

Money Laundering and its Legal foundations And the fundamentals of crime against it

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غسل الأموال وأسسها القانونية وأصول الجريمة ضدها

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المخلص

في بعض الأحيان، يحدث انقضاء الوقت والنهوض بالموارد المادية بعض الجرائم للمرة الأولى. غسل الأموال أو المال يعتبر التطهير إحدى الجرائم التي حدثت منذ العقود القليلة الماضية. وبسبب جريمة الجريمة المنظمة والآثار الضارة لغسل الأموال على المجتمع والبشرية، من المستحيل التخلي عن الجناة بذريعة أنهم لم يكونوا مذنبين بالجريمة في الماضي، فالنظام القضائي يجب أن يوفر قوانين جديدة والأنظمة لمنع ومقاضاة ومعاقبة المجرمين. كما يعتقد البعض أنه لا يمكن القول إن غسل الأموال ليس جريمة، يتم تطبيق مبدأ البراءة ضد الجناة. بدلاً من ذلك، ولكن بسبب أهمية آثار الجريمة والحاجة إلى مكافحتها يجب الاستعاضة عن دليل القناعة بمبدأ البراءة. الغرض من هذه المقالة هو الإلمام بالمبادئ الفقهية والقانونية لمكافحة غسل الأموال. من خلال مراجعة وتفسير القوانين والأنظمة الإسلامية، يمكن استنتاج قدسية هذه الجريمة بالإشارة إلى أسس قضائية قوية مكتوبة مثل الآيات القرآنية، الأحاديث، القواعد الفقهية والقضايا الأساسية مثل تنقيح المناط.

الكلمات المفتاحية: غسل الأموال، أساسيات الجريمة ضد غسل الأموال، إثبات الجريمة

Abstract

Time lapse and the advancement of material resources sometimes make some crimes for the first time. Money laundering or money Cleansing is one of the crimes that have occurred since the last few decades. Because of the crime of organized crime and the harmful effects of money laundering on society and on humanity, It is impossible to abandon the perpetrators on the pretext that they have not been guilty of crime in the past Rather, the justice system should provide new laws and regulations to prevent, prosecute and punish criminals. As some people have thought It cannot be said that money laundering is not a crime, The principle of innocence is enforced against the perpetrators. Instead, it should But because of the importance of the effects of crime and the need to combat it The presumption of criminality replaces the presumption of innocence. The purpose of this article is to familiarize with the legal and law principles of combating money laundering. By reviewing and interpreting Islamic laws and regulations, it is possible to deduce the sanctity of this crime by reference to discovered Strong juridical foundations such as Qur'anic verses, hadiths, jurisprudential rules And fundamental issues such as rectifying or isolating the effective cause.

Key Words: money laundering, the fundamentals of crime against of money laundering, Proof of crime

I. Introduction

Money laundering is one of the crimes that can be counted as the result of some other crimes that did not exist in the past. The main crime of money laundering is the crime of smuggling drugs, beverages, goods, human beings and other types of smuggling, so the crime of money laundering has not been exceeded for decades. In other words, drug smugglers or other weapons or other crimes, because they are exonerated from the punishment of the abovementioned crimes and protect the vast wealth of crimes, are struggling to money laundering by cleaning money from the crime of smuggling their wealth, Protect them.

In some cases, criminals use other forms of bribery to protect and wash their money and help to accumulate capital from financial institutions, causing serious damage to the country's industry cycle. The great harm caused by this crime requires a serious struggle in the executive, legal and judicial authorities' plans. The legislature should establish appropriate rules for the prevention, prosecution and punishment of offenders. Executive officials should enforce these laws to prevent them, and judicial authorities should, in the event of a crime, provide the necessary steps to prosecute and punish the perpetrators.

On the other hand, considering that in the constitution of the Islamic Republic of Iran, because of the rule of the government, the principle of innocence of criminalization and the serious struggle against money laundering are contrary to Islamic law; no basic steps have been taken to establish laws and penalties for money laundering. For this reason, Iran is one of the countries that has been at the forefront of money laundering, and the only solution to this is the struggle and serious efforts to prevent this crime and punish the perpetrators. Therefore, with the disregard of the principle of innocence, the guilty circumstances of the offenders should be enforced. In an effort to do this, a bill has been raised recently on the law on fighting money laundering in the country, which has taken an effective step by increasing the amount of punishment and execution of criminal offenses in this area, and the Islamic Consultative Assembly can, with its passage, reducing the amount of money laundering provided the necessary assistance.

In the present article, after the definition of money laundering, the effects of money laundering, money laundering prevention, legal and legal principles of respect and the prohibition of money laundering, based on the verses, narrations and traditions of the current charge of money laundering, based on jurisprudential foundations and protocols and conventions international cases are being considered and suggestions is presented to combat this crime.

1. Money laundering

1-1. Definition of money or money laundering

Different definitions of money laundering are provided by Jurists in international documents. Purification is used in Persian in the sense of Cleaning and erasing Purification is used in Persian in the sense of purification. The use of the term "money laundering" seems more appropriate than purification Because purification has a positive meaning But the criminal phenomenon must be expressed in terms that does not mean this time Therefore, in English, German, and Arabic it is used instead of washing the act of cleaning(Shams Nātri 1382: 119, quoted by Soleimani, 2010: 67)

In terms of conceptual definition, money laundering refers to the set of verbs and verbs To conceal the nature and origin of the property derived from the commission of the crime So that the property takes legal appearance and becomes clean and legitimate(Shams Natari, 1382: 88).

In the preface to the article of the European Union, money laundering is defined as follows: A process in which offenders and owners of illegal assets act in the same way To show that the money they spend is in fact owned by them and obtained by legal means.

The most important international universal document that defines money laundering before the Palermo Convention It is considered a turning point in this regard. The United Nations Convention on

the Prohibition of Illicit Traffic in Narcotic Drugs and Psychotropic Substances is the 1988 Vienna Convention. Article 3, paragraph 3, of the said Convention, defines money laundering as follows:

"- the conversion or transfer of property with the knowledge that such property is derived from the offense set forth in clause (a) of this paragraph. Or resulting from the act of participation in such a crime In order to hide or distort the source of the property illegally Or to help someone involved in such a crime, To get rid of the legal effects of his committal.

Article 2 of the Anti-Money Laundering Law, passed on 2 March 2007, also defines money laundering as:

- A. Education, possession, maintenance Or the use of proceeds from illegal activities, knowing that they are obtained directly or indirectly as a result of a crime.
- B. Conversion or exchange of proceeds In order to conceal its illegal origin with the knowledge that it was directly or indirectly derived from the commission of a crime, Or assisting the perpetrator in such a way that he is not subject to the lawful effects of the offense.
- C. Fraud or hide or conceal the true nature, origin, source and place of transfer, transfer or ownership of the proceeds directly or indirectly acquired as a result of the crime.

1-2. Characteristics of money laundering

Any crime that differs from other crimes must have its own characteristics. The features described below make money laundering separate from similar crimes. These features are as follows:

C. Money laundering effects:

- 1- Money laundering is a complex and continuous process;
- 2- Money laundering is a secondary crime. Other crimes such as drug trafficking, kidnapping, selling body organs, etc. should be committed to commit this crime. The secondary nature of this crime does not make the public's minds much sensitive to it.
- 3- Money laundering is organized crime. Organized crime involves illegal activities by criminal groups who, having a solid organization and committed financial gain, collude with each other.
- 4- Money laundering is a transnational crime. Money laundering does not necessarily take place within a specific geographical area or within the borders of a country's sovereignty.
- 5- Money laundering is the crime of the educated. Usually, money laundering is used by experts, including accountants, lawyers, and bank employees.
- 6- Mainly carried out on a large scale (Safdari, 1393: 91).

1-3. Offenses Origin of money laundering

According to our laws, the offenses of origin include all crimes Generally, any type of crime can be the source of money laundering; Such as participating in organized crime groups, terrorism, human trafficking, drug trafficking, Smuggling of goods, sexual exploitation, smuggling of weapons, smuggling of stolen objects, corruption and bribes, forgery and fraud, counterfeit money, Armed robbery, environmental crime, murder, kidnapping, kidnapping, and kidnapping.

1-4. Money laundering effects

The cause of naming a verb or leaving a verb is the harmful effects of that verb or leaving the verb on the communities. Money laundering also has a profound effect on the social and economic dimensions which are briefly explained below:

1-4-1. Money laundering on the economy

Money laundering disrupts market operations. Transactions conducted for money laundering will increase demand for liquidity, It will destabilize interest rates and exchanges, leading to unfair competition And heightens inflation in countries where criminals carry out their business activities.

Money laundering eliminates credibility and, as a result, the stability of the financial markets. If the banking system loses its credibility as a result of organized crime, the entire financial system of the country, or even the financial system of the region concerned, will be seriously damaged. Smaller countries are more vulnerable to money laundering than economic activity through illegal activities. It allows the criminal organizations to dominate small economies (formerly: 99). One of the most

important negative socio-economic effects of money laundering can be mentioned in the following cases.

- 1- Private sector weakening and privatization plans
2. The weakening of the integrity and integrity of the financial markets
3. Reduced government control over economic policies
4. Disturbance and instability in the economy

1-4-2. The Effects of Money Laundering on Society Money laundering at the community level has undesirable and harmful effects on countries and the international community, which can be noted: The spread of poverty, the spread of addiction, the massive increase in crime, the increase in divorce, the corruption of the structure of government And damage to the credibility of governments and economic institutions of the country and social security (formerly: 102).

The issue of money laundering in this research is based on two issues 1- Money laundering 2. Flow of evidence and objective evidence of criminal offense in money laundering. So, let's look at the legal and juridical foundations of these two topics. First, there are debates about the principles of money laundering in Islam, and then the analysis of these principles and, ultimately, the Islamic perspective in this field are recognized.

1-5. Criminalization of money laundering from the perspective of the four reasons

The first reason for referring to religious matters is Quranic verses. Therefore, by examining the verses discussed in this regard, we look at money laundering and its jurisprudential ruling.

1-5-1. Quran

In the Holy Quran there are verses that indicate the vindication of the void. Verse 188 of Surah Baqarah: «ولا تأكلوا اموالكم بينكم بالباطل وتدلو بها الى الحكام لتأكلوا فريقا من اموال الناس بالإثم وانتم تعلمون»

And the property that belongs to all of you people and should be divided according to divine rules. Do not overdo it and do not use it And do not take them to the bribe of the referees to judge them, Take part of the property of the people, with the sins of the usurp.

The first verse of the 29th chapter of Nisa: «...عن تراض منكم يا ايها الذين آمنوا لا تأكلوا اموالكم بينكم بالباطل الا ان تكون تجاره» Do not seize those who believe in the property that is being handed over to you. Until the trading is due to your agreement.

The false word is in front of the truth, and right is meant to mean something that is valid in some way. So falsehood is something that does not have a fix. Total sentence «ولا تأكلوا ...» When it is bound by the terms of reference, it is used to prohibit the transactions. That is, transactions that not only save the society to prosperity and salvation, but also harm and destroy the society (Saky, 1393: 198).

In Islam, any possession and possessions must be based on truth and justice and on the basis of the correct. Anything else is forbidden and void. Accordingly, gaining illegitimate income using unauthorized means and means is forbidden and void And it refers to all. Not only will it be monetized in the wrong ways, which is spent on it in unauthorized ways.

Another verse that has been cited as an expression of Forbidden for money laundering is the verse known as "Soht".

The owner of kanz olerfan says in his commentary: "The result of the interpretation of the Soht is that anything that is not solvent is unconscious, and it also means "disillusionment" or "helplessness" and destruction. The other meaning of the wisdom is forbidden, because it is not blessed And destroys the chivalry and fairness of man." (R K Fazel Moghdad, 1425: 2- 12)

In the jurisprudence of al-Quran, Ravandi, about Soht, writes with reference to the numerous cases in the traditions, such as the permission of not knowing and not compromising on betrayal and robbery, writes: "The general verse refers to all of them" (Ravandi, 1405: 2- 27). In other words, they assume that he has a general meaning and includes any unlawful and unforgivable act. Therefore, in connection with the phenomenon of money laundering that leads to the secret or the appearance of illegitimate and illegal proceeds and illegitimate assets, it seems that one of the clear examples of

capture is Soht, it is first and foremost clear that certain types of money laundering and income Haram is prohibited and illegitimate and is subject to pardon.

Secondly, with regard to the synonym of "Capture" and "Forbidden", and the sharing of "Capture Forbidden" and "Capture to Void", the operation of money laundering is considered as an example.

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1-5-2. Hadiths

Among the legal principles of criminalization is money laundering or the purge of money of hadiths And used in the traditions from the time of Imam Ali (as). Imam in the first part of Nahj al-Balaghah's sermon says: « والله لو وجدته قد تزوج به النساء وملك به الاماء لرددته » "I swear allegiance to God if I find that property (Plundered from public property) I return to the Muslims , Although the women's dowry Is located With that, And the slave has been bought with it. "(Ja'fari, 1357: 3- 294). In his commentary, Makarem Shirazi has come to the conclusion that LeaderAli (AS) in his words expresses his decisive decision to restore the property taken from the tyranny of Treasury, so far as if it were used in sensitive and particular expenses related to The family life of the people has been spent. It is also necessary to return to Treasury so that people will know that what was previously practiced was not Islamic law. (Makarem Shirazi, 1375: 1- 527).

It is understood by the interpretations that it is understood that all illegally and illegally acquired property and possessions come to a legitimate appearance in a process, are essentially illegitimate and void, so according to life of Leader Ali is a very important principle, which is that the profits and proceeds from illegal activities such as fraud, embezzlement, theft, and more importantly, is void. the money laundering under consideration, even if With a legitimate appearance, and this property must be returned . (Soleimani and Abdollanejad, 2010: 78-79).

The second narrative is a Hadith from Leader Sajjad (peace be upon him), which he says: "There is no good in what its origin is not forbidden And its use is not lawful "(Kleene, Kafi, vol. 5: 125). Although this hadith has been entered into in the case of the property that originated from banditry and robbery, the last part of the hadith is intended to include any financial source that is illegitimate and illegal. Therefore, if this illegitimate property is used or converted or changed, it does not legitimize it and any use thereof is prohibited. As a result, the implication of this hadith is clear on the denial of money laundering operations and it is prohibited and unlawful to achieve the result obtained in this way.

Some writers have relied on legal formula such rule of Base no harm and the necessity of preserving the interests of the community in the void and respect for money laundering. (Soleimani and Abdollanejad, 2010: 81).

Considering that according to the verses and narrations it has been proven that money laundering is a form of Forbidden and a kind of forbiddances, it seems that according to the principle of «Enhancement for every act is Forbidden» money laundering is a punishable guilty and because of the amount of punishment Leader is the amount of punishment of the perpetrators of money laundering under the rule of «Enhancement of what the Imam sees»

Prohibition of unlawful possession of another person's property without permission eating the wrong property, general And to earn revenues from illegal acts and especially crimes And its use in the legal channels is not correct and not permissible by reason of the wisdom and construction of the intellect.

2. presumption of criminality

In order to begin the discussion of the presumption of criminality, we must first become familiar with the Concept of the presumption.

2-1.The Concept of presumptions

The term " presumption " in the word means sign, decoration, time and promise. (Ibn-i-i-mohar, 1414 : 4- 32; Tarihi, 1408: 3- 21; Jafari Langroudi: 603). From the point of view of jurists, presumption

is said to be some ways, the term is referred to as paths known as explicit and indicative, but their discovery is incomplete and does not reach the level of knowledge, but it compensates for the legislator confirmation of that defect. (Maleki Esfahani, 1379: 1, p. 154).

Civil law in Article 38, in the definition of the term the presumption, is "a condition which, by law or in the opinion of the judge, is known as the cause".

It is clear from the Article 1321 of the Civil Code that the presumption is an outright issue that proves to be unnecessary. It is a matter of certain circumstances outside the country that guides the judiciary. Which is claimed to be irrelevant without the guidance of the circumstances? Therefore, in any case where the situation has been found, the ruling on its existence is unknown. It becomes clear from the provisions of Article 1349 of the French Civil Code The Iranian civil code in the definition of the term refers to the assumption (Sheikh Nia, 1373: 137).

2-2. presumption of criminality

The presumption of criminality refers to the fact that we can identify a defendant offender or not, but we must refer to the principle of his innocence as a crime. Earlier it was referred to the truth and nature of the ancestor. The nature of some crimes with respect to the harms and harms that they follow is that they should not be prosecuted like other crimes, but that they should be made more rigorous for the defendants of such crimes, and that the principle of innocence should not be enforced. And the effects of the principle of innocence on such an accused will be reversed. Money laundering is one of the crimes that affects the society and the economy of a country and leads to other crimes. That is why the flow of the principle of innocence in it leads to the escape of money launderers from the grasp of the justice system. Therefore, the Guilty circumstances has been replaced by the principle of innocence that Some escape routes for criminals closing, and money launderers, who often operate organizationally, cannot use legal channels and escape punishment.

2-2-1. Effects of presumption of criminality

It has been mentioned earlier that the principle of innocence is one of the most basic principles of criminal law. The principle of innocence is based on effects and principles of the offense, and the effects are, if committed, to the benefit of the accused. Some of the effects and principles mentioned above are shared between the accused who has been charged against him and the accused who has no reason to believe that he is guilty, such as the openness of the proceedings, the right to counsel, the necessity of justifying the judicial theory, the principle of notification of the charge, and immunity from Arbitrary arrest and detention. But some other principles are specific to accused persons who have no reason to censure them, such as the right to freedom of the accused, judicial impartiality, the need for the judiciary to be removed from the criminal offense, and most importantly, according to the rule of burden of proof rests with claimant, burden of proof rests upon claimant, and the oath upon one who denies. It should be. Therefore, if there is a reason for the accused, these effects will no longer be in the interest of the accused but will reverse the effects of the act, such as the right to release the accused, the need for the judicial authority to withdraw from the accused and the victim's criminal misconduct The burden of proving the cause and being responsible for its accusation. In this case, the guilty sentence will be replaced by the original principle. There are also crimes that, although there is no reason to accuse the offender, but because of the huge disadvantages these offenses have for the community (such as money laundering, crimes against public safety and unjustly getting people's lives) in the lawsuit, the principle of innocence is not enforced in them, but the prosecution or the guilty plea of the Guilty is flowing and the effects of guilty assumptions on those crimes are loaded.

3. The Basics of presumption of criminality in Money Laundering

3-1. Legal bases

In the field of legal foundations of international money laundering, the convention on the suppression of money laundering and the laws and the conventions on the fight against organized crime, which are also subject to legal provisions for money laundering, are in accordance with article 5, paragraph 5, of the Convention Vienna Act 1988 and clause 7 of article 12 of the Palermo Convention

and the Convention of Merida. In the field of reversing the burden of proof, the reason for money laundering in Iran was the adoption of the Anti-Money Laundering Bill in 2007 and a number of measures to prevent and combat money-laundering in the Islamic Consultative Assembly have been approved, but in order to reverse the burden of proving the cause or the reversal of other works of the principle of innocence is not discussed.

Assumed to consider the spiritual element in the convention and compare it with the anti-money laundering bill. Article 6 (2) stipulates that the science, intent or purpose which has been identified as an element of a crime in accordance with paragraph 1 of this article may be deduced from objective circumstances. In this criminal title, a person's Ill will be considered to be presumed; in the case of committing a criminal act and according to objective and objective circumstances, the prosecuting officer does not commit the allegation to prove the wrongful act. Such a rule has not been foreseen in the money laundering bill; therefore, it will be very difficult to prove and prove ill-intentioned due to the complexity of the procedures and the way of money laundering. (Salimi, 1368: 107).

it has not been foreseen in the anti-money laundering law to reverse the burden of proving the cause of certain measures. It seems that the excessive loyalty of the legislator, with the assumption of innocence and all its effects and consequences, has deliberately silenced the legislator. Such an approach is based on jurisprudence and Islamic law (Abbasi, 2006). Because in the science of the principles of the judicial presumption, from which it is termed "appearance" in the term "jurisprudence" Given that the suspicion is untrueIt will not precede the principle Unless the evidence and evidence are for certainty or at least a certainty In which case their primacy will be possible on principle (mohaqqeq damad, 1362: 3- 186); however, it is seen more precisely in the legal material that is included in the Anti-Money Laundering Law of the circumstances and the symbols that, It is not possible to enforce the principle of innocence against the defendant, But The burden of proving non-accusation is borne by the accused And in fact, the criminal offense is replaced by the principle of innocence.

3-2. presumptions and the symbols of the money laundering law

The purpose of the symbols is the signs and indications that, by their observation, it is likely that money laundering is occurring, and so the defendants can be treated with legal and judicial action. In some cases, this should be a sign of suspicion, and some others should be a sign of strong suspicion for the outcome and proof of the crime.

Section 4, paragraph 4, of the Anti-Money Laundering Law indicates that it should receive reports that are likely to be accurate or likely to be of significance and sent to the judiciary.

Clause 7 of Article 7 of the same law requires that suspicious transactions and operations be reported to the competent authority designated by the High-Multinational Anti-Money Laundering Council. Thus, it can be seen that, even though the symbols and signs indicate the suspicion of transactions, they should also be followed up. Note The article of the Executive one of the Anti-Money Laundering Law provides: The logical evidence and signs indicate is the conditions and requirements that compel a conventional person to investigate the source of property, entrust or other operations. Some of these operations and suspicious transactions are:

- 1- Trades and financial operations related to the client, which exceeds the level of expected activity.
- 2- Detection of forgery, false statement or counterfeit report by the client before or after the transaction is made and at the time of receipt of the basic services.
- 3- Transactions that are specified in any way are the actual beneficiaries of at least one of the apparent interlocutors of that person or other persons.
- 4- Business transactions over and above the agreed ceiling that are in conflict with the subject of the client's business activities and known commercial goals.
- 5- Trading that is the legal residence of the dealers in the high risk areas (in terms of money laundering).

- 6- Transactions exceeding the limit specified by the client prior to or during the transaction; or after performing a transaction without reasonable reason to terminate the contract.
- 7- Trades that are customary, complicated, unusual and without economic objectives are clear.

Persons suspected of all persons are told that their names and their characteristics will be determined by the Financial Information Unit and suspected of communicating with the activities of money laundering and terrorist financing.

As noted above, these are some examples of the circumstances, and any indications of money laundering should be Legal and judicial prosecuted.

3-3. The legal bases of the current charge presumption of criminality of money laundering

In the field of jurisprudence can be through presumption of criminality and the wisdom of reason, the sentence of the current presumption of criminality, was received in the crime of money laundering.

3-3-1. rectifying or isolating the effective cause

refinement in the word means rectifying and isolating, and the word of the grave is a word that is not spoiled and unnecessary.

Also, the effective cause means to hang from the root of the meaning of hanging (Ibn al-manzoor, 1414, g. 2: 624-625 and Fiumi: 620) and it is used to mean the cause (Zarkashi, 1413: 255).

rectifying or isolating the effective cause, The methods by which the Mujtahid extracts the intention of Shar'i from his word and transmits the actual ruling in that passage to other things not mentioned in that passage, and that It is raised where the lawgiver expresses the verdict and its cause, along with the expression of its cause, states that the religious jurist is certain that some of this does not interfere in the attachment of the sentence to the subject or event, therefore, through identification and Removing them, the real causes of the religious law And other topics that are not included in it are included in its subcategory.

A primitive look at some of the jurisprudential texts indicates the possible opposition of some Shi'i jurists to the abrogation of the characteristics and rectifying or isolating the effective cause the effective cause. In this context, one can mention the deceased Ayatullah Khomeini. (Khomeini, without a date c : 154).

But other jurists have accepted this method and used it, especially Ayatollah Boroujerdi, who, for example, has mentioned and cited a lot of things in the discussion of the prayer of the traveler. Also, Leader Khomeini, in his legal and jurisprudential discussions, has taken this approach. (Yazdani and Saberi, 2010).

Considering the objectives of the Islamic religion, the tribal oath (consisting of 50 men of the tribe swearing to them being right), mentioned in the hadiths, The most important goal is to save people and society. To use rectifying or isolating the effective cause, It is understood that offenses that are harmful to the damage caused by, harmful to, or are more harmful than murder to society By assessing the importance of crimes, the crimes in which this criterion is found can be identified And in case of non-criminality, criminalize it And as in the tribal oath (consisting of 50 men of the tribe swearing to them being right), the violation of the principle of innocence has been violated because of the importance of the crime. And the presumption of criminality has been replaced In important crimes such as money laundering, the principle of innocence is reversed in some of its works.

3-3-2. Rational reason

Given the definition of the crime of money laundering, and that the rationale of the inability to earn income through the wrong way, and other than legitimate channels, and its mere use in the right paths due to the loss of its illegal source, is unfair and condemns it. With regard to the effects and consequences of money laundering, it does not justify any Healthy intellect of it. Whenever the wisdom knows that Islamic law has a ruling on a problem, it has no means to claim the true Islamic law To find out In this case, the wisdom itself determines that this is not permissible. That is, there was no money

laundering at the beginning of Islam and there is no ruling on this matter. But reason does not allow it (Mohammadi, 1373: 208-209) (Saki, Former: 204).

3-3-3. Justice Some

writers believe "As criminal justice requires that the defendant be guilty of innocence in the absence of reason, In certain cases, it also reinforces the existence of a statement of suspicion of committing a crime by the accused The requirement of legal justice and social affairs, the primacy of presumption of criminality is on the principle of innocence "(Tedin, 1388: 80, quoted by Bahrami, the former).

The question here is that justice, which is one of the foundations of the presumptions, is really true in all court cases and court sentences imposed by the court? A closer look is that, in some cases, the presumption will be judged by the judge Until the verdict is issued, it is against the justice, because the innocent person who presumption against him is sentenced to a presumption against him.

In order to solve this ambiguity, some authors have said: It must be viewed with a generalist view of the presumptions That is, in the generalist view, the existence of these presumptions can help to realize justice. However, in a few minor cases, it may also lead to injustice (Akbari and Ansari Moghadam: 171).

3-3-4. Good and social interests

Sometimes it is social expediency and collective gain So that the legislator may rule that which may or may not be in accordance with certain legal principles or rules. The promise of the Emirate in criminal law is also based on expediency and social benefits; Because if, for example, presumption of criminality is not foreseen in the law It may lead to a perpetrator's perpetrators who endanger the social interest However, if the accused has little trouble proving his innocence, he may be prevented from doing so.(Akbari and Ansari Moghadam: 172)

Conclusion

Applying the presumption of innocence in the law And the observance of its effects, including the presentation by the accused of a reason for combating money laundering, faces challenges. And if they are to be taken strictly In many cases, detection of money laundering is difficult or impossible Which is not in the public interest And the money launder escapes from the clutches of justice, Because money lovers try to enjoy the latest scientific achievements and technology of the day and bypass the law behind the principles of presumption of innocence, they hide the reason behind the claimant, Therefore, international conventions have emphasized the moderation of the presumption of innocence and the burden of reasoning; That is what you say "Where did you come from" Or proof of the legitimacy of the property. In the Islamic Republic of Iran, the law on money laundering does not explicitly disclose a dispute over the presumption of innocence and the substitution of presumption of criminality. But it is carefully observed in legal materials There are indications and emirates that, in the event of observing these indications and presumptions, the accused will be prosecuted. And if they can not prove their innocence, they will be guilty.

There are legal and juridical legal principles, such as verses and narrations, for the crime of money laundering These are the bases for the criminalization of money laundering. For the purpose of prosecuting money laundering, there are also legal and legal foundations such as rectifying or isolating the effective cause and rational implications. And these bases can be used to apply the presumption of criminality in the money laundering problem.

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