

Money Laundering and Terrorism Financing: Menace to the Nigerian Economy

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ABSTRACT: Money laundering and terrorist financing are crimes that are geared towards secrecy and do not lend themselves to statistical analysis. Launderers do not document the extent of their operations or publicize the amount of their profits, nor do those who finance terrorism. Because these activities take place on a global basis, estimates are even more difficult to produce. Launderers use various countries to conceal their ill-gotten proceeds, taking advantage of differences among countries with regard to anti money laundering AML regimes, enforcement efforts and international cooperation. Thus, reliable estimates on the size of the money laundering and terrorist financing problem on a global basis is not available. With regard to money laundering only, the International Monetary Fund has estimated that the aggregate amount of funds laundered in the world could range between two and five per cent of the world's gross domestic product. Using 1996 statistics, these percentages would approximate between US \$590 billion and US \$1.5 trillion.¹ Thus, by any estimate, the size of the problem is very substantial and warrants the attention of every country.²

Keyword: Money laundering, terrorism and terrorism financing.

1. Introduction

The initial concern over money laundering began with its early connection to illegal trafficking in narcotic drugs. The objective of drug traffickers was to convert typically small denominations of currency into legal bank accounts, financial instruments, or other assets. Today, ill-gotten gains are produced by a vast range of criminal activities—among them are political corruption, illegal sales of weapons, and illicit trafficking in and exploitation of human beings. Regardless of the crime, money launderers resort to placement, layering, and integration in the process of turning illicit proceeds into legal monies or goods.

Furthermore, combating the financing of terrorism (CFT) measures have raised legal, institutional, political and human rights issues that are not fully resolved. This is perhaps best illustrated by court rulings that have called into question the procedural safeguards in the designation of persons for financial sanctions. Finding solutions to these issues remain central to maintaining the effectiveness of the system in the long run.

Authorities should exercise caution not to introduce laws or regulations that can cast a lot of burdens on private and public sector stakeholders in the name of countering the financing of terrorism without sufficient evidence that the burden is proportionate to the risk. The traditional methods through which financial transactions are initiated, processed and settled are quickly being transformed by recent developments in payment systems which allow transaction through new channels and structures such as phones, internet and value cards.

¹ Vito Tanzi, "Money Laundering and the International Finance System," IMF Working Paper

² Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism

2. DEFINITION OF TERMS

Money Laundering:

The origin of money laundering also referred to as 'devil' though not ascertainable by anyone, could be attributed to Chinese merchants over several thousand years ago. In the words of Silkscreen³ and Steel⁴ they claimed that it all started from Mafia Ownership of Laundromats, in the United States where they needed to prove the genuine source for their monies, as they earned their cash from extortion, prostitution, gambling and bootleg liquor.

Money laundering can be defined in a number of ways. Money laundering according to the Act⁵ is when any person in or outside Nigeria directly or indirectly conceal or disguises the origin of; converts or transfer; removes from the jurisdiction; acquires, uses, retains or takes possession or control of; any fund or property, knowingly or which he/she should reasonably have known that such fund or property is, or forms part of the proceeds of an unlawful act. Most countries subscribe to the definition adopted by the United Nations;⁶

The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offense or offenses or from an act of participation in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions;

- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses or from an act of participation in such an offense or offenses.⁷ The Vienna Convention adds that money laundering also involves:

- The acquisition, possession or use of property, knowing at the time of receipt that such property was derived from an offense or offenses ... or from an act of participation in such offense or offenses.⁸ Unlawful acts includes, participation in an organized criminal group, racketeering, terrorism, terrorist financing, trafficking in person, smuggling of migrants, sexual exploitation of children, illicit trafficking in stolen goods, corruption, bribery, fraud, currency trafficking, counterfeiting and piracy of products, environmental crimes, murder, grievous bodily hurt, kidnapping, hostage taking, robbery or theft, piracy, insider trading and market manipulation or any other criminal act.⁹

By its terms, the Vienna Convention limits predicate offenses (which is to say, the criminal activity whose illicit proceeds are laundered) to drug trafficking offenses. As a consequence, crimes unrelated to drug trafficking, such as tax evasion, fraud, kidnapping and theft, for example, are not defined as money laundering offenses under the Vienna Convention. Over the years, however, the international community has come to the view that predicate offenses for money laundering should go beyond drug trafficking. Thus, other international instruments have expanded the Vienna Convention's definition of predicate offenses to include other serious crimes.¹⁰ This convention requires all participant countries to apply that convention's money laundering offenses to "the widest range of predicate offenses."¹¹

According to Silkscreen,¹² the development of money laundering was for trade and that Nigeria as a country is the centre of money laundering in Africa. Nigeria's historical record of exploitation goes as far back as when her people were used as slaves under British colony and as an independent and a sovereign country experiencing transition from a military dictatorship to a democratic form of government over 16 years of military rule.¹³ Now, with the democratic form of government, money laundering is still on the increase.

³ Silkscreen (1994), fraud: Its Economic Consequences, Journal of Finance and Accounting, June vol. 5 No 3

⁴ Steel (2006) Money. Laundering: Concept and Trend in Contemporary Society. Arthill Publishers, Ikeja Lagos.

⁵ Money Laundering (Prohibition Act) 2022

⁶ United Nations Convention Against illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (Vienna Convention), <http://www.incb.org/conv/1988/>. accessed 24/4/2022

⁷ The Vienna Convention, Article 3(b)

⁸ Article 3(c)(i)

⁹ Things Nigerians should know about the money Laundering Act. Available at <https://lawpadi.com/8-things-...> accessed 24/4/2022

¹⁰ For example, the *United Nations Convention Against Transnational Organized Crime* (2000) (*Palermo Convention*).

¹¹ The *Palermo Convention*, Article 2 (2), <http://www.undcp.org/adhoc/palermo/convmain.html>.

¹² Silkscreen (1994) op. cit. n.3

¹³ E. E. Obioha. Role of the Military in Democratic Transitions and Succession in Nigeria. International Journal of Social Science and Humanity Studies. Vol. 8, No., 2016 ISSN: 1309-8063

With this rate of scams in Nigerian financial sector, the law enforcement decided to come up with legislative Act called the Money Laundering (Prohibition) Act 2004, this was followed by the Central Bank of Nigeria (CBN) Anti-money laundering compliance manual guidelines from Economic and Financial Crimes Commission (EFCC 2003), Independent Corrupt Practices Commission (ICPC, 2000). All agencies were charged with the responsibility to fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria. Money laundering problem has been a genuine concern to all governments in the recent times more especially in the developed economies after the incidence of 9/11 in the United States because of its direct links with financing of terrorism regimes. Concerted efforts have been extended to .developing countries through financial Action Task Force (FATF), a task force established in 1989 by G-7 countries to fight against money laundering and terrorism.¹⁴ Nigeria is listed in group two among non-performing countries such as Cuba, Bolivia, Ethiopia, Ghana, Indonesia, Sudan, Angola, Kenya, Myanmar, Pakistan, Nigeria, Sao Tome and Principe, Trinidad and Tobago, Sri Lanka, Syria, Tanzania, Thailand and Turkey.¹⁵ Out of these countries, Nigeria has made a number of positive efforts geared towards combating money laundering but seems to yield little result. For instance, Abiola¹⁶ remarked that Nigeria keeps featuring on the grey list of the Financial Action Task Force. Nigeria is believed to have lost over \$25 billion worth of investments as a result of the blacklisting of the nation by FATF according to the director, Nigeria Financial Intelligence Unit (NFIU) of the EFCC at a recent forum organized by the Nigerian Customs Service (NCS)¹⁷

The Financial Action Task Force on Money Laundering (FATF), which is recognized as the international standard setter for anti-money laundering (AML) efforts,¹⁸ defines the term money laundering succinctly as "the processing of criminal proceeds to disguise their illegal origin" in order to "legitimize" the ill-gotten gains of crime.¹⁹ However, in its 40 recommendations for fighting money laundering,²⁰ FATF specifically incorporates the Vienna Convention's technical and legal definition of money laundering²¹ and recommends expanding the predicate offenses of that definition to include all serious crimes.²²

Money laundering among other forms of economic and financial crime requires existing financial system and operation. Money is laundered in Nigeria through currency exchange houses, stock brokerage houses, casinos, automobile dealership, and trading companies.²³ These institutions are capable of masking proceeds from illegal criminal activities. The overall effects of these activities on the sociopolitical lives and economic wellbeing of the people of the developing countries and Nigeria in particular could be well imagined. According to Al-Rashdan²⁴

When studying any country's AML system, it needs to be borne in mind that while ML cannot be entirely eradicated, efforts can be made to regulate it. What Countries should be calling for is the best possible regulation that is able to enhance the compliance culture and reduce, even minimise money laundering activities.

For instance the Financial Action Task Force (FATF) issued 40+9 recommendations for member countries to follow with a measure of flexibility bearing in mind differences in cultural and constitutional framework for effective implementation. One of the main changes to the extended recommendation states:²⁵

Countries should clearly understand the money laundering and terrorist financing risks which affect them, and adapt their AM L/C FT system to the nature of these risks. This

¹⁴ Omoh Gabriel. PATF Blacklist: Failure of Nigeria's Banking Reform and War Against Corruption. Available at www.Vanguardngr.com/PATFBlacklist...

¹⁵ FATF, 2012; Annual Report 2011 – 2012: Revision of the FATF Recommendations

¹⁶ Abiola J.O. (2013) "The Impact of Information and Communication Technology on Internal Control's Prevention and Detection Fraud" Unpublished Doctoral Thesis Submitted to De Montfort University Leicester, UK.

¹⁷ Omoh Gabriel.op cit

¹⁸ See Chapter III, B,, FATF.

¹⁹ *FATF*, What is money laundering? Basic Facts About Money Laundering, www.oecd.org/fatf. accessed 27/4/2022

²⁰ *The Forty Recommendations*.

²¹ *The Forty Recommendations, Rec. 1*, http://www1.oecd.org/fatf/40Recs_en.htm. *The Forty Recommendations are reprinted in Annex IV of this Reference Guide*. accessed 28/4/2022

²² *Ibid.*, at Rec. 4

²³ *Ibid*

²⁴ Al-Rashdan (2012)

²⁵ FATF, 2012 n.15

approach will allow them to apply enhanced measures where the risks are higher and it will give them the option to apply simplified measures where the risks are lower.

The type and extent of risk based approach to follow depend on resources and political culture of the state. Despite the allowed flexibility many countries are still struggling with effective implementation. Countries listed in second category jurisdictions are those that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies.²⁶ Ironically, according to Adeseyoju,²⁷ no country in West Africa has done more than Nigeria to enhance anti-money laundering and combating the financing of terrorism regime.

Nigeria has made noticeable progress in form of legislation and enforcement of AML activities. For instance, to ensure documentary trail of all proceeds of money generated from all activities (legal or illegal), the National Drug Law Enforcement Agency (NDLEA) Act was enacted in fulfillment of Vienna Convention as early as 1989 (NDLEA Act, 1989). This was followed by enactment of Money Laundering Decree in 1995 by the Military Government. The ineffectiveness of the previous laws in combating the menace of money laundering was too compelling for the political leadership to ignore. There was political pressure to cooperate with international organizations such as FATF. The Money Laundering Act (Amendment) 2022 was enacted to improve and expand the scope of the 1995 Money Laundering decree. Also in 2002 the Economic and Financial Crimes Commission (EFCC) Establishment Act was enacted and broadly empowered to investigate all cases involving ML. In order to give more scope to the EFCC function, the Nigerian Financial Intelligence Unit (NFIU) was established in 2004 by the EFCC Establishment Act 2004 and the Money Laundering (Prohibition) Act 2004. The Money Laundering (Prohibition) Act 2011 repealed the Money Laundering (Prohibition) Act 2004.

The Money Laundering (Prohibition) Act, 2022²⁸ was enacted to repeal the Money Laundering Act, 2011 and it makes comprehensive provisions to prohibit the financing of terrorism, and the laundering of the proceeds of crimes or illegal acts. The primary objective of the Act is to provide an effective comprehensive and institutional framework for the prevention, prohibition, detection, prosecution and punishment of money laundering and other related offences in Nigeria.²⁹ Section 2 of the Act provides for the limitation to make or accept cash payment. The Act provides that the Financial institutions and designated non-financial businesses and professions shall identify and assess the money laundering and terrorism financing risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products in accordance with the requirements specified by the regulatory authorities.³⁰ It expands the scope of supervisory and regulatory authorities so as to address the challenges faced in the implementation of the anti-money laundering regime in Nigeria. It also makes provision for appropriate penalties for offenders. The Act places a duty on bankers and other financial institutions to report international transfers of funds exceeding ten thousand US Dollar (\$10,000) to the Central Bank from where the records can be accessed by security operatives.³¹ In spite of all these laudable efforts, there are empirical evidence of AML deficiency in Nigeria as the system is not effective enough to detect ML. This deficiencies was brought to light by UK and US AML agencies as they consistently named Nigeria as one of the non-cooperative countries.

²⁶ Ibid

²⁷ Adeseyoju, A. (2012): "Anti Money Laundering: FATF Moves Against WMDs" Financial Action Task Force Available @ <http://www.momentng.com/en/news/6879/anti-moneylaundering-fatf-moves-against-wmds.html> accessed 20 august 2015

²⁸ An Act to repeal the Money Laundering (Prohibition) Act, No. 11, 2011 and enact the Money Laundering (Prevention and Prohibition) Act, 2022 to provide comprehensive legal and institutional framework for the prevention and prohibition of money laundering in Nigeria, establish the Special Control Unit under the Economic and Financial Crimes Commission; and for related matters.

²⁹ See section 1 Generally which deals with the objectives of the Act.

³⁰ See section 13(1) of Money Laundering (Prevention and Prohibition) Act, 2022.

³¹ Dunk Amos (2011), Senate passes money laundering bill. The Sun (Nigeria) online news magazine. Available at: <http://64.182.81.172/webpagGs/news/national/2011/mar/02/national-2-03-2011-08.htm> accessed 30/4/2022

3. AGENCIES THAT FIGHT MONEY LAUNDERING

1. The Economic and Financial Crimes Commission (EFCC)

The EFCC is a Nigerian law enforcement agency that investigates financial crimes such as advance fee fraud and money laundering. The EFCC was created in 2003, partially in response to pressure from the Financial Action Task Force (FATF) on Money Laundering, which named Nigeria as one of 23 countries non-cooperative in the international community's efforts to fight money laundering.³² According to the Economic and Financial Crimes Commission (Establishment) Act, 2004, the EFCC is the designated Financial Intelligence Unit (FIU) in Nigeria, which is charged with the responsibility of coordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria. According to Ogbodo,³³

So far, the Commission has been able to and still recording successes in several areas of its mandate. Among others, it has recorded several convictions on corruption, money laundering, oil pipeline vandalism and related offences. Assets and money worth over \$11 billion have been recovered from corrupt officials and their cohorts. The Commission is tenacious with over 65 high profile cases at advanced stages of prosecution in several courts in Nigeria and over 1500 other cases in court and secured over 600 convictions. The Commission successfully prosecuted one of the biggest fraud cases in the world involving about \$242 million arising from a bank fraud in Brazil. It has increased the revenue profile of the nation due to its collaboration with the Federal Inland Revenue Service and the Seaports and has recovered revenue in excess of ₦75 billion, (over \$500million US Dollars) for government.

2. Independent Corrupt Practices and Other Related Offence Commission (ICPC)

Another important Nigerian body in the fight against money laundering is the independent Corrupt Practices Commission (ICPC), established in 2000. Its main tasks are to investigate reports of corrupt practices, to eradicate corruption in public bodies and to educate the public against corruption. The ICPC also lists amongst its duties the prevention of corruption through studies of systems, practices and procedure. Whilst the EFCC is an investigation and prosecution body focused on financial crime, the ICPC has a broader mandate to tackle corruption in all forms both by investigation and education.³⁴ The amendments made to legislation in 2002 gave greater responsibility to the Central Bank of Nigeria (CBN) in dealing with money laundering. In particular, they allow the governor greater power to intervene in the banking sector in order to safeguard confidence in the financial system as a whole.

3. The Central Bank of Nigeria (CBN)

The CBN has also been given a greater role in financial sector surveillance, identifying trends and patterns of corruption in banks and other monetary institutions. The CBN has directed all commercial banks in Nigeria to report any transaction of a sum over half a million naira (US \$5,000).

4. National Economic Intelligence Committee (NEIC)

The CBN then transmits all such reports to the National Economic Intelligence Committee (NEIC). This system is set up to monitor money sources and uses, track spending patterns and generally forestall terrorist activity. Anyone who cannot satisfactorily explain a transaction over a half million naira may be charged under the Exchange Control (Anti-Sabotage) Act, which carries a minimum penalty of five years in prison for individuals, and a fine of ₦100,000 (US \$1000) for corporate enterprises.

³² Omoh Gabriel op cit n.14

³³ Ogbodo, U.K., and Mieseigha, E.G., The Economic Implications of Money Laundering in Nigeria. International Journal of Academic Research in Accounting, Finance and Management Sciences vol. 3, No. 4, October 2013 pp 170 - 184 at p. 178.

³⁴ Enweremadu David U. (2010), Anti-corruption Policies in Nigeria. A Discussion paper, No 1. Available at <http://library.fes.de/pdf-files/buero/nigeria/07813.pdf> accessed 1/5/2022

5. National Drug Law Enforcement Agency (NDLEA)

Legal persons can also be charged with money laundering under the National Drug Law Enforcement Agency (NDLEA) Act, which carries a penalty of ten years to life in prison, and forfeiture of assets. If bank fails to report transactions for amounts over a half million naira, it may carry a penalty of imprisonment, fines, or both. Corporations convicted of such an offense may be forced to forfeit its property and assets.

6. Financial Services Regulations Coordinating Committee (FSRCC)

The CBN also has a responsibility to coordinate efforts among financial organizations to increase efficiency in regulatory oversight. This is done through the Financial Services Regulation Coordinating Committee (FSRCC), representing a framework for coordination of regulatory and supervisory activities in the Nigerian financial sector.

7. The Nigerian Stock Exchange

Alongside the work of the CBN to monitor the banking sector the Nigerian Stock Exchange has a number of structures and measures in place to check money laundering in Nigeria.³⁵ These include a Central Securities Clearing System (CSCS) aimed at making transactions more transparent, Administrative Guidelines to ensure the proper documentation of legitimate capital importation through Nigerian banks, a Know Your Client Requirement and membership of the International Federation of Stock Exchanges, which subjects them to international standards and code of best Practice.

The National Drug Law Enforcement Agency Act, the Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree (previously the now repealed Exchange Control (Anti-Sabotage) Act) and the Money Laundering Act all authorize the freezing of assets. Freezing accounts may be administrative or judicial, coming from the Central Bank of Nigeria, or as the result of a judgment handed by an authorized court, or tribunal. Assets can be frozen at the request of another government in cases where both governments share mutual legal treaties in cases of criminal or civil matters.

8. Banks and Other Financial Institutions Act (BOFIA) & Other Legislative Measures

Other legislative measures that Nigeria has taken in response to combating money laundering and other financial crimes include 1991 Banks and Other Financial Institutions Act (BOFIA), amended in 2002.

9. 1993 Advanced Fee Fraud and Other Related Offences Decree,

10. 1994 Failed Banks (Recovery-of Debt and Financial Malpractice in Banks) Act,

11. 1995 Advance Fee Fraud and Other Related Offences Decree (creating "419" offences),

12. 2000 Corrupt Practices and Other Related Offences Act (establishing the Independent Corrupt Practices Commission),

13. 2002 Electoral Act (replaced 2001 Electoral Act).

Most of the leakages in anti-money laundering programmes in developing countries are caused by ineffective internal control problems especially in financial institutions. The Technology Effectiveness Planning and Evaluation Model (TEPEM) which is a multi-model consisting of Technology acceptance model (TAM) and the Three layered model (encompassing contingency theory, socio- technical system theory and structuration theory). Abiola³⁶ introduced infrastructure readiness as a contingency necessity and suggested TEPEM as a useful model for effective internal control prevention and detection of fraud including money laundering in developing countries.

5. EFFECT OF MONEY LAUNDERING ON ECONOMY

³⁵ Uyoyou, K. O. and Ebipani, G.M., The Economic implications of Money Laundering in Nigeria, International Journal of Academic Research in Accounting, Finance and Management Sciences, Voi. 3, No. 4, October 2013, pp. 170 - 184.

³⁶ Abiola J.O. (2013) op cit

Although financial intermediaries as well as the establishment of money laundering laws and creation of anti-money laundering agencies have played effective roles in money laundering practices, they have not brought about professional transparency and ethical conduct.³⁷ This perhaps explains why money-laundering activities seem to be on the increase in Nigeria. It can also be ascribed to the following:

1. Digital Age

According to Sieber,³⁸ the advent of digital age increases money laundering.

... The problems caused by computer crimes are bound to intensify in the future. Increasing computerisation, particularly in the administration of deposit money, in the balancing of accounts and stock-keeping, in the field of electronic funds transfer systems, and in the private sector, as well as new computer applications such as electronic home banking, electronic mail systems, and other interactive videotext systems will lead to increase in the number of offences and losses...

Money Laundering no doubt became more prevalent in the last two decades. Money laundering is facilitated by banks, financial services companies and network of business advisers as electronic funds transfer (EFT) becomes possible.³⁹

2. Undermining the integrity of financial institutions and markets

The nature of money laundering is such that it has far reaching impact both locally and on international scene. Former Chairman of EFCC has made statements in this regard at different fora, showing their frustrations.⁴⁰ The success of money laundering exploits has far reaching impacts on the whole financial systems of many developing countries. Laundered money eventually flows into the international financial system and in the course of this process; countries that integrate into the global financial systems are exposed to the phenomenon of money laundering.⁴¹ Elaborating on the this fact, the one-time chairman of the EFCC Nigeria, Nuhu Ridadu, stated that the amount involved in various forms of transnational economic and financial crimes especially corruption, are often so large that it affects both the integrity of domestic economies and the global financial systems.⁴² For instance, an estimated amount of \$100 billion was corruptly exported from Nigeria between mid-1980s and 1999 while more than \$1 trillion illicit funds flows into the United States annually through the international financial systems and this includes the proceeds from drug trafficking and other forms of economic and financial crimes.⁴³ The nation's financial system attributed its failure to the negative impact of economic and financial crimes that were rampant at the time. During this period, most potential foreign investors were reluctant to extend their commercial ventures to Nigeria.⁴⁴ The ill-gotten capital drained off by corrupt political office holders resulted in inability to withstand market competition and many of these financial institutions disintegrated, thereby, exposing the instability of the country's financial systems.⁴⁵

³⁷ Olatunde, J.O, Ajiboade, S.O; and Omoiehinwa E.O (2012): Journal of Money Laundering Control 15.1 58-84

³⁸ Sieber, Ulrich (1986): "The International Handbook on Computer Crime: Computer-Related Economic Crime and the Infringements of Privacy" Wiley 276 Pages

³⁹ Lankhorst and Nelsen 2004

⁴⁰ EFCC, (2009), "The Negative Effects of Money Laundering on Economic Development" International Economics Group Dewey Ballantine LLP for the Asian Development Bank Regional Technical Assistance Project No. 5967 Countering Money Laundering in the Asian and Pacific Region.

⁴¹ Brent L.B (2002), "The Negative Effects of Money Laundering on Economic Development" International Economics Group Dewey Ballantine LLP for the Asian Development Bank Regional Technical Assistance Project No. 5967 Countering Money Laundering in the Asian and Pacific Region.

⁴² EFCC (2009) op cit n.14

⁴³ Ibid

⁴⁴ Sharon Lafraniere (2005), Africa Tackles Graft, with Billions in Aid Play, New York Times. Available at <http://query.nytimes.com/qst/fullpage.html?> accessed 1/5/2022

⁴⁵ Omoh Gabriel. Op cit n.14

In Abuja, in August 2012, another former Central Bank of Nigeria Governor, Mallam Sanusi Lamido Sanusi⁴⁶ narrated his experience thus:

You know there was one chief executive officer that took away from her bank over a billion dollars. And where was this money taken to? Purchase of property. We recovered from one CEO 200 pieces of Real estate in Dubai, Johannesburg, Potomac in Washington apart from shares in over 100 companies. And all of those were purchased with depositors' funds. We got judgment against the first CEO who we were able to convict, we recovered these assets and got a six month sentence and sorted it out. We went to the court in UK on the case of another CEO, we got judgment against the CEO for 142 billion naira stolen from the bank, taken to buy shares while manipulating the shares of his own institution and also transferred outside to purchase property.⁴⁷

The second CEO, we finished our case, established in Nigeria - we had a civil case in the UK, we had a criminal case in Nigeria - established the case... two weeks before the closing statements were made the judge was miraculously promoted to the Federal Court of Appeal. After three years of trial at the very end of trial!⁴⁸

To make progress with AML measures involves a lot of interplay of political will and international cooperation. As noted by Aluko and Mahmood⁴⁹

...the phenomenon of money laundering, amongst other economic and financial crimes have had better success in infiltrating into the economic and political structures of most developing Countries therefore resulting to economic digression and political instability.

Most developing Countries, including Nigeria, are not on top of the AML implementation, and do not have legal and administrative framework in place to curb the ML menace. The relevant question is whether these institutions are strong or weak to perform effectively the assignment constitutionally bestowed on them?

3. Failures in the Financial Systems

Despite establishment of relevant laws and enforcement institutions, the institutions are too weak to be effective. The Police, the judiciary, EFCC, etc all have their own share of ineffectiveness. This is reflected in the frustrations expressed by the Governor of Central Bank of Nigeria,

We were dealing with chief executives that in 2009 had become invincible. They were in the seat of power. They had economic power and they had bought political protection. They were into political parties, they had financed elections of officers and they believed that nobody could touch them.⁵⁰

These are reflected in some of the following events. Recently, the United Bank of Africa (UBA), one of the largest commercial bank in Nigeria which was granted the right to operate an office in United States by the US Feds was heavily penalised by the United States of America's Department of Treasury Financial Crimes Enforcement Network (FinCEN).⁵¹ The civil penalty was as high as 3.4% of the total asset of the bank at the time. The total amount assessed was 1.785 billion Naira. The penalty stemmed from the UBA's failure to implement effective anti- money program and consequent failure to report suspicious transactions amounting to \$197,000,000.00 over time. Operating in US jurisdiction strictly requires a financial institution to conform to the rules by implementing a credible AML program. The bank will be held responsible for its failure to

⁴⁶ Sanusi Lamido Sanusi (2013): Interview granted in France. Available at <http://www.youtube.com/watch?v=TXAE-SWf9m8> accessed 7/5/2022

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Aluko and Mahmood (2012)

⁵⁰ Sanusi, (2013) op cit n.45

⁵¹ US Department of Justice. Office of Justice Program. Money laundering: progress report on treasury's financial crimes enforcement network. Available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/money-laundering-progress-report-treasury-financial-crimes>. Accessed on 27/5/2022

show diligence in noticing suspicious lodgments or withdrawals from accounts; duty of bank to take note of those on watch list, etc.

Another recent case that showed deficiency in AML activities in Nigeria is that of Guaranty Trust Bank PLC (GTB). The UK subsidiary of Nigeria's GTB was penalised to the tune of £525,000.00 (\$815,000.00) for failing to institute adequate controls for prevention of money laundering.⁵² Similar to UBA case, the Financial Conduct Authority (FCA) alleged that GBA failed to:

- a. Assess potential money laundering risks,
- b. Screen customers against sanction lists,
- c. Establish the purpose of the accounts being opened in their London branch or revise the activity of "high risk" accounts.

GTB is one of the Nigerian banks that deployed technology for their operations right from the inception. The discovery by the FCA was therefore surprising to invoke. Tracey McDermott's,⁵³ remark that "GT Bank's failures were serious and systemic and resulted in an unacceptable risk of handling the proceeds of crimes".

4. Cases of Oil Theft/Illegal Sales

According to Michael Camdessus,⁵⁴ the scale of money laundering was estimated between 2% to 5% of world Gross Domestic Product (GPD).⁵⁵ In this perspective, developing countries are poised to losing control of their domestic economic policies as illicit capital accrued from money laundering activities and other economic and financial crimes are capable of dwarfing government budgets and destabilize domestic markets.⁵⁶

Furthermore, an IMF working paper concludes that money laundering impacts financial behaviour and macro- economic performance in different forms such as policy mistakes, due to measurement errors in national account statistics, volatility in exchange and interest rates due to unanticipated cross border transfers of funds; the threat of monetary instability due to unsound asset structures; effects on tax collection and public expenditure allocation due to misreporting of income; misallocation of resources due to distortions in asset and commodity prices; and contamination effects on legal transactions due to the perceived possibility of being associated with crime. Thus, in some developing countries, the illicit proceeds from criminal ventures dwarf government budgets, thereby, leading to a loss of control of their economic policies.

According to John and Gary,⁵⁷ the exploits of money laundering and currency maneuvering can harmfully undermine currencies and interest rates, more predominantly, in a developing economy.

In 2009, the Niger delta suffered relentless attacks on pipelines and the kidnapping of oil workers which cut the country's crude production to 1.5m barrels a day, a 20-year low, When the government launched an amnesty programme, allowing militants to hand over weapons in exchange for vocational training and monthly payments, few people believed it would work. Nonetheless, the unrest stopped and production was soon above 2m b/d. However, after a brief period of stability, oil production has now slipped back to levels last seen during the period of strife. There are several reasons for the decline, including maintenance problems, Hooding and sabotage, but the main factor is crude oil theft or

⁵² Abiola, J. O-, Anti-Money Laundering In Developing Economy; A Pest Analysis Of Nigerian Situation, Review of Public Administration and Management Vol. 3, No. 6, December 2014, available at www.arabianjbnmr.com/RPAMjndex.php accessed 15/5/2022

⁵³ The FCA's director of enforcement

⁵⁴ One time director of the International Monetary Fund (IMF).

⁵⁵ John McDowell & Gary Novis. (2001), The Consequences of Money Laundering and Financial Crime. Bureau of International Narcotics and Law Enforcement Affairs, US Department of State. Available at accessed 15/5/2022

http://www.apgml.org/issues/docs/30/Negative%20Effects%20of%20ML_Economic%20Perspectives%20May%202001.pdf accessed 16/5/2022

⁵⁶ Ibid

⁵⁷ Ibid

bunkering.⁵⁸ Oil theft is now a much more significant issue than it has been in the past.⁵⁹ At the same time, new investment in the industry has almost grounded to a halt.⁶⁰

5. Economic distortion and investment instability

Money launderers, in their quest to disguise the source of their ill-gotten proceeds, divert the proceeds from one economic venture to another without sound economic reasons. Also, as there is no motive to generate profits, money launderers, most often, invest their illicit funds in economic and commercial ventures that do not, primarily, benefit the economy of the country where such illicit funds are situated. When making the investment decisions, money launderers apparently pay high premiums on the investments that will allow the illicit proceeds be protected from suspicion.⁶¹ According to Vito Tanzi, the inflation of the exchange rate would result to the situation in which traditional exports lose competitiveness to the imports while domestic prices rise up as a result of the pressure from the country's monetary base.⁶²

6. Undermining the Legitimate Private Sector

Money launderers often use front companies, to fuse the proceeds of their illicit activities with legitimate funds, to hide their illicit proceeds. With access to substantial illicit funds, these front companies are able to subsidize their products and services at levels that are well below market rates. In some instances, the front companies offer products at prices that are below what it costs the manufacturers to produce.

7. Risks to government privatization efforts

The concept of privatization in many developing countries, with the aim of promoting economic growth, attracts money launderers. This is attributed to the 'legitimacy' that a money launderer is able to acquire by purchasing into a previous government corporation and/or by being linked' to the high volume of transactions.⁶³ As a result, government corporations are ideal vehicles for laundering money. Money launderers are also able to bid higher prices for these corporations, a practice that undermines fair and legitimate competition.⁶⁴ Legitimate buyers who believe that the bidding process has been compromised are unlikely to bid in future. In this regard, money laundering activities threaten the efforts of many developing countries to reform their economies through privatization, thereby stalling economic growth.⁶⁵

8. Reputation Risk

Because of the infiltration of money laundering activities, along with lack of transparency and high level of corruption, developing countries have been finding it difficult to attract foreign investments which are contributory factors to economic development and financial stability. The negative damaging reputation attributed to these activities reduces legitimate international opportunities and sustainable economic growth and, on the other hand, drawing international organized criminal groups with undesirable reputations and temporary goal, therefore diminishing development and economic growth.⁶⁶ On this basis, most developing countries characterized with high level of corruption, insecurity, economic and financial instability and social unrest, have

⁵⁸ Crushing the Burgeoning Menace of Crude Oil Theft, Bunkering and Pipeline Vandalism in Nigeria (11). Available at <https://www.thisdaylive.com/index.php/2022/05/23/crushing-the-burgeoning-menace-of-crude-oil-theft-bunkering-and-pipeline-vandalism-in-nigeria-11/> accessed on 27/5/2022

⁵⁹ Xan Rice (2012): Law Set to be a "Game Changer [ecow.ft.com/Nigeria-oil-gas-2012 Cases of Oil Theft/Illegal Sales](http://www.ft.com/cms/s/0/efe9a380-13cd-11ed-11e3-9289-00144feabdc0.html). Available at <http://www.ft.com/cms/s/0/efe9a380-13cd-11ed-11e3-9289-00144feabdc0.html> accessed 15/5/2022

⁶⁰ Xan Rice, (2012) op cit

⁶¹ Vito Tanzi & Ernest U. Savona, eds. (1997), *Macroeconomic Implications of Money Laundering*. Harwood Academic Publisher.

⁶² Ibid

⁶³ Maiendra Moodley. (2008), The extent and security implications of Money Laundering in South Africa. Strategic Review for Southern Africa. Africa. Available at http://findarticles.com/p/articles/mi_hb1402/is_2_30/ai_n31607812/ accessed 15/5/2022

⁶⁴ Celarier, M. (1997), Privatization: A Case Study in Corruption. *Journal of International Affairs*. Volume 50, No. 2.

⁶⁵ Schott Paul Allan (2006), *Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism Second Edition and Supplement on Special Recommendation IX*, World Bank & IMF. Available at: http://siteresources-Worlbank.org/EXIAML/Resources/3965111146581427871/Reference_Guide_AMLCFT_2ndS_upplement.pdf accessed 17/5/2022

⁶⁶ John and Gary, (2001) op cit.

persistently failed to attract adequate foreign investments to boost their economic and financial growth. The phenomenon of money laundering, together with other economic and financial crimes, reduces government tax revenue.⁶⁷ Money laundering and its predicate offences are factors that contribute to the tax gap, as these activities decrease the amount of tax collected in South Africa.⁶⁸

9. Weak political institutions

In a political state, an individual can only become more powerful than institutions where there is corruption and/or dictatorship. Another negative effect of weak institution is the case of former Executive Governor of Delta State, Chief James Ibori. Ibori was discharged and acquitted for Money Laundering case by Mr. Justice Mercel Awokulehin in a Federal High Court, Asaba division, Nigeria but was eventually arrested in Dubai and deported to London. The London court convicted Chief Ibori for the same Money Laundering offence. As Adebayo⁶⁹ put it

Another point which undermines Justice Awokulehin's discharge of Ibori is the fact that Ibori actually pleaded guilty at the London trial.

He spared the prosecution from having to prove the case beyond reasonable doubt; he held up his hands and said- 'yes, 1 stole billions of Naira from the people of Delta state'. By that singular action, Ibori condemned Justice Awokulehin and the Nigeria's Criminal Justice process that discharged of him on the same facts, justice must not only be fair, but must be manifestly seen (by the people) to be fair. No matter the legal technicalities involved; no matter the explanation by Justice Awokulehin, it is almost impossible to persuade an average member of the public in Nigeria that something isn't wrong with a judicial process that enabled Ibori to escape justice in Nigeria only for him to plead guilty on the same set of facts overseas.⁷⁰

If Ibori had chosen to remain in Nigeria, he would be walking free and actively engage in his role as a political gladiator.

10. Economic and social weakness

Nigeria's Economy is regarded as the second largest Economy in Africa next to South Africa until recently when it was rebased and over took South Africa to claim the first position. It is therefore an important Anti-Money Laundering Unit in Sub-Sahara Africa. The theft and sale of Nigeria oil in neighboring countries and international markets point to the fact that there are international collaborators including international financial institutions where proceeds of these illegal transactions are being lodged. The only reason for this illegal collaboration is immediate economic benefits. Nigerian Government officials also exhibit lackadaisical attitude towards putting an end or at least taking effective measures to reduce incidence of oil bunkering that the Minister of finance said is costing Nigeria an estimated One billion dollar a month.⁷¹

As a result of poverty, many citizens have lost the moral compass to ask questions about the source of individuals' wealth. Individuals who become wealthy overnight irrespective of the job they do are considered lucky. And many people are just waiting for their own 'Time' to come.

11. Terrorism and Money Laundering

Terrorism is a term which violators worldwide have used to settle scores with nations over supposed grievances with fellow citizens or the nation. Each act of terrorism comes with attendant human and property losses, intimidations, threat and crimes of all sorts which may sometimes be regarded after so many terrorist attacks and losses. Terrorism clearly has a very real and direct impact on human rights, with devastating consequences for the enjoyment of the very rights which the government seeks to protect, such as, the right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize

⁶⁷ Maiendra Moodiey (2008) op cit

⁶⁸ Ibid.

⁶⁹ Adebayo Kareem 92012): Ibori's Case – Justice Awokulehin and the Burden of Conscience". Available at saharareporters.com/article/ibori-scuse-justice-awokulehin-and-burdenconscience-adebayo-kareem accessed 17/5/2022

⁷⁰ Ibid

⁷¹ Okonjo-Iweala, N (2012): "Nigeria Losing \$lbn a Month to Oil Theft" available <http://www.ft.com/intl/cms/s/0/6lfb070e-bf90-llel-a476-00144feabdc0.html#axzz2y2hops8> accessed 18/5/2022

Government, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have serious impacts on the enjoyment of human rights and stability. Since these stand against everything the United Nations stand for, they have since the 11 September, 2001 terrorist attacks in New York and Washington made counter terrorism a way forward in fighting unnecessary display of anger or grievances or financing such events or activities. To understand terrorism financing, we need to look at other terms such as terrorism and terrorist acts.

The term terrorism acquired its name from the French word *terrorisme* derived from the Latin word '*terrere*' which both mean great fear, or *terreo* meaning I frighten.⁷² The term terrorism is very difficult to define because one man's terrorism can be another man's freedom struggle. It was estimated that between 1936 and 1985 at least 115 different definitions were given of the word, "Terrorism".⁷³ According to Webster's dictionary,⁷⁴

Terrorism is the use of violent acts to frighten the people in an area as a way of trying to achieve a political goal.

Terrorism is a term which violators worldwide have used to settle scores with nations over supposed grievances with fellow citizens or the nation. Each act of terrorism comes with attendant human and property losses, intimidations, threats and crimes of all sorts which may sometimes be regretted after so many terrorist attacks and losses.

Terrorism clearly has a very real and direct impact on human rights, with devastating consequences for the enjoyment of the very rights which the government seeks to protect, such as, the right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have serious impacts on the enjoyment of human rights. Terrorism is therefore a global threat to democracy, rule of law, human rights and stability. Since these stand against everything the United Nations stand for, they have since the 11 September, 2001 terrorist attacks in New York and Washington made counter terrorism a way forward in fighting against unnecessary display of anger or grievances or financing such events or activities.

Terrorism is commonly understood to refer to acts of violence that target civilians in the pursuit of political or ideological aims.⁷⁵ In legal terms, although the international community has yet to adopt a comprehensive definition of terrorism, existing declarations, resolutions and universal sectoral treaties relating to specific aspects of it define certain acts and core elements. In 1994, the General Assembly's Declaration on Measures to Eliminate International Terrorism, set out in its resolution 49/60 that terrorism includes,⁷⁶

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes.

and that such acts ***are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them.***⁷⁷

Ten years later, the Security Council, in its resolution 1566 (2004),⁷⁸ referred to terrorism as

Criminal acts, including those against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a Government or an international organization to do or to abstain from doing any act.

Later that year, the Secretary-General's High-level Panel on Threats, Challenges and Change, described terrorism as⁷⁹

Any action that is "intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

States have failed to frame any agreed and exhaustive definition of terrorism, although the term has been used at various occasions governing international law since 1937. After September 11, 2001,⁸⁰ UN Security

⁷² M.G. Chitkara, Girdhari Sharma, International Terrorism (2002) at <http://www.legalservicesindia.com/article/article/human-rights-and-terrorism-1735-1.html>; Also, Fearey, R.A., "Introduction to International Terrorism" in Livingston M.H. (edited) International Terrorism in the Contemporary World, London, Greenwood Press 1978, p. 26.

⁷³ Bharat B. Das, Terrorism and POTA, National Seminar on Human Rights Education, Raw and society NALSAR University of Law Hyderabad Dec. 9-10, 2002 at p. 87.

⁷⁴ www.learnersdictionary.com/definition/.../terrorism-merriam-websters-...

⁷⁵ M.K. Nawaz and Gurdip Singh, Legal Control of International Terrorism, IJIL Vol. 17 (1979) at p. 66

⁷⁶ United Nations Action to Counter Terrorism 2011, UN Secretary General's Report on Counter Terrorism, available at <http://www.un.org/terrorism/background.shtml> accessed 20/5/2022

⁷⁷ Ibid.

⁷⁸ Security Council Resolution 1566 (2004), Para 3

⁷⁹ Recommendation of the Secretary General's High-Level Panel on Threat, Challenges and Change: A Member's Perspective. Available at <https://scholarlycommons.law.northwestern.edu/cgi/v> accessed 21/5/2022

Council passed various resolutions regarding terrorism,⁸¹ and it was agreed that States shall prevent and suppress the financing of terrorist acts, and shall take necessary steps to prevent the commission of terrorist acts. But the term has not been defined either in this resolution or in any other document of the Security Council. Some of the acts have been included in terrorism by some of these documents. For instance Article 2(1) of the Draft Document of the United Nations on a Comprehensive Convention on International Terrorism provides that:-

1- "Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or

(c) Damage to property, places, facilities, or systems referred to in paragraph

By Article 1(b) of this document, terrorism is any act resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population or to compel a Government or an international organization to do or abstain from doing an act.⁸²

6. TERRORISM FINANCING

This is an activity that provides financial support to designated terrorist groups. A government that maintains a list of designated terrorist organizations will also use laws to prevent money laundering being used to finance those organizations. Section 2 of the Terrorism (Prevention and Prohibition Act), 2022 prohibits all acts of terrorism and terrorism financing.

Laws against money laundering and terrorism financing are used around the world. In the United States, the Patriot Act was passed after the September 11 Attacks, giving the government anti-money laundering powers to monitor financial institutions.⁸³ The Patriot Act has generated a great deal of controversy in the United States since its enactment.⁸⁴ The United States has also collaborated with other powers, like the European Union, in creating the Terrorist Finance Tracking program.⁸⁵

Laws attempt to thwart the financing of terrorism, Combating the Financing of Terrorism (CFT) and anti-money laundering (AML). Initially the focus of CFT efforts was on non-profit organizations, unregistered money services businesses (MSBs) (including so called underground banking or 'Hawalas') and the criminalisation of the act itself.⁸⁶ The Financial Action Task Force on Money Laundering (FATF) made nine special recommendations for CFT (first eight then a year later added a ninth). These nine recommendations have become the global standard for CFT and their effectiveness is assessed almost always in conjunction with anti-money laundering. The FATF Blacklist (the NCCT list) mechanism was used to coerce countries to bring about change.

The United Nations (UN) has made numerous efforts, largely in the form of international treaties, to fight terrorism and the mechanisms used to finance it. Even before the September 11th attack on the United States, the UN had in place the International Convention for the Suppression of the Financing of Terrorism (1999), which provides:⁸⁷

1. Any person commits an offense within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

⁸⁰ September 11, 2001 terrorist attacks available at <https://en.m.wikipedia.org/wiki/september-11-...>

⁸¹ For example, Resolutions 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009), 1988 (2011) among others. Others include 1269 (1999), 1333 (2000).

⁸² Talking about Terrorism –Risks and Choices for Human Rights Organizations 2008 International Council on Human Rights Policy, http://www.ichrp.org/files/reports/35/129_report_en.pdf. accessed 22/5/2022

⁸³ "EU ups its fight against terrorist financing". DW.COM. and ^ "DGs - Migration and Home Affairs - What we do - ...Crisis & Terrorism - Terrorist Finance Tracking Programme"

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ "FATF-GAFL.ORG - Financial Action Task Force (FATF)".

⁸⁷ International Convention for the Suppression of the Financing of Terrorism (1999), Article 2, <http://www.org/law/cod/finterr.htm>. The Conventions referred to in the annex in sub paragraph 1(a) are listed in Annxe iii of this reference Guide. accessed 25/5/2022

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.

Section 21 of Terrorism (Prevention and Prohibition) Act, 2022 provides that “A person or entity, within or outside Nigeria, in any manner, who, directly or indirectly, and willingly provides, solicits, acquires, collects, receives, possesses, or makes available property, funds or other services, or attempts to solicit, acquire, collect, receive, possess or make available property, funds, or other services with the intention or knowledge, or having reasonable grounds to believe that it will be used, in full or part to finance a terrorist or terrorist groups, commits an offence and is liable on conviction to –

- (a) in the case of a natural person, life imprisonment; or
- (b) in the case of a body corporate –
 - i. a fine of at least ₦200,000,000,
 - ii. imprisonment of principal officers for a term at least 20 years and up to a maximum of life imprisonment, and
 - iii. the winding up of the body corporate, and its prohibition from reconstitution or incorporation under any form or guise.

Subsection 3 provides that “a person who knowingly or intentionally enters into or becomes involved in an arrangement –

- (a) which facilitates the acquisition, retention, or control of terrorist funds, by or on behalf of another person, by concealment, removal out of jurisdiction, transfer to a nominee or in any other way, or
- (b) as a result of which funds or other property is to be made available for the purposes of terrorism or for the benefit of a specified entity or commits an offence.

The subsection also provides that, ‘in proving the offence of terrorism financing, it shall not be required that the funds –

- (a) were actually used to carry out an act of terrorism;
- (b) were used to attempt an act of terrorism; or
- (c) be linked to a specific act of terrorism.

It is important to note that the Act also provides that ‘a person who finances the travel of individuals who travel to State other than their States of residence or nationality for the purpose of perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training commits an offence and is liable upon conviction to imprisonment for a term of at least 20 years and up to a maximum of life imprisonment.⁸⁸

7. IMPACT OF TERRORISM

The impact of terrorism is quite enormous, especially as it relates to the devastating consequences on the enjoyment of the rights which nations deem to be fundamental to the very existence of man. For example, the right to life, liberty and physical integrity of victims.⁸⁹ In addition to these individual costs, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have a real impact on the enjoyment of human rights.⁹⁰

For an act to constitute an offence, it shall not be necessary that the funds were actually used to carry out an offense referred to in paragraph 1, subparagraph (a) or (b), FATF

The difficult issue for some countries is defining terrorism. Not all countries that have adopted the convention or agree on what actions constitute terrorism. The meaning of terrorism is not universally accepted due to significant political, religious and national implications that differ from country to country. FATF, which is also recognized as the international standard setter for efforts to combat the financing of terrorism (CFT), does not specifically make Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism.⁹¹

Chapter III, FATF⁹² defines the term financing of terrorism in its eight *Special Recommendations On Terrorist Financing (Special Recommendations)* which was developed following the events of September 11, 2001.

⁸⁸ Section 22

⁸⁹ Human Rights, Terrorism and Counter-terrorism, Office of the United Nations High Commissioner for Human Rights. Retrieved from <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf> accessed 25/5/2022

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² 01-chap01-f.qxd 3/30/03

Nonetheless, FATF urges countries to ratify and implement the 1999 United Nations International Convention for Suppression of the Financing of Terrorism. Thus, the above definition is the one most countries have adopted for purposes of defining terrorist financing.

8. NIGERIAN LEGAL FRAMEWORK FOR COMBATING TERRORISM⁹³

In response to global terrorism, Nigeria has enacted its own legislation to curb terrorism. The Principal legislation is the Terrorism (Prevention & Prohibition) Act, 2022. Section 1(1) provides for what constitutes terrorism. It provides in section 2(2) for prohibition of all acts of terrorism and financing of it.⁹⁴ Terrorism occurs when;

A person who knowingly-

- (a) does, attempts, or threatens to do an act preparatory to, or in furtherance of an act of terrorism;**
- (b) commits or omits to do anything that is reasonably necessary to promote an act of terrorism; or**
- (c) assists, facilitates or funds the activities of persons engaged in an act of terrorism;**
- (d) participate as an accomplice or contributes to commission of an offence of terrorism under this Act.**
- (e) Assist, facilitates, organize or directs persons to engage in terrorism,**
- (f) Incites or induces anyone to commit the offence,**
- (g) Recruits for terrorist groups**

The Terrorism (Prevention) Act, 2022 (As amended) prescribes various degree of punishment for terrorist act ranging from death sentence to life imprisonment. Other degrees of punishments range from 20 years.⁹⁵ Section 15(1) (2) and (3) of the Economic and Financial Crimes Commission, Establishment Act, 2004 provides as follows:

- (1) A person who willfully provides or collects by any means, directly or indirectly, any money from any person with intent or knowledge that the money shall be used for any act of terrorism, commits an offence under this Act and is liable on conviction to imprisonment for life.
- (2) Any person who commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, commits an offence under this Act and is liable on conviction to imprisonment for life.
- (3) Any person who makes funds or financial assets available for use of a terrorist, commits an offence.

The fight against terrorism gained boost when the Act approved life imprisonment or death sentence for anyone convicted of hostage taking, kidnapping or hijacking. The legislation passed by the National Assembly seeks to “provide for an effective, unified and comprehensive legal, regulatory and institutional framework for the detection, prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing of the proliferation of weapons of mass destruction in Nigeria; and for related matters.

Section 24(1a-c) of the law provides that: “A person who knowingly or intentionally seizes, detains, or attempts to seize or detain a person, property, or facility in order to compel a third party to do or abstain from doing a lawful act; threatens to kill, injure or continue to detain a person in order to compel a third party to do or abstain from doing a lawful act; or gives an explicit or implicit condition for the release of the person held hostage, or the property or facility detained, commits an offence.”

As encapsulated in section 1(a-h) of the legislation, the objectives of the legal framework is to provide for: effective, unified and comprehensive legal, regulatory and institutional framework for the detection , prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing the proliferation of weapons of mass destruction in Nigeria, and other related matters.

It also provides for mechanisms for the implementation of financial measures arising from counter-proliferation Resolutions, in line with Article 41 of the Charter of the United Nations, and measures under Nigerian law for the implementation and enforcement of Regional and International Counter-Terrorism Conventions, and Agreements for the combating of terrorism, terrorism financing and related offences.

⁹³ thenationonline.ng.net/legal-framework-for-the-prevention-of-terrorism-in-nigeria (a-g)

⁹⁴ Terrorism Prevention & Prohibition Act, 2022

⁹⁵ For example, belonging to prescribed terrorist organizations pursuant to Section 2(3) and 10 years for participation in terrorist meeting in accordance to Section 2 (3)(g)(i)-(xiv).

It further seeks to provide for: “Procedures for the declaration of a person or entity as a terrorist or terrorist entity, or terrorism financier; extraterritorial jurisdiction of the courts in relation to acts of terrorism; measures to enable Nigeria to act effectively in the fight against the financing of terrorism, including mechanisms regarding reporting of suspected incidents of financial and other support for terrorist entities; measures for the detention, freezing, search and seizure, confiscation and forfeiture of terrorist property; and the compensation of victims of acts of terrorism

Section 2(a-b) further provides that: “A person, who commits an offence under subsection (1) of this section, is liable on conviction-where death does not result from the act, to life imprisonment; or where death results from the act, to a death sentence.”

The Nigerian Criminal Code treats acts of terrorism as treasonable felony under section 40. Other Acts which deal with acts of terrorism include the Penal Code and the Administration of Justice Act.⁹⁶ It is important to state that there is dearth of cases by Nigerian courts on the issue of terrorism. The three (3) cases that were decided by the Federal High Court, from November 2012 to July 2013 were in respect of EFCC Act 2004 and Criminal Code respectively. The Terrorism Prevention Act 2022 (As amended), is yet to have any decision arising from the Act, though some high profile trials are at the advanced stage at the Federal High Court. There are two major other convictions to wit: **Federal Republic of Nigeria v. Charles Tombra Okah and three others**.⁹⁷ Edmond Ebiware the third accused person was convicted pursuant to Section 40(b) of the Criminal Code for failure to disclose an act of treasonable felony in respect of October 1st 2010 bombing, while the trial of other three persons is ongoing as they have an interlocutory appeal is pending at the Court of Appeal.

Another landmark decision that centered on terrorism was **Federal Republic of Nigeria v. Shuaibu Abubakar and five others**.⁹⁸ Five were convicted pursuant to Section 15(2) of EFCC Act 2004. First to fourth accused convicts were sentenced to life imprisonment; the fifth was discharged and acquitted for want of evidence linking him to any of the charges while the sixth convict was sentenced to ten (10) years imprisonment. The judgement reads thus:

I take into consideration all the evidence that were presented against the 1st to 4th and 6th convicts. These convicts were using explosive devices meant for blasting of rocks for mining on their fellow human beings who have done nothing them. Human life, of any human is sacred. There is no one human life that is more sacred than the other. These convicts have shown utmost disregard for the human in the most cruel manner. They deserve to be removed from the public if only to save one or two lives. Therefore I sentence the 1st – 4th convicts to life imprisonment. On the 6th convict, Umar Ibrahim, I sentenced him to just 10 years imprisonment for knowingly aiding his brothers for the terrorist activities.

Every human being is entitled on the basis of being so, to enjoy human rights and concepts recognized under the framework of international law in the shape of major human rights law instruments.⁹⁹ There are ten core international human rights instruments, nine of which are in the form of treaties while one is an optional protocol consisting of other protocols.¹⁰⁰

⁹⁶ See Mischief from s. 326 to 341 of Penal Code or Offences against Public Peace from s. 100 – 114 Penal Code.

⁹⁷ 5926 FHC/ABJ/CR/186/2010, 251/1/2012; available online at <http://thenationonline.net/web3/news...fallouts-from-independence-day-bombings...>; nigeriavillagesquare.com/.../general-fallouts-from-independence-day-bombings p. 2

⁹⁸ m.youtube.com/.../book-haram-suspects-in-court-flv-youtube accessed 30/5/2022

⁹⁹ United Nations Human Rights Office of the High Commissioner. The core International Human Rights Instruments and their monitoring bodies. Available at <http://www.ohchr.org/EN/coreinstruments.aspx>

¹⁰⁰ They are as follows;

- The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination on all Forms of Discrimination Against Women (CEDAW)
- Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (CAT)
- Convention on the Rights of the Child (CRC)
- International Convention on the Protection of the Rights of All Migrant workers and members of their families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)
- Convention on the Right of Persons with Disabilities (CRPD)
- Optional Protocol to the Covenant on Economic, Social and Cultural Rights (ICESCR-OP)

There are also other optional protocols (OP) such as,

- OP to the International Covenant on Civil and Political Rights (ICCPR-OPI)
- The Second OP to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2)
- OP on CEDAW
- OP on Convention on the Rights of the Child on Communications Procedure
- OP to CAT

Combating the Financing of Terrorism

Substantial progress has been achieved in understanding the phenomenon of *terrorism* financing and in articulating and implementing the measures necessary to address it. Terrorism financing incorporates the distinct activities of fund-raising, storing and concealing funds, using funds to sustain terrorist organizations and infrastructure, and transferring funds to support or carry out specific terrorist attacks. Funds used to support terrorism may be generated through legal or illegal means, and legitimate humanitarian or business organizations may be used unwittingly or knowingly as a channel for financial or other logistical support to terrorism.

Financial transactions can yield valuable intelligence that may be unavailable from other sources. Yet, detecting illicit financial activity, including terrorism financing, is difficult in the formal financial system and even more difficult outside of it. Targeted financial sanctions (including, in particular, the freezing of assets) against persons and entities suspected of providing financial support to terrorism have proved effective, but they need to be balanced with the need to track terrorist funds movements to gather intelligence on the scope of the terrorist network.

Criminalizing Terrorism Financing

When the criminalization of terrorism financing was first addressed in an international instrument through the *International Convention for the Suppression of the Financing of Terrorism* in 1999, drafters were faced with the challenge of establishing a regime that would criminalize the funding of an act that had not been previously defined in a comprehensive manner. Making the financing of terrorism a legal offence separate from the actual terrorism act itself gives authorities much greater powers to prevent terrorism.

The *40 Recommendations on Money Laundering* and *9 Special Recommendations on Terrorist Financing* of the Financial Action Task Force (FATF) are recognized under *Security Council Resolution 1617 (2005)* and the *Plan of Action* annexed to *General Assembly resolution 60/288 (2006)* as important tools in the fight against terrorism.¹⁰¹ The *40 + 9 Recommendations* are a comprehensive set of measures for an effective national regime to fight money laundering and terrorism financing. They call for the criminalization of the financing of terrorism in accordance with the *International Convention for the Suppression of the Financing of Terrorism*, among other actions.

Terrorist acts (and their financing) are perceived by some as being politically justified by their goals. This perception erodes political will to address terrorism financing, distracts attention from the fact that it is a crime, and impedes the effectiveness of international and national efforts to combat terrorism and its financing.

Enhancing Domestic and International Cooperation

Domestic and international cooperation works best when all of the relevant agencies involved in an initiative are operating on a shared understanding of “terrorism financing”, a common agenda and as much shared information as possible. A fully effective local and global effort to combat terrorism financing benefits from well-functioning, transparent and corruption-free economies that are equipped with appropriate anti-money laundering (AML) legal, regulatory and institutional frameworks. It also benefits from the institutional capacity to enforce laws and to collect, analyse and share real-time intelligence and documentary evidence within and across national borders. Properly trained financial intelligence experts are critical to making the regime effective. This includes financial intelligence unit personnel, criminal investigators, prosecutors, judges, regulators, customs officers and financial institution employees.

However, building this institutional capacity is difficult and expensive, and it requires sustained political commitment. Complexity arises from the problems associated with achieving and sustaining cooperation among diverse public and private actors. Many countries have encountered difficulties in putting in place legal, administrative and institutional arrangements for various reasons, including legal traditions and resource constraints. International cooperation initiatives, such as training of new personnel in one country by experienced staff in another, can constitute a key contribution to enhancing the capacity of relevant domestic agencies, such as financial intelligence units (FIUs), and to strengthening the CFT regime.

- OP to the Convention of the Rights of Persons with Disabilities

¹⁰¹ In April 1990, the FATF issued a set of 40 Recommendations for improving national legal systems, enhancing the role of the financial sector and intensifying cooperation in the fight against money laundering. These Recommendations were revised and updated in 1996 and in 2003 in order to reflect changes in money-laundering techniques and trends. The FATF extended its mandate in October 2001 to cover the fight against terrorist financing and issued eight Special Recommendations on combating the financing of terrorism. A ninth Special Recommendation was adopted in October 2004.

Freezing of Assets

One of the central components of the global effort to disrupt terrorism financing is the freezing of assets of designated persons and entities. The United Nations Security Council began the effort in the late 1990s as a way to target specific parties instead of sanctioning an entire nation. Compliance with the assets freeze regime remains weak globally. Many countries do not have the legal framework to immediately freeze terrorist monies. And, even where such frameworks do exist, they are often not implemented effectively. For instance, financial institutions and authorities sometimes struggle to clarify or verify a designated person's name.

A second issue arising from the assets freeze relates to *Security Council resolution 1373 (2001)*. This *Resolution*, requires that States themselves determine the individuals and entities associated with terrorism, whose funds and assets should be frozen. It also calls on States to share the names of their suspected terrorists. This means that recipient States must determine what effect to give to such information and to a possible freezing request from a foreign State. This requires bilateral cooperation, trust and political and legal instruments, including a test to determine when it is proper to implement freezes in response to such requests. The FATF standards call for States to decide for themselves what is reasonable and what is not.

Under *Security Council resolution 1267 (1999)* and its successor resolutions, the Security Council issues names associated with the Taliban, Al-Qaida, Usama bin Laden and their supporters on a United Nations public list of sanctioned individuals and entities

A further difficulty lies in the fact that many question whether the due process rights of those persons and entities designated are being respected in the implementation of *resolution 1267 (1999)*. Perhaps most notably, the European Court of Justice ruled recently in the **Tassin Abdallah Kadi and Al-Barakaat International Foundation V. UN Committee of the Security Council joint cases (3 September 2008)**¹⁰² that implementation of *resolution 1267 (1999)*, by European Union regulations, fails to respect due process and human rights by, among other points, not providing sanctioned individuals with notice of their listing and does not offer any mechanism in which the listed individuals can appeal their designation.

THE LINK BETWEEN MONEY LAUNDERING AND TERRORIST FINANCING

Although often linked in legislation and regulation, terrorism financing and money laundering are conceptual opposites. Money laundering is the process where cash raised from criminal activities is made to look legitimate for re-integration into the financial system, whereas terrorism financing cares little about the source of the funds, but allows what the funds are to be used for, to define its scope.

An in-depth study of the symbiotic relationship between organised crime and terrorist organizations detected within the United States of America and other areas of the world referred to as crime-terror nexus points has been published in the forensic literature.¹⁰³ The article emphasizes the importance of multi-agency working groups and the tools that can be used to identify, infiltrate, and dismantle organizations operating along the crime-terror nexus points.¹⁰⁴

For most countries, money laundering and issues with regard to prevention, detection and prosecution terrorist financing raise significant complex issues. Sophisticated techniques used to launder money and finance terrorism add to the complexity of these issues. Such sophisticated techniques may involve many different types of financial institutions; many different financial transactions using multiple financial institutions and other entities, such as financial advisers, shell corporations and service providers as intermediaries; transfers to, though, and from different countries; and the use of many different financial instruments and other kinds of value-storing assets.¹⁰⁵ Money laundering is, however, a fundamentally simple concept. It is the process by which proceeds from a criminal activity are disguised to conceal their illicit origins. Basically, money laundering involves the *proceeds* of criminally derived property rather than the property itself.

¹⁰² European Court Reports 2008 1-06351 available at eur-lex.europa.eu/legal-content/.../TXT/?... ; and (2008) 33 Yale Journal of International Law 555; RA...accessed on 15/5/22

¹⁰³ Makarenko, T. "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organized". *Global crime* 6 (1): 129–145.

¹⁰⁴ Makarenko, T. (2002). "Crime, Terror, and the Central Asian Drug Trade". *Harvard Asia Quarterly* 6 (3) : 1-24

¹⁰⁵ Ibid 13:44 Page I-5

The financing of terrorism is also a fundamentally simple concept. It is the financial support, in any form, of terrorism or of those who encourage, plan, or engage in it. Less simple, however, is defining terrorism itself because the term may have significant political, religious, and national implications from country to country.

Money laundering and terrorist financing often display similar transactional features, mostly having to do with concealment. Money launderers send illicit funds through legal channels so as to conceal their criminal origins, while those who finance terrorism transfer funds that may be legal or illicit in origin in such a way as to conceal their source and ultimate use, which is the support of terrorism. But the result is the same—reward.

When money is laundered, criminals are rewarded with disguised and apparently legitimate proceeds. Similarly, those who finance terrorism are rewarded by providing the financial support to carry out terrorist stratagems and attacks.

The techniques used to launder money are essentially the same as those used to conceal the sources of, and uses for, terrorist financing. Funds used to support terrorism may originate from legitimate sources, criminal activities, or both. Nonetheless, disguising the source of terrorist financing, regardless of whether the source is of legitimate or illicit origin, is important. If the source can be concealed, it remains available for future terrorist financing activities.

Similarly, it is important for terrorists to conceal the use of the funds so that the financing activity goes undetected. For these reasons, FATF has recommended that each country should criminalize the financing of terrorism, terrorist acts and terrorist organizations,¹⁰⁶ and designate such offenses as money laundering predicate offenses.¹⁰⁷ Finally, FATF has stated that the eight *Special Recommendations* combined with *The Forty Recommendations* on money laundering¹⁰⁸ constitute the basic framework for preventing, detecting and suppressing both money laundering and terrorist financing.

Efforts to combat the financing of terrorism also require countries to consider expanding the scope of their AML framework to include non-profit organizations, particularly charities, to make sure such organizations are not used, directly or indirectly, to finance or support terrorism¹⁰⁹ require examination of alternative money transmission or remittance systems, such as *hawalas*.¹¹⁰ This effort includes consideration of what measures should be taken to preclude the use of such entities by money launderers and terrorists.¹¹¹

As noted above, a significant difference between money laundering and terrorist financing is that the funds involved may originate from legitimate sources as well as criminal activities. Such legitimate sources may include donations or gifts of cash or other assets to organizations such as foundations or charities that in turn are utilized to support terrorist activities or terrorist organizations. Consequently, this difference requires special laws to deal with terrorist financing. However, to the extent that funds for financing terrorism are derived from illegal sources, such funds may already be covered by a country's AML framework, depending upon the scope of the predicate offenses for money laundering.

9. THE PROCESSES OF MONEY LAUNDERING AND FINANCING OF TERRORISM

Terrorists and terrorist groups have many methods at their disposal to move funds around the world. They can use formal financial systems or unregulated channels, or simply move money across borders in cash. There is growing evidence that terrorist groups are exploiting vulnerabilities in the international trade system to move value for illegal purposes. Whether in the form of exogenous flows from private donors directed at terrorist networks, or that of funds being moved within the same organization, the transfer of value plays a fundamental role in bringing terrorists closer to their objectives. It also affords authorities the opportunity to detect terrorist activity, disrupt it and deter further terrorism financing.

¹⁰⁶ The Conventions referred to in the annex in sub paragraph 1(a) are listed in Annexe iii of this reference Guide. Available at <http://www.org/law/cod/finterr.htm>. accessed 5/6/2022

¹⁰⁷ Ibid.

¹⁰⁸ Id., at introductory paragraph.

¹⁰⁹ Special Recommendations, Spec. Rec. VIII.

¹¹⁰ Rebecca Lake. What is Hawala? An informal value transfer system based not on the movement of cash, or on Telegraph or computer network wire transfers between banks, but instead on the performance and honour of a huge network of money brokers. It is an ancient money transfer system originating in southeast Asia that involves transferring money without physically moving it from one place to the other. It is an underground banking which may or may not be used for illegal money laundering operation. Available at <https://www.thebalance.com/what-ishawala...> accessed on 14/6/2022

¹¹¹ Special Recommendations, Spec. Rec. VI.

Many people perceive that non-traditional methods of moving money present *higher* risk because they are to varying degrees unregulated. It is unclear, however, whether informal value transfer systems are any more vulnerable to criminal abuse than formal ones.

New technologies and other alternative systems have prompted countries to *revise* their regulatory framework. In this process, they have begun to address terrorism financing (and money laundering) risks. Specific issues that arise from different value transfer systems and approaches for dealing with them have been identified.

The rise of information and communication technologies in the past decades have facilitated economic development. The same innovations that can be used against terrorism financing by their ability to record and detect financial activities also can be instrumental in buying it by opening new channels through which terrorists can solicit and receive funds. The two-sidedness of technological advances requires a constant vigilance on the part of policymakers, law enforcement and intelligence communities in mitigating the risks of terrorism while simultaneously promoting development, which ultimately will reduce many of the factors that lead to terrorism.¹¹²

The traditional methods through which financial transactions are initiated, processed and settled are quickly being transformed by recent developments in payment systems.¹¹³ These are essentially technological innovations that allow transactions through new channels and structures. The most common are mobile phones, the Internet and electronic value cards.¹¹⁴ Each of these three carry varying levels of opportunities as well as risks. Because of the novelty of their use for payments, many are yet to be regulated or even fully considered by Governments. This means that the financial transactions channelled through them can fall outside the AML/CFT regulatory umbrella, existing in a grey zone between the ARS and formal financial services.

1. Placement

The initial stage of the process involves placement of illegally derived funds into the financial system, usually through a financial institution. This can be accomplished by depositing cash into a bank account. Large amounts of cash are broken into smaller, less conspicuous amounts and deposited over time in different offices of a single financial institution or in multiple financial institutions. The exchange of one currency into another one, as well as the conversion of smaller notes into larger denominations, may occur at this stage.

Furthermore, illegal funds may be converted into financial instruments, such as money orders or cheques, and commingled with legitimate funds to divert suspicion. Placement may also be accomplished by the cash purchases of a security or a form of an insurance contract.

2. Layering

The second money laundering stage occurs after the ill-gotten gains have entered the financial system, at which point the funds, security or insurance contract are converted or moved to other institutions further separating them from their criminal source. Such funds could be used to purchase other securities, insurance contracts or other easily transferable investment instruments and then sold through yet another institution. The funds could also be transferred by any form of negotiable instrument such as cheque, money order or bearer bond, or transferred electronically to other accounts in various jurisdictions. The launderer may also disguise the transfer as a payment for goods or services or transfer the funds to a shell corporation.

3. Integration

The third stage involves the integration of funds into the legitimate economy. This is accomplished through the purchase of assets, such as real estate, securities or other financial assets, or luxury goods. These three stages are also seen in terrorist financing schemes, except that stage three integration involves the distribution of funds to terrorists and their organizations, while money laundering, as discussed previously, goes in the opposite direction—integrating criminal funds into the legitimate economy.¹¹⁵

The rise of information and technologies have facilitated economic development but they have also been used by money launderers and financiers of terrorism in manners that have become more difficult to detect.

¹¹² See the recent world publication *Finance for All?* (2007) for more on how economic development can bring stability by wiping away many of the challenges that threaten it, social inequalities for example.

¹¹³ This includes bank branches, ATMs and conventional interfaces through traditional financial institutions.

¹¹⁴ This list is certainly not exhaustive but, at the time of drafting, these three innovations are the most popular of new payment methods.

¹¹⁵ Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism.

10. CONCLUSION

Because of the devastating consequences of money laundering and terrorist activities, there is now need for both national and international measures to collaborate in the fight against these menace. The United Nations requires all member states to domesticate laws to deal with these acts. Beyond the laws, there is need for an effective intelligence system that can detect some of these crimes that are usually properly concealed. All hands must be on deck to fight these crimes. Supervisory institutions must be proactive and stay ahead of the fraudsters on technological innovations. It is suggested that human capacity must be built and maintained by the supervisory and regulatory institutions. Countries can also not be too overzealous in their quest to counter terrorism financing and money laundering that they infringe on humanitarian and human rights laws.

To properly collaborate, there must exist some level of trust between the government, the financial institutions and the private sector generally. The public sector should also trust the intelligence units enough to share certain information about their customers with them to effectively aid in the prosecution of persons engaged in financial crimes. Government must ensure that institutions are built on enduring principles. No individual must be seen to be bigger than any institution. Policing, supervisory and regulatory institutions such as EFCC, ICPC, CBN, NDIC must be strengthened in order to promote merit and impartiality. The financial institutions must be trained to recognize and report suspicious activities which are indicators of financial crimes. The information so given must be properly analysed by competent authorities before challenging the culprits who are usually quick to allege breach in being listed as terrorists without fair hearing or violation of their human rights to dignity and life. Financial institutions should be encouraged to invest in information technology equipment by providing handsome tax incentives on expenses incurred on IT related equipments. All alternative remittance systems should be monitored through some form of registration or licensing so that they do not disappear altogether and remain unregulated and therefore unsupervised.

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