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A Study on the Lacunae in International Banking System which Enables Banking Fraud and Money Laundering in Developing Countries

Isha Bhavanti

R. Isha Bhavanti, First year BA LLB (Hons.), Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences (SIMATS), Chennai- 600 077,

Mrs. V. Nivetha

Mrs. V. Nivetha, Assistant Professor, Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences (SIMATS), Chennai- 600007,

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Abstract

Cross-border finance business and local business in foreign countries of any currency is by international banking. Banking laws in tax haven countries impose no tax liability on account holders of foreign origin. The study aims to understand people's perceptions on banking secrecy which has become a lacunae, enabling money laundering and bank fraud in developing countries. From the study conducted among 200 people, it is found that people generally disapprove of banking secrecy laws and find it to be a major tool used for money laundering & bank fraud in developing countries. People also feel that a uniform banking regulation would help to curb money laundering and bank fraud. It is concluded that ill-gotten wealth needs to be stopped from getting stashed in tax havens and the lacunae needs to be filled so that there is no hindrance in the development of developing countries.

Keywords

International banking, money laundering, banking fraud, banking secrecy, privacy, developing countries

INTRODUCTION

International banking system deals with cross-border business or local business of any currency in foreign countries. Traditional international banking is done in the currency of either debtor or creditor or by the currency of a country different from that of the debtor and the creditor. Some examples of international banks include those which come under the Bank for International Settlements (BIS) are Swiss National Bank, National Bank of Panama, Royal Bank of Scotland. International banking systems have banking secrecy laws which conceal the identity of the account holders. With these laws, no one, even a country's government, can get the information of the account details of any account

holder. This makes it easier for people to store wealth in such foreign banks. Banking secrecy norms are considered as a lacunae in the international banking system which is leading to banking fraud and money laundering in many countries, especially the developing countries. Offshore accounts have helped the super-wealthy and multinationals of developing countries to escape from their liabilities in their countries, leading to corruption and poor economic policies.

Countries that offer foreign businesses and individuals minimal or no tax liability for their bank deposits in a politically and economically stable environment, are tax havens. Corporations and the wealthy are given tax advantages. Also, with the privacy and tax security given by individual countries, these tax haven countries offer super-wealthy individuals a great opportunity to keep their money in offshore accounts for purposes like tax avoidance, tax evasion, etc. Some tax-havens are Cyprus, Switzerland, UAE, USA, UK. The act of receiving money by illegal means of assets from a bank or other financial institutions is banking fraud. It also signifies the act of obtaining money from people by posing as a financial institution. The act of concealing the origin of a large sum of money that is often obtained through illegal means is called money laundering. Money laundering is done by transferring funds to foreign banks, changing them to foreign currency, turning money into assets, etc. Bank fraud affects a country's economy in different ways and so does tax evasion. Banking secrecy laws help to conceal not only one's identity, but also tax evaders, from taxes and help them in transferring ill-gotten wealth to tax haven countries. These banking frauds happen on a large scale and involve billions of money, leading to economic instability in developing countries. Thus, banking fraud involving international money laundering, aided by banking secrecy laws, are the biggest white-collar crimes in the world. The Panama papers leak, 2016, exposed so many tax havens with offshore accounts, from many countries. Later, the Paradise papers leaked more offshore accounts. All these cases have a few things in common - they all leaked offshore accounts in tax havens which had banking secrecy laws. For escaping tax liability, the super-wealthy and multinationals used banking secrecy laws, and not for safeguarding their financial privacy rights. The **aim** of the study is to know people's views on banking secrecy norms and its effect of money laundering and bank fraud, with reference to that of developing countries.

Objectives

- To analyse the people's perceptions on banking secrecy norms as followed in tax haven countries.
- To analyse the perceptions of people on the relation between money laundering and bank fraud in developing countries.
- To analyse the opinion of people on the lacunae in the international banking system which contributes to banking fraud in developing countries.

LITERATURE REVIEW

Johannesen (2010) has studied the impact of source tax on EU policy and Swiss bank deposits. The author discussed the responses of tax evaders to the Savings Directive. The author found that the high degree of substitutability between different tax evasion strategies suggests that the effectiveness of policy measures against tax evasion is reduced severely by substitution.

Flores (2015) has studied the lifting of banking secrecy by doing a comparative study between the Philippines and Switzerland. The author discussed the Philippine banking and the history of banking of Switzerland and compared both the countries. The author found how the global awareness on banking secrecy shows its drawbacks. The author concluded that globalisation and financial transparency are complementary in today's world.

Sahlin (2009) has discussed Luxembourg banking secrecy as a privacy tool or fraud facilitation. The author brought out the bank laws and banking secrecy laws and found that banking secrecy laws can attract clients from abroad but it is a problem when it becomes a tool to tax evaders. The author concluded that from the perspective of Luxemburg is that it doesn't facilitate tax fraud while in a non-Luxemburg view, it facilitates tax fraud, as the definition of such crimes differ.

Alnour (2021) has studied the limits and exceptions of banking secrecy through a comparative analytical legal study. The author has brought forth the concept of banking secrecy, comparison of bank legislations of Iraqi legislation with the foreign legislation and the exceptions to banking secrecy. The author concluded that the Iraqi legislation is better in the issue of banking secrecy.

Weld (2011) has discussed the current international money laundering trends and anti-money laundering Co-operation measures. The author discussed the different types of money laundering and the new technologies for money transfer and its exploitation and the laws that prevent money laundering. The author concluded that it is not easy to end this transnational crime but nations need to work on the same.

Aubert (1984) has discussed the limits of Swiss Banking Secrecy under domestic and international law. The author studied the scope and limits of banking secrecy, and the relation between banking secrecy and politics. The author concluded that banking secrecy is the manifestation of personal privacy and that the recent changes in banking laws work for the prevention of misuse of banking secrecy.

Emmenegger (2014) has discussed the politics of financial intransparency in the case of Swiss banking secrecy. The author discussed the challenges of financial intransparency worldwide, stated the central role of Switzerland in offshore financial centres and also stated about how tax evaders use other means too. The author looked into the origins of Swiss banking secrecy and its struggles for interpretive dominance. The author concluded with the first OECD campaign against tax havens, as a policy for reform.

Carlin and Lokanan (2017) have discussed ritualisation and money laundering in the Swiss banking sector. They have used secondary data and discussed whether the Swiss banks are really a hub for criminal acts of money laundering and fraud. They found that the Swiss making system has fostered a conducive atmosphere for corrupt and unethical practices and money laundering is the result of such a sector. They concluded that these practices have been normalised and that the present system is an aberration of a well-functioning financial system.

Johannesen and Zucman (2014) have evaluated the G20 tax haven crackdown which was signed by the G20 countries. They stated how policy makers celebrated this world wide initiative to end banking secrecy but it was found that tax evaders shifted deposits to countries not covered by the treaty, i.e., relocation of deposits to least compliant countries. They concluded that the G20 treaty is not fully useless and that there is room for improvement.

Pasley (2002) has studied privacy rights and anti money laundering enforcement and the importance of each of them. The author brought out cases on privacy rights with respect to the fourth Amendment and cases on financial privacy rights and banks' liability for violation of such financial privacy. The author has also brought out BSA Safe Harbour and the constitutionality of bank secrecy act. The author concluded that financial privacy rights are a sensitive topic and guidelines on anti money laundering have its own shortcomings.

Huizinga and Nicodème (2003) have analysed the impact of tax policy on international depositing. They found that non-bank international deposits are positively related to interest income taxes and that international deposits were intended to facilitate tax evasion. They concluded that international interest flow gives an incomplete coverage and hence, these policies have little impact on international depositing.

Giddey (2020) has discussed the institutionalization of the fight against white collar crimes in Switzerland from 1970 to 1990 and how political and judicial authorities responded to a more specialised handling of financial crimes. The author found that willingness of financial circles to support, tolerate or oppose the steps taken to improve the fight was needed and concluded that there is a need to check on conflicting interests and further research is needed.

Storm (2013) has explored whether there is a link between tax evasion and money laundering. The author found, with definitions and cases, that there is a clear link between tax evasion and money laundering. The author concluded that one cannot look at money laundering without looking into tax evasion but tax evasion need not include

money laundering and that legal authorities need to investigate tax evasion while dealing with money laundering.

Gerbrands et al (2022) has analysed the effect of anti money laundering policies by an empirical network analysis and how it affects the behaviour of money launderers and their networks. They found that money laundering networks have seen a significant increase in use of foreigners and corporate structure and concluded that anti money laundering policies can affect criminal attacks.

Găbudeanu et al (2021) has analysed existing fraud detection methods and approaches and the impact of the data protection legislation. The author found the respondents' views on privacy in case of fraud identification in transactions and the need for protection of financial data. The author concluded that people showed a neutral attitude towards intrusiveness and also felt that the merchants were the most responsible for fraud detection.

Unger (2009) has discussed how money laundering is in the international arena. The author found how money laundering is estimated and evaluated the different anti money laundering policy measures and concluded that further research is needed.

Sharafutdinova and Lokshin (2020) has discussed the drivers and effects of financial secrecy on emerging economies and the limits of the institutional paradigm that tests businesses solely as role takers. They found that more attention is needed on business agency and responsibility and concluded that corporate social responsibility is needed for emerging economies and that further research is needed.

O'Donovan et al (2019) has discussed the value of offshore secrets through the evidence from Panama papers and its relation with tax havens. They found how the data that was obtained was challenging and how the Panama papers leak exposed the characteristics of firms' connections to offshore activities. They concluded with the effect of Panama paper leaks.

Lenartova (2020) has analysed the scope and assessed the social and economic consequences of tax havens in the world. The author found how tax havens are a threat to stable development of the world economy and brought out the negative consequences of economic, social, security and humanitarian nature. The author concluded that globally there is a need to combat tax fraud, tax evasion and tax avoidance.

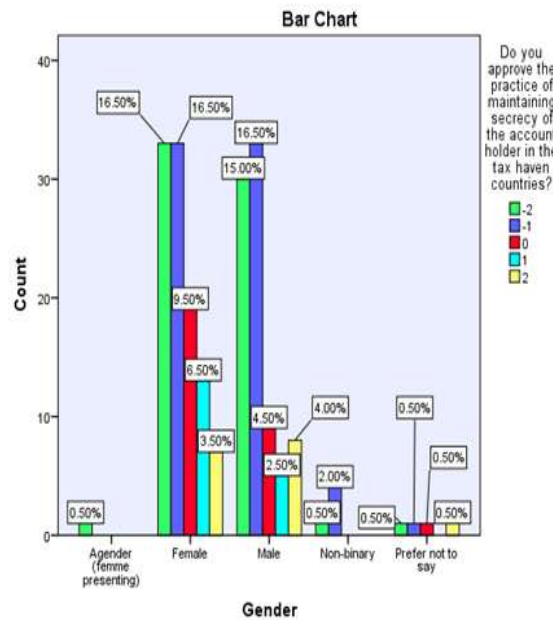
Radu (2012) has studied the impact of tax havens on the world economy. The author found that tax havens in international finance have been suspected of criminal activities. The author concluded that banking secrecy laws are a breach in the international tax system and in this way, tax havens pose a problem to the world economy.

RESEARCH METHODOLOGY

The current study is based on empirical research. It consists of the scientific frame of research. It begins with finding research problems based on the review of literature. The major contribution of the study is to collect the facts of a particular area and to test the hypothesis of a cause-and-effect relationship between variables. The research design is exploratory and experimental, exploring the problem tested with hypotheses and providing the solution from the analysis. Convenient sampling method is used. The sample size is 200. Primary data includes questionnaire-survey and interview schedule and secondary data includes the articles, journals, reports and newsletters. The analysis is carried out for demographic statistics (Country of residence, Age, Gender, Educational Qualifications, Occupation) and hypothesis testing graphs are used. The tools for analysis are clustered bar graphs, stacked area graphs, descriptive statistics, custom tables and ANOVA linear regression.

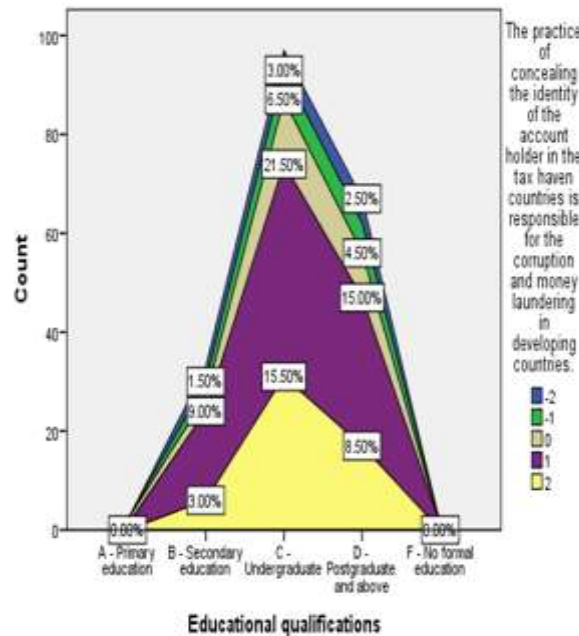
Data Analysis and Interpretation

Figure 1:



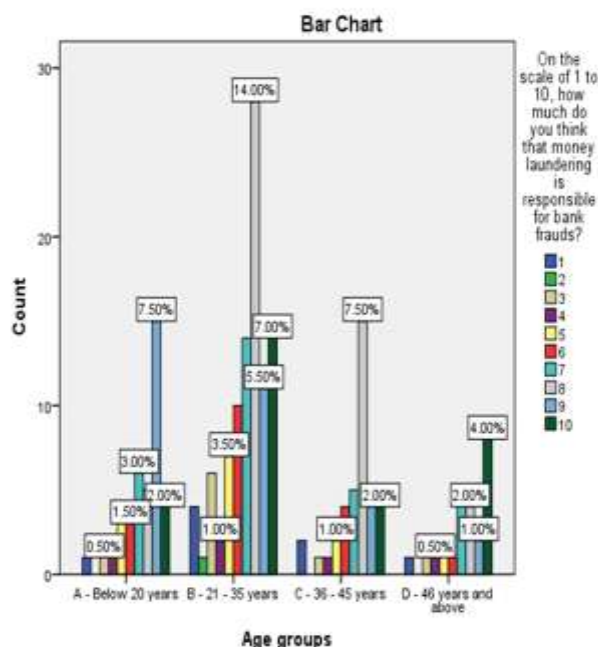
Legend: Figure 1 shows the clustered bar graph on the approval over the practice of maintaining secrecy of the account holder in the tax haven countries, according to the respondents based on their gender.

Figure 2:



Legend: Figure 2 shows a stacked bar graph on the views of the respondents on the practice of concealing the identity of the account holder in the tax haven countries that is responsible for the corruption and money laundering in developing countries, according to their educational qualifications.

Figure 3:



Legend: Figure 3 shows the views of the respondents on how much they think that money laundering is responsible for bank fraud, according to the different age groups.

Table 1:

		Concealment of the identity of the account holder as per the laws of banks of tax haven countries are responsible for stashing away ill-gotten wealth from the developing nations.	Time and again, banking frauds are happening in many countries which result in transfer of funds to tax haven countries.	The practice of concealing the identity of the account holder in the tax haven countries is responsible for the corruption and money laundering in developing countries.
N	Valid	200	200	200
	Missing	0	0	0
Mean		.99	1.10	.81
Median		1.00	1.00	1.00
Mode		1	1	1
Std. Deviation		1.047	.848	1.100

Variance	1.095	.720	1.210
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Legend: Table 1 shows a descriptive statistic on the level of agreeability of the respondents on the given statements.

Table 2:

	Do you approve the practice of maintaining secrecy of the account holder in the tax haven countries?					
	-2	-1	0	1	2	
	Count	Count	Count	Count	Count	
Concealment of the identity of the account holder as per the laws of banks of tax haven countries are responsible for stashing away ill-gotten wealth from the developing nations.	-2	3	1	0	0	6
	-1	0	1	1	3	1
	0	1	7	10	11	3
	1	13	45	13	4	5
	2	49	17	5	0	1

Legend: Table 2 shows a custom table showing the approval of the respondents on the practice of maintaining secrecy of the account holder in the tax havens and their views on the effect of concealment of the identity of account holder as per banking secrecy laws to be that it is responsible for stashing away ill-gotten wealth from the developing nations.

Table 3:

	If there is no scope for money laundering and illegal transfer of funds to tax haven countries, it would result in reduction of bank frauds.										
	1	2	3	4	5	6	7	8	9	10	
	Count	Count	Count	Count	Count	Count	Count	Count	Count	Count	
On the scale of 1 to 10, how much do you think that money laundering is responsible for bank frauds?	1	1	1	2	0	3	0	1	0	0	0
	2	0	1	0	0	0	0	0	0	0	0
	3	2	0	2	0	1	1	0	3	0	0
	4	1	0	0	3	0	1	0	1	0	0
	5	0	0	2	0	6	2	2	1	1	0
	6	0	0	0	1	4	4	4	2	3	0
	7	0	0	1	2	5	7	2	5	6	2
	8	0	0	0	4	2	2	7	12	10	15
	9	0	0	0	1	0	1	3	8	11	8
	10	0	0	0	0	1	0	0	2	4	23

Legend: Table 3 shows a custom table showing the views of the respondents on how much money laundering is responsible for bank fraud and whether if there is no scope

for money laundering and illegal transfer of funds to tax haven countries, it would result in reduction of bank frauds.

Table 4
 ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	1.024	1	1.024	.189	.664 ^b
	Residual	1074.571	198	5.427		
	Total	1075.595	199			
a. Dependent Variable: If there is no scope for money laundering and illegal transfer of funds to tax haven countries, it would result in reduction of bank frauds.						
b. Predictors: (Constant), Occupation						

Coefficients^a

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	7.659	.497		15.408	.000
	Occupation	-.061	.141	-.031	-.434	.664
a. Dependent Variable: If there is no scope for money laundering and illegal transfer of funds to tax haven countries, it would result in reduction of bank frauds.						

Legend: Table 4 shows the linear regression between the occupation of the respondents and their opinion on the statement that if there is no scope for money laundering and illegal transfer of funds to tax haven countries, it would result in reduction of bank frauds.

Table 5:
 ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	187.239	1	187.239	28.744	.000 ^b
	Residual	1289.756	198	6.514		
	Total	1476.995	199			
a. Dependent Variable: Do you approve of the idea that if there is uniformity in the banking regulations in all the countries, there would be no scope for money laundering and bank fraud?						

b. Predictors: (Constant), Where do you live?

Coefficients^a

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	
	B	Std. Error	Beta			
1	(Constant)	9.022	.377		23.904	.000
	Where do you live?	-.138	.026	-.356	-5.361	.000

a. Dependent Variable: Do you approve of the idea that if there is uniformity in the banking regulations in all the countries, there would be no scope for money laundering and bank fraud?

Legend: Table 5 shows the linear regression between the countries of the respondents and their approval on the idea of uniform banking regulations in all countries so that there will be no scope for money laundering and bank fraud.

RESULTS

Figure 1 shows that the majority of the respondents are females (52.5%) of which majority of them either equally disapprove (16.5%) or strongly disapprove (16.5%) of the practice of maintaining secrecy of account holders in tax havens. Majority of the males disapprove of such banking secrecy norms (16.5%). A small percentage of the respondents approve (9%) and strongly approve (8%) of banking secrecy norms. Figure 2 shows that the majority of the respondents are undergraduates (48.5%) of which majority of them agree that the practice of concealing account holder’s identity is responsible for corruption and money laundering in developing countries (21.5%). Also, many also strongly agree with the given statement. There are few respondents who strongly disagree with the statement. Figure 3 shows that the majority of the respondents are from the age group 21 - 35 years (48.5%) of which majority of them feel that money laundering is 80% responsible for bank frauds (14%). About 7.5% of those from the age group 36 - 45 years feel the same. Majority of those are 20 years and below (7.5%) state that 90% of the banking frauds are because of money laundering. Majority of those who are 46 years and above state that money laundering is 100% responsible for banking frauds. Table 1 shows that many agree that concealment of account holder’s identity is responsible for stashing away ill-gotten wealth from developing nations as the mode is 1 (agree), and the mean is 0.99. Many agree that bank frauds time and again happen resulting in transfer of funds to tax havens as the mode is 1 (agree) and the means is 1.10. Many feel that the practice of banking secrecy is responsible for corruption and money laundering in developing countries as the mode is 1 (agree) and mean is 0.81. Table 2 shows that majority of those who show disapproval to the practise of banking secrecy norm agree that banking secrecy norm is responsible for stashing away ill-gotten wealth from developing countries (45). Majority of those who show strong disapproval to the practise of banking secrecy norm strongly agree that banking secrecy norm is responsible for stashing away ill-gotten wealth from developing countries Strong approval strongly disagree (49). There are few respondents who strongly disapprove of banking secrecy law, and yet, strongly disagree that banking secrecy norms are responsible for stashing away ill-gotten wealth from developing countries (3). Table 3 shows that the majority of the respondents who strongly feel that money laundering is responsible for bank frauds

strongly feel that if there is no scope for money laundering and illegal transfer of funds to tax havens, it would result in reduction in bank frauds (23). Table 4 shows that there is a significant relationship between occupation and people's opinion on whether if there is no scope for money laundering and illegal transfer of funds to tax havens, it would result in reduction of bank fraud as the t-value is more than 2 (15.408) and t-value is more than table value (1.007). Table 5 shows that there is a significant relationship between the countries of the respondents and their approval of the idea of uniform banking regulations in all countries so that there is no no scope for money laundering and bank fraud as the t-value is more than 2 (23.904) and t-value is more than table value (2.86).

DISCUSSIONS

Overall, people disapprove of the practice of maintaining secrecy of account holders in tax havens, as a part of their banking secrecy norms. Some females, males and those who prefer not to say their gender, strongly approve of banking secrecy norms. On the whole, what we can see is that people are aware of what happens when there is concealment of the identity of the account holder, indirectly. This we can confirm from the later interpretations of data (**Figure 1**). In general, banking secrecy norms are considered as a causative agent of corruption and money laundering in developing countries. This conforms with the previous inference where the majority of them showed disapproval to the practice of banking secrecy norms. This shows that people are generally aware of current affairs in relation to international banking (**Figure 2**). People on the whole, feel that money laundering is the main reason for bank frauds and the older generation are much aware of it as they have stated 10/10. What we infer is that people know what is money laundering and bank frauds and bring out a relationship between them. Worldwide, many who are super-wealthy, in order to avoid tax and evade tax by transferring and transforming funds, which is simply called money laundering (**Figure 3**). People, overall, agree with how banking secrecy, money laundering and banking fraud are interlinked. They also agree upon how banking secrecy norms have helped in corruption and money laundering in developing countries. This also confirms people's disapproval over banking secrecy norms. However, it is to be noted that the mean values show that a reasonable amount of people are neutral about it. This shows their lack of awareness or they show no opinion on the given statements (**Table 1**). People generally disapprove of banking secrecy laws and feel that it has an ill effect on developing countries. We can conclude that the ill effects of banking secrecy laws on developing countries are understood by the respondents (**Table 2**). People are concerned about bank fraud and money laundering and feel that they are related. People feel that if money laundering is restrained, then bank frauds can be reduced. This, if related to the previous interpretation of Table 2, we can see that when banking secrecy laws are taken away, then money laundering can be restrained, which in turn will reduce bank frauds, in developing countries. Hence, it is found that banking secrecy laws have an impact on money laundering and by reducing money laundering and corruption, bank frauds can be reduced (**Table 3**). People's opinion differs based on their occupation. Students would have a different notion on how bank frauds happen and how it can be reduced. Also, a person's occupation shows their maturity and age group they belong to. Hence, we can infer that a person's occupation has an influence on their opinions (**Table 4**). A person's country has its influence on their views on banking regulations and how money laundering and banking fraud can be stopped. This is because it is found in other research articles also that people from tax haven countries and those from countries with international banks have a differing view on banking secrecy laws from that of other countries. Also, people from countries which extensively support financial secrecy, also show a different view on banking secrecy laws. Uniform banking regulations, though it is possible, may not be supported by all because of how the European Union's laws turn to be misused by tax evaders, escaping from taxes and also laundering money using banking secrecy laws (**Table 5**).

Suggestions

There must be changes in the international banking system which allows astain countries-not to release the actual names of the account holders. When there is a specific request from sovereign countries to disclose the names of the account holders in the tax haven countries, the banking system should permit them to reveal the actual identity of the account holders. So far, most of the money from developing countries that have been sent to international banks is ill-gotten wealth. The lacunae of international banks, i.e., banking secrecy laws pose a hindrance to the global economy on the whole and affect the developing countries the most. The right to financial privacy needs to be set aside at times, for the greater good of developing countries so that the super-wealthy of developing countries don't have a chance to escape their liabilities through the loopholes made by the banking secrecy laws.

CONCLUSION

Banking secrecy laws in international banks have led to the transfer of funds of ill-gotten wealth to tax haven countries. This has led to many money laundering and bank fraud in developing countries and worldwide. From the study, it is found that people generally disapprove of banking secrecy laws and feel that it is the major tool used for enabling money laundering and bank fraud in developing countries. People agree that uniform banking regulations are needed to curb money laundering and banking fraud in developing countries. Overall, we can see that there is a concern over how in the name of securing one's financial privacy has led to many white-collar crimes in the form of money laundering and bank frauds. It is concluded that uniform banking regulations will help to restrain money laundering and bank fraud and help in strengthening the global economy.

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