Financial Crimes: Activities that Amount to Money Laundering Offences

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ABSTRACT

Financial crimes are activities that generate wealth through the conduct of criminal activities, including the act of protecting the benefit that has been facilitated dishonestly by taking the benefits or obtaining property from any unlawful activity a.k.a. money laundering offences. The authors express their views by referring to '*get rich, quick*' as a reactionary and impulsive behaviour, detected among locals involved directly or indirectly in dishonest or fraudulent activities of those in power. The authors' further converse about how such corruption may lead to a sense of despair and alienation in the society, especially for those who are deprived of their basic human rights due to such prevalent corruption and governance failure. And how much can also weaken the key institutions of the national integrity system as corruption teardowns public trust in the government. The authors in this paper articulated in a chronological manner a clear nexus as to how techniques used to launder money are often used by organised crime for drug trafficking purposes and/or terrorist financing; as such funds may originate from legitimate sources and/or criminal activities. Research methodology applied by the authors is solely for the objective of gathering and analyzing the information acquired, applying an open-ended and conversational communication. Here the authors desire to rely mainly on secondary sources for data collection where the authors apply comparative analysis methods to examine relationships between the variables to better emphasize the dire need to make more people aware of such criminal activities that amount to money laundering offences.

Keywords: Financial crime, Corruption, Offences, Fraudulent activities, and Money laundering.

INTRODUCTION:

Financial crimes are actions that help generate wealth through the comportment of criminal activity. It also involves the act of protecting the proceeds that have been facilitated dishonestly taking the benefits of illicit activity. Such money obtained from corrupt activities are considered dirty-money, and criminals use an extensive variety of money laundering systems to make it look like clean-money, as if the funds were acquired from legitimate sources. Money laundering can be defined as the illegal processes of making money generated from illicit activity appear to have come from a legitimate source (Chen, 2021). A local daily estimated based on various studies and intelligence reports, that the number of drug addicts in Bangladesh is more than six million spending over Tk 70 million daily on illegal narcotics (Bss Dhaka, 2013).

Such illegal activities of organized crime, includes drug trafficking, embezzlement, prostitution rings, illegal casino's which generates huge amounts of proceeds thereby creating the incentive to 'legitimize' the ill-gotten returns thro-ugh money laundering. The key purpose of this article is to analyze how money

laundering occurs emphasizing on the various ways organized crime launders money obtained from criminal activities and what impact the laundering of illegitimate money has on Bangladesh's economy. The mechanism and effects of money laundering is a broad issue. All relevant material available is spread throughhout the internet. The authors faced difficulties in correlating all these information under one article. However, the authors were able to provide an analytical framework along with the set of dialect in establishing the analysis required for proposing further recommendations to better combat money laundering activities in the region. The authors further advised to conduct additional empirically based case studies to further examine the solidness of the theoretical foundation to better provide the acquired implementations concerning money laundering laws in the regime. Research methodology applied by the authors is solely for the objective of gathering and analyzing the data acquired, applying an open-ended and conversational communication (Sharan B. Merriam, 2015). Here the authors relied on secondary sources for data collection where the authors applied qualitative analysis methods to examine relationships between the variables to better emphasize on the dire need to make more people aware of such criminal activities that amounts to money laundering offences.

Illicit activity often generates substantial profits, as a result the individual criminals or groups involved get creative in controlling the illicit funds without attracting attention of the law enforcement. This draws our attention to the traditional money laundering model of disguising the sources of fund, changing the form of the gains, or moving the money to places where they are less likely to draw attention. A money laundering model adopts three-stage affairs involving placement, layering and integration process. This process consists of furtively introducing the money acquired from criminal activities into the financial institutions of the said economy. The money is then laundered around the legitimate financial system by constantly transferring the fund through various accounts thereby obliterating the trail and the source of the illicit funds. Finally, the illicit money is integrated into the financial system through additional transactions thereby restoring the money back into the eco-

nomy by creating an impression of legitimacy of the funds (Financial Action Task Force (FATF), 2020). This method is of grave importance, as it allows the organized crime to enjoy the profits of illicit activity without revealing their illicit source.

In 2020 Transparency International Bangladesh estimated a total of USD 3.1 billion or Tk 26,400 crore was illegally remitted from Bangladesh. A local daily reported 'government's policies have fallen far short of disincentivizing money laundering and have, in fact, facilitated it at times' (Jamal, 2020). Organized criminals in recent times employ professional enablers naming accountants, lawyers, and bankers to provide professional expertise in creating complex webs of layering to conceal the proceeds of crime; often using secrecy jurisdictions to create shell companies. During the current emerging time, Bangladesh's financial sector is immensely vulnerable to be victims of Professional Money Laundering, FATF Report on Professional Money Laundering published in July 2018.

Government's initiative to control corruption and achieve an anti-money laundering regime

Money laundering has become a global problem due to the increase in foreign trade and the development of the global financial system. In 1986, the first country to criminalize the "laundering" of the proceeds of criminal activity was the United States of America. Followed by which, in 1988 the Vienna Convention, provided various guidelines to help combat money laundering activities by establishing an obligation for signatory states to criminalize the act of laundering money (Al-Suwaidi, 2021). In 1989, the G-7 countries formed the Financial Action Task Force ('FATF'), a renowned international organization, established with the sole responsibility to combat money laundering activates and terrorism financing. As a policy-making body, the FATF actively works to generate recommendations of international standard which helps ensure a coordinated global response to prevent organized crime and corruption and help countries better achieve an anti-money laundering ('AML') regime (FATF, 2012). This inter-government money laundering and terrorist financing watchdog shunts non-anti money laundering regime countries by enlisting their names on its 'blacklist' thereby implementing a 'name and shame' policy.

Bangladesh in its effort to join the worldwide initiative to combat menace of money laundering established the Money Laundering Prevention Act, 2012 (amended in 2015). The act gives Bangladesh Bank broad responsibilities and a wide range of power to take adequate measures for prevention of activities that amounts to money laundering. Under the provision of Money Laundering Prevention Act, 2012 ('MLPA') the government has empowered Bangladesh Financial Intelligence Unit ('BFIU') an anti-money laundering department of the Bangladesh Bank as the central agency responsible for scrutinizing Suspicious Transaction Reports ('STR') and Cash Transaction Report on its own accord (Bangladesh Bank). Suspicious activities can be identified during both the on-boarding and on-going due diligence of the financial body's client not limiting the reporting organization's transaction monitoring process. An activity is suspicion when related to general conduct of the client in question, which creates the knowledge or belief that the said client may be involved in illicit activities out of which proceeds might be generated (Rana & Awwal, 2020; Bangladesh Financial Intelligence Unit, 2019).

The BFIU is also responsible to investigate information related to activities amounting to money laundering and or financing of terrorism provided by the reporting organizations as listed in the MLPA & other sources. BFIU's key objective is to establish an effective system within the regime to combat money laundering activities and terrorist financing along with maintaining intercommunication with foreign-government counterparts. The government's AML policies requires local financial organizations to adjust to AML regime by forming a Central Compliance Unit (risk management corporate), which oversees implementing AML strategies and policies to help better combat anti-corruption practices within its organisation. As per Bangladesh Bank guidelines, financial bodies are to verify all transaction documents provided to them. However, although proper recordkeeping is maintained, financial bodies rarely verify the documents and information provided. It is the understanding of the authors that the reason for such practices are -

1) Lack of work force available.
2) Financial bodies do not want to bare the added cost of verifying the documents.

3) The lack of adequate training on MLA and ethical conundrum provided to the employers, hence workers often lack the 'birds' eye view' to peruse.

Bangladesh Bank further provided complete guidelines on how to conduct rigorous Customer Due Diligence by implementing policies such as 'Know Your Client' (KYC). KYC provides policies and techniques for financial bodies to comply with for achieving the AML regime which includes defining and verifying a customer's identity, maintaining proper record keeping, transaction monitoring and reporting. Bangladesh Bank publishes regular circular or directives for financial bodies to keep detailed information of all clients regardless of them being new and old clients and not to open any beneficiary accounts without verifying authenticity of the account holder. Such directives also direct financial bodies to implement certain degree of cautious and conduct additional due diligence in case of politically exposed persons (PEPs) (Waris, 2018). For better understanding of the readier, PEPs is defined as "individuals who are or have been entrusted with prominent public functions in a foreign country, i.e. Heads of State, senior and important politicians, judicial or military officials, senior executives of state-owned corporations…", the definition also includes family members or close associates of PEPs to be kept under close surveillance (Bangladesh Bank; n.d).

Major techniques used to launder money in Bangladesh

Due to the absence of proper regulatory monitoring and poor administration in the financial sector, criminals are easily able to hide their proceeds of crime. On June 25, 2020, the Swiss Banking authorities published their annual update on deposits of foreign nationals, which showed a total of 603.2 million Swiss Francs or Tk 5,367 crores invested by Bangladeshis alone (Iftekharuzzaman, Why does money laundering enjoy impunity in Bangladesh?, 2020). Lack of proper governance and compliance within enterprises is another major cause of such malaise activities. To better under-stand how money laundering offences are committed in the region, the authors below provided few techniques implemented by local launders.

Trade-Based Money Laundering
Trade-based money laundering is the technique by which organized criminals implement a legitimate trade

to camouflage their proceeds of crime. According to Global Financial Integrity report, Bangladesh is listed in the among the top countries facing significant threat to growth and sustainable development in the region due to this method of laundering (Islam, 2020). Trade-based money laundering involves fraudulent trade practices such as, mis-declaring the invoices of product and services by providing multiple fake invoicing of such. Further approaches include ghost shipment; it is when criminals ship empty cargos yet providing false letter of credit, purchase order and invoice letter to the banks, customs officials and clearing and forwarding agents. Such a crime was unearthed in the year 2022 by the Chattrogram Customs of Bangladesh when they figured out about 20 companies false fully claimed 20% export incentive over a period of 5 years, thereby laundering massive sum of money through ghost shipments of 965 consignments amounting to BDT 451.5 crore (Suman, 2022). Trade based money laundering is on the rise in Bangladesh due to lack of adequate knowledge being provided to the bankers, lack of effective data communication network between the customs and banks, poor digitalization of the entire banking system and the dreadful affair of corrupted traders, bankers and powerful influential personals (Md Monzur Morshed, n.d). Although BFIU has provided the "Guidelines for Prevention of Trade Based Money Laundering" to assist financial bodies better combat such illicit crimes of money laundering in the name of export and import, one may question the effectiveness of such guidelines.

Informal funds transfer system locally known as Hundi

Hundi is a locally accepted (illegal in the eye of law) informal funds transfer system based not on the transfer of funds between banks through a formal channel rather on the performance of a huge network of money brokers how help transfer the money without moving it. The factors that contribute to the widespread of hundi are namely the speedy transfer of money with lower transfer cost compared to legal and formal banking sector along with cultural convenience, and potential anonymity. Such informal value transfer system can often be recognized as the transfer of money without moving the actual money (Mohammed El Qorchi, 2003).

Smurfing

The concept of smurfing is a colloquial term for money launderer who seeks to evade scrutiny and detection from government agencies by breaking up large transactions into multiple smaller transactions that are each below the reporting threshold to avoid suspicion. The threshold of cash transaction report has been set to BDT 7 lac by the Bangladesh Bank (Anti-Money Laundering Department, 2007). This means reporting organisations especially banks are to submit the transaction details for the cash deposits or cash withdrawals of the amount of BDT 7 lac or above. This technique is specifically implemented by illegal drug traffickers to launder the proceeds of drug money by spreading these lesser transactions over numerous different bank accounts to keep the transaction under regulatory reporting limits thereby successfully avoiding detection (Sanction Scanner, n.d).

Impact of money laundering activities in Bangladesh

Informal fund transactions affect the composition of broad money, thereby, causing indirect effects on the economics' monetary policy. The Hundi method of informal fund transactions further effects exchange rate operations due to its effects on the supply and demand for foreign currency thereby, having negative fiscal implications on both remitting and receiving countries. Bangladesh Bank officials indicated several economic problems are caused due to money laundering by emphasizing on the valuation of the US dollar ('USD') after observing an upward trend against Bangladeshi Taka ('BDT') in the 2021 fiscal year (Islam, 2021), when in reality the price USD was experiencing a devaluation on the global market. Furthermore, in May 2022 local daily reported maintaining anonymity of its source that the price of USD 1 is BDT 100 in the open market as dollar crisis has reached extreme. Executive Director of Bangladesh Bank Mr. Sirajul Islam was of the observation, given the present global situation; there remains no alternative other than devaluating BDT against USD as the exchange rate for interbank transactions was set to BDT 87.50 (Standard, 2022).

In addition to such, the authors further observed that such informal funds transfers are conducted outside the formal banking system activity; hence they are not

subject to government taxes. Henceforth, they entail a loss of business for the financial sector and potential government revenue. As such transactions are conceptually part of the nation's balance of payments accounts, henceforth; accurate compilation is highly unlikely (Mohammed El Qorchi, 2003). Economies with developing financial bodies like Bangladesh with inadequate proceeds of crime controls are pre-dominantly vulnerable to such illicit crimes. Once the integrity of the financial institution of a country is damaged there is a direct damping effect on foreign investment as the developing nation's commercial and financial sectors are alleged to be control, influence and monitored by organized crime (Financial Action Task Force, 1999).

The authors have further observed recent reports (OSAC, 2020) suggest that terrorist and improper religious propaganda has increased recently in Bangladesh. Without proper application of the law, such illicit activities will lead to an increase in crime and violence related to terrorist activities in this region. Adding to the above conversation, more drugs are circulating the nation every day, thereby ruining prospects of the future generation. Due to inadequate knowledge on the money laundering regime, drug money is being laundered frequently which is causing more money to be invested by organized criminals in drug related activities. Recent studies show divorce rate in Bangladesh has significantly spiked due to drug consumption of the male spouse - leading to bad behaviour and poor sexual lifestyle (Mannan, 2020).

Recommendations

In view of the facts presented above, the authors are of the observation that both corruption and money laundering offences is a serious problem in Bangladesh. In this article it is not the intension of the authors to scrutinize the imperfections in the provisions of the existing laws; rather to provide emphasis on the implementation of the law in place. Measures implemented should be legally preventive, constructively educational and socially denouncing to further achieve an AML regime.

Strengthening implementation of the existing laws

The author's emphasis on a stricter implementation of laws governing corruption and money laundering acti-

vities. Strict enforcement demonstrating the ramifications of misconduct is often debated to be the most effective way of deterring white-collar crime (Soltes, 2016). As per the laws of the land such corruption cases are handled and investigated by the Anti-Corruption Commission. Dr Iftekharuzzaman who is the Executive Director of Transparency International Bangladesh, in his article reported by The Daily Star, said: *'Any crime is bound to flourish when laws and regulations are not enforced and violators are not held accountable'* (Iftekharuzzaman, Why does money laundering enjoy impunity in Bangladesh?, 2020). Effective enforcement of laws governing corruption and money laundering activities necessitates well trained investigators with adequate knowledge on the ML regime; here the authors present that a lack of such requirements exists in Bangladesh. Increasing the number of well-trained officers to carry out expeditious and efficient investigation will further benefit Bangladesh to achieve an AML regime. Adding to the above conversation more highly educated prosecution teams and efficient benches in the judiciary are required to further booster the AML regime. The establishment of good corporate governance and effective legal framework, is what the authors anticipates may help combat the money laundering activities.

Raising public awareness and social denounce

Being part of the offence bribery has become a part of the culture in Bangladesh. Both the giver and the receiver in many instances consider the act of bribe is justified, as the recipients assists the givers regardless of the legitimacy of the latter's pursuits. It has been observed when the government officials start to receive bribe in exchange of their statutory service, the act brings serious anarchy in the state and its regular operation. In recent times the citizens of Bangladesh are in dire need to be reminded what constitutes the offence of money laundering as per the laws of the land.

A radical change in public attitude is *sine qua non*, local legislation alone seems insufficient to combat this menace, and primarily as corruption it has managed to cripple the enforcement of the law. Adding to the above discussion, the authors further observed that the local people lack certain patriotism, due to lack of moral education facilitated by an environment con-

ducive to adopt unfair means has worsened the mal-practice of corruption in Bangladesh. The authors are of the opinion that the moral education in general should be raised to ensure a sustainable improvement in preventing corrupt practices in the region. The authors further recommend that moral education is to be made compulsory at primary and secondary levels, emphasizing on an AML regime, thereby, and demonstrating the responsibility of an individual in preventing such corrupt practices. The current institutional curriculum should incorporate moral teachings which may be introduced at the tertiary level as to what amounts to money laundering offences and address the socio-economic harm that the money laundering regime causes to an individual, society and the national economy, henceforth promote a corruption adverse environment. The authors are of the convinced that such steps will positively influence students' thinking and determination against corruption and money laundering.

Media needs to be more vigilant

Transparency International in its report published in 2002 highlighted the profound significant nexus between free media alongside an independent judiciary in fighting corruption (Transparency International, 2002). It is appreciable that the press and electronic media in Bangladesh enjoy significant freedom however lack certain degree of competence in the money laundering regime. The role of media in fighting corruption is widely recognized, due to such, it is the author's observation that the local media needs to portrait a more educational mirroring that the society intensely denounces corruption. The media needs to be vigilant in diging out corrupt practices and be meticulous in disclosing the significance of money laundering activities and related punishments. It is the author's opinion that all these can deter potential offender's alongside keeping the society informed of such illicit crimes and stimulate social movement in achieving the AML regime.

Financial bodies need to be more agile

Jacqueline D. Shinfield partner and co-lead of Blakes Financial Services Regulatory during a seminar on Financial Crimes in Canada talked about the concept of 'Adverse Media Screening'. Adverse Media Screening requires the examination of third-party data sources for any adverse news associated with an individual or an organisation, i.e., identifying adverse interest on reputation ally exposed persons and organisation. Such scrutiny is essential for discovering a client's association in activities related to financial crime such as money laundering (Dow Jones Professional, 2021). Shin field emphasized that financial bodies are to be active on its Adverse Media Screening and be more agile when adverse news regarding such proceeds of crime are reported against their clients. The financial bodies should at that instance conduct more scrutiny on the client's transaction and look for any suspicious transaction and make the necessary STR to the BFIU. Adding to the above discussion, the authors further encouraged the financial bodies to come forward with areas they are failing to prevent laundering of such illicit funds and seek guidance of and if possible, provide suggestions to the regulating bodies. The authors are of the observation that the current system in play is way below its optimum levels and that there is a dire need for financial and regulating bodies to come forward and act as a single entity to figure out a way, free of any such adverse activities.

CONCLUSION:

Financial institutions are considered as the backbone of an economy; however, the dilemma begins when networks for money laundering are created thereby hampering the integrity of the financial sector of the economy. The authors emphasize that advocating such regulations alone cannot ensure compliance of the law. Policymakers need to possess the adequate supervisory capacity to enforce such regulations, and there should be incentives placed for the reporting organisations to better provoke them to comply with the regulations. The study has found that BFIU has improved significantly in fulfilling their mandates. On the contrary, despite showing improvement in several respects, certain basic deficiencies of the existing framework need to be address by the expert panel to make the AML regime more effective. The authors recommend that the AML regulations in Bangladesh needs to be looked at again by experts for more efficient compliance and enforcement of the law in this new era of Bangladesh. Implementation of harsher regulations is to be put in motion that will require financial institutions to conduct more through due diligence on their -

clients' background and its transactions. Along with keeping an eye for any suspicious activities and report any such if detected to the authorised body's combatting such white-collar crimes. Furthermore, reporting organisations core culture should imbed in them, adapt, and promote- anti-corruption practices. It has been observed, many reporting organisation core objective reflects no notion to such AML slogans. It is the authors observations that local legislation should reflect more on mandating such anti-money laundering notions on reporting organisations to achieve an AML regime. One should remember that financial criminals must do a lot of rights to keep continuing the laundering of such proceeds of crimes however; one single wrong identified by the financial or reporting body can help bring down an entire criminal operation.

ACKNOWLEDGEMENT:

CONFLICTS OF INTEREST:

The authors declare they have no conflicts of interest.

REFERENCES:

1) Alam, S. (2018). Drug use among Bangladeshi children at alarming level. Retrieved from Anadolu Agency (AA): https://www.aa.com.tr/en/asia-pacific/drug-use-among-bangladeshi-children-at-alarming-level/1023044

2) Al-Suwaidi, N. A. (2021). Anti-money laundering and anti-terrorism financing: a survey of the existing literature and a future research agenda. *Journal of Money Laundering Control*, 396-426.

3) Anti-Money Laundering Department. (2007). Submission of cash transaction report AML Circular No-13.

4) Bangladesh Bank. Bangladesh Bank. (n.d.). Bangladesh Financial Intelligence Unit. Retrieved from Bangladesh Bank : https://www.bb.org.bd/bfiu/

5) Bangladesh Bank. (n.d.). Bangladesh Bank. Retrieved from Bangladesh Bank : https://www.bb.org.bd/en/index.php/mediaroom/circular

6) Bangladesh financial intelligence unit, (2019). Guidance on reporting suspicious transaction report for the reporting organization. Bangladesh Bank.

7) Bss Dhaka, (2013). Drug abuse alarmingly rising in Bangladesh. The Daily Star. Bss, Dhaka. (2013). Drug abuse alarmingly rising in Bangladesh. *The Daily Star*.

8) Chen, J. (2021). Money Laundering. *Investopedia*. https://www.investopedia.com/terms/m/moneylaundering.asp

9) Dow Jones Professional. (2021). Retrieved from Dow Jones Professional: https://www.dowjones.com/professional/

10) FATF. (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. *Paris: FATF*.

11) Financial Action Task Force (FATF). (2020). Retrieved from Financial Action Task Force (FATF): https://www.fatf-gafi.org/faq/moneylaundering/

12) Financial Action Task Force. (1999). Policy Brief on Money Laundering. *Financial Action Task Force*.

13) Iftekharuzzaman, (2020). Why does money laundering enjoy impunity in Bangladesh? *The Daily Star*.

14) Islam, M. (2020). Combating trade-based money laundering. Retrieved from: *The Financial Express*. https://thefinancialexpress.com.bd/views/combating-trade-based-money-laundering-1584113091

15) Islam, S. (2021). Bangladesh Taka slides amid high demand for US dollar. *The Financial Express*.

16) Jamal, E. O. (2020). Bangladesh's struggles with money laundering. *The Daily Star*.

17) Mannan, M. (2020). Increase in divorce cases is ominous. *The Independent*.

18) Md Monzur Morshed, T. R. (n.d.). The Phenomenon of Trade-Based Money Laundering in

Bangladesh - A Critical Review. *Department of Development Studies*.

19) Mohammed El Qorchi, S. M. (2003). Informal Funds Transfer Systems. *International Monetary Fund*.

20) OSAC. (2020). Terrorism in South Asia: Bangladesh. OSAC. Sanction Scanner. (n.d.). Understanding the Cuckoo Smurfing Technique in Money Laundering. Retrieved from Sanction Scanner:
https://sanctionscanner.com/blog/understanding-the-cuckoo-smurfing-technique-in-money-laundering-203

21) Rana S., and Awwal MR. (2020). Reasons behind money laundering and ways to controlling it in Bangladesh, *Can. J. Bus. Inf. Stud*., **2**(6), 157-169.
https://doi.org/10.34104/cjbis.020.01570169

22) Sharan B. Merriam, E. J. (2015). Qualitative research: A guide to design and implementtation. *Wiley 4th edition*.

23) Soltes, E. (2016). Why They Do It: Inside the Mind of the White-Collar Criminal. *New York: Public Affairs*.

24) Standard, T. B. (2022). Dollar hits Tk 100 mark in open market. *The Business Standard*.

25) Suman, M. (2022). At least 20 companies pocket incentives over 5 years through ghost shipments. *The Daily Star*.

26) Transparency International. (2002). Pakistan's anti-corruption program: observations and recommendations.*Transparency International*.

27) United States Government. History of Anti-Money Laundering Laws. Retrieved from Financial Crimes Enforcement Network:
https://www.fincen.gov/history-anti-money-laundering-laws

28) Waris, P. A. (2018). The effect of tax amnesty on anti money laundering in Bangladesh. *Journal of Money Laundering Control*.