



Journal of Social Sciences Review (JSSR)

Vol. 2, Issue 1, 2022 (Jan-March)(01-19)

**Money laundering as an organized crime: The legal and institutional measures for
controlling money laundering in Pakistan**

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I (the author) agree with the journal's open access policy, and we have no conflict of interest.

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ABSTRACT

As a global phenomenon, money laundering has to be dealt with by all of the world's peoples. One way to combat money laundering is the Financial Action Task Force and other anti-money laundering programmes. As a result of becoming a victim of money laundering, Pakistan has established a wide range of preventative techniques. This includes the Anti Money Laundering Ordinance 2007, the Anti Money Laundering Act 2010, the Anti Money Laundering Regulations 2015 and the Anti Money Laundering Act 2015. The National Executive Committee and the Federal Investigation Agency are among the steps being taken to prevent and manage money laundering. The purpose of this study is to discuss the method, nature, and impacts of money laundering in Pakistan, as well as the legal and institutional mechanisms in place to combat it.

Keywords: controlling, institutional measures, legal measures, money laundering, Pakistan

"Money Laundering" was coined in the United States by Mafia bosses in the 1980s. Prostitution, gambling, and extortion were the primary means of income for American gangsters at the time. They were making a lot of money, and they were able to prove it by setting up real companies that it was money they had earned legally (Schneider, 2010). A Laundromat provides a useful link for the process of legitimising profit: illegal money is placed through a cycle of exchanges (washed) so that it emerges on the other side as lawful (clean) money (Crime and Misconduct Commission, 2005).

For a long time, the distribution of narcotics money was referred to as "money laundering." Forgery, fraud, and theft were added to the list of offences throughout time (Unger & Rawling, 2006). As defined by the Financial Action Task Force (FATF) France, it is "the process of illicit earnings to disguise or mask their unlawful origin and this approach allows criminals to enjoy their riches without jeopardising their source" (FATF, 2014). It is illegal in Hong Kong to utilise any way to hide the origin of the funds, according to the Hong Kong Narcotics Division, Security Bureau (2009). Laundering money via corruption, organised crime, financial fraud, and terrorist funding is one of the most common methods (Ejanthkar & Mohanty, 2011).

The long-term impact of money laundering on the global economy cannot be overstated (Ejanthkar and Mohanty, 2011). Between 2% and 5% of the global GDP is considered to be laundered by drug traffickers each year via money laundering (IMF). Between 2% and 6% of global GDP was predicted to be laundered in 2006, according to the International Monetary Fund. (Ejanthkar and Mohanty, 2011).

Anti-money laundering legislation and policies have been enacted in almost every nation on the planet (Unger & Rawling, 2006).

The Financial Action Task Force (FATF) was founded in 1989 at the G-7 Summit in Paris, France, to tackle money laundering and terrorist financing. The FATF's key goals include identifying national vulnerabilities and fighting money laundering and terrorist financing. New and updated money laundering and terrorist funding standards are being developed across the world. Each of these groups has a role to play in the development of these standards and values. Intergovernmental Organizations such as the International Monetary Fund and the World Bank (FATF, 2012).

A large number of Pakistanis have moved money to overseas banks despite anti-money laundering rules and regulations. In 2016, Pakistan ranked third in the world for illegally transferred investment in Dhubi of 85000 million Pakistani rupees (Daily Mashriq, 2016). They say they've moved their money abroad since the government has placed withholding taxes on taxpayers. The bulk of the investors are either politicians or their family, according to reports. All money exchange firms in Pakistan are required by the state bank to get a licence and meet a minimum capital requirement, hence those firms and hawaladars operating without a licence are deemed unlawful. Throughout Pakistan, unregistered hawaladars have continued to conduct their business illegally, although this is particularly true in Peshawar and Karachi (United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, 2015). money laundering and other financial crimes

A state's whole economic structure suffers when money laundering takes place. Although money laundering and funding terrorism may take place everywhere in the globe, impoverished nations are more vulnerable to its effects (Unger & Rawling, 2006). Profitable criminal activity is made easier since these marketplaces are smaller and more vulnerable than larger ones to criminal or terrorist influence.

There may also be an increase in crime and corruption in countries that are known as money laundering safe havens. Additionally, it worsens the scourge of bribery in that region (United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, 2015).

For the same reason, international investors and foreign governments avoid investing in countries that are known as safe havens for money laundering. This view of a certain country harms her international standing (Asian Development Bank, 2003). As a result of money laundering, financial institutions are weakened in a variety of ways. A financial institution's image may be tarnished if it is found to have illegitimate or filthy money. A company's image is tarnished when it is accused of money laundering or terrorist funding, and customers and investors stop doing business with it. Withdrawal of cash by depositors leaves financial institutions short of financing (Ejanthkar & Mohanty, 2011).

MONEY LAUNDERING STAGES AND PROCEDURES

In most cases, money laundering is a three-step procedure. There are three processes that must be followed in order to legitimate money laundering; however, it is not required that each money laundering case must go through all three stages. Placing and layering are two parts of this procedure.

Placement

Placing money is the initial step in the money laundering process, which makes it vulnerable to discovery. Smaller quantities of money are broken up and then banked throughout this phase of the process. Bank draughts, checks, and money orders, as well as other financial instruments, may be bought and deposited immediately into bank accounts (Narcotics Division, Security Bureau, 2009).

Layering

In this step, the money launderer uses a complex movement to hide the source and ownership of the money or fund that is being laundered, thereby preventing any audit trail that would otherwise be left by the unlawful money (Ibid).

Integration

The last step in the money laundering process is known as integration. To prove that the money was generated legitimately, the dirty or illegal monies are returned to the legal economy. In order to achieve this, one must purchase expensive items such as automobiles, precious metals, and real estate. Ultimately, the funds are invested in lawful businesses. It is very difficult to identify if an audit trail was not kept at any point during the placing or layering of criminal money into genuine money (Crime and Misconduct Commission, 2005).

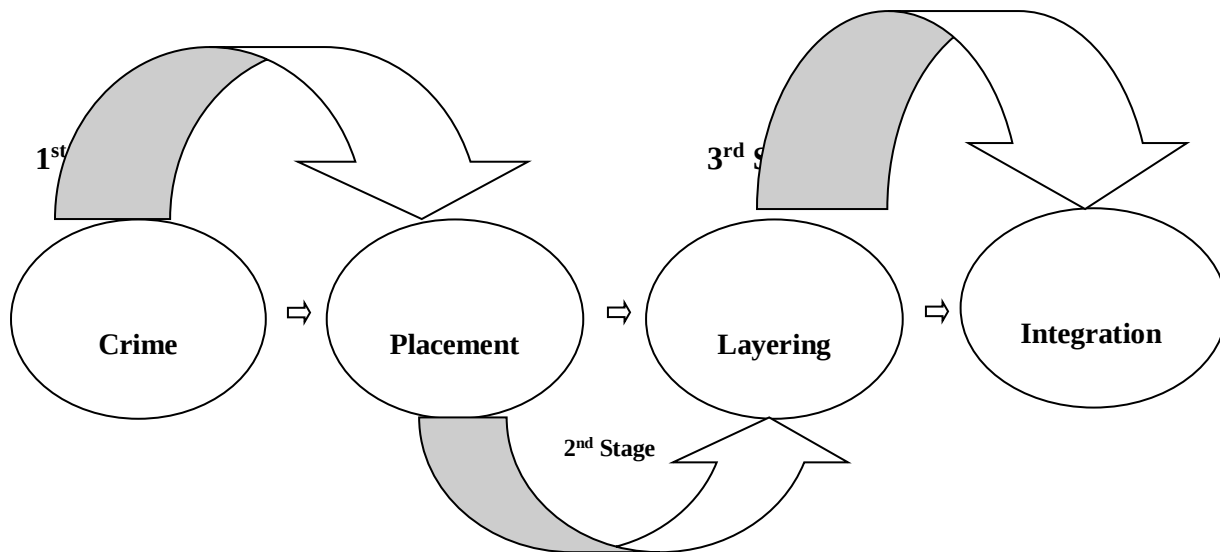


Fig I: Stages of Money Laundering

Source: (Narcotics Division, Security Bureau, 2009).

A total of \$18 billion was paid back to Pakistan by Pakistani Diasporas in the official sector from January to November of 2014. Over half of all remittances in Pakistan are believed to be sent via unauthorised hawala / hundi operations, commonly known as underground banking. There have been reports that some of these operators have been linked to terrorist funding efforts (Money Laundering and Financial Crimes Country Database, 2015).

FATF public statement in 2012 showed Pakistan's inability to resolve inadequacies in its Anti-Money laundering policy. Nonetheless, the FATF withdrew Pakistan from its public statement in June 2014, as the FATF judged that Pakistan had made significant progress in implementing its action plan at the technical level (Money Laundering and Financial Crimes Country Database, 2015).

To learn about Pakistan's legislative and institutional initiatives to combat money laundering.

Because money laundering is an issue that has to be addressed in Pakistan.

Measures taken by the Pakistani government and judiciary to combat money laundering

THE 1997 ANTI-TERRORISM ACT

When Pakistan's Anti-Terrorism Act (ATA) was passed in 1997, it was designed to discourage terrorism, religious conflict, and to accelerate the prosecution of serious crimes. For the purposes of this article (Fund Raising), the act of soliciting someone else's financial support with the aim that money or other property would be used for terrorism is classified as terrorism under Article 11-H, (1) A. Section 2 of the aforementioned article makes it an offence for someone to collect money or property with the intent of using it for terrorist activities (Anti-terrorism Act, 1997). It is illegal to use or possess money or property if you know it will be used

for terrorist purposes, according to Article 11-I of the Terrorism Prevention Act (Anti-terrorism Act, 1997).

An arrangement that supports the retention or control of terrorist property by hiding, withdrawing property/money from the jurisdiction, or changing nominees or in any other means is acceptable. A person accused of breaching subsection (1) of article 11-K is given the chance to establish ignorance and lack of reasonable reasons to believe that the arrangement involved terrorist property, among other defences, under paragraph 2. (Anti-terrorism Act, 1997).

Under this Act, persons who have been found guilty of a crime will face punishment. Sections 11-H through 11-K of the Criminal Code say that anybody who commits an offence under these sections will be sentenced to between six months and five years in jail and fined reasonably (Anti-terrorism Act, 1997).

LAW NO. 99, THE NATIONAL ACCOUNTABILITY BUREAU

A presidential decree from 1999 established Pakistan's National Accountability Bureau to investigate, prosecute, and dispose of instances of corruption, power abuse, and money laundering via illicit methods (Samad, 2008).

The National Association for the Advancement of Color The first step is to find, prosecute, investigate, and clear instances involving corruption, power abuse, and misappropriation of assets. Secondly, to recoup the debts owed to banks, governments, financial institutions, and other entities that have defaulted. The third goal is to reclaim the state's funds and assets from those who have embezzled them or taken them out the country (PILDAT, 2015). Setting up the National Accountability Bureau was seen as essential to reaching the desired outcome (hereinafter NAB). National Anti-Corruption Board Chairman may designate Prosecutor General Accountability (NAC). The Prosecutor General advises the Chairman of the

NAB on legal matters and performs other duties as assigned by the Chairman of the NAB (Samad, 2008).

UNUSUAL FINANCIAL ACTIVITY DETECTION AND REPORTING

If a bank or other financial institution has reason to believe that a substantial or unusual transaction involving the account is connected to or indicative of unlawful or illegal activity, corruption, or corrupt practises, it must notify the account holder immediately and quickly. The chairman of the NAB should be informed of any transactions as soon as possible by the relevant management or director. Those who fail to report such transactions might face up to five years in jail or both a fine and imprisonment, according to the legislation.

Requests for foreign collaboration or legal aid have been made in Article-21 of the ordinance in question. Corruption and money laundering suspects may be transferred to Pakistan by the head of the National Anti-Corruption Bureau (NAB) or any other authorised official of the federal government (National Accountability Bureau Ordinance, 1999).

ORDINANCE OF 2007 AGAINST MONEY LAUNDERING

Clause (1) of Article 89 of Pakistan's constitution was used by the country's president to publish the Anti-Money Laundering Ordinance in 2007. It was decided to pass the ordinance in order to curtail money laundering and the subsequent confiscation of any proceeds (Anti-Money Laundering Ordinance, 2007).

What to Do if You're a Bankroll Diver

According to Article 3 of the ordinance, anybody who owns or acquires, converts, or transfers property that is the proceeds of crime or that may assist another person in the acquisition, transfer, or concealment of such property is guilty of a crime under the ordinance's definition of guilt.

According to Article 4, money launderers will be punished. According to the report, anybody found guilty of money laundering faces a jail sentence of at least one year and up to 10 years, as well as a fine of up to one million rupees, as well as the confiscation of all assets related to the crime (Anti-Money Laundering Ordinance, 2007).

INCORPORATION OF AN EXECUTIVE COMMITTEE TO COMBAT THE ILLICIT FINANCE SECTOR

Article 5 of this ordinance proposes that the federal government form the National Executive Committee within thirty days of the start of this law. The committee's chairman will be either the prime minister's adviser on finance or the minister of finance himself. A senior adviser to the prime minister on international affairs, law and justice and human rights is one of the other members.

b) Minister of Justice and the Rule of Law

This person will also serve as secretary of the National Executive Committee in addition to their roles as director general and governor state bank of Pakistan.

g) Any other federally-nominated representative.

An annual national plan for combating money laundering will be developed and published by the committee, which will meet periodically to identify crimes, give direction in drafting rules and regulations, and make recommendations and national policy to fight money laundering (Ibid).

THE FINANCIAL CONTROLS DIVISION (FMU)

An independent monitoring unit to be based at State Bank of Pakistan (SBP) or any other location in Pakistan is required under this ordinance in accordance with Article 6. This will be a decision-making authority that is free to make decisions on a daily basis on issues that fall within

its purview. Director General of the Financial Monitoring Unit would be appointed by the federal government in conjunction with the SBP (FMU). There will be the following powers and responsibilities delegated to the FMU:

Financial institutions and non-financial enterprises are required to submit suspicious transactions reports and the Report on Currency Transactions (CTR).

Examine all Suspicious Transaction Reports and Currency Transaction Records in Pakistan in search of any records or information pertaining to the subject under investigation.

The requested information will be quickly provided by all the relevant authorities.

Considered reports and essential information should be sent to the relevant authorities.

Suspicious transaction reports and CTRs, as well as any relevant information, must be kept in a database.

The sharing and requesting of information and documents with foreign law enforcement authorities and financial intelligence services.

Pakistan's representation in international and regional organisations and conferences that deal with money laundering.

Submission of an annual report to the national Executive Committee based on recommendations and essential data on anti-money laundering measures.

AML Act No. VII of 2010

The law was approved on March 26th, 2010, with the goal of preventing the laundering of money and countering the funding of terrorism, as well as forfeiting any property obtained via these activities (Anti-Money Laundering Act, 2010).

Theft Through the Use of Laundering

For example, there are four parts in this Act that define money laundering, but there are only two in the Anti-Money Laundering Act 2007 that define money laundering. Article 3(3) of this Act defines a person as a money launderer if they have, acquire, convert, use, or transfer property with the knowledge or reasonable belief that it is the proceeds of crime in their possession, use, or transfer. When someone hides or disguises the true nature, location, origin, and ownership of a property and it is suspected to be profits from crime, this article states in section (b). According to Section (c), anybody who retains or possesses property on behalf of another person is considered a money launderer. According to paragraphs (2) and (3) of section (d), any person who engages in any of the aforementioned acts is a money launderer as well as any person who aids or abets them (Ibid).

PENALTIES FOR THE OFFENSE OF FUNDS LAUNDERING

Money laundering is punished by imprisonment, but not less than one year, and fines of up to one million rupees, and the confiscation of property implicated in money laundering are also possible (Anti-Money Laundering Act, 2010). National Executive Committee According to the Anti-Money Laundering Ordinance 2007, the Federal Government should set up a National Executive Committee within 30 days of the Act's implementation. Under the Anti-Money Laundering Ordinance of 2007, the entire organisation and activities of this national executive committee would stay unchanged (Ibid).

2015 ANTI-MONEY LAUNDERING REGULATIONS

The Anti-Money Laundering Regulations, 2015, were drafted in 2015 by the Financial Monitoring Unit after consultation with the State Bank of Pakistan, the Exchange Commission, and the Securities and Exchange Commission. The NEC gave its assent to the regulations. Currency transaction and suspicious transaction reports are to be sent to just one government

institution in Pakistan, the Financial Monitoring Unit (FMU), according to Section 3 of this law. Such a report, however, must be kept strictly secret. Investigation, inquiry, prosecution, and intelligence activities, including possible instances of terrorist funding and money laundering, will be sent to the relevant investigative or prosecuting agency when the FMU has completed its study (Anti Money Laundering Regulations, 2015).

As stated in Article 4 of the rules, the Director General may mandate that any non-financial company or profession (hence referred to as the "NFBP") notify any suspicious transaction to the federal monitoring unit in the way he may prescribe at any time. When a financial institution or an NFBP transacts currency exceeding the minimum threshold set by the National Executive Committee (hereafter NEC), the institution or NFBP is required to report the transaction immediately but no later than seven working days after the transaction has taken place, according to Article 5 of the regulations. Exempted from the duty to disclose are currency exchanges between financial institutions and between financial institutions and departments or agencies of the federal, provincial, municipal, or statutory governments or bodies (Ibid). Similar to the reporting exemption in article 6, the discretionary exemption in article 6 also exists.

When a financial institution submits information to the Director General in accordance with procedures the Director establishes, the Director General may exempt the financial institution from reporting requirements in relation to transactions between the financial institution and a qualified business customer of the institution. On January 6, 2009, the Anti-Money Laundering Regulations, 2008 was enacted, which was repealed by this regulation (Ibid).

MONEY LAUNDERING CONTROLS AC, 2015

Amendments to the Anti-Money Laundering Act, 2010 were made in 2015 with the Anti-Money Laundering Act, 2015.

If a reporting entity knows, suspects, or has reason to suspect that a particular purchase or pattern of purchases in which the transaction is included contains money derived from illegal activities or is intended to conceal or disguise proceeds of crime, it must notify the Financial Monitoring Unit under Article 7 of the Act. Similarly, if there are no known information about the transaction, such as its likely aim and history, then it is impossible to make an informed decision (Anti-Money laundering Act, 2015). It is presumed that the transaction is covered by Section D of Article 7 if it includes funding of terrorism, including monies gathered, given and utilised or intended for terrorism and terrorist groups and persons. Section D states this. The reporting entity must notify the FMU of any suspicious transactions as soon as they become aware of them, but no later than seven working days after they first become aware of them. Rather than "proceeds of crime," "property" will be used in this amendment (Anti-Money laundering Act, 2015).

More than 100 suspicious-transaction reports (STRs) have been filed with the FIA since 2009. There has been a lack of preparedness, training, and resourcefulness within FIA and other implementation agencies to deal with this international organised crime. However, the FIA's ability to prevent money laundering will be greatly enhanced with better training and infrastructure (Nasir, 2010).

CONCLUSION

The national economy is at risk from money laundering. An enormous amount of money is unlawfully moved every year as a result of insufficient law enforcement and intelligence organisations working together. Money laundering was completely unregulated until 1980. In

1986, the United States enacted the Money Laundering Control Act, which was the first step in combating money laundering. FATF was established in 1989 by the G7 nations as a means of combating international money laundering. In May 2000, the Asia Pacific Group on Money Laundering (APG) was formed. World economies suffer as a result of money laundering, while terrorists utilise funds earned via laundering. Pakistan has come to grips with the devastation that money laundering may cause after being a victim of it. the Anti Money Laundering Ordinance 2007 (AMLO 2007), the Anti Money Laundering Act 2010 (AMLA 2010), and, most recently, the Anti Money Laundering Act 2015 (AMLA 2015) are all examples of Pakistan's anti-money laundering efforts. All of these ordinances and laws include complete terms and conditions, money laundering actions, punishments for money laundering acts, and essential monitoring units and agencies have been established. These laws and ordinances have been passed. As a global problem, money laundering can't be tackled alone by a single country; rather, the world's societies must form comprehensive and regulated authorities to address the problem.

Recommendations

Although human communities are prone to social ills, it is impossible to fully manage and ban money laundering. A few suggestions have been made to address the issue of money laundering, though. The nations should work together to tackle money laundering, according to this report. Although we have a robust anti-money laundering framework, the state and other stakeholders must ensure that it is implemented on time and enforced rigorously.

It is advised that anti-money laundering units/circles be formed in each provincial office of Pakistan's Federal Investigation Agency (FIA) in order to ensure timely investigation and action. In order to combat money laundering and the funding of terrorism, an information-sharing structure must be developed that allows other nations' agencies to communicate crucial

information. Financial and technological resources and training are required for those engaged in money laundering. They also have the right to collect vital records and evidence without the need to seek authorization from the courts. The investigative teams should be dispatched to states with successful anti-money laundering plans for exposure and technical investigation abilities, since this will be more worthwhile and beneficial to the state as a whole. The present penalties for money launderers are not as severe as they used to be, and they are also not served as quickly. Therefore, the state should impose a penalty that is particularly harsh and swift so that others may learn from it. Financial institutions should notify law enforcement agencies as soon as possible if someone is engaged in questionable transactions.

Finally, the FATF recommends that the Pakistani government execute the 40 recommendations made in June 2003. These ideas are aimed at preventing terrorists and terrorist groups from receiving money and resources.

REFERENCES

Asian Development Bank (2003). *Manual on Countering Money Laundering and the Financing of Terrorism*. Retrieved on March 20, 2016 from <https://www.unodc.org/tldb/pdf/Asian-bank-guide.pdf>

Crime and Misconduct Commission (2005). *Background intelligence Brief Money laundering*. Queensland.

European Economic Community (1991). *Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering*, Brussels.

Ejanthkar and Mohanty (2011). *The Growing Threat of Money Laundering: The significant role financial services institutions can play in curbing money laundering activities*. Capgemini.

Financial Action Task Force on Money Laundering (2003). *The Forty Recommendations*. Paris: FATF Secretariat.

Financial Action Task Force (FATF) (2004). *Report on money laundering topologies 2003-2004*. Retrieved on June 24, 2016 retrieved from [https://www.google.com.pk/?ion=1&espv=2#q=Financial+Action+Task+Force+\(FATF\)+\(2004\).++Report+on+money+laundering+topologies+2003-2004](https://www.google.com.pk/?ion=1&espv=2#q=Financial+Action+Task+Force+(FATF)+(2004).++Report+on+money+laundering+topologies+2003-2004).

Financial Action Task Force (2012). *Financial Action Task Force Mandate*. Wasington, DC. Retrieved on June 05, 2016 Retrieved from [https://www.google.com.pk/#q=Financial+Action+Task+Force+\(2012\).+Financial+Action+Task+Force+Mandate.+Wasington%2C](https://www.google.com.pk/#q=Financial+Action+Task+Force+(2012).+Financial+Action+Task+Force+Mandate.+Wasington%2C)

Financial Action Task Force (FATF) (2014). *Risk of Terrorist Abuse in Non-Profit*

Organisations. Retrieved on June 15, 2016 Retrieved from <https://www.google.com.pk/?i=on=1&espv=2#q=Risk+of+Terrorist+Abuse+in+Non-Profit+Organisations+June+2014>

Narcotics Division, Security Bureau (2009). *Anti-Money Laundering & Counter-Terrorist*

Financing: A Practical Guide for: Accountants Estate Agents Precious Metals and Precious Stones Dealer. Retrieved on July 25, 2016 from <http://www.nd.gov.hk/en/moneylaundering.htm>

Nasir A. (2010). *Money Laundering: A Global Threat and Pakistan Recent Initiatives*. Peshawar:

Pakistan Journal of Criminology. Volume 2, No. 4, pp. 111-124.

PILDAT (2015). National Accountability Bureau: An Independent Review of Structure and

Performance. Citizens' Periodic Reports on the Performance of State Institutions.

Islamabad.

Samad, S. (2008). *Combating corruption: The case of the National Accountability*

Bureau. Pakistan, JOAAG, Vol. 3. No. 1

Schneider, F. (2010). *Money Laundering and Financial Means of Organized Crime: Some*

Preliminary Empirical Findings. Economics of Security Working Paper 26, Berlin:

Economics of Security.

The Control of Narcotics Substances Act (1997). Retrieved on March 25, 2016 from

<http://www.na.gov.pk/uploads/documents/Control-of-Narcotic-Substances-ActXXV.pdf>

The Anti-terrorism Act (1997). Act No. xxvii of 1997. Retrieved on June 15, 2016 Retrieved

from [https://www.google.com.pk/#q=The+Anti+Terrorism+Act+\(ATA\)%2C+1997](https://www.google.com.pk/#q=The+Anti+Terrorism+Act+(ATA)%2C+1997).

Unger. B, Rawling G. (2006). *The Amount and the Effects of Money Laundering*. Report for the

Ministry of Finance. Canberra ACT 0200 Australia.

United States Department of State Bureau for International Narcotics and law Enforcement

Affairs (2015). *Money Laundering and Financial Crimes Country Database*. Retrieved on July 25, 2016 from <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol2/>