but it also damages a well-functioning economy as a whole. The offender in these offences are generally the people who belong to the high class of the society wherein they have a fictional amount of money in their reach. Moreover, these criminals are well-educated and know how to avoid the clutches of the law. Also, considering the changing trends and evolving methods of this crime it can be deduced that these criminals have a dynamic approach towards committing the crime.

Indeed! there have been various measures taken against this offence, both nationally and internationally. The international measure includes the formation of the FATF, United Nations Office of Drugs and Crime (UNODC), the International Monetary Fund (IMF) and various other regional, continental, and global organisations. In India ED is the sole authority for the investigation of the offence.

Even after such substantial steps the Indian Anti-Money Laundering regime is not able to prosecute the criminals charged by the law. Though India is a member of the FATF since 2010, and has adapted its recommendations and laws, still, the data suggests partial failure of the AML regime. Also, the conviction rate in such cases is not high, though in recent times the reporting of this crime has substantially increased.

In the light of above, there are certain steps that should be comprehensively taken, as a need of the hour. Firstly, the menace of corruption should be curbed as it cannot be afforded that the investigative authorities themselves are indulged in this menace. Secondly, the reporting of the offence by the statistical agencies such as the NCRB should be done in a more comprehensive manner, to target upon the menace. Thirdly, the enforcement authorities should be updated with new emerging trends in the process of the commission of the crime. Fourthly, evaluation of the existing AML regimes should be undertaken, at regular intervals, both nationally and internationally, to keep the law dynamic and sound.

Lastly, it can be concluded, though India has come a long way and is doing well in curbing this crime, still it needs to be in pace with the international compliances and trends. The AML regime is more than a decade old and the jurisprudence of the money laundering statutes is still debatable. Though, this does not leave the authorities

⁴⁶ National Crime Records Bureau, *Crime in India 2021*, p 748.

⁴⁷ Deloitte, *India Banking Fraud Survey*, 4 (2021).

⁴⁸ FINANCIAL ACTION TASK FORCE, <https://www.fatf-gafi.org/en/publications/MethodsandTrends/Money-Laundering-Terrorist-Financing-Art-Antiquities-Market.html> (last visited, Apr. 26, 2023).

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responsible for the enforcement of the AML regime, at liberty, to leave loose ends. With certain additional compliance and identification of the loopholes will allow India's AML regime show the best result possible.

VIII. SUGGESTIONS

As complex the above-mentioned problem is, a detailed solution for the problem is not possible in this paper, but *prima facie*, the administrative action needs to be more country-specific than being politically favourable. Also, from the above discussion, four main solutions can be highlighted as follows:

1. Need for the executive to find the moles:

The first and the foremost step that is required by the current governmental regime and for any upcoming government is to find the moles or the people indulged in these crimes and are a part of administrative, legislative, or executive branch of the state. More than being an action it needs to be a principle that should be inculcated in the minds of the future public servants and politicians. Moreover, to keep this in check the Central Vigilance Commission must be given more authority with respect to the investigation, search and seizure, and any action against CVC or any of its official must be taken with utmost care and caution. Moreover, the educational criterion for the representative of the people must be increased, so that we may only vote to educated people. In simpler words, the executive and the administrative authorities need to curb the menace of corruption in a much rampant speed within their functioning to further curb the menace of money laundering.

2. Proper reporting of the offence, across India:

The National Crime Records Bureau (hereinafter as NCRB) is the organisation that maintains the crime records in India. The NCRB needs to work more efficiently with the ED for publishing correct and non-compromised data so that the people are made aware against the crimes. Also, better maintenance of records will help in find the areas which require immediate actions. This will further help in finding the loopholes in law, which may be exploited by the offenders. Moreover, it will also help in devising the precautions which people and organisation should take to terminate the crime from its roots.

3. Realization new trends and pre-planned actions against it:

This is one of the most major steps that India, as a nation, needs to take for the investigation of the crimes. Criminals catch new trends of committing crimes more rapidly as compared to the agencies. The bureaucratic recognition of new trends and effective ways of committing this crime should be realised as soon as possible. For example, the latest trends in which the money is being laundered is through art and antiquities. Certain countries have already taken counter-measures against this trend,⁴⁹ which India must brain-stormed and adapt, in accordance with Indian laws. This also help in combining the attack upon this menace from all ends.

4. Evaluation of the Anti-Money Laundering regime at definite intervals:

This one of the most important steps that time demands for the purpose of protection of the assets of the public and so that AML regime yields the desired result. The assessment of the AML regime is of substantial importance because it makes the legislature and administration authorities aware or future threats. It also helps to keep the law dynamic i.e., in consonance with the changing trends in the field.

Moreover, there should be a dedicated organisation, apart from investigation agencies, for identifying different new trends, methods, and techniques used by the offenders. Also, this agency should be assigned to make recommendations for the existing regime's effectiveness against the offence. Also, this evaluation should also be done by various international organisations, dedicated against money laundering. It is pertinent to mention that FATF's last follow-up evaluation report given for India was in the year 2013. This was the last mutual evaluation report that was published by Asia Pacific Group on Money Laundering and FATF.

⁴⁹ FATF, *Money Laundering and Terrorist Financing in the Art and Antiquities Market*, p 11-40 (2023)