

ANTI MONEY LAUNDERING BY FOCUSING ON ECONOMIC JIHAD**Sadegh Khezri Nia^{1*}, Jafar Kosha¹, Seyed Mehdi Ahmadi Musavi¹**¹Department of Law, Rafsanjan Branch, Islamic Azad University, Rafsanjan, Iran**Corresponding authors: (Email: sadegh.khezri20@gmail.com)****ABSTRACT**

Money laundering means any action or measure for hiding or disguising the illegitimate nature of criminal acts, in a way to pretend they have originated from legitimate sources. Money laundering or money purging is a criminal act, in large scale, collective and long term that can go beyond the political borders of one country. Money laundering is a three phase process, the first one requires the separation of any connection between the crime and the sum of money that has been obtained, the second phase is hiding the traces of the sum for preventing the legal prosecutions and the third is reverting the sum to the criminal in a way that its ways of obtaining and geographical location be covered and not traceable. This process has damaging effects on economy, society and politics. The contamination and instability of economy, weakening of the private sector and privatization programs, decrease of government's control on political actions, the decadence of the regime structure, distrust of people, the de-crediting of governments and economic units and etc. are parts of these effects.

KEY WORDS: Economic jihad, money laundering, organized crime, penal policy, and operative policy.

Introduction

The recent developments in economy and technology have brought up dangers in the domain of new forms of economic crimes. Money laundering is one of the obvious examples of new economic crimes which imposes in-compensable damages on the policies and economy of the states (Shirkavand, 2004). Also the persistent continuance of the obtained benefits from these crimes and their growth in new domains compounds the dangers (Susanne and Costantino, 2001). Money laundering is made by the mixture of money and laundering, and means washing and purifying money which has the same term in English and French as well. This term, regardless of the belief of some who attribute it to Chinese tradesmen (Tazhibi, 1996) was first mentioned in the Watergate scandal and during the Nixon presidency (Mirmohammad Sadeghi, 2003) although according to some, the comprehensive definition of money laundering is not possible (Borikan, 2005) but in a simple definition one may say the doer of money laundering hides the original sources of criminal actions deliberately and for the purpose of evading the consequences of criminal behavior. And thereby grants a purified and right disguise to these sums (Bagher Zadeh, 2008). Money laundering is one of the crimes which for its realization a previous crime is needed, so that these benefits be entered to the economic cycle and obtain a legitimate shape. In the first phase, the money contaminated with criminal acts is obtained and in the second phase it causes the commitment of next crimes. Therefore the benefits obtained from the original crime, in order to be usable by the

criminals, need to go through a process of transference of illegitimate revenues, hiding and changing the nature of the real source and the location of receiving, so that the label of criminal could be removed from them, and the possibility of discovering the crime be minimized. From this point of view, money laundering is similar to throwing a stone into a pool, the minute the stone is thrown in the water, the water shakes at this site, when the stone goes down, for some moments the waves are seen and you can trace the point where the stone was thrown, but the more the stone is under the water, the more the creases will be reduced in a way that when it reaches the bottom, no traces are seen, and finding the stone would be impossible. (Robinson, 2007). Therefore, money laundering in its different forms is a complex, persistent, long term and collective process that is done usually in a large scale. The benefits gained from illegitimate sources will be legitimized by going through three phases, placement, sedimentation and unification, and are entered into the economic system and legitimate activities, and by being disguised from their illegitimate sources, find a legal face. Regarding the laws, facilities and capabilities of the countries of the crimes, the methods used by criminals are various and are increasing growing and developing, so to confuse the police (Basorth & Mars, 1998). One of the ways of reverting the illegitimate money with legitimate covering into the country is gaining formal loans, or opening formal companies or letters of credit (Junior & Du J, 1994). The illegal benefits in some developing countries may even affect the extent of the governments' budget and thereby reduce the governments' control on economic policies. Since the criminals invest the laundered money in places where the possibility of its finding is less than their efficacy. In other words money laundering increases the danger of instability by wrong allocation of resources which are themselves the result of unreal and artificial activities. Persons who commit money laundering entered their illegitimate money into various economic activities for a short time and then after reaching the desired outcomes, take it back, this placement and displacement done in a sudden manner causes instability and irregularities in the national economy. If the criminals cause the accumulation of wealth with their own, the fair distribution of wealth will be hindered and causes the decrease of labor and economic striving in the society and leads to poverty and unemployment. This is while one of the ways for reducing poverty and unemployment is the fair distribution of wealth in the society, which money laundering prevents and causes the growth of poverty and unemployment in the society.

With the purpose of fighting this phenomenon, governments have adhered to the international experiences in law making. The legal system of the Islamic Republic of Iran is also not excluded from this matter. In this essay we try to study the stance of the law maker whether regarding the designing of penal policies or by making operative policies.

2. penal policy

The committers of the crimes direct their benefits obtained from illegal activities into various forms in a way that they ultimately be pretended as legal. The actions and reactions which are taken place regarding these illegal benefits are originated from illegal sources, and form the various aspects of money laundering. The damaging effects imposed by this dangerous phenomenon cause the reaction of governments in the domestic area, so that under the light of a comprehensive policy which is called penal policy, the criminalization of these acts be established, and through that the possibility of suppressing and preventing them be provided. In penal policy the guarantee of penal operations has great importance. The penal policy means the way of behavior which the legislator adopts in each period for discovery of crimes and prosecution of criminals and fighting the crimes. (Motamed, 1965). However the penal instruments are not the only instruments which society has for

defending itself (Perdal, 2003). By the issuance and approval of laws by the constitution court, the instruments and directions of penal policies are determined, which one of its aspects is criminalization? Criminalization or considering a crime regarding an act or abandoning of an act is a process by which new behaviors are included in the laws according to the penal regulations. (Najafi and Beigi, 1999). By considering the existing values of the society for maintaining the general order, the legislator places some actions in the domain of diversion by determining the guarantee of penal operatives in the jurisdiction of penal laws. From this point of view, the legislative body helps considerably by placing the crucial options in shaping the penal policies by legalization of all law texts related to the crimes and penalties, as a competent authority. However the crystallization of the penal policy is hidden in other factors and suppositions, in a way that they should be conforming to the spirits and expectations of the public, beliefs and religious thoughts, traditions, conventions and other social factors of the society (Sanei, 1975). Since the basis for criminalization and the existential philosophy of any crime is the very damaging effects and consequences which are derived from the acting. For example one of the damaging effects in the negative influences on the economy. It is obvious that the commitment of crimes and the economic state of any society are related with one another, and interact mutually (Salami, 2004). It means that the economic growth and unemployment growth affect the extent of the crimes in a society, and the doing of crime also affects the economic structure and the extent of growth and economic development (Lehrer, 1996). It might be for this reason that in countries that corruption exists, foreign investments are low and this low investment causes the little growth of the economy (Mauro, 1996). It is no doubt that in such countries where they are fight against economic corruption, the healthy competition is diverted from the right way and the stability of the free market is disintegrated (Bially, 1996). The crime of money laundering according to an item of a law against it is any transference or change or transport or possession of any estate with illegitimate source which is deliberately shown as a legitimate entity. The illegitimate source, in the note of this item, includes the estate or benefits that are gained through criminal activities. The material element of money laundering can be one of the forms of: obtaining and use of revenues resulted by crime, help or assisting a criminal for non-inclusion of penal laws, transference of any sum or property to economic institutes or through them, the physical transference of cash or revenues made by crime, hiding the illegal source of sums made through crime and disguising the unreal nature of properties resulted from illegal activities. The materialistic element of money laundering in the second article of fighting money laundering is: 1)obtaining, possession, maintaining or use of benefits from illegal activities with knowing that they are directly or indirectly made from crime, 2)changing, transference or exchanging of benefits for purpose of hiding the illegal sources with knowing that they are the results of illegal activities or helping the criminal in a way that he will not be included in the law process of the consequences of the crime, 3)hiding or covering the real nature, source, place, transference, or possession of the benefits made directly or indirectly from criminal activities.

Therefore the criminal tries to exchange or transfer or make a deal with the money in order to hide its illegal nature. This definition shows that the criminal should have gained, accepted and hid the money made through crime. Therefore, even if the criminal of money laundering has passed away, other persons who have proceeded to crimes by the criminal benefits of the deceased are subject to prosecution and punishment.

Benefits of the crime mean any property that has directly or indirectly obtained through illegal activities (article 3 of the act of fighting money laundering). Money laundering such as interference in the stolen properties and use of forgeries is a crime that happens as a subsequent of the original crime. Therefore, the third note of article 9 of the act of fighting money laundering states the independent punishment of the criminal of the money laundering besides the main original crime, regardless of the fact that the money laundering has been done by the committee of the main crime or any other third party. Some believe that the committers of the main crime cannot be punished for money laundering on the assistance or participation of it. However we should accept that if the committer of the main crime does any activities with the revenues made from the crime, his act will be considered secondary and is subject to a new title. Therefore accepting that money laundering is the continuance and persistence of the original crimes, is not accepted (Jazayeri, 2004). Since the main crime is resulted from the second one and each has a different legal title, besides having their own effects. However having the instrument of political penal law is not merely solving the issues here. Increasing the costs of committing the crime against the benefits made by the crime isn't only provided by the legislative body. Most of the criminals who commit these crimes are looking after some benefits. By calculating the benefits made from the crime, the criminal does some accounting and considers the danger of being caught and the consequences of his actions from one side and the benefits made from the crime on the other side. If the danger of the discovery of the crime, prosecution and the type and extent of the penalty are considerably higher than usual, which underestimates the benefits of the crime; it is natural that the criminal might refrain from committing the crime. Increasing the danger and risk taking goes back to the functioning of the police and informative units in their speedy actions in discovery and catching the suspect. Adherence to the penalty without any negligence by the judges and the certainty of implementing the penalties by the operative system of the penal justice are also another part of this increasing of crime costs. If against a crime there exist a long list of crimes without the possibility of any guarantee of implementing such operative measures, then this list might look like a paper tiger that doesn't terrify anyone.

Based on one perspective, the previous criminalization regarding smuggling, embezzlement, etc. for fighting the money laundering suffice, and there is no need for new laws in this regard. This perspective believes on punishing the main crimes and is assured that if the penal justice system deals correctly with the original crimes; there is no place for the subsequent phases that might need the interference of the penal justice system. The proponents of this perspective believe that the money laundering is the continuance of the original crime which happens from the side of the criminal for running away from the punishment. Regardless of the fact that this reasoning as for the independence of the subsequent actions regarding the criminal benefits is not acceptable, these lawyers have not yet presented any convincing response regarding the cases in which subsequent actions regarding the benefits of the main crime are done by other persons (besides the main criminal). Although they have mentioned punishment for assistance, but is the minimal punishment for the assistant that is considered for the accessory inhibiting? When the punishment of the assistant is a metaphor for the accessory, in cases that we have no access to the assistant, what shall be done? If the assistant is inside the country whereas the accessory of the crime is overseas, what should be done? If the assistant and accessory is the same person, what is correct to do? Is the addition of the crime reasonable? Is the severe punishment employed? Then how the independence of these two and their heterogeneity can be justified? It is for these imperfections that the path for

criminalization as an independent title with a new penalty which is also consistent with money laundering is smoothed. Also the international experience has noticed this recent trend and in no way accepts the reverting back to the traditional instruments and adherence to the traditional criminal titles.

Once accepting the new laws and its operative guarantee, other objections are mentioned which in away are rooted in the principle of acquittance and exactitude. This principle which is based on the society's benefits and people facilitates the economic relations. In case the basis of the peoples' economic relations is based on suspicion the integrity and consolidation of the civil system vanish away from the everyday life. It's for this reason, that the peoples' matters should be initially considered right until its counter be proved. It is clear that under this principle, the exchanges and transferences of people are considered legitimate and right, except in cases that there are convincing reasons for the illegal source and origin of these properties that prescribe for more investigation in these matters. Regarding the money laundering, another subject under the name of (crimes related to money laundering) are mentioned which have produced many challenges. Crimes related to money laundering are measures that are an introduction for using economic institutes for money laundering. A vast spectrum of crimes including: not presenting a report at the time of opening a credit with knowing the unreal names of the requesters, the negligence of economic institutes in obtaining the real nature and identity of their customers. Also not presenting the required information and documents by the official organs, judges, accountants, officials and law investigators to the high counsel of fighting with money laundering, negligence in receiving the identity of the customers or their lawful representatives in cases where there is a reason based on infringement, and negligence in maintain the records of credits and the identity of the customers are other crimes related to money laundering which are subject to 2 to 5 years suspension from office in official posts or penal system. The law of the way of conducting article 49 of the constitution (1984), obtaining properties illegally as the subject of article 2 of the intensification of penalties (1088) and interference in stolen properties (article 662 of the Islamic laws) are other rules related with money laundering. Another issue related to money laundering is the type and nature of the committers and the ways of proving this crime. Money laundering is often done by white collars. The conventional ways of proving this are not much effective. The committee is not willing to confess for the sake of his family and the fear of his related organization, and the real witnesses are not willing to testify for the fear of vengeance or as a result of menaces by criminal groups, or divert the path of justice by testifying false statements. In fighting money laundering, the legislator has found a way for this issue and that is all persons, units and systems including banks, credit and economic institutes, insurance companies, budget funds, organizations, charity institutes, municipalities, official units, judges, accountants, etc. are obliged to gain the identity of their customers and if necessary submit the related information, reports and documents to the high counsel of fighting money laundering, based on item 7 of this law. Based on item 7, persons, unites and the above mentioned systems, based on the type of the activity and the organizational structure, are obliged to observe: the obtaining of the post and identity of the customer or his representative or lawyer, obtaining the post and identity of the lawyer in cases that there are suspicious for any violation, presentation of information, reports and related documents to the title of this act to the high counsel of fighting with money laundering in the framework of the act approved by the board of ministers for the prevention of the disclosure of these documents and information it is necessary that the operative regulations of the necessary measurements be

predicted, the report of the exchanges and suspected operations to the competent authority which the high counsel appoints, and maintain the related records regarding the identity of the customer, accounts, operations and exchanges for a period that is determined in the regulations. From the other hand, the high counsel for fighting money laundering has determined the gathering of the information and news and their analysis and submission to the justice system based on the item 4 of this law. The public attorney, based on receipt of such information can proceed to prosecute persons based on his general duties, and confiscate their suspected properties. In case the accused proves the legal source of his properties, he will be acquitted from the accusation and the properties will be reverted back to him. However if he cannot prove their legitimacy, besides the confiscation of the properties he will be subject to law regulations. The criminalization philosophy of money laundering is confrontation and fighting with crimes that produce huge sums of money. Therefore, placing all crimes whether minor and trivial in the domain of crimes related to the philosophy of criminalization of money laundering is not consistent. The legislator has adopted various policies regarding the different phases of money laundering that requires the relation between the benefits and its sources, hiding the traces of the money and then integration or entering it into a washed and purified form into the official economy of the country with a disguise of legitimacy. The benefits of all crimes have brought up under the title of money laundering. The nature of money laundering requires spending more time and costs for the discovery and its investigation and this method is not cost benefit regarding the economic point of view. It is appropriate that based on the benefits made, money laundering be divided into simple and complex and the different solutions for it be determined similar to the penal laws in France, and up to a certain roof the benefits made by crimes be exempted from money laundering. These measures can even facilitate the duties of bank employees, accountants, lawyers and etc. who are obliged to obtain the identity of their customers and submit the suspected cases' reports. Often money laundering is done by criminal and mafia bands in a large scale and usually internationally. While the committers try to progress their goals and run away from the laws of money laundering and the benefits gained from illegal actions, there are no strategies predicted in the laws of fighting with money laundering for this matter. Confessing and witnessing which are the traditional ways of proving a crime are not much effective regarding the organized crimes including money laundering. It happens rarely that a member of a mafia band confesses honestly. Also in organized crimes, the witnesses are either person under the influence of the criminals are afraid of the menaces and cause the diversion of the judicial process by falsifying truths. Money laundering is mostly done through banks and credit and economic institutes and in case of integration with legitimate properties is very hard to be proved, therefore banks and people are obliged to report any suspicious cases besides obtaining the identities of persons. These reports and expert views have a high value in discovery and proving money laundering. What is inferred from the law of fighting with drugs, the 662 article of the Islamic laws and the contents of the article 142 of the constitutions is the statement of criminality regarding the suspicious and unconventional wealth which is sufficient for the prosecution of the accused, and the principle of acquaintance cannot be a cover for the legislative body. The priority of the operation of the principle of criminality over the acuity principle regarding the suspicious exchanges is predicted in the United Nation's convention against organized crimes in 2000 known as Palermo, and the committed governments have undertaken to ask for clarifications from the accused about the origins and legitimacy of the suspicious properties, and in case of lack of sufficient explanations by the accused and the lack of proof of the legitimacy of the properties, they shall be confiscated.

The adequacy of the main punishment regarding the cash fee equal to the fourth of the gained benefits does not conform to the philosophy of fighting money laundry either. It is interesting that in the crimes under the subject of article 662 (interference in stolen properties) in the Islamic penalty laws and the 2th law of the punishment of committers of embezzlement and fraud, which are examples of money laundering, the legislator has used the confinement and other punishments together, and in case the exchange of the stolen properties is the profession of the committer, he has considered the utmost punishment for it. Some people suggest the intensification of the punishment of money laundering comparing the precedent crime by arguing that confronting with the money laundering is harder than the original crime. This theory is supported by the fact that cash fee is not merely enough regarding an intimidating effect on the money laundering, and besides that, other punishments such as confinement, supplementary and etc. should be used. Also not adhering to the discount instrument as the crimes of the note 5 of item 2 of the penalty for disturbers of the country's economic system and the law of intensification of punishment of criminals, embezzlement and fraud is necessary, so that the judge won't do any unreasonable discounts based on the general regulations of penalty discount.

The legislator has predicted the confiscation of the properties and the obtained benefits in the item 9 of the law of fighting with money laundering, for confronting the criminals' motivation and targeting their economic basis. This measure is in total accordance with the part (a) of the second item of the Palermo convention in 2000. Based on item 9, the committers of money laundering are sentenced to reverting back the revenues and benefits gained from the crime and the original property. It is possible that due to exchange or transference of the properties, the estates are changed into other types of properties. Therefore based on the note of the item 9 regarding confiscation of properties to the same or other integrated types are sufficient. In case the changed or integrated property is more than the real amount as a result of mixture with legitimate revenue, they shall be evaluated and shall be confiscable up to the roof of the properties gained from the crime, since contrary to the law of fighting drugs there is no general prescription for money laundering.

Since the domain of money laundering is vast and is not limited to any especial crimes, the gained property in the original crime or the money laundering might be as well belonging to certain persons that in this case should be reverted back to the possessors, since with committing a crime in crimes such as fraud, burglary, dishonesty and subsequently money laundering, the respect of the properties of the private complainant is not removed, and the criminal is obliged to revert the money based on item 9 of the Islamic laws to the primary owner.

However in crimes that the gained property belongs to no particular person or the owner is not clear or due to the crime the respect of the property is gone, the properties of money laundering will be saved to the benefit of government. With this quality, the legislator has used the term reversion and confiscation in article 9 and its subsidiary notes.

It is obvious that the sentence of the committers of money laundering for the gained benefits is in case there are obtained benefits from the time of the crime until the reversion through trade and business of the original property, otherwise the same property should be confiscated for the benefit of the government.

In article 9 of the law of fighting with money laundering one of the punishments is cash fee equal to one fourth of the benefits gained by the crime. Since in money laundering the ultimate goal of the criminals is collecting wealth and trade with properties obtained from illegal ways. The legislator has determined cash fee as the main penalty for money laundering and has considered a relation

between the benefits gained by the crime and the cash fee. With this notion, contrary to the law of fighting drugs and the intensification of committers' penalties, fraud and embezzlement, besides a relation between the benefits gained from the crime and the cash fee, the benefits of the properties have also been considered in the extent of the fees.

In all economic crimes such as fraud, burglary, dishonesty, money laundering and even in crimes such as gaining money through illegal activities and interference in stolen properties besides other punishments, confinement has also been considered. However in the laws related to money laundering no mentioning is seen related to confinement, while in the international level, the designers of the Palermo convention believed that the committed governments shall definitely determine confinement for this crime. Based on this, they suggested the governments to be more cautious in bestowing conditional freedom (Salami, 2004).

One of the legal policies of the Iranian legislator is the principle 49 of the constitution which states that: the government is obliged to take the wealth produced from fraud, exploitation, bribery, embezzlement, burglary, gambling, misuse, abuse of charities and state exchanges, selling of the deceased grounds, establishing corruption centers and other illegal activities and revert them to the right owners. And in case of the non-clarity of the owners, grant them to the treasury. This obligation should be done by investigation and studying and legal proving by the government.

Although the term other illegal activities can include money laundering as well, we should accept that firstly, money laundering is a legal term with its own concept and effects which is different from being illegal, secondly, this principle only deals with confiscation and reversion of illegal properties and has in no way attended to determining the guarantee of operation. This while the mere receipt of the benefits of the crime made from money laundering is not a proper inhibitive operative guarantee. Of course the item 14 of the law of the ways of operating the principle 49 of the Islamic constitution (1984) has stated that any transference of the properties of the subject principle 49 of the constitution for evading from the regulations after proving is vain and ineffective. The receiver in case of knowing and the sender are sentenced to fraud. It seems that this article refers to one of the examples of money laundering not money laundering itself. The transference of the properties made from crime which is the subject of money laundering's definition is included in this item in case knowing, and is supported by the operative guarantee of the law of intensification of penalty of criminals, frauds and charlatans (1988).

3. Operative policy

One of the main ways in fighting money laundering is to think of strategies to prevent the occurring of financial crimes, and therefore the extent of money laundering could be reduced. Although the duty of preventing from crimes based on item 5 of the principle 156 of the Islamic constitution is by the legislative body, based on the article 4 of the law of fighting with money laundering, the high counsel of fighting with money laundering has undertaken the responsibility of preventing from this crime. The high counsel based on article 4 of the law of fighting with money laundering is formed by the management of the ministry of commerce and the membership of commercial, informative ministers, and the head of the central bank with the aim of coordinating the related organs in collecting, analysis of news, documents, information and related reports, supplying intelligent informatics systems and identification of suspicious deals for preventing from money laundering, and has responsibilities including: collecting news and the related information and their analysis, technical categorization in cases which there is a space for violation based on regulations, presenting needed regulations regarding the operation of the laws to the board of ministers,

coordinating the related organs and perusing the complete operation of the law throughout the country and the exchange of trade and information with similar organizations in other countries.

The counsel of cash and credit approved some regulations in financial institutes for prevention of money laundering based on the options gained from the monetary law of the country ((1973) in a period of time when the act of money laundering law (37149/32156) was submitted to the senate (2003), but was expected to be in the ways of processing for a long time, as a urgency in adopting coordinative measures with foreign banks, so based on these regulations the carrying out of nay banking operations by economic institutes for legal and real persons who have no clear identity, become prohibited¹. These regulations which are more inclined to preventing from money laundering are for financial institutes and have considered instructions such as identification of customer, observation of laws and cooperation.

The banks and economic institutes should regularly receive and study information and documents regarding the real identity of people with whom they are having economic activities and the owners of the beneficiary accounts as well, so that the customer cannot hide anything. Beside that a system of keeping records supports this commitment that the institutes identify its customers, and creates a criterion for observation of the inner control standards of the institute. In case the operations of the activities that these clients demand are suspicious or higher than a certain amount, the presentation of reports to the related authorities or organs is necessary. It is obvious that economic institutes based on law are supported regarding legal responsibilities relating the customers for disclosing suspicious deeds. Economic institutes should avoid any services or active cooperation with deeds that are related with money laundering and cooperate with the authorities. Banks are expected to avoid cooperating with customers who try to deceive the employees with false information. Of course the authorities of the laws against money laundering should cooperate with the different operative authorities and legislative units for measuring any deeds for fighting with money laundering. As much as the fighting with money laundering needs attention, accuracy and observation of financial institutes, the observation and attention of the authorities of operating the laws of fighting with money laundering inside and overseas is needed. In the collection of regulations of preventing money laundering in financial institutes which is approved by the counsel of money and credit, the term money laundering means obtaining or maintaining or transference of a property directly or indirectly as a result of committing a crime, or hiding, changing the real source and assisting the person who has been involved in doing the crime, so to hinder his prosecution. This prohibition is continued to the limit that if the applicant of using the services of financial and banking institutes refrains from giving the demanded information, the bank is required to avoid giving any services to them. Also banks and financial institutes are obliged to report the suspicious cases as the designed forms by the unit of supervision on central bank, and the central bank will inform the competent authorities after making sure of the authenticity of the report. Regarding the various ways of gaining benefit from wrong activities, the ways of purifying money will be various and complex too. The main and usual way of money laundering is that the criminals change a lot of their huge amounts of money into smaller amounts in order to avoid the attention of authorities or deposit them indirectly into their bank account², or buy economic

¹ Some have called this measure banking responses.

² This often prevalent in international bank accounts as well. In a way that with presenting a general info a letter of credit is opened. Then without any coordination between the shipment orders

instruments such as stocks, checks, money and etc. with them. Or invest them in other places or by other means such as: tourist agencies and transfer companies³, official units⁴ and casinos⁵ spend them.

Organs, units and legal persons are obliged according to the laws to obtain the real identity of their customers and report the information, reports, documents and etc. related to money laundering and also the suspicious deeds to the competent authorities such as the high counsel of fighting with money laundering⁶. Since not informing the official authorities or not disclosing the information that is necessary for discovering the money laundering in a way that would have negative effects on the investigations is considered to be an accessory in crime.

4. Conclusion

The global growth of economy especially in capital markets along with the benefits it had has caused the intensification of some damaging phenomena in economic systems as well which include money laundering. Money laundering is a three phase process consisting: placement, sedimentation and mixture, by which the benefits gained from the crime, are changed by purpose of hiding the illegal source of them. The source crimes are not limited to any especial cases and include all crimes, and the source crime is precedent by the money laundering crime, therefore it is an independent crime and is considered independently. In this process, the money gained from the source crimes are spent through: investment in companies or establishing one inside or overseas,

merchandise with the usual business of the customer or his current flowing money in his account, measures are taken to use documents that are under the control of the owner,. By these documents, while the sum is so higher than what is stipulated, the receipt is done. One of the ways of money laundering is transference of money by working banks; these banks accept orders from the other banks and transfer sums of money from one country to the other. In case the complete identification of the customers is not done the possibility of the actualization of criminal goals might be provided.

³ In this way the criminals by misuse of the fact that by buying an airplane ticket or other transport ways their identity won't be cleared and is a good way to spend and invest the illegal amounts, try to buy tickets and then make it tense and pretend they gained money is the money as a result of the refund.

⁴ One of the units that are in danger of money purification are official units, since the registry of the transference of properties is done in these offices. One of the ways by which criminals can profit is buying estates, in a way that they buy and sell subsequently so that they gained money be pretended to be obtained from the selling of the estates.

⁵ In countries where gambling is permitted, criminals but coupons by the contaminated money. Then revert some of the cards to the budget and therefore the money is purified, or with collaboration with the casino manager buys the winner ticket and by pretending to have won, show the money to be gained by gambling.

⁶ These reports are raw and are different from the reports that are submitted to the legal authorities, and an expert reference should first analyze them and if there is strong doubt on money laundering the reports should be sent to the authorities. The disclosure or self-benefited use of these information either directly or indirectly by the official persons is forbidden and the violator base on the law of punishment in printing and disclosure of secret documents is convicted.

opening accounts in banks in a long term, buying and selling of estates, gold, currency and bonds, supplying election expenses and etc.

The damaging economic, political and social effects and consequences of money laundering are obvious to anyone and all economists, social experts and lawyers confirm this matter, but the important issue is that these effects are different considering the conditions of each country. The high amount of purified money requires control and attention and in case of no attention can damage the major economic policies and also the optimal allocation of sources in a serious manner. Therefore the effectiveness of criminalization of money laundering requires the proving of consciousness of doing a criminal act, which should be inferable. However we should consider that in many cases like using trust accounts, bonds on the name of carriers, false names for money laundering and the activities of overseas companies, covering organizations and economic intermediaries or commercial units that commit crimes from a far distance, the proving of this matter will be very difficult.

There is no doubt that with serious confrontation with money laundering, the motivation of this crime will be reduced in people, and despite the benefits gained from the crime by the accused, the possibility of his catching will be higher than when he purifies the money for the purpose of hiding the illegal source of it. Therefore preventing from money laundering is the best way of fighting with this crime which fights the cause instead of the effect.

The right and reasonable operation of laws is required for fighting money laundering. In case there are not enough controlling and supervisory levers predicted for the operation of laws, the fighting will not be effective. Also the discovery and prosecution of the committers of the source crimes will also cause the annihilation of the subject. Moreover the general secrecy regulation between the banks is also another block in the way of discovering the crime, which should be modified for the purpose of preventing from the negative outcomes, in a way that the operation of these regulations won't cause the distrust of the public to the banking system, nor the criminals could easily proceed with their illegal acts under the shield of this security.

On the other hand, money laundering based on its nature is a crime that needs preventive measures of economic institutes. Although persons, units and economic institutes are obliged to report the suspicious deeds and operations to the high counsel of fighting money laundering and the counsel itself has the responsibility of collecting the information and its analysis and reporting of violating based on evidence to the legislative body.

References

Shirkavand S. (2004). Money laundering, consequences and the measures done, the collection of lectures and articles and international conferences on fighting money laundering, the committee of legal fighting with drugs, Tehran, ofogh pubs.

Susanne H, Costantino V (2001). Combating Illegal Proceeds in Towards a European Criminal Law Against Crime, Freiburg Vincenzo Militello, Italy.

Tazhibi F. (1996) Money laundering or washing out money, chamber of commerce journal, no.114

Mirmohammad Sadeghi H. (2003). Crimes against properties and proprietorship, 9th ed. Tehran, mizan publication.

Borikan J. (2000). Organized crime in penal laws in France, translated by hossein najafi barandabadi, *legal researches Journal*, 21-22.

- Bagher Zadeh A. (2008).** Money laundering in Iran's laws and England and the international documents, Tehran, mizan publication.
- Robinson J. (2003). Laundering contaminated money, translated by albert bernardai, freedom trick magazine.
- Basorth R & Mars S. (1998)** Money laundering, translated by nasrollah amir bashri, Tehran, educational assistanceship of Naja pub.
- Junior A & Du J. (1974)** architecture of drugs in Latin America. Translated by mohammad ashouri, *the center of justice lawyers journal*, 5.
- Motamed MA. (1965).** the general penal laws, Tehran, Tehran university pub.
- Perdal J. (2003).** The history of penal thoughts, translated by ali hossein najafi barandabadi, Tehran, SAMT.
- Najafi Abranabadi AH & Hashem Beige H. (1999).** Encyclopedia of criminology, Tehran: shahid beheshti university pub in collaboration with ganje danesh library.
- Sanei P. (1975).** Laws and the society, Tehran: national university publication.
- Salami S. (2004).** Organized crime in Palermo convention and its effects, legal journal, the journal of legal international services of the Islamic Republic of Iran, No. 29.
- Lehrer E. (1996).** Crime & the Economy: What Connection? Available at: [http://www.heritage.org/ views/2000/ed11500c.html](http://www.heritage.org/views/2000/ed11500c.html).
- Mauro P. (1996).** The Effects of Corruption on Growth, Investment and Government Expenditure, A Cross-Country Analysis: Corruption and the Global Economy, Kimberly Ann Elliot ed, Washington, D.C., Institute for International Economics.
- Bially S. (1996).** International Business Community Foster Ethical Behavior, Public Management Forum, 2 (5).
- Jazayeri M. (2004).** Money laundering as an independent crime, the collection of lectures and articles and international convention of fighting money laundering, committee of fighting drugs, Tehran, ofogh pub.