

Asphyxiating the Challenges of Policing Money Laundering In Nigeria

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Abstract

Man by nature has needs. In most cases, satisfying these needs can be relatively impossible; hence, some tend to differentiate needs from wants. Whether the focus is on needs or wants for this work remains what the Modern Greek's refer to as *phraseologia* commonly known as phraseology because the cross of the matter is that this inherent nature of man serves as triggers for crimes, precisely with reference to this work, transnational crimes. This nature of man necessitated the arrays of recorded transnational crime such as: money laundering, drug and human trafficking, among others. Governments of nations have in place measures to police transnational crime but mostly confronted with diverse challenges. This study through documentary method of data collection proffers measures that can help asphyxiate the challenges of policing money laundering in Nigeria. the study recommends that once nations unite in the fight against money laundering , factors that foster it will be asphyxiated.

Keywords: Crime, Crime hot-spot, Money laundering, Policing, Transnational crime.

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I. Introduction

The insatiable crave of men and nations for power and wealth remain one of the most notable triggers of transnational crimes across the globe. The innate selfish nature of man necessitated the recorded array of transnational crimes, ranging from money laundering, drug and human trafficking etc. Policing these transnational crimes has over the years demanded unified approach among nations. However, alongside the undulating interest to mitigate transnational crimes, some nations serve as host to laundered monies. This and other numerous challenges hinder asphyxiation of transnational crimes.

The term money laundering was formed in 1920s, during the famous gangster era of America history (Sullivan, 2015). This term implies the method or methods adopted by deviants to make illegitimate money, legitimate. Put succinctly, Schott (2006) cited in Abdullahi (2016, p.18), assert that money laundering "is the process of concealing of the source of illegal money". A more robust definition presents money laundering as the process of making ill-gotten money genuine by covering its source through pre-conceived activities. The challenge with money laundering is that it is heralded by criminal activities, allow it perpetrators to benefit from the proceeds of their deviant act and threaten the efficiency of the financial system of target nations.

Nigeria adopted her first Anti Money Laundering Law in 1995 following the enactment of the money Decree No. 3 of 1995. This law was tailored by the United Nations Convention in Vienna Against Drugs and Psychotropic Substances. In 2000, the adoption of the Parlemo Convention Against Transnational Organised Crimes expelled the 1995 Decree and was replaced with the Money Laundering (Prohibition) Act (MLPA) of 2002 (MLPA, 2002). Swiftly followed was the 2003 and 2004 Money Laundering Legislations. The flaws of the MLPA of 2004 led to the enactment of the MLPA 2012. In addition, the other laws in place to mitigate transnational crime and ensure the smooth running of Anti Money Laundering are: a) Terrorism (Prevention) Act, 2011; b) Banks and Other Financial Institutions Act, 1991 (amended); c) Advance Fee Fraud and other

related offences Act, 2006; d) Economic and Financial Crimes Commission (EFCC) Establishment Act, 2004; e) Independent Corrupt Practices and other related Offence Commission Act, 2000; f) Establishment of Nigeria Police Force Section 214 of the 1999 Constitution of the Federal Republic of Nigeria; g) Terrorism Prevention (Amendment) Act, 2013; and h) Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2013, etc. (Nigeria Anti Money Laundering and Combating the Financing of Terrorism: National Strategy 2018 – 2020 (2018). With the arrays of law presented above, one wonders why money laundering continues to exist in Nigeria. To proffer answer to this rhetoric question, this study is designed to x-ray the challenges that stifle the efforts of relevant stakeholders in the eradication of transnational crimes, with specific focus on money laundering in Nigeria.

Theoretical Orientation

The broken windows theory provides vital anchor for this study. This theory is credited to James Q. Wilson and George L. Kelling. According to Zimbardo (1973), broken windows represent “a catch-all term for disorder and incivility within a community like littering, stealing and graffiti, among others, can lead to further disorder and increase in criminal behaviour”. The theory explains the need to design adequate approach to combating deviant acts. It empirically explains the lack of significant progress in the fight against crime in twenty eight cities in New Jersey, stating how the government in attempt to improve the security situations adopted a ‘Safe and Clean Neighbourhood Programme’, by encouraging police officers to make use of foot-patrol rather than car-patrol. This programme suggested that the physical and steady appearances of officers may deter prospective deviants from deviating. The gain however, was not significant on the large scale, since, crimes rather than reducing, steadily grew.

The core of this theory was summarized by Wilson and Kelling (n.d.) by asserting that:

These findings may be taken as evidence that ... foot patrol has no effect on crime, it merely fooled the citizens into thinking that they are safe...how can a neighbourhood be ‘safe’ when the crime rate has not gone down, in fact, may have gone up? We must return to our long-abandoned view that the police ought to protect communities as well as individuals. As crime statistics and victimization survey mostly measures individual losses, but not communal losses.

In explaining this further, Van de Weele, Flynn and Van de Wolk (2017) assert that the broken window effect refers to the hypothesis that there is a positive effect of urban disorder on the incidence of more serious crimes, where the term broken windows represents a range of disorders within communities.

Narrowing down its application to this study, provides a signal of indifference and lack of enforcement of the numerous laws that were enacted to mitigate money laundering, leading to increased appetite for easy money and weakened social control. The presence of mitigating laws is great but may amount to the use of a single broom stick out of its bunch, if not appropriately enforced. The theory also emphasized the need for a holistic approach to fight crime. And communities are expected to focus on communal losses rather than individual losses in crime. By extension the community should design a method that will asphyxiate factors that fosters crimes. Take for instance; in curbing money laundering, one should also look into curbing factors that encourages money laundering, like bad governance, poor moral values, poor sense of nationality etc. Zimbardo (1973) experimented along this line by abandoning cars in different neighbourhoods and in various states of disrepair to study their subsequent vandalization. It was recorded that neighbourhoods noted with other crimes were swift to vandalize the cars than those relatively safe. Kelling and Wilson (1982) cited in Van de Weele, Flynn and Van de Wolk (2017) are of the view that broken windows “send a signal of indifference and lack of enforcement, leading to increased fear of crime and weakening of social controls, thus paving the way for bigger transgressions”.

II. Methodology

This study employed the qualitative method of data collection. Precisely, the content analysis technique of data collection is adopted as the sole method used in gathering relevant information for this study. Krippendoff (2004) conceptualized content analysis as “the systematic reading of a body of texts, images and symbolic matter, not necessarily from an author’s or user’s perspective”. This implies that the information analysed in this study are not gathered from people (through the use of questionnaire, interview or focus group discussion, among others) but like documentary research, content analysis requires that data are extracted from already existing document such as: text books, media, newspapers, magazines, social media platform and journals, to mention just a few. This study focused on documented incidents of money laundering in Nigeria. Through sampling of newspapers and published journal articles, among others. Through coding data, inferences were drawn to ascertain how this incidents of money laundering continued to evade government efforts to mitigate it.

III. Discussion of Findings

Policy Strategies, Criminal Network Analysis and Combating Money Laundering Hot Spot

According to Babajide, Koha & Olatunde (2019), Money laundering (prohibition) Amendment Act, the Economic and Financial Crime Commission (EFCC) Act, and the Central Bank of Nigeria (Anti Money Laundering and Combating the Financing of Terrorism in Banks and other Financial Institutions in Nigeria) are the laws governing money laundering in Nigeria. Babajide et al summarized the elements of the laws to include:

- a. The conversion or transfer of illegally gotten resources or property
- b. Accepting or paying cash above the regulated sum (₦500,000.00)
- c. Collaborating to conceal: the source, movement or ownership of resources derived illegally
- d. Being in possession of illegally gotten resource
- e. Plotting or aiding and abetting any offence under the Anti-Money Laundering Act.

Sanction for money laundering according to Babajide et al (2019) varies based on gravity of the offence committed. They range from one term imprisonment of two to three years or a fine not less than 1 million naira for individual and 3 million to 25 million naira for corporation to forfeiture of assets and properties belonging to the offenders. Enforcement of these sanctions can be made through plea agreements, settlement agreements and prosecutorial discretion.

The nation's track record on high – profile political corruption cases which happen to be the cohort with the highest prevalence rate of money laundering improved greatly since the establishment of the EFCC in 2004. According to Oluwadayisi (2016), the EFCC revealed an estimated 521 Billion USD was stolen and laundered by past Nigerian leaders in foreign banks, evident in the investigation and recovery of Late Abacha's loots. The World Bank (2007) indicated that proceeds were laundered through a complex web of banks and front companies in many countries: Nigeria, United Kingdom, Switzerland, Luxemburg and Bahamas, among others. The investigation led to the recovery of USD 800 million in cash and assets.

Challenges for Policing Money Laundering

All nations are confronted with numerous challenges in fully mitigating money laundering. However, the challenges are more pronounced in poor or developing nations where resources or intelligence required for monitoring, mitigating and implementing the money laundering Act are not readily available. In addition to weak economy as one of the factors stifling the mitigation of money laundering in developing nations, the following are also noted:

a. The Elitism Syndrome: this implies that the nature of this crime tilt more towards the elites or those in power who are supposed to implement the MLPA. This inform the delay in apprehending launders. In most cases the perpetrators only come to public domain after their term in office. The cases of Late General Sani Abacha and Atiku Abubakar are good examples. On the other hand, those that remains within the corridor of power (related to or belong to reigning party may not be investigated at all. This assertion corroborates Oluwadayisi (2016) submission that,

Politicians must be well disposed to laws on money laundering and PEPs even when it appears they are the subject of such laws. Combating money-laundering may be a mirage if the political actors do not cooperate with the effort of the international agencies and national agencies since most politicians has the political control on the implementation agencies (P. 6).

b. The belief in elixir or magical solution: this implies that all social problems are not at any point in time condemned by the totality of the people. Hence, it has to be a gradual systemic process since no matter how bad it appears, some beneficiaries exist and will fight authorities to retain the status quo. A good example can be drawn from General M. Buhari's first term in office as president of Nigeria, poor actualization of his desire for complete eradication of corruption. This corroborates Anugwom and Igbo (2008) assertion that one of the fallacies associated with social problems is the assumption that all social problems can be solved because they are disliked by the totality of the people.

c. Unwillingness to exchange information with foreign agencies: in some cases, laundered money may assist in improving the economy of hosting nations. Such nations may be unwilling to share such information with suffering nations. Goonesekera (nd) rightly reiterated the position of the law on this issues as,

The financial intelligence unit **can disclose** to any foreign institution or agency any report or information. This is set out in section 16 of the financial intelligence unit to share any information received on proceeds of crime and evidence gathered in investigations with any other foreign agencies (P. 72).

The law stays open by using the term can disclose. This may indicate discretion and may not attract sanction for refusal to share intelligence with foreign agencies, more so, when the custodian of the intelligence stands to benefit from the transfer of the money gotten through illegal means.

d. The presence of deviant personnel in financial institutions: it was discussed earlier that money laundering is the process by which money or resources gotten illegally and made legal, by concealing the source, owner and destination of the said money. This act may not be achievable without the support of insiders

(both local and foreign) in financial institutions. According to Sullivan (2015, p.5), money laundering usually involves “a smoke screen to hide the true source of financial assets so that those financial gains may be used without exposing the criminals”. This definition implies that it may not be a one time and off action (hence the use of the term sequence). Considering the fact that numerous laws and practices are available to mitigate this act, it may go unnoticed when personnel of financial institutions aid and abet the process.

IV. Conclusion

The challenges confronting nations in combating money laundering across the globe is numerous. However, the gravity and nature of these challenges varies considering the economic standing of nations. Developing nations are more on the disadvantaged side when it comes to asphyxiating the challenges of policing money laundering. Among others, the challenges ranged from undulating enthusiasm among nations to stifle money laundering, elitism syndrome, the belief in elixir or magical solution, unwillingness to exchange information with foreign agencies to the presence of deviant in financial institutions. All these challenges exist even in the presence of numerous local and international regulations. It is obvious that once nations begin to unite in the fight against money laundering, factors such as: belief in elixir, unwillingness to exchange information and the presence of deviant law enforcement agents will gradually fade away. In addition, a more holistic approach as discussed in the theoretical orientation is recommended as a possible way of asphyxiating the challenges of money laundering in Nigeria.

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