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Money Laundering by Politically Exposed Persons in Nigeria: Consequences and Combative Measures

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Capstone Project on Money Laundering by Politically Exposed
Persons in Nigeria: Consequences and Combative Measures

In Partial Completion of MS in Economic Crime Forensics (Corporate Fraud)

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Executive Summary

The Capstone Project will focus on money laundering in Nigeria by Politically Exposed Persons (PEPs) and the devastating negative impact on Nigeria's progress as well as various measures that could combat it.

The Financial Action Task Force (FATF) defines money laundering as the processing of "Criminal proceeds to disguise their illegal origin." And PEPs as "someone who has been entrusted with a public function." (FATF, 2018). The Nigerian government has adopted the term, "politically exposed persons" to include senior politicians and senior government officials as well as their immediate family.

According to Nigeria's president, Muhammadu Buhari, \$150 billion was stolen from the government in only 10 years (between 2005 and 2015). (Buhari, 2015). President Buhari stated that until 2015, PEPs were conducting official government business with personal and private corporate accounts. \$150 billion is about one third of the Nigerian economy. According to the World Bank, Nigeria's Gross Domestic product (GDP) in 2016 was \$404, 653 billion. (World Bank, 2016).

Money laundering by PEPs on the Nigerian State has resulted in 70% of its citizens living in poverty and misery, despite the fact that Nigeria is Africa's largest economy that is rich in natural resources and is the sixth largest exporter of crude oil earning over \$300 billion dollars in the last thirty years of the 20th century. (World Bank, 2010, 2016).

This project will examine various methods, through which PEPs launder money as well as explore the consequences money laundering has exacted on the State. Additionally, this paper will highlight anti-money laundering (AML) efforts by both the government and the international community and their impact in combating money laundering.

Finally, I will explore various recommendations that can assist in combating money laundering in Nigeria. And how countries and international organizations that provide financial support and aid to Nigeria can use that leverage in assisting to combat money laundering in Nigeria.

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Chapter 1 – Money laundering Concepts

1.1 Origin of the process of money laundering

For a holistic understanding of the concept of money laundering today, it is important to acknowledge its origins. The process of money laundering has been around for over 2000 years. In China, businessmen concealed their wealth from their leaders because most forms of commercial activity were banned at the time. And the authorities regarded the businessmen of the day as dishonest and shady. Instead of running the risk of losing their ill-gotten wealth, the businessmen relocated and invested in remote areas and outside China as a way of concealing their earnings. (Nigel Morris- Cotterill, n.d.).

During the 13th Century B.C., pirates seized, valuables along the international trade routes in the high seas from traders and thereafter concealed and disguised their origin in order to profit from their crimes. (Anti-Money Laundering Forum, n.d.).

While the process of money laundering has been around for some time, there appears to be no consensus regarding the origin of the phrase “money laundering”. One source has it that the phrase “money laundering” originated during the days of Al Capone and the Italian Mafia. This period was called the prohibition era because the sale of alcohol was banned constitutionally. At the time, Al Capone and his fellow criminals commingled illegal proceeds from prostitution and bootlegged liquor sales with legitimately purchased

laundromats to conceal their illegal profit (International Information Money Laundering Bureau, n.d.).

Another source states that the term “money laundering” was used in 1961 and subsequently appeared in print during the Watergate scandal after which the term began to be used prominently. (Munro, Duke, n.d.).

Nonetheless, there have been criminal activities going back thousands of years and criminals always attempted to profit from their crime by concealing and disguising the source of their gains through money laundering.

1.2 Evolution of the definition of money laundering

“The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Vienna Convention)” described money laundering with drug trafficking as its predicate offense. This description was accepted and widespread at the time. The consequence of this description was that illegal proceeds derived from non-drug trafficking crimes such as terrorism or bribery was not considered money laundering.

At the time of the Vienna Convention, the focus was to combat drug trafficking.

However, with the increase in other crimes such as kidnapping, theft of government funds, embezzlement, fraud and terrorism with its negative implications on countries, an international consensus emerged for a broader strategy to combat these crimes. This consensus was that in order to fight these other crimes, the proceeds that derived from

their activities had to be criminalized as crimes as well. The result was the beginning of the redefinition of money laundering to include other crimes as predicates to money laundering. Subsequently, “The United Nations 2000 Convention Against Transnational Organized Crime”, the Palermo Convention, re-defined "money laundering to include other crimes and any illegal activities as predicates to money laundering.” The Palermo convention also encouraged other signatories at the convention to adopt this strategy and definition.

Influenced by the “Palermo Convention” The Money laundering Act 1995 (Nigeria) was amended – by Money Laundering Act (Amendment) Bill 2002 to include laundering of proceeds of any crime or illegal acts as predicates to money laundering.

The accepted definition of money laundering today evolved to include the demands of various stakeholders to address the wider issues presented by increased cross border criminal activities.

1.3 Analyzing the definition of money laundering

Based on its origin, money laundering is knowingly using money from an illegal activity or crime with intentions of concealing its source.

The primary objective of the definitions of money laundering was the detection of criminals and to ensure they do not profit from their criminal enterprise.

“The United Nations 2000 Convention Against Transnational Organized Crime”, also known as the “Palermo Convention,” defines “money laundering” as follows:

“The conversion or transfer of property, knowing it is derived from a criminal offense, for the purpose of concealing or disguising its illicit origin or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his actions.”

“The concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property knowing that it is derived from a criminal offense.”

“The acquisition, possession or use of property, knowing at the time of its receipt that it was derived from a criminal offense or from participation in a crime.” (UNCATOC, 2000).

The Financial Action Task Force on Money Laundering (FATF), defines “money laundering” as “the processing of...criminal proceeds to disguise their illegal origin” in order to “legitimize” the ill-gotten gains of crime.” (FATF, 2018)

The Money Laundering (Prohibition) Act (Nigeria), 2004 is expansive in its definition of money laundering. The act defines money laundering as when a person converts or transfers resources or properties derived directly or indirectly from illicit drug trafficking or any other crimes or illegal act, with the aim of concealing or disguising its illicit

origin. It further defines money laundering to include aiding or collaborating with any person involved in illicit drug trafficking or any other crime or illegal act to evade or conceal the original illegal act. Finally, a person will be guilty of money laundering for collaborating in concealing or disguising the genuine nature, origin, location, disposition, movement or ownership of the resources property or right thereto derived directly or indirectly from illicit drug trafficking or psychotropic substances or any other crime or illegal act.

Chapter 2 Politically Exposed Persons (PEPs)

2.1 Who is a “Politically Exposed Person”?

“The term PEPs, refers to past or present high-ranking senior foreign political figures or senior level persons in the executive, legislative, administrative, military, and judicial branches of a government who are currently or formerly entrusted with high-level public duties and responsibilities.” (Beare, 2012). Beare’s definition captures most institutional definitions of PEP, which is based on the 2003 Financial Action Task Force on Money Laundering (FATF) standard.

“FATF was established by the G-7 Summit in Paris in 1989 to develop a coordinated international response to money laundering. (FATF, 2012).” (Schneider, Beare, Hill, n.d.). The following countries make up the G-7 summit: Canada, France, Germany, Italy, Japan, United Kingdom and the United States.

Influenced by the consistent international definitions, the Nigerian government’s Securities and Exchange Commission Nigeria, Anti-Money Laundering Combating Financing of Terrorism (AML/CFT) Compliance Manual For Capital Market Operators 2010 defines Politically Exposed Persons (PEPs) “as individuals who are or have been entrusted with prominent public functions both in foreign countries as well as in Nigeria. (Securities and Exchange Commission Nigeria, 2010). “Examples of Nigerian PEPs would include, the President, former President, current/former Governors, current /former

ministers, current/former permanent secretaries, CEO's of government agencies and representatives of the National Assembly among others.

The Nigerian government's definition of PEP also derives from the need to meet international best practices and the amended FATF 40 Recommendations. FATF 40 recommendations established steps to be taken by States to implement an effective anti-money laundering regime.

2.2 Origin of the term “Politically Exposed Persons”

The designation "politically exposed person" dates back to the late 1990s, in what was known as the "Abacha Affair." Sani Abacha, a Nigerian dictator was President of Nigeria from 1993 to 1998.

Abacha, along with his family and associates stole billions of dollars from the Nigerian central bank. The stolen billion dollars were transferred to bank accounts in the United Kingdom, Hong Kong, Luxembourg, Switzerland and the US. In 2001, in an attempt to recover the stolen money, the successor Nigerian Government to the Abacha regime lodged complaints with several European agencies, including the Federal Office of Police of Switzerland. During these investigations, the concept of politically exposed persons emerged. The PEP concept was subsequently incorporated into the October 2003 resolution of United Nations Convention against Corruption. (WikiVisually, n.d.).

A PEP is therefore perceived to be a corrupt and powerful state official or someone connected to a state official in any way who is expected to be subjected to a higher level of due diligence by banks and financial institutions.

2.3 How PEPs Launder Money

Money laundering involves secretive dealings and structured transactions to disguise their origins and destination. (Sikka, 2008). Public information and investigations show that money laundering is facilitated mostly through banking institutions, offshore financial centers (OFCs), wires systems, shell corporations, family businesses, professionals, and financial intermediaries. Of particular note is the consistent role OFCs play in aiding and abetting money-laundering activities. (US Senate Subcommittee on Investigations, 2005, 2010). The OFCs are characterized as jurisdictions that attract a high level of non-resident financial activity with high-level secrecy, low or no tax with little or no regulation.

It is no longer surprising that Nigerian PEPs penetrate financial institutions in various jurisdictions. And due to their enormous powers garnered through corruption, PEPs have succeeded in making vulnerable the AML laws of those jurisdictions. Evidence informs that nearly all the money looted from Nigeria by PEPs ended up in secret banks located in OFCs in developed countries. (Oxfam, 2000; Sikka, 2003; US Senate Subcommittee on Investigations, 2005, 2010).

The following case studies offer an insight into how Nigerian PEPs launder money.

A. Abubakar Atiku (Vice President, Nigeria, 1999-2007)

Abubakar Atiku used his wife, Jennifer Douglas Abubakar to launder over \$40 million of suspect funds including proceeds of bribery into the US from 2000 to 2008. (US Senate Subcommittee on Investigations, 2010).

Prior to becoming Vice President of Nigeria, Atiku worked as a civil servant in the Nigeria Customs for 25 years. Atiku married Ms Jennifer Douglas in 2003 as his fourth wife after she divorced and became a naturalized US citizen. (US Senate Subcommittee on Investigations, 2010). Atiku laundered money by using his wife, Jennifer, offshore shell companies and banks in the US. Atiku and his wife, Ms Jennifer Douglas set up numerous bank accounts in Citibank, Chevy Chase, Wachovia, Eagle bank and SunTrust. These accounts were opened in disguised names such as trusts, foundations, variants of the wife's names and initials to avoid detection. (US Senate Subcommittee on Investigations, 2010).

Atiku's laundering activities were perpetrated through wire transfers from offshore companies in the British Virgin Islands, Germany, Nigeria, Panama and Switzerland into the US. In fact, Ms Douglas's legal counsel and an executive of three of the offshore companies wired a combined \$38 million dollars to various accounts controlled by Atiku and his wife. (US Senate Subcommittee on Investigations, 2010).

Additionally, Ms Douglas used one of the accounts to accept bribe payments of \$2.2 million to Atiku from Siemens AG to secure a Nigerian contract. Siemens AG's own internal investigation confirmed that it wired over \$2 million dollars over a three-year period to two accounts controlled by Ms Douglas on behalf of Atiku. These bribery payments are already under investigation.

Ms. Douglas subsequently admitted that money wired to her accounts were from her husband and that those monies came from her husband's oil company, Oil Logistics and not from any other source. She denied knowledge of the offshore companies that wired money to her accounts. (US Senate Subcommittee on Investigations, 2010).

B. Late Nigerian President Sani Abacha

Sani Abacha ruled Nigeria from November 1993 till he died in June 1998. After his death, a government investigation panel discovered that Abacha and his family stole between \$2.5 and 4 billion from the government. Abacha stole directly from Nigeria's central bank by simply requesting funds for security needs. Abacha's proxies would collect money from the Nigerian central bank and deposit the fund into various personal and business accounts from where it would be fraudulently moved into foreign jurisdictions and lodged under various fictitious names, trusts and shell companies. (FATF, 2012).

Abacha and his family also received kickbacks from over inflated contracts he awarded to cronies. In one case, Abacha made the government of Nigeria pay

\$110 million for vaccines worth less than \$23 million. In another case, army vehicles were procured for \$184 million (inflated by almost \$140 million dollars). About \$100 million was kicked back to Abacha and wired to disguised bank accounts in Switzerland, while the contractor's share of approximately USD 40 million was paid into accounts in Jersey. (FATF, 2012).

Nigeria's former dictator, Sani Abacha was able to meander his way through various international jurisdictions including the Nigerian, UK, US, Hong Kong, Luxembourg and Swiss banking system albeit unimpeded and extensively to launder large sums of money. (Keesoony, 2016).

C. James Ibori, Former Governor

James Ibori was Governor of Nigeria's Delta State from 1999 to 2007. He stole funds through inflated government contracts, kickbacks and direct withdrawals from state accounts. Ibori laundered millions of stolen funds in Nigeria, UK, British Virgin Island and the US through shell companies and multiple fictitious accounts. Ibori's wife, girlfriend, personal assistant and London based solicitor all played various roles in aiding the laundering scheme. Ibori's wife transferred stolen funds out of Nigeria, invested them in properties in the UK among other locations on behalf of Ibori. (FATF, 2012).

Ibori utilized the services of Bhadresh Gohil, a corrupt London-based solicitor, to launder funds. This solicitor moved Ibori's stolen money into clients account in

the UK to the Switzerland and back to the UK in a bid to wash the money. (FATF, 2012).

Ibora's corrupted intermediaries facilitated his scheme doing whatever needed to be done. Ibora's assistant was used to transfer funds from Nigeria as well as to control many of these fictitious accounts. In 2012, Ibora pleaded guilty to ten counts of fraud and laundering over \$250 million of state money. He was sentenced to 13 years in prison. (FATF, 2012).

Ibora's money laundering schemes were aided by family members, assistants, lawyers, and banking officials. Hong Kong and Shanghai Banking Corporation (HSBC) failed to identify Ibora as a politically exposed person (PEP) and allowed the concealment of the illicit funds within their branches, despite the Know Your Client requirement under the Prevention of Money Laundering Act 2002 (Brooks, 2012).

2.4 Conclusion

The foregoing shows how Nigerian PEPs launder money using banking facilities, OFCs, wires systems, shell corporations, family business and financial intermediaries. OFC's provide secrecy, lax regulation and freedom from financial disclosure requirement (Otusanya, Lauwo, 2012), which is evidently exploited by Nigerian PEPs.

Atiku's money laundering scheme involved facilitators and intermediaries that included, international OFC companies, various professional firms, and US banks. Atiku and his

wife, Ms. Jennifer Douglas were central players in laundering millions in suspect funds into the USA through various accounts in different banks. “The flow of funds in and out of these accounts exposed the opaque structures designed by Mr. Abubakar and Ms. Douglas to disguise the ownership and the illegal source of the funds.” (Olatunde, Lauwo, 2012), (Senate Subcommittee on Investigations, 2010).

The above case studies are not isolated incidences. These few cases only highlights the means by which a large spectrum of PEPs launder billions of dollars outside Nigeria. Nigeria continues to be a country where corruption is a way and means of getting things done at all levels of government. (Asekhauno, Timinimi, 2017). Humungous sums of money are laundered in local banks unchecked on a daily basis.

Nonetheless, the role and active involvement of banking facilities, OFCs, wires systems, shell corporations, family business and financial intermediaries in aiding Nigerian PEPs in money laundering challenges the very fabric of society. (Sikka, 2008).

Chapter 3 Banks as Facilitators

3.1 The Role of the Nigerian Banks as Gatekeepers in aiding PEPs in Money Laundering

The most difficult facilitators of money laundering to detect are arguably financial institutions. (Keesoony, 2016). Perhaps, the fight against money laundering cannot be successful without the banking industry's compliance with AML due diligence, know your customer and filing of suspicious activity reports (SAR) requirements.

Instead, Nigerian banks unfortunately serve as conduits and repositories of laundered money. The above has been giving credence by the former pioneer Chairman of the Nigerian AML agency, Economic and Financial Crime Commission (EFCC), Mr. Nuhu Ribadu. Ribadu said, "several money laundering frauds happen in Nigeria with the active connivance of banks and their workers" ... that the Nigerian banking system is prone to abuse by corrupt elements. As investigations reveal every now and then, almost no case of corruption occurs without the involvement of banks and bankers." (Odunsi, 2017).

Furthermore, an EFCC investigation of some Governors in 2007 indicted a number of banks for facilitating money laundering by PEPs in Nigeria. In one instance some Nigerian banks (International Bank, International Trust Bank, Allstates Trust Bank and Lion Bank Plc.) used cronies and nominee companies to facilitate money laundering. (Certified Court Charge No. FHC/ABJ/CR/85/2007, 2007).

In another case, a former Governor, Kalu was alleged to have operated 51 accounts in five Nigerian banks to launder different sums of money. In all, 106 transfers were

allegedly made from three State accounts by Kalu and his mother in favor of a company owned by Kalu - Slok Nigeria Limited. Local banks aided by professional bankers facilitated these transactions. (Certified Court Charge No. FHC/ABJ/CR/56/2007, 2007).

The Nigerian company Guaranty Trust Bank (UK) Limited was fined five hundred and twenty five thousand pounds (£525,000) by British authorities for numerous failures in their AML controls, including failure to carry out background checks to establish whether certain customers were PEPs (Financial Conduct Authority, 2013). Rather, the bank created an avenue for customers to circumvent risk assessments (Financial Conduct Authority, 2013). The bank advised customers that they could use “day to day expenses” as a legitimate reason for having an account knowing that this reason was inconsistent with the profile of the customers. (Financial Conduct Authority, 2013).

Evidently, the banks are used in all three stages of money laundering: placement, layering and integration (UNODC, 2014). Placement is where the illegal profits (usually cash) are deposited into the bank. (UNODC, 2014). Placement is actually the first stage whereby the illicit funds are distanced from both the crime and the criminals (UNODC, 2014). In layering, the launderer directly or indirectly (through proxies) converts or moves the illegal proceeds through various types of purchases or wires the funds via accounts at different banks across jurisdictions. In instances, the launderer may disguise the transactions as payments for goods or services, to present an aura of legitimacy.

Launderers use layering to obscure the criminal trail in an attempt to further disassociate the funds from its source. (Keesoony, 2016). Complex, artificial schemes are used to

achieve disassociation, which can involve the physical dispersing or smurfing of the funds into various financial institutions globally. (Rachagan and Kasipillai, 2013). Integration is the final stage where the funds re-enters the legitimate economy. The launderer might choose to invest the funds into anything ranging from real estate, luxury assets or any business venture.

Nigerian banks and financial institutions involvement in money laundering has to be seen in the context of Nigeria's description as one of the most corrupt countries in the world where pervasive corruption constitutes a major threat to most of the reported money laundering cases. (The Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), 2008).

Bank executives who are supposed to be guardians of financial integrity and soldiers in the fight against money laundering have been charged with same crime themselves. (Otusanya, 2012), reports:

“In 2009, the EFCC arraigned former Managing Director of Finbank Plc., and three other directors of the bank before a Nigerian Court over alleged role in a \$276 million money laundering.” (The Sun, 2009). The EFCC investigations showed that the former bank chiefs laundered about \$88 million and failed to take all reasonable steps to give a true and fair view of the state of affairs of the bank by incorrectly reporting a total of \$130 million borrowed in its statement of assets and liability. (The Sun, 2009).

The Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) stated 10 years ago that Nigeria's corruption is a threat to money laundering cases. (GIABA, 2008). In 2018, most people believe that observation still remains true today. Nigerian banks have made no significant progress in complying with regulatory requirements that will reduce incidences of money laundering. It is rare to come across an investigation that was instigated by the reporting of a SAR. Most money laundering investigations have been initiated through mostly petitions by citizens and recently - by whistle blowing.

The foregoing brings into focus the money laundering and corruption activities of Nigeria's former first lady, Ms. Patience Jonathan. Ms. Patience Jonathan is alleged to have opened various fictitious accounts in Nigerian banks depositing a total of \$46 million. Nigeria's EFCC's interim report indicated that the \$46 million dollars, comprised of funds from some government agencies. (Bankole, 2017).

EFCC further uncovered and froze an additional 15 bank accounts with a total of \$8.4 million controlled by Ms. Jonathan. Ms. Jonathan sued the EFCC asking the courts to unfreeze those accounts. In other words acknowledging ownership and/ or interest in those accounts. Had the various banks complied with the due diligence and know your customer (KYC) requirement those accounts would not have been opened in the first place. And even if the accounts were opened, SARS would have been filed and reported once suspicious payments began to be deposited into those accounts.

The fact is that one of the important reasons banks fail to comply with AML laws and regulations is because banks are beneficiaries of laundered money. And these laundered monies are in some instances used in running the banks and making them appear to be profitable institutions.

3.2 Quantification of money laundered by PEPs

It may not be possible to quantify the total amount of money laundered by PEPs. Partly because of the absence of any methodology that will produce credible numbers (Reuter, 2013) and “due to the illegal nature of the transactions, precise statistics are not available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year.” (FATF, 2018).

Money laundering as a crime, in of itself - is a consequence of underlying crimes such as inflated government contracts, kickbacks, outright theft of government funds and embezzlement. These types of underlying money - laundering crimes are hidden and usually impossible to be accurately tabulated.

In Nigeria, corruption is widespread at all levels of government and huge sums of money have been stolen by PEPs. And it is clear that billions of dollars are laundered out of Nigeria. In fact in the mid 80's it was estimated that the billions laundered out of Nigeria led to the collapse of many banks at the time (Aluko, Bagheri, 2012).

While quantifying the amount of money laundered may be difficult, knowing how pervasive money laundering is - serves an important policy objective. Because money

laundering involves other crimes that impacts society as a whole, the same as other crimes like drug trafficking and terrorism.

Therefore any responsible government will seek to develop consequential measures to address money laundering, its underlying crimes and the associated criminals.

3.3 Consequences of Money Laundering in Nigeria

Money laundering has undermined the total development of Nigeria as a nation financially, economically, politically and socially.

The impact of money laundering on Nigeria is especially worse considering the fact that the nation is still a developing country with an already cultivated reputation as the major center of money laundering ventures in Africa. (Aluko, Bagheri, 2012). As a developing country, Nigerians lack basic amenities of existence. (NBS, 2015). “70 percent of its citizens live below the poverty line of \$1.25, life expectancy is less than 52 years, over 10 million children are out of school, infant/child mortality and maternal mortality is one of the highest in the world after China and India.” (NBS, 2015).

From the grim statistics, it is evident that money laundering has had severe consequences on Nigeria’s development because the “laundered money” is the money that would have been used to provide basic amenities.

A. Financial Impact

Money laundering activities have undermined the integrity of the Nigerian financial system consistently. Most of the Nigerian banks relied on the ill -gotten

money being transferred out of the country by PEPs - for their operation. And when the money was no longer available, most of the banks collapsed further damaging an already compromised financial system. The damaged status of the nation's financial system stalled foreign investments. (LaFraniere, 2005). Perhaps, the worst threat to the financial system is the widespread belief that PEPs are continuously seeking to control financial institutions after all; some PEPs own controlling interest in the banks.

B. Economic Impact

Money launderers employ front businesses that drive many legitimate companies in the private sector out of business. These front businesses stifle legitimate competitors by subsidizing prices with their illicit funds and offering their products and services at below market prices. Some of these legitimate competitor's collapse because they are usually financed by financial institutions and are unable to compete. "Money launderers often use front companies, to commingle the proceeds of their illicit activities with legitimate funds, to hide their illicit proceeds." (McDowell and Novis, 2001).

Proceeds from money laundering are ill gotten and are not declared as income to avoid detection. As a consequence taxes are not paid and the government loses that income. Money laundering and its predicate offences contribute to the tax gap and decreases government tax collections.

Money launderers seek to conceal the source of their ill-gotten funds, so they move their proceeds from one venture to another without any financial reason. This movement of money in and out of the financial system by money launderers created the fiscal instability in the 80's and late 90's that distorted the Nigerian economy. (CBN, 2000). Additionally, money launderers are not profit motivated. Their investment decisions are self-serving and geared to recycle their illicit proceeds. As such, their economic and commercial ventures are usually not intended to benefit the economy. (McDowell and Norris, 2001).

C. Political Impact

Money laundering could potentially corrupt the governance and the political process. It is not unusual for money launderers to deploy their ill - gotten wealth to gain political influence so as to maintain control and protect the source of their corruption. Money launderers use their enormous stolen wealth to corrupt the process. And deprived people are prone to being corrupted. PEPs have perpetuated the concept of God "fatherism." This is a concept where PEPs financially sponsor people for powerful political offices and influential positions in government. Through this process PEPs maintain control of government because the people they sponsored owe their promotional positions to the PEPs and usually do their corrupt bidding. Arguably, PEPs have put people in positions of influence in the Judiciary, Executive and Legislative branches of government. (Osakede, Ijimakinwa 2016).

D. Social Impact

Money laundering diverts resources away from sectors of critical importance including health, education and development denying citizens the benefits of economic growth and development opportunities. (UNCRI, n.d.). Crime, social instability, vices and violence become prominent due to the increasing inequality, poverty and mass mistrust of PEPs, resulting in civil and political unrest. (Aluko, Bagheri, 2012). This corrupt culture of money laundering has recycled into pervasive impunity and turned Nigeria into a country beset with all sorts of crime ranging from advanced fee fraud, kidnappings, armed robbery, various internet get rich scams and bank robbery.

3.4 Conclusion

Based on the above facts, money laundering has undermined the total development of Nigeria as a nation financially, economically, politically and socially.

Nigerian citizens have suffered due to capital flight as a result of the laundering of resources meant for developmental projects. Perhaps it will not be an overstatement to characterize Nigeria as a nation where there is entrenched resentment, widespread unemployment, low level of public service and a general lack of opportunity for its people.

Chapter 4 Responses to the Menace of Money Laundering

4.1 Mechanisms to check Money Laundering in Nigeria

Having identified money laundering as one of the most pervasive forms of crime in Nigeria, the government has enacted various regulatory mechanisms and established institutions as part of its overall reform measures. These measures include the enactment of the following laws.

The National Drug Law Enforcement Agency (NDLEA) Act, 1989. This was considered significant because it brought Nigeria in compliance with the Vienna Convention (Hull, Evans, Davis, 2011).

The Money Laundering Decree 1995. The aim of the money laundering decree was to prevent and uncover money launderers through requiring banks to have a documentary trail in all transactions and creating a closer link between the banks and NDLEA.

- (1) The Money Laundering Act (Amendment) 2002. The aim of the Act was to include any crime or illegal activity as predicates to money laundering thereby expanding the scope of the 1995 Money Laundering Decree.
- (2) The EFCC (Establishment) Act 2002. The EFCC was established with investigative powers of non-drug trafficking money laundering cases and enforcement of the 1995 money laundering legislation as amended in 2002.
- (3) The Money Laundering (Prohibition) Act 2004. This Act improved upon the previous versions. The Act established the Nigerian Financial Intelligence Unit (NFIU) within the EFCC, which became operational in January 2005. Also, the Money Laundering (Prohibition) Act, 2004 provides for appropriate penalties for money laundering infractions.

- (4) The Money Laundering (Prohibition) Act 2011. This Act repealed the 2004 Act with provisions prohibiting the laundering of proceeds of illegal activities or crime as well as financing terrorism. The Act also expanded the scope of supervisory and regulatory authorities and made provisions for appropriate penalties for offenders.

Additionally, institutions were established and existing institutions were given more powers to combat money laundering:

The Independent Corrupt Practices Commission (ICPC) was established in 2000 to investigate reports of corrupt practices, eradicate corruption in government institutions, and educate the public against corruption and study practices and procedures as a mean of preventing corruption.

The EFCC investigates and prosecutes economic and financial crimes, while the ICPC investigates and prosecutes all forms of corruption and educates the public against corruption.

The EFCC was established in 2003 with powers to investigate money-laundering activities except those related to drug activities.

The Central Bank of Nigeria (CBN) was given more powers to intervene in the banking sector to safeguard confidence in the financial system and deal with money laundering.

Consequently, the CBN has responsibilities to surveil the financial sector with a view to identifying trends and patterns of corruption in banks and other monetary institutions.

The CBN is also charged with increasing efficiency in regulatory oversight through the Financial Services Regulation Coordinating Committee (FSRCC) through coordinated efforts among financial institutions.

A. Other Government Mechanisms

The government has regulatory powers to freeze suspected assets or proceeds of money - laundering through the National Drug Law Enforcement Agency (NDLEA), the Foreign Exchange Decree and the Money Laundering Act which all authorize the freezing of assets. The government could freeze assets administratively or judicially through the Central Bank of Nigeria (CBN) or as the result of a judgment by a court or tribunal. The Nigerian government can also freeze assets upon a foreign government's request where there is an existing mutual legal treaty between both countries.

From 1991 to 2003 government had attempted to deal with money – laundering by enacting the following laws with various AML imperatives: “Banks and Other Financial Institutions Act 1991 (BOFIA) amended in 2002”, “Advanced Fee Fraud and Other Related Offences Decree 1993”, “Failed Banks (Recovery of Debt and Financial Malpractice in Banks) Act 1994”, Advance Fee Fraud and Other Related Offences Decree (creating "419" offences) 1995, “Corrupt Practices and Other Related Offences Act (establishing the ICPC) 2000”, “Electoral Act (replaced 2001 Electoral Act) 2002.”

Undoubtedly, Nigeria has made significant strides in laying the foundation and structure to combat money laundering by establishing necessary laws and complying with international AML mandates and imperatives. And without these significant strides the progress so far might have been impossible.

The regulatory and institutional mechanisms in place have yielded some successes. The constant arrest, interrogation and freezing of assets as well as the successful prosecution of some PEPs has arguably served to deter to some conscionable PEPs. Additionally, the EFCC is courting international assistance aggressively in locating laundered funds and continues to recover billions on a regular basis for the government. (Uwujaren, 2017).

4.2 Issues impacting Anti-Money Laundering efforts in Nigeria

Whatever progress the country has made in tackling money laundering, could be considered infinitesimal at best when compared to the damage money laundering has continued to inflict on Nigeria and its development. Lots of issues have continued to impede the efforts in combating money laundering. Unfortunately, in most of the issues corruption happens to be a huge factor.

A. Conflicting Messages

Chief among the issues impacting anti money laundering efforts is the conflicting message from the government and the perception of lack of a transparent sincere commitment to combat money laundering. As is often said, actions speak louder than words. And pictures are worth a thousand words.

The current Nigerian President, Muhammadu Buhari was elected in 2015 based on his anti - corruption reputation. Buhari defeated the previous President, Jonathan because the administration was widely regarded as the most corrupt and incompetent government in Nigeria's history.

Buhari had a reputation as an anti - corruption crusader and reformer. He must therefore avoid any action that contradicts that reputation and perception.

One of the prominent PEPs charged with multiple counts of money laundering, former Governor Kalu whose case has gone on for more than 8 years was received in audience by President Buhari and thereafter treated to a private dinner with the picture of the President and Kalu plastered all over the newspapers.

The suspected criminal, Kalu is now the self-styled acting Chairman of an organization to reelect the President called the “ National Intervention Movement.” Kalu now travels all over the country visiting prominent political and traditional leaders in a campaign to reelect the President. The President appears to have endorsed that movement because he has not disavowed Kalu and his organization.

President Buhari has not been personally accused of corruption. And Kalu is still considered innocent until proven guilty. But, the President's actions perceptibly

conflicts and undermines any transparent commitment to combat money laundering.

The Nigerian government has failed to charge its former Vice President, Atiku along with his wife for money laundering after overwhelming record evidence in a US high profile senate committee hearing. (US Senate Subcommittee on Investigations, 2010).

Prosecuting Atiku, a high profile PEP for money laundering would have set the right tone and sent the right message that the government is committed to combating money laundering.

Atiku's case is bewildering. In fact, Siemens, a company that made bribe payments to Atiku through his wife's admitted on the record to doing so. Atiku violated various money-laundering laws in Nigeria and the US.

Atiku's former boss, former Nigerian President, Obasanjo declared Atiku one of the most corrupt public servants. (Alli, 2013). Furthermore, Obasanjo admitted that he knew Atiku was corrupt before he selected him (Atiku) to contest for reelection. (Newsrescue, 2017). Prior to these developments, Obasanjo had already established the EFCC as President to fight corruption. So why did Obasanjo, a seating President at the time select a man he knew to be corrupt to run for re-election as his running mate? Obasanjo explains, "At that time,

politically, I needed to carry him (Atiku) along but then to put him in check,” (Newsrescue, 2017). Obasanjo was subsequently reelected along with Atiku who had immunity from prosecution the next four years. Obasanjo, the Nigerian president at the time failing to send a clear message about his commitment to fighting money laundering.

Atiku remains a free man and has recently declared his intention to contest the Presidency in 2019.

Ms. Jonathan, Nigeria’s former first lady is another case among many that sends conflicting messages. She controls several fictitious accounts with fraudulently obtained millions of dollars. Instead of being charged with money laundering, the government is involved in back and forth court cases about freezing or unfreezing those accounts.

Contrast this with the situation in Brazil. The former Brazilian President, Luiz Lula Silva was charged and convicted for money laundering and has begun a seven year jail sentence. Additionally, the current Brazilian President, Temer has been charged with bribery. (Phillips, 2017).

These conflicting messages have collectively created a perception that the fight against money laundering is a sham and not genuine. To be effective, those charged with the implementation of the AML must set the proper tone. In this

instance, the chief proper tone setter in the implementation of laws is the President of the country followed by the heads of various ministries, agencies and departments charged with prosecution and enforcement of relevant laws. They must dismiss any action that contradicts setting a proper tone. The President and governmental action must not leave any room for any other interpretation except an unequivocal commitment to combating money laundering.

B. Selective Prosecution

There is a growing perception that Nigeria's current graft war is selective and targeted against real and perceived opposition. Each administration (the current one included) has used the crime - fighting agency, EFCC as a convenient tool to exact reprisals on the opposition.

Once President Buhari was elected, some prominent PEPs who were caught up in a huge money laundering scheme involving the diversion of over \$2 billion meant to purchase arms to fight insurgency - decamped from the previous ruling party that lost and joined the Presidents ruling party. That was in 2015 and in May 2018 none of those PEPs who decamped to the President's party has been charged with any crime. While several former PEPs of the former party including governors and party functionaries have been formally charged and are currently on trial.

The fact is that EFCC is still perceived to be corrupt. As of 2014, 1500 cases of money laundering remained unresolved. (Enejo, et al, 2014). Most of these cases

have been ongoing for over 10 years. Worst of all, these accused PEPs have continued to publicly dominate the political environment. Some have become Ministers after serving as Governors. Some are current serving Senators and others hold one prominent position or another in society.

Most of – if not all – of these pending cases involve billions of dollars cumulatively. Some publicly alleged cases of money laundering in 2005 have not been responded to, nor has the public been informed of developments regarding them. In other words, the crime agency is selectively responsive to the public that pays its bills. “That is why the EFCC has been accused of political selectivity in its operations.” (HRW, 2011).

C. The Immunity Clause

The immunity clause in the Nigerian constitution (Section 308(1) and (2) of the 1999 constitution provides the President, Vice President, Governors and Deputy Governors immunity from prosecution while in office. And Governors are one of the most corrupt PEPs in Nigeria. What this means is that if a governor starts to steal state funds from day one nothing can be done to stop him until the end of either four or eight years after which recovering all of the stolen funds becomes very difficult.

One of the former Governors incorporated a shell company in the British Virgin

Island, which he subsequently used to launder money barely 4 months after he was elected. (Mayah, 216).

Former Governor Ibori stole over \$250 million dollars over 8 years. If the immunity clause did not protect Ibori from prosecution, the Nigerian relevant authorities would have at least had an opportunity to prosecute Ibori earlier and prevented the looting of further funds from State coffers.

In the current Nigerian political dispensation, it appears the immunity clause has served more as a cover for Governors to loot funds during their term in office.

D. International Laws

The need to respect and comply with international laws constrains the effectiveness of combating money laundering. Money laundering involves cross border activities and investigating launderers requires seeking the permission and following the procedures of respective jurisdictions where money is laundered. (Shehu, 2006).

Investigations of money laundering in the US will have to comply with the Foreign Corrupt Practices Act (FCPA) and part of the USA Patriot Act, both of which deal with corruption. And investigations of money laundering in the UK will have to comply with regulations under the Anti-Terrorism, Crime and Security Act 2001, which have extraterritorial provisions on corruption.

The process of complying with various international laws slows the speedy pursuit of stolen funds which sometimes needs to be gotten to quickly to be recovered. Nigeria's former dictator, Abacha's stolen funds is still being recovered 20 years after the fact because of the need to comply with the Laws of the US and Swiss governments. The Swiss government reached an agreement in late 2017 with the Nigerian government and the World Bank to return \$321 million recovered from the Abacha family. Meanwhile the Nigerian government was still involved in a lengthy legal process in the US to recover \$480 million seized from the Abacha family as of December 2017. (Monks, 2017).

E. Lack of Motivation and Sufficient Benefit

It is believed that well paid employees with sufficient benefits are more motivated in their jobs. Employees of the Nigerian crime agency, EFCC, lack sufficient benefits and appear to be less motivated. It is also believed that they are susceptible to corruption as a result.

As of 2014, EFCC field operatives lacked insurance. In 2012, three EFCC operatives lost their lives while attempting to apprehend corrupt officials. (Zero Tolerance, 2014, Akume, Okoli, 2016). This meant that these EFCC's officers who died in the line of duty got nothing by way of insurance benefit (Zero Tolerance, 2014), (Akume, Okoli, 2016)."

Contrast this with the benefit structure of the Federal Bureau of Investigation (FBI), a similar crime-fighting agency in the US. An FBI operative, has three different insurance coverages, namely, special agent life insurance program for \$30,000, the Charles S. Ross fund at \$15,750 and the comprehensive public safety officers benefit at \$283,385, all premium-free (Zero Tolerance, 2014, Akume, Okoli, 2016).”

“Additionally, if an FBI agent dies in the line of duty, his family gets \$329,135 (three hundred and twenty-nine thousand one hundred and thirty-five dollars). (Zero Tolerance, 2014), (Akume, Okoli, 2016).”

F. Judicial Corruption

The judiciary has played a very ignoble role in frustrating the fight against money laundering. In Ibori’s case, a Judge dismissed all charges against him despite the available overwhelming evidence. Ibori subsequently pled guilty to the same charges in London and was sentenced to 13 years imprisonment. The corruption of the Judge was a possible significant factor.

Another Judge, Abubakar Talba, sentenced a director in a Police Pension office to two years with an option of a fine of two hundred and fifty thousand naira (\$690 only) without any restitution for stealing 2.5 billion naira (\$649,1713 million) (International center for investigative reporting, 2013). This Judgment meant that a convicted thief gets to keep millions of dollars and walks away a free man.

Daily, judges, collude with lawyers by every means to pervert the course of justice. Recently, judges and lawyers have begun to be charged for bribery and money laundering. (Vanguard, 2017).

One steady tool employed by lawyers and approved by judges is the use of interlocutory injunctions. This is an abuse of procedural law where the court pends a case for long periods of time without hearing the merits of the case frustrating the EFCC's efforts in prosecuting cases and effectively fighting corruption. (Akume, Okoli, 2016).

Other serious challenges include collusion of lawyers to stall and prevent quick dispensation of justice.

G. Lack of Sufficient Funding

The EFCC continues to suffer from insufficient funds to fulfill its mandates. Corrupt PEPs run the system and are charged with appropriating funds for the government. It is believed that the EFCC is deliberately starved of funds to prevent the investigation of PEPs. EFCC has lost many cases for poor case presentation due to inadequate funding that would have enabled adequate preparation.

Investigations, evidence gathering and prosecuting cases are expensive because they require expensive and investigative tools and cross border travels.

Two Judges (Justices Ayoola and Mustapha Akanbi) have previously accused the Executive and Judicial branches of government of frustrating EFCC's efforts by deliberately underfunding. (Eme, Okoh, 2011), (Mustapha Akanbi, 2014), (Akume, Okoli, 2016).

H. Conflicting Investigative and Prosecutorial Powers

Conflicting investigative and prosecutorial powers have sometimes presented the opportunity for abuse in an otherwise corrupt environment. It has also heightened distrust among the various agencies about each other's intentions and motives. (Akume, Okoli, 2016).

The EFCC, ICPC, Police and the Attorney General of the Federation (AGF), have assigned powers of investigation and prosecution of corruption cases that conflicts with each other without clear delimitation of the boundaries of the institutions involved. Section 174 of the 1999 constitution confers on the AGF the power to institute and undertake criminal proceedings against any person before any court of law in Nigeria, to take-over and continue as well as discontinue at any stage before judgment. The other institutions above have the same powers as well. (Sampson, 2009, p. 91), (Akume, Okoli, 2016).

A former AGF was noted for constant misuse of these conflicting powers by interruptions of ongoing EFCC trials by filing to discontinue trials against PEPs.

(Eme and Okoh, 2011). In fact, the same AGF's interference led to the dismissal of some cases against PEPs. (HRW, 2011, p. 28).

These kinds of interference from the AGF have created EFCC's mistrust of the AGF's motives, which has persisted to date. Besides, the AGF is appointed from the ranks of politician PEPs who are often the subjects of these investigations. While the investigative and prosecuting agencies are usually professionals, the AGF often times has already developed a relationship with PEPs. It is believed that a corrupt AGF would seek to protect some PEPs by undermining the investigative agencies.

4.3 International efforts to combat Money Laundering in Nigeria

The International community has made both collective and individual efforts to combat money laundering in Nigeria. The international community here refers to the international anti money laundering organizations such as the "Financial Action Task Force (FATF)", "The Egmont Group", "The Wolfsberg Group", "the United Nations Office on Drug and Crimes (UNODC)" and other various "specialized agencies."

The International community's efforts in combating money laundering in Nigeria stems from the fact that money laundering poses a threat to the financial stability of all jurisdictions. Therefore, the International community could be considered consequential stakeholders in the fight against money laundering. As stakeholders, these international organizations have required Nigeria to put certain measures in place to combat money – laundering, including, but not limited to enacting laws and establishing institutions.

Usually, Nigeria's non-compliance to some of these international organizations' anti money imperatives has attracted threats of coordinated sanctions.

Arguably, Nigeria's premier money laundering agency, EFCC was set up in 2003, partially in response to pressure from the "Financial Action Task Force" on "Money Laundering", which listed "Nigeria" as non-compliant in the international community's efforts to combat money laundering. (FATF, 2002).

Furthermore, the "Nigerian Financial Intelligence Unit (NFIU)" was established based on the various collective requirements of Recommendation 26 of the FATF, "Article 7 (1) (b) of the United Nation Convention against Transnational Organized Crime (Palermo Convention)", "the statement of Purpose of the Egmont Group of Financial Intelligence Units (FIU)", and "Articles 14 and 58 of the UN Convention against Corruption." (Aluko, Bagheri, 2012), (Ogbodo, Meiseigha, 2013). The NFIU is charged with collection and analysis of data of financial information of suspected money laundering activities and referral to the appropriate law enforcement, regulatory and supervisory agencies.

The UN Convention against Transnational Organized Crime 2004 (art 6, Palermo Convention) requires States to implement legislation to criminalize intentional money laundering. The Palermo Convention also specifies that the offence include the laundering of the proceeds of serious crime, specifically, when it is organized and

transnational in nature, and when the crime involves transnational organized crime. States are encouraged to provide mutual legal assistance to one another to facilitate proceedings (art. 18).

International AML mandates, requires States to implement safeguards to protect the integrity of their financial institutions. The UN Convention against Corruption 2004 (Vienna Convention) instructs States to prevent money laundering through requiring the provision of adequate regulatory and supervisory regimes for financial institutions and establishing FIUs (Art 14, Vienna Convention). There are also measures to ensure that illicitly laundered funds are not used to finance terrorism under Article 2(1) of the International Convention for the Suppression of the Financing of Terrorism 1999. Therefore, the criminalization of money laundering serves as a useful tool to prevent the commission of more serious crimes by intercepting its source of funding.

Most recently, the Nigerian parliament passed legislation that will help international authorities tackle money laundering, by allowing its NFIU to operate free of state control and share information with other international intelligence units. This recently passed legislation was in response to a threat by the Egmont Group - a body of 155 Financial Intelligence Units worldwide - to delist Nigeria unless its own unit gained autonomy, enabling it to deal with financial crimes more effectively.

Had Nigeria failed to pass legislation making its NFIU independent of EFCC, financial transactions from Nigeria, including funds transfers would have been subject to

international sanctions- - meaning a refusal to process tens of thousands of payments involving Nigeria. (Abuh, 2018).

Also, the international community seeks to ensure that financial institutions have the requisite to know how to combat money laundering. In that regard, the Wolfsberg Group was set up in 2000 to provide guidance to those in the banking sector. The Wolfsberg Group comprising 11 international banks has published advice on how best to tackle money laundering in addition to other financial crimes (Wolfsberg-principles, 2014a). Their guidance reiterates the importance of customer due diligence and the necessity of keeping this under constant review (Wolfsberg-principles, 2014b), exercising caution when dealing with jurisdictions with weak AML controls (Wolfsberg-principles, 2014b, p. 3) and carrying out appropriate checks on politically exposed persons (Wolfsberg-principles, 2014b, p. 6). The principles set out in the Wolfsberg Group's publications also help to facilitate uniformity of regulatory rules and risk mitigation strategies.

4.4 Conclusion

From the foregoing, the responses to the menace of money laundering has been mixed with some successes and issues impacting anti money efforts itemized in section 4.2 of chapter 4 above. Recommendations to these issues are contained in Chapter 5 below.

The international community understands the overwhelming risk posed by money laundering activities. Furthermore, the international community sees money laundering as the fuel that feeds terrorism, drug trafficking, child trafficking, and currency trafficking

among other cross border crimes. And there is a wide consensus that limiting money laundering will result in a correlated reduction in other crimes as well.

The international community's resolve in fighting money laundering is manifested in the many updated procedures and guidelines churned out regularly that countries are required to establish and implement. Additionally, there are constant seminars, presentations and meetings where the latest technology among other tools are shared and highlighted by the various AML organizations. Perhaps, without the international community's aggressive efforts these past years in limiting criminals access to illicit- funds, money laundering may have been worse than it is today.

Chapter 5 Conclusion

5.1 Conclusion

Money laundering by PEPs has fueled other forms of corruption and has arguably become a way of life. (Onyeoziri, 2004). Both the World Bank (2006) and Transparency International (2013) define corruption respectively as “the abuse of public power for private gain” and “the misuse of entrusted power for private gain.”

Corruption now pervades the Nigeria space. (Osoba, 1996). There is corruption in all structures of government (local, state and federal) and nothing gets done without a corrupt activity. In fact, Nigerians believe that the most corrupt State in the world is Nigeria. (Lawal, Oladunjoye, 2010). In addition, the wider perception is that Nigeria is one of the most corrupt countries in the world (Shehu, 2004, pp. 69-87; Okogbule, 2006). Money laundering by PEPs has drained the resources that would have been used to build roads, provide power, build schools and hospitals, build water schemes, provide adequate

transportation systems propel industrialization and ensure a good life for the people (Iyare, 2008). The resultant effect of money laundering is that majority of Nigerians live in poverty and deprivation (Heinecke, 1986, p. 96).

Nigeria's reputation is in tatters and foreign investors are potentially scared away. It is believed that a nation's association with money laundering tarnishes its image and financial institutions.

Money laundering erodes confidence in a country's economy because it creates instability. Investors want stability and would not invest in an artificial economy where money laundering and other crimes prevail. (McDowell, Novis, 2001).

On the foregoing evidence, unchecked money laundering has fueled other sorts of corruption, caused financial, economic, social and political instability. Civil unrest, ethnic tensions, religious intolerance, entrenched resentment, sporadic kidnappings and bombings have become answers and outcomes of money laundering. Money laundering by PEPs has turned cancerous and poses a security threat to Nigeria's existence as a country.

5.2 Recommendations

These recommendations have taken into consideration, Nigeria's unique set of circumstances as a country where corruption has taken root as a way of life and is on the verge of destroying the basis of its existence.

The Nigerian people must now consider all options as a way of dealing with corruption. In that context, it is time to consider the death penalty as an adequate punishment for money laundering. In China and Vietnam, PEPs could be sentenced to death for public corruption (Biao, 2011; Adeniji, 2012 and Keck, 2014).

Under the Chinese criminal code anyone who embezzles more than 100,000 Yuan (\$16,000) can be sentenced to death if the court decides the offence to be serious (Ji, 2013). In 2007, China's former drug and food safety watchdog boss was executed after being found guilty of accepting bribes worth 6.5 million yuan (\$850,000) from eight companies to approve an antibiotic blamed for at least 10 deaths and other substandard medicines (ChinaDaily, 2007). The death penalty is China's option of eradicating corruption.

In Vietnam, embezzlement of state property worth 500 million dong (around \$24,000 or 18,000 Euros) faces 20 years' to life imprisonment or the death penalty (Adeniji, 2012). The Nigerian people have the constitutional right to consider all options to establish a structure that eradicates graft and enables good governance.

Some of the recommendations will require constitutional amendments from Nigeria's elected National Assembly. Amending the Nation's constitution in that instance would be considered sacrificial since members of the National Assembly are PEPs and perceptibly one of the most corrupt groups of money launderers. Other recommendations will require

enacting law. There are recommendations requiring more action from the international community and organizations as well as from specific countries.

Recommendations to deal with issues impacting anti-money laundering efforts in section 4.2

A. Conflicting Messages

To be effective, those charged with the implementation of the AML must set the proper tone. In this instance, the chief proper tone setter in the implementation of laws is the President of the country followed by the heads of various ministries, agencies and departments charged with prosecution and enforcement of relevant laws. They must dismiss any action that contradicts setting a proper tone. The President and governmental action must not leave any room for any other interpretation except an unequivocal commitment to combating money laundering.

B. Selective Prosecution

There is a perception that the government selectively prosecutes to protect political supporters. To deal with the issue of selective prosecution, the constitution could be amended to make provision for the President of Nigeria and Governors to serve only an agreed term of no more than 6 years. This possibly has many benefits. It will enable a focus on governance and creates an opportunity for decisions to be devoid of political consideration. And there will probably be less pressure on the President and Governors to be obligated to pay back any favors that aided their election.

C. The Immunity Clause

Abolish the immunity clause that currently protects some officials including Governors from arrest and prosecution until after the completion of their tenures.

D. International Laws

Mutual Legal assistance (MLA) agreements and treaties between Nigeria and all suspect destination countries of stolen funds will expedite the speedy recovery of those funds. MLA agreements usually serve to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and prevention of crime through co-operation in criminal matters. The UK expeditiously assists Nigeria in recovering stolen funds as well as prosecutes suspects under this agreement. (Critique Nigeria, 2018). Recently, Nigeria signed a MLA with the United Arab Emirate. (Mail and Guardian, 2018).

E. Lack of Motivation and Sufficient Benefit

AML organizations must demand proper compensation for money laundering investigators along the lines of the developed countries like the US, Hong Kong, etc.

F. Judicial Corruption

Enact legislation that prescribes mandatory minimum sentences of at least 14 years for Judges, Law enforcement, Intelligence agents, Prosecutors and Lawyers that are complicit in perverting justice-involving PEPs. A zero tolerance policy is one that shocks the conscience. Where a conflict ensues on whether a Judge should be regarded as PEP or Judge for purposes of punishment, conflict will be resolved in favor of the description that prescribes a harsher punishment.

G. Lack of Sufficient Funding

Have International AML organizations (including the UN and European backed organizations) require statutory regulation from Nigeria that guarantee's funding for AML agencies like the EFCC, ICPC and NFIU - at a minimum threshold of an agreed international standard. This will ensure development capacities in all areas needed to deal with money laundering. Note that PEPs seek to incapacitate AML agencies by depriving them of sufficient funding. Failure to comply will attract international sanctions.

Threatened financial sanctions against Nigeria have attracted compliance on a number of occasions.

H. Conflicting Investigative and Prosecutorial Powers

International AML organization should require a streamlined, less regulatory coordination among law enforcement agencies, prosecutors and other enforcement authorities that resolves duplication of responsibilities and possible areas of conflict in the context of a holistic global strategy to deal with money laundering. PEPs and the whole corrupt governmental structure seek various avenues to undermine robust AML efforts. And conflicting investigative and prosecutorial loophole is one that could be exploited.

General Recommendations

1. Create and fund Specialized Economic and Financial Crime Courts. It will cultivate specialization and speed up the process of prosecutions.

2. Create a statutory constitutional amendment that requires harsher punishment for money laundering PEPs. Sentences should start at a minimum of at least 7 years on each count.
3. Enact legislation that penalizes banks and its employee's responsible for violations of reporting AML requirements and enact at a minimum jail of at least 3 years for the lowest amount involved.
4. Consult and engage private stakeholders regularly when reviewing government strategies.
5. The United States can use its strength as the largest provider of aid to Nigeria and demand some concrete reforms and transparent enforcement of anti money laundering laws on the books. The US, through the United States Aid for International Development (USAID) provided over \$500 million in aid to Nigeria in 2016. (USAID, 2018).

Perhaps and most importantly, it is now easy for the US through the application of the US Global Magnitsky Act to freeze assets of Nigerian PEPs and their families in the US as well as ban them and their families from visiting, receiving education and/ or medical treatment.

“The Global Magnitsky Human Rights Accountability Act” authorizes the US President to revoke visas of certain foreign persons or to impose property sanctions

on them if they are government officials or acted as agents for government officials or senior associates of government official complicit in acts of significant corruption.

Assets of Nigerian PEPs and their families can be frozen and they can be banned from entering the US upon recommendations from the Secretary of State to the President. Additionally, the US Senate Committees on Banking, Housing, and Urban Affairs; Foreign Relations and the US House's Committees on Financial Services and Foreign Affairs can also submit names to the President. (Hrw.org, 2017).

-Have International AML organizations coordinate with the most powerful financial and economic countries to come up with a mechanism with a view to stopping or at least limiting all financial outflows from Nigeria going to OFC's mostly through the US or European countries. This will put pressure on PEPs and discourage Nigerian banks from aiding money laundering

-The UK, Germany, France, Canada, and other prominent destinations of Nigerian PEPs should ban prominent suspicious PEPs and their families from visiting or seeking education and medical treatment in their countries by denying them visas, as well as freeze their assets laundered in their respective countries.

These recommendations are by no mean exhaustive and if implemented will not stop money laundering entirely but it will certainly begin to deter, reduce and certainly be a starting point to combating money laundering.

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Table of Abbreviations

AML- Anti Money Laundering Laws

CBN- Central Bank of Nigeria

NDLEA- National Drug and Law Enforcement Agency

EFCC- Economic Financial Crime Commission

FATF- Financial Action Task Force

FBI- Federal Bureau of Investigation

G-7 - Group of 7 (Canada, France, Germany, Italy, Japan, United Kingdom and the United States.

GIABA- The Inter-Governmental Action Group against Money Laundering in West Africa 2008.

ICPC- Independent Corrupt Practices Commission

NFIU- Nigerian Financial Intelligence Unit

OFC- Offshore Financial Center

PEPs- Politically Exposed Persons

SAR- Suspicious Activity Report

UNCAC- The “2004” United Nations Convention Against Corruption

UNCATOC- The “2000” United Nations Convention Against Transnational organized Crime

UNODC- United Nations Office on Drugs and Crimes