



**BANKS' COMPLIANCE WITH ANTI-MONEY
LAUNDERING LAWS IN NIGERIA: LESSONS FROM
THE UNITED KINGDOM**

BY

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**A thesis submitted in fulfilment of the requirement for the
degree of Doctor of Philosophy in Laws**

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International Islamic University Malaysia**

MARCH 2018

ABSTRACT

Money laundering has become a disturbing phenomenon which both national and international organisations are tirelessly making efforts to curb. For this reason, various legal frameworks have been introduced to curtail the menace. Some successes have been recorded in many jurisdictions. However, the crime remains pervasive in Nigeria, permeating all sectors of the country's economy. This is evident from the rate of the offence and the number of court cases pending and others being filed on daily basis in the country on the matter. The inextricable relationship between the crime of money laundering and financial transactions places banks in a sensitive position and makes them a point of focus in the fight against the crime. Expectedly, banks bear many responsibilities and are saddled with significant roles in this regard. Luckily, the law sets down clear criteria to determine how such responsibilities should be discharged and how the roles should be played. Consequently, assessing banks' compliance with the existing legal instruments becomes imperative. To determine the level of compliance of banks in any country with money laundering laws requires assessing how their performances conform with the international standards. Bearing this in mind, this research examines banks' compliance with money laundering legislations in Nigeria with specific focus on Money Laundering (Prohibition) Act, 2011 [MLP Act]; Economic and Financial Crimes Commission (Establishment) Act, 2004 [EFCC Act]; Central Bank of Nigeria, Act, 2007 [CBN Act]; Independent Corrupt Practices Commission Act, 2000 [ICPC Act]; and CBN/AML Regulations, 2013. This is done with the aim of measuring the overall compliance with the international standards. In finding solutions to the challenges identified with the Nigerian banks' less compliance records, lessons are drawn from the United Kingdom where laws are more effective and the banks' compliance scale is higher. To achieve this, this study adopts qualitative legal research methodology and thereby employs Doctrinal and Non-Doctrinal' research methods combined with descriptive, interpretative and content analysis techniques. The research relies on both primary and secondary data. The research finds that banks in Nigeria are not substantially complying with the Anti-Money Laundering (AML) laws even though the laws are adequate and of international standard. The research thus notes that banks' delinquency in this regard is hinged on weaknesses in the implementation and enforcement exercises. The research therefore recommends lessons to be drawn from the UK where their regulatory frameworks ensure effective enforcement of the laws and compliance from the banks. Specifically, to avoid overlapping of functions, unnecessary rivalry and lack of synergy between various law enforcement agencies in the country involved in the fight against the crime of money laundering, a Nigerian National Crime Agency (NNCA) is strongly recommended to be created, like the UK's National Crime Agency (NCA), as the umbrella body for money laundering and allied crimes control. Creation of a Financial Crimes Court is also seen to be desirable for expeditious prosecution. If this is done, banks' compliance with AML in Nigeria is expected to be greatly enhanced and success would be achieved in combating money laundering.

ملخص البحث

قد أصبح غسيل الأموال ظاهرة مزعجة تبذل كل من المنظمات الوطنية والدولية جهودا بلا كلل لكبح جماحها. ولهذا السبب، أدخلت أطر قانونية مختلفة للحد من هذا الخطر. وقد سجّلت بعض النجاحات في عديد من الولايات القضائية. ومع ذلك، لا تزال الجريمة منتشرة في نيجيريا، وتحلل جميع قطاعات اقتصاد البلاد. ويتضح ذلك من معدل القضايا المعروضة على المحاكم، ويجري تقديمها يوميا في البلاد بشأن هذه المسألة. إن العلاقة المتشابكة بين جريمة غسيل الأموال والمعاملات المالية تضع البنوك في وضع حساس مما يجعلها نقطة ارتكاز في مكافحة الجريمة. ومن المتوقع أن تتحمل المصارف مسؤوليات عديدة وتعرض لأدوار مهمة في هذا الصدد. ولحسن الحظ، يضع القانون معايير واضحة لتحديد كيفية أداء الأدوار، وبناء عليه فإن تقييم امتثال المصارف للصوصك القانونية القائمة أمر حتمي. ويتطلب تحديد مستوى امتثال المصارف في أي بلد من قوانين غسيل الأموال تقييم مدى تطابق أدائها مع المعايير الدولية. يتناول هذا البحث امتثال البنوك لتشريعات غسيل الأموال في نيجيريا مع التركيز بشكل خاص على قانون 2011، وقانون MLP الذي يحظر غسيل الأموال؛ وقانون الجرائم الاقتصادية والمالية لعام 2004، و[قانون EFCC]؛ مصرف نيجيريا المركزي، قانون 2007، و[قانون CBN]؛ وقانون لجنة ممارسات الفساد المستقلة لعام 2000، و[قانون ICPC]؛ وتعليمات بنك الكويت المركزي في مكافحة غسيل الأموال، 2013. ويتم ذلك بهدف قياس الامتثال العام للمعايير الدولية. في إيجاد حلول للتحديات التي تم تحديدها مع البنوك النيجيرية فيه تجربة من المملكة المتحدة حيث القوانين أكثر فعالية والبنوك على نطاق أعلى للالتزام بالتشريعات. ولتحقيق ذلك، فإن هذه الدراسة تعتمد منهجية البحث القانوني النوعية وبناء عليه توظف العقائدية وطرق البحث غير المذهبية جنباً إلى جنب مع تقنيات التحليل الوصفي، والتحليل التفسيري للمحتوى. ويعتمد البحث على كل من البيانات الأولية والثانوية. ويخلص البحث إلى أن البنوك في نيجيريا لا تمتثل إلى حد كبير لقوانين مكافحة غسيل الأموال (AML) على الرغم من أن القوانين كافية وذات معايير دولية. وعليه، يلاحظ البحث أن جنوح المصارف في هذا الصدد يتوقف على نقاط الضعف في عمليات التنفيذ والإنفاذ. ولذلك يوصي البحث بالاستفادة من تجربة المملكة المتحدة؛ حيث تضمن الأطر التنظيمية والتنفيذ الفعال للقوانين وامتثال البنوك. وعلى وجه التحديد، لتجنب تداخل الوظائف والتنافس غير الضروري وعدم التأزر بين مختلف وكالات إنفاذ القانون في البلاد التي تشارك في معركة جريمة غسيل الأموال مرة أخرى، من المستحسن لوكالة الجريمة الوطنية النيجيرية (NNCA) أن تقوم بإنشاء وتأسيس الوكالة الوطنية لمكافحة الجريمة (NCA)، باعتبارها الهيئة الشاملة لمكافحة غسيل الأموال ومراقبة الجرائم المتحالفة معها. ويتطلع إنشاء محكمة للجرائم المالية أيضا إلى أن يكون من المستصوب إجراء محاكمة عاجلة. وإذا ما تم ذلك، فمن المتوقع أن يتحقق امتثال المصارف لمكافحة غسيل الأموال في نيجيريا.

APPROVAL PAGE

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DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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ACKNOWLEDGEMENTS

Say "Indeed, my prayer, my rites of sacrifice, my living and my dying are for Allah, lord of the worlds".

Achieving this feat in my quest for legal education is no doubt a rare favour from Allah (SWT). I therefore express my appreciation to Allah who deserved all the praises and adoration. My PhD journey is full of mysteries and challenges of diverse magnitudes. Efforts of several people that contributed immensely to the success of the programme deserves to be appreciated. Firstly, it is my utmost pleasure to acknowledge the support of my mother, my beautiful wife, children and grandchildren for their unwavering belief in my ability to accomplish this goal: thank you for your support and patience.

I wish to express my appreciation and thanks to those who provided their time, effort and support for this project. To members of my dissertation committee, thank you for sticking with me. A special thanks to my main supervisor, Assistant Professor (Dr) Mohd Yazid Bin Zul kepli for his un-waivered interest, dedication, continuous support, scholarly touches, encouragement, advice and leadership, and for that, I will be forever grateful.

Professor (Dr)Norhashimah Mohd Yasin the chairperson of my supervisory committee's contributions is highly acknowledged and appreciated. Her exceptional thoroughness and painstaking attention on my work deserves commendation. Besides been a great academia of a global status, that exposes me to this area of knowledge, her erudition, objectivity and constructive criticism did not only raise the standard of this work but instil in me an unblemished academic skills and traits. May Allah grant her long life and good health to reap the fruits of her labour. In the same vein, Mr Andrew Charles Laing's painstaking attention, useful corrections and advice was critical to the success of this research. His efforts deserve my hearty appreciations. I am grateful sir.

Dr Umar Oseni was not only instrumental to my admission to this great university, but he was also a pillar upon which the entire processes of the journey were rested and nourished. He is always there when matters most. My dearest brother '*Jazakum lah khair*'. Dr Olatoye K.A.M (CJ), the Head of the Department of Public and International Law, Lagos State University in Nigeria has always proven himself to be a friend in need. I appreciate his usual supports. I also appreciate the kind gesture of Eng. Kolawole Abdwaheed for providing the most needed technical support during the conduct of fieldwork at Abuja, Nigeria. While the duo of Alh. Bashir Boyenle Oni and Alh. Abdraheem Abiodun Jimoh as well as their family members played significant roles in my home front. May Allah ease your tasks. They are indeed friends in need. May Allah reward you abundantly.

The supports of comrades Sulaiman Arigbabu aka 'Bruno' and Lanre Suraj are commendable. The link to the EFCC and the FIU was facilitated by these great anti-corruption activists. The interview facilitated by the Director of EFCC Osita Nwoja and the Chairman of SCUML Mr Bello Tukur enriched this research. The interview granted by some eminent personalities were highly appreciated. These

people include: the former governor of Oyo state Mr Oyakhire, Barr Nurudeen Asunloge, Messers Steve, Amao, Rabiun A, Usman Malik, Dr. Isiaq Adesoye Mustapha, Eng Adeyemo, Dr Moridiyyah Adeyemo, A former director of First Bank, Alh. Usman in Benin and others. May Allah reward each one of them for their kind gestures.

The former Vice chancellor, Osun State University, Prof. Okesina and the two other former Ag. Vice Chancellors of the university, (Prof. Olatunde G. O and Prof. Alamu J. O) played significant roles in accomplishing this task. May Allah continue to bless you sirs. The roles played by the pioneer Provost, College of Law UNIOSUN, Prof. Oladele O.O and that of the current Provost and Dean Prof. Gbadamasi O.A, are quite commendable. Prof. Kola Olusanya is no doubt a friend in need, while the supports of my colleagues, Gbenga Falade, Rufus Mmadu, Dr Muhammad Bashir Ismail and late Dr Joel Anwo were of great impacts. The Director of Academic Planning UNIOSUN, Dr Adeleke Monsur, the Chief Imam of UNIOSUN Dr Bello, Alhaja Serifat Fatoki, Barr. Ismyl Adewumi, Hafsa Sola Sanni and other members of UNIOSUN Muslims' Community were my torch bearer and prayer warriors. I thank you all.

The immediate past members of Abiona's led ASUU executives where I served as the Legal Adviser provided the much-needed comradeship supports. Members of the Muslim Forum in Lagos particularly Alh. Omoteji Shakirdeen and Members of the Muslim Family Prayer Group are also acknowledged. Dr Sadiq Omoola, Dr. Ishola Abdulahi and Dr. Aliyu Gembu were members of my PhD Research Collaboration Group. Every member of this group played commendable roles toward accomplishing the task.

Nigerian Lecturers and students in the International Islamic University Malaysia are well appreciated. Particularly, Dr Umar Oseni, Dr. Lukman Zakariyyah, Dr Rashidah Olanrewaju, Dr Abideen, Dr Saheed of ISRA, Dr. Buniyamin Ajayi, Dr AbdulFatai Ismail, Imam Abd Ghanniy Zubaydy, Imam Ibrahim, Ali Yusuf, Abd Rasak Sarumi, Alh Jamiu, Mallam Popoola Abdhamid, Alh Yunus and a host of others. Other colleagues that drank from the fountain of knowledge provided by our erudite scholar and Prof (Norhashimah) are well appreciated for the significant roles that they all played. Raja Madiah, Noor Mahinar, Sharifah Nadia and Dato' Ng See Teong, I say '*Terima Kasih*'. They all made my stay in Kuala Lumpur a worthwhile experience.

Lastly, this programme couldn't have been accomplished without the financial support of the Federal Republic of Nigeria through TETTFUND scholarship. I thank the administrator of TETTFUND for considered me worthy of this privilege.

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AG. Ogun State V Aberuagba (1985)1NWLR(pt.3) 395
AG. Ondo State V AG. of Federation and Ors, (2002)9NWLR(pt.772)222
Agboola and Ors v Saibu (1991) 2NWLR PT(175)-566.
Aoko v Fagbemi (1963) 1 ALL N.L.R 400
Arab Contractors (Nig) Ltd. V Umanah '(2012) 28 WRN P, pg.91-9
Dariye V FRN (2015) 6 NWLR (pt.1467) 325
Durogo v State (1992) 7 NWLR (Pt.255) Pg. 525 @535.
Emeka V the State (2001) 14 NWLR (Pt.734) @681
FGN v James Onanefe Ibori, Charge No. FHC/ASB/IC/09
FGN v Olisa Metuh, FHC/10/2016/
FRN v Alhaji Danjuma Goje & 4 Ors. FHC/GM/CR/33C/2011
FRN v Babalola Borishade & ors CR/09/08
FRN v Cecilia Ibru, FHC/L297C/2009
FRN v Chief Joshua Chibi Darive FCT/HC/CR/81/07
FRN V Chimaroke Nnamani ors., FHC/L/09C/2007
FRN v D.S.P Alamieseigha 2002(7NWLR) pt.767)),
FRN v Daniel Sheshi & Ors. 199)1 FBTLR 114@120
*FRN v Erastus Akingbola & Ors.*ID/148C/2011
FRN v Jolly Tevoju Nyame FCT/HC/CR/82/2007.
FRN v Joshua Dariye and Ors. (2005) 10(NWLR) (pt.934) 528 at 529
FRN v Orji Uzor Kalu & Ors. FHC/ABJ/CR/56/07
FRN v Rasheed Ladoja, FHC/L/336C/08
FRN v Saminu Turaki, FHC/ABJ/CR/86/O7
FRN V Santolina Investment Corporation and others. (2007) ALL ER (D)103(Mar)
FRN v Tafa Balogun, FHC/ABJ/CR/14/2005
FRN v Temisan Omatseye, FHC/L/482C/2010
NBA v Attorney General of the Federation and CBN FHC/BS/173/2014
Mallam Ado & Anor. v. Hajiya Dije (1984) 5 NCLR 260, 267
Maniziza v Ahmas Na Mamman , (2006), 3 S.L.R (Part II) at pg.96
Mike Amadi v Federal Republic of Nigeria, (2008) 12 S.C Pt.111@55
Mohammed Sani Abacha et al. V Federal Office of Justice, Swiss Federal Supreme Court decision 1A.215/2004
Obidiozo v The State, 4 NWLR (Pt.67) @48
Ogbuiyinka v Okudo (1979) All WLR 105 @ 116.
Osahon V FRN (2006) 24 WRN 1, Pg. 18-19
Our Line Limited v S.C.C. Nigeria Limited. (2009) 17 NWLR (pt.1170) p.382
R v James Ibori and Others | 6KBW
Regina V James Onanefe Ibori, (2011) EWCA Crim319
Regina V Theresa Ibori, (2011) EWCA Crim3193
United States V Jeffrey Tesler and Wojciech Chodan, (2012) H-09-098.
Usikaro V Itsekiri Land Trustees (1991) 2NWLR, page 150@173

LIST OF STATUTES

Administration of Criminal Justice Act (ACJA) 2015
Advance Free Fraud and other Related Offences Act, Cap 13, Laws of The Federation (LFN) 1990
Banks and other Financial Institutions Act' (BOFIA) 1991 (as amended in 2004)
Central Bank of Nigeria (Anti-money Laundering and Combating the Financial of Terrorism in Banks and other Financial Institutions in Nigeria) Regulations, 2013
Central Bank of Nigeria Act, 2007
Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of The Federation (LFN) 1990
Conduct Bureau and Tribunal Act 1991 (CCBTA)
Constitution of Federal Republic of Nigeria, (CFRN) 1999.
Court and Crime Act 2013
Criminal Code Cap. 77 of the Laws of Federation 1990
decree 48 of 1989
Drugs Trafficking Offences Act (DTOA),1986
Economic and Financial Crimes Commission (Establishment) Act 2004
Evidence Act 2011
Extradition Act 1990
Financial Services and Markets Act 2000
Foreign Exchange (Monetary and Miscellaneous Provisions) Act 1995
Independent Corrupt Practices Commission (ICPC) Act, 2000
Misuse of Drugs Act 1971'
Money Laundering (Amendment) Act No 9, 2002
Money Laundering (Prohibition) Act 2003
Money Laundering (Prohibition) Act 2004
Money Laundering (Prohibition) Act 2011
Money laundering Decree No 3 of 1995
Money Laundering Regulations (MLR) 2003
Money Laundering Regulations (MLR) 2007
National Agency for Food and Drugs Administration and Control Act (NAFDAC) 1993
National Drug Law Enforcement Agency Act
Non-Interest Banking Regulation and Supervision Act (NIBRSA) 2011
Police Act, 1997
Penal Code Cap. 77 of the Laws of Federation 1990
Prevention of Terrorism (Temporary Provisions) Act (PTA) 1989. (Repealed)
Proceeds of Crime Act (POCA) 2002
Public Disclosure Act (PIDA)1998
Scope of Banking Activities and Ancillaries Matters (N0 3) Act, 2010
Serious Organised Crime and Police Act (SOCPA) 2005
Terrorism Act 2000
Terrorism Prevention Act 2011
The Economic and Financial Crime Commission (Establishment) Act of 2002
The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act, 1994.

LIST OF ABBREVIATIONS

ACE	Advisory Committee of Experts
AFB	Association of Foreign Banks
AG	Attorney General
AML/ CFT	Anti-Money Laundering/Combating Financing Terrorism
APG	Asia/Pacific Group on Money Laundering
ARA	Asset Recovery Agency
ATM	Automated Teller Machine
BBA	British Banker Association
BDCs	Bureau De Changes
BOFIA	Banks and Other Financial Institutions Act
CBN	Central Bank of Nigeria
CCA	Crime and Court Act
CCB	Code of Conduct Bureau
CCCOBIN	Chief Compliance Committee of Banks in Nigeria
CDD	Customer Due Diligence
CFATF	Caribbean Financial Action Task Force
CTR	Cash Transaction Reporting
DFI	Designated Financial Institution
DNFI	Designated Non-Financial Institution
EAG	Eurasian Group
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crime Commission
ESAAMLG	Eastern & Southern Africa Anti-Money Laundering
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FSA	Financial Service Authority
FDI	Foreign Direct Investment
FEC	Federal Executive Council
FGN	Federal Government of Nigeria
FIU	Financial Intelligence Unit
FTR	Foreign Transaction Reporting
GABAC	Central Africa Anti-Money Laundering Group
GAFILAT	Latin America Anti-Money Laundering Group
GFI	Global Financial Integrity
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
IMF	International Monetary Fund
HRC	Higher Risks Customers
ICPC	Independent Corrupt Practices Commission
JMLIT	Joint Money Laundering Intelligence Taskforce
JMLSG	Joint Money Laundering Steering Group
KYC	Know Your Customer
MENAFATF	Middle East and North Africa Financial Action Task
MER	Mutual Evaluation Report
MLCO	Money Laundering Compliance Officer

MLPA	Money Laundering (Prohibition) Act
MLAC	Money - Laundering Advisory Committee
MLR	Money Laundering Regulation
MONEYVAL	Council of Europe Anti-Money Laundering Group
NAFDAC	National Agency for Food and Drugs Administration and Control Act
NCA	National Crime Agency
NCIS	National Criminal Intelligence Services
NDLEA	National Drugs and Law Enforcement Agency
NFIU	Nigeria Financial Intelligence
NIA	Nigeria Intelligence Agency
OECD	Organisation for Economic Cooperation and Development
PEPs	Politically Exposed Persons
PIDA	Public Interest Disclosure Act
POCA	Proceeds of Crime Act
POS	Purchase of goods Online
RBS	Risk Based Supervision
SCUML	Special Control Unit against Money Laundering
SOCPA	Serious Organise Crime and Police Act
STR	Suspicious Transaction Reporting
TI	Transparency International
TPA	Terrorism Prevention Act 2011
UKFIU	United Kingdom Financial Intelligence Units
UNODC	United Nations Office on Drugs and Crimes
UN	United Nations

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 INTRODUCTION

Money laundering remains a global threat despite various legal frameworks introduced to curb the menace. Money laundering is not a new phenomenon but September 11¹ attacks have brought about a renewed global effort to combat money laundering and the financing of terrorism. Nigeria² is not an exception to this global trend. Money laundering has dangerous multiplier effects on the society as it remains the “life wire”, the “cataract”, “life-blood” and a propelling “engine” to other organised crimes.³ It has become an indispensable companion of terrorism activities and these two crimes⁴ have become interwoven, interrelated and overlapped so much that they are sometimes used as a synonymous concept.

Terrorism financing is however believed to be soaring or having its major source linked to money laundering, such that the growth of one becomes a veritable tool for the sustenance of the other. However, money laundering issues transcend terrorism financing. It is indeed cancerous and needs well-coordinated efforts to

¹ On the September 11, 2001, the world trade centre in the United States of America was attacked by a terrorist group which resulted to the death of over 3000 people and loss of properties that worth billions of US Dollars and triggered the United States of America’s initiatives and that of the rest of the world to combat terrorism.

² Nigeria an African Country on the Gulf of Guinea, located in Western Africa, boundaries the Gulf of Guinea, between Benin and Cameroon, covering the area of 923,768sq km, is the most populous Africa nation (with about 180million population) and the focus of this study. This information is available online at www.nigeria.com accessed on 10th December 2015 at 1100 hours.

³ Maruf Adeniyi Nasir, “The Existing AML/CFT Legislations in Nigeria: Relevance to Islamic Banking Institutions.,” in *American Society of Comparative Law (ASCL) Younger Comparativists (YCC)* (New Orleans: YCC, 2016).

⁴ Money laundering and combating financing terrorism are closely related that distinction is a mere semantics based on the principles of law that no person should be allowed to benefit from the profits of his crime see Aishat Abdul-Qadir Zubair, Umar Aimhanosi Oseni, and Norhashimah Mohd Yasin, “Anti-Terrorism Financing Laws in Malaysia : Current Trends and Developments,” *IJUM Law Journal* 23, no. 1 (2015).

combat. The non-stop development and growth of technology has tremendously increased the scope of money laundering activities and subsequently placed more responsibilities on banks.

The inextricable relationship between the crime of money laundering and financial transactions particularly, places banks in a sensitive position and makes them a point of focus in the fight against the crime. Expectedly, banks bear many responsibilities and are saddled with significant roles in this regard. Thus, banks' cooperation and compliance with money laundering laws are very vital and germane in combating the crime.⁵ Anti-money laundering (AML/CFT) regulations and banking compliance have focused or premised on Principal-Agency relationship between the Regulators and the banks.⁶ The Regulators desire compliance to stamp out money laundering related issues through intelligence gathering and a prompt report of suspicious transaction. It however, appears that getting the desire results goes beyond that simple equation.

1.2 BACKGROUND TO THE RESEARCH

The thought that pervaded the global criminal scene in dealing with the menace of trading in narcotics drugs and psychotropic substances in the substantial part of the 20th century has eventually given way to a crime control strategy that did not only intend to demolish the proceeds of crime, but to adopt civil proceedings rather than sticking to the traditional criminal procedures.⁷

⁵ Norhashimah Mohd Yasin, "The Consequences of Banks' Failure to Comply with Money Laundering Rules and Regulations.," *The Law Review Journal* 16, no. 4 (2009): 32–43.

⁶ Brigitte Unger et al., "The Amounts and Effects of Money Laundering," *Report for the Ministry of Finance*, 2006.

⁷ Alastair N Brown, *Proceeds of Crime: Money Laundering, Confiscation and Forfeiture* (W. Green/Sweet & Maxwell, 1996). See also Brent Fisse, David Fraser, and Graeme Coss, *The Money Trail: Confiscation of Proceeds of Crime, Money Laundering and Cash Transaction Reporting* (Law Book Company, 1992).

The initial focus of the international law and its national or various nation's counterpart was basically directed towards the use of the traditional criminal law arsenals (majorly sanctions) as a legal mechanism to curb narcotic drugs and psychotropic substance related crimes while concealing of the proceed of the crime committed or any other money that is derived from the crime attracts no criminal liability.⁸ The perceptions changed as a result of proper understanding of the link between money and crime.⁹

The resultant effect of the new notion is hinged on the conviction that crime and money are inextricably related, while a direct attack on the financial element of crime is bound to achieve more desirable effects and results. The financial element of crime was however found to be more dangerous, demonic in nature and indeed a modern pestilence that must be faced with seriousness.¹⁰ This culminated into the Anti-Money Laundering laws globally.

The inextricable relationship between the crime of money laundering and financial transactions places banks in a sensitive position and makes them a point of focus in the fight against the crime. Expectedly, banks bear many responsibilities and are saddled with significant roles in this regard. The AML/CFT legislations require banks to provide an enabling environment for normative anti-money laundering standards and ethical practices to prevent being used as a conduit pipe for the transmission of illegally acquired wealth. The 1988 United Nations Convention

⁸ Mary Michelle Gallant, *Money Laundering and the Proceeds of Crime: Economic Crime and Civil Remedies* (Edward Elgar Publishing, n.d.).

⁹ Ibid.

¹⁰ Ibid.

against Illicit Traffic in Narcotic Drugs and Psychotropic Substances¹¹ brought a dramatic departure from the previous perspectives of bank's disposition vis-à-vis their secrecy and duty of confidentiality that exist between banks and their clients.

The Convention thus, imposed obligations on financial institutions to implement money laundering laws in a more comprehensive manner. The initial case of *Tournier v National Provincial and Union Bank of England*¹² that was founded on banks secrecy or principles of customer's confidentiality was jettisoned. To achieve the targeted goals, the anti-money laundering law (AML/CFT) chooses to integrate banks as an essential component of the law enforcement and regulatory process.¹³

In Nigeria, so many legal instruments have been created along sides with regulators to combat the money laundering. Also, the scope of banking institution has been more broadened with the advent of *Non-Interest Financial Institutions* (NIFI) operating under the principles of Islamic Commercial Jurisprudence (ICJ). This was introduced pursuant to the exercise of powers conferred in the Central Bank of Nigeria (CBN) under the provisions of various statutes.¹⁴

Taking clue from the global response and new reasoning, the emergence of democracy in Nigeria gave rise to a favourable disposition not only to tackle this dreaded phenomenon, but also to fashion out legislations that are likely to conform to the international standards. Therefore, unlike the military regime, the Nigeria

¹¹ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances," *UNODC* <https://www.unodc.org/unodc/en/commissions/CND/conventions.html>, accessed January 10, 2016.

¹² (1924)1 KB 461(CA).

¹³Peter Yeoh, "Enhancing Effectiveness of Anti-Money Laundering Laws through Whistleblowing," *Journal of Money Laundering Control* 17, no. 3 (2014): 327–42.

¹⁴ This is as provided under Section 33(1)(b) of the Central Bank of Nigeria (CBN) Act 2007¹⁴; Sections 23(1); 52;55(2); 59(1)(a); and 61 of the Banks and other Financial Institutions Act (BOFIA) 1991(as amended) and Section 4(1)(c) of The Regulation on the Scope of Banking Activities and Ancillary Matters, No 3, 2010

government under the civilian regime took some significant steps in term of enactment of AML/CFT.¹⁵

Consequently, the last decade witnessed a sharp departure from the lukewarm attitude toward the AML/CFT crusade in Nigeria to a more serious tone as reflected from the enactments of many legislations that characterized that era, starting from the Independent Corrupt Practices Commission (ICPC) Act 2000, the Economics and Financial Crimes Commission (EFCC) Act 2004 and the Money Laundering (Prohibition) Act, 2011 and its amendment in 2012¹⁶ along with so many other subsidiary legislations and regulations that are all aimed at removing the country from the classified list of a pariah (non-cooperating) state by the international community.¹⁷

1.3 STATEMENTS OF PROBLEM

Nigeria is currently experiencing a serious recession which is a resultant effect of corrupt practices, money laundering and illicit outflow of fund from the country. Invariably, various forms of hardship that ranges from lack of social amenities, poor infrastructural development, unemployment, poverty, high inflation rate and other related economic problems are confronting the country. The country's currency has consequently lost its potency and become devalued, while the entire financial system is in shamble. The problem was credited to corrupt practices and mostly laundering of public resources by past political leaders. It is an issue which the present government

¹⁵ Muhammed Tawfiq Ladan, "Overview of Financial Laws in Nigeria," 2014.

¹⁶ This has also been slightly amended in 2012.

¹⁷ The administration of President Olusegun Obasanjo (1999-2007) took up the fight against corruption and money laundering by enacting the Independent Corrupt Practice and other Related Offences Act in 2000 and established the ICPC. The administration further established the EFCC in 2003, empowered by the EFCC Establishment Act 2004, as amended, charged with the responsibility of investigating and prosecuting all economic and financial crimes and coordinating all other related agencies See .Anna Markovska and Nya Adams, "Political Corruption and Money Laundering: Lessons from Nigeria," *Journal of Money Laundering Control* 18, no. 2 (2015): 169–81, doi:10.1108/JMLC-10-2014-0040.

identified as the country's major problem upon which its campaign against the previous government was based and which has served as the main focus of the present government since the inception in 2015. Given the pivot position occupied by banking institutions in the success or otherwise of the AML/CFT crusade, by which it is expected to play a critical role in putting effect to the philosophy and objectives of the existing legal instruments on AML/CFT, examining its compliance with money laundering legislations could serve as a spring board within which the overall compliance of the country with international standards AML/CFT measures could be possibly measured.¹⁸ Moreover, financial institutions, particularly the banks, are usually more vulnerable for the laundering activities through the exploitation of their facilities.

Similarly, another point of concern is that, for the past few years, precisely since return of democracy to the country in 1999. There has been an unprecedented rise in the money laundering cases in the Nigerian courts. While some have been concluded, many are still pending. However, a disturbing issue is the fact that, many of those that were tried, but who were pronounced not guilty in the Nigerian courts and set free, were eventually found guilty of the same offence of money laundering that emanated from Nigeria in other jurisdictions. The cases revealed laxity on the part of Nigerian banks. The concern which this raises calls for the need to examine the banks' compliance with the anti-money laundering laws. Therefore, the need to address this problem becomes more imperative. The questions begging for answers in this regard are: Why does the money laundering related crimes continue unabated despite all the legislations against it in Nigeria? Are the legislations and regulations

¹⁸ Shpetim Kurti, "The Meaning of Dirty Money Laundering as a Form of Organized Crime," *Anglisticum* 3, no. 8 (2015).