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LEGAL AND INSTITUTIONAL FRAMEWORK FOR COMBATING MONEY LAUNDERING IN NIGERIA

Ojimba, C. Cali, Ph.D.
&
Garba Rabiu Mohammed
Faculty of Law,
Chukwuemeka Odumegwu Ojukwu University,
Igbariam Campus, Anambra State
E-mail: cc.ojimba@coou.edu.ng

ABSTRACT

It is a well-known fact that the abuse of financial and non-financial system over the years by money launders and terrorist financiers has necessitated the urgent need for countries to identify, assess, and understand that money laundering and terrorist financing risk is prevalent in their Jurisdiction – which ultimately if not checkmated destabilizes the country. The need to examine the cause and effect of this financial anomaly and proffer solutions to enhance peace and political stability of a nation necessitated this research. Basically, the aim is to identify the nature of money laundering and adopt a risk-based approach to counter the effects of this illicit financial flow that encourages terrorism and destabilizes a country gave further credence to this study. The scope of this study was the Nigerian federation with comparative analysis to other jurisdictions. The research methodology used for this study was the doctorial approach which involved accessing primary and secondary sources of information such as scholarly research publication, juristic writings, judicial decision and opinion of other scholars in the related discipline. Internet facilities was also accessed without foreclosing other sources of information that is relevant to the discipline. The major findings were that in the course of caring out this research, money laundering was the bane of free money which was traceable to the proceeds of crime – with its attendant consequences, on the economy and the destabilization effect it has on a country. In the light of this anomaly the researcher recommended that there was need for the country to build its capacity to fight this monster by involving all stakeholders through increase in knowledge on how to combats this evolving trend and pattern of money laundering and terrorism finances that is ravaging Nigeria and other countries of the world at the moment.

Keywords: Legal; Institutional Framework; Combat; Money Laundering

Introduction

Nigeria adopted her first AML measures in 1995 with the enactment of the Money Laundering Decree No. 3 of 1995 which criminalized money laundering with predicate offences limited to drugs and drug related crimes. This was mainly guided by the UN Convention Against Drugs and

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Psychotropic Substances (Vienna Convention). However, with the adoption of the Convention Against Transnational Organised Crimes (Parlemo Convention) by the UN in 2000, which revealed significant inadequacies in the Decree, the Money Laundering Decree of 1995 was repealed and replaced with Money Laundering (Prohibition) Act (2002). This was followed by two AML legislations in 2003 and 2004. The Money Laundering (Prohibition) Act, 2004 (MLPA, 2004) repealed the Money Laundering Act, 2003; criminalised the laundering of the proceeds of crime or any illegal act; incorporated and defined designated non-financial institutions (DNFIs) and conferred the regulatory responsibility of DNFIs on the Federal Ministry of Commerce (now the Federal Ministry of Industry, Trade and Investment (FMITI)). The MLPA, 2004 was very instrumental in achievements recorded in the campaign against financial and economic crimes in Nigeria despite the existence of significant loopholes which slowed down certain aspects of the war against money laundering related cases.[1] The observed weaknesses in the MLPA 2004 led to its repeal and enactment of the Money Laundering (Prohibition)Act 2011 which was later amended in 2012.

Additional laws and regulations in place to ensure effective enforcement of AML/CFT requirements include but are not limited to:

a. Terrorism (Prevention) Act, 2011
b. Terrorism Prevention (Amendment] Act, 2013
c. Banks and Other Financial Institutions Act, 1991 (amended]
d. Advance Fee Fraud and other related offences Act, 2006
e. Economic and Financial Crimes Establishment Act, 2004
f. National Drug Law Enforcement Agency Act, 2004
g. Independent Corrupt Practices and other related Offence Commission Act, 2000
h. Code of Conduct Bureau Act 2004
i. Establishment of Nigeria Police Force- Section 214 of the 1999 Constitution of the Federal Republic of Nigeria
j. 2013 AML/CFT Regulations separately issued by the Central Bank of Nigeria (CBN], the Securities and Exchange Commission (SEC] and National Insurance Commission (NAICOM] to their respective operators
k. Federal Ministry of Industry, Trade and Investment (Designation of Non-Financial Institutions and Other Related Matters] Regulations, 2013
l. Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations, 2013, etc.

The regulators and supervisors are responsible for the supervision of the financial institutions and designated non-financial institutions (DNFls], Other bodies

[1] See 2008 Mutual Evaluation Report of Nigeria.

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which perform supervisory roles such as self-regulatory bodies, accrediting institutions and other administrative authorities empowered to regulate the various sectors of the economy in relation to AML/CFT in Nigeria form part of the regulatory framework. The key regulators and supervisors include:

a. The Central Bank of Nigeria (CBN)
b. National Insurance Commission (NAICOM)
c. Securities and Exchange Commission (SEC)
d. Ministry of Industry, Trade and Investment (Special Control Unit Against Money Laundering)-SCUML
e. National Pension Commission (PenCom)
f. Corporate Affairs Commission (CAC)

The Money Laundering (Prohibition) Act 2011

The Act makes provision for the repeal of the money laundering act 2004 and thereby enacts the 2011 Act which supersedes and improved the previous versions of the act. This act was signed by the former president, Jonathan Goodluck in June 2011.[2] It makes comprehensive provision for the prohibition of terrorist financing, laundering of the proceeds of crime or any illegal act, thereby making provision for appropriate penalties and expanding the scope of the supervisory and regulatory authorities so as to address the challenges faced in implementing anti-money laundering in Nigeria. The Act creates a framework for a wider customer identification system and anti-money laundering obligations for the financial and non-financial institutions as mandated by the FATF.[3]

The Act provides for the prohibition of money laundering thereby creating a limit to make or accept payment either as an individual or body corporate. In the case of an individual, this applies to sums that exceeds Five Million Naira (₦5,000,00.00) or its equivalent while in the case of a body corporate sums that exceeds Ten Million Naira (#10,000,000.00). It also provides for a duty to financial institutions to report international transfer of funds and securities exceeding Ten Thousand Dollars ($10,000) or its equivalent to the Central Bank of Nigeria[4] or the Securities and Exchange Commission within seven (7) days from the date of the transaction[5]. In a situation where cash or negotiable instruments in excess of Ten Thousand Dollars ($10,000) or its equivalent is being transported by individuals

[2] Daniel Idonor, 'Jonathan Signs Terrorism, Money Laundering Bills into Law' (Vanguard, 6 June 2011) http://www.vanguardngr.com/2011/06/jonathan-signs-terrorism-money-laundering-bills-into-law/ accessed 7 June 2022.

[3] Uyoyou Kingsley Ogbodo and Ebipanipre Gabriel Mieseigha, 'Economic Implications of Money Laundering in Nigeria' (Vol 3, No 4, 2013) 173-176.

[4] The Central Bank of Nigeria is Nigeria's central bank. The central bank serves as the banking regulator, issues legal tender and maintains the external reserves of Nigeria. The central bank also serves as the financial adviser to the federal government and helps promote monetary stability and a sound financial environment.

[5] S 1, 2.

in or out of the country, it shall be declared to the Nigeria Custom Service[6], failure to make sure declaration constitutes an offence liable on conviction to forfeit not less than 25% of the undeclared funds or negotiable instrument or to imprisonment of not less than two (2) years or both.[7]

Financial institutions[8] and designated non-financial institutions[9] on the other hand are obligated to verify its customers' identity and also update relevant information on the customer which includes international passport, driving license, national identity and other personal information, during the course of the relationship with the customer. Also scrutinizing all transactions undertaken throughout the duration of the relationship with the aim of ensuring that the customers' transaction is consistent with the business and risk profile.[10] In a situation where a financial institution suspects or has reasons to believe that the amount involved in a transaction is the proceeds of crime or an illegal act, it shall require the customers identification even though the amount involved in the transaction is less than One Thousand Dollars ($1,000) or its equivalent[11] and if it appears that a customer may not be acting on his own account, reasonable means shall be taken to identify the true beneficial owner.[12] Special surveillance is given in certain transactions where it involves an amount which is unjust or unreasonable and appears to have no economic justification or lawful objective or where in the opinion of the financial institution such transaction pattern is suspicious or involves terrorist financing.

The financial institution involved in such transaction shall therefore seek information from the customer in order to obtain the true origin of the fund, the reason for such transaction and the identity of the beneficiary.[13] Financial institutions and designated non-financial institutions are also obligated to preserve and keep records of a customer's identification for a period of at least five (5) years after an account has been

[6]The Nigeria Customs Service (NCS) is an independent agency under the supervisory oversight of the Nigerian Ministry of Finance, responsible for the collection of customs revenue and anti-smuggling efforts.

[7] The Foreign Exchange (Monitoring and Miscellaneous Provisions) Act.

[8] Financial institutions mean banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, bureau de change, investment services etc.

[9] The act gives a wider definition of Designated Non-Designated Financial Institutions to include dealers in jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate, this differs from the meaning in the fatf recommendations as it includes casinos, real estate agents, trust and company service providers. This shows the extent to which the FATF recommendations has been incorporated.

[10]S3 (la) (b).

[11]S3 (6).

[12] *Ibid* (7).

[13] S 6(1).

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closed at the disposal of the authorities and such records must be communicated on demand to the Central Bank of Nigeria or the National Drug Law Enforcement Agency and other such regulatory authorities which may be requested for in order to identify and locate proceeds, properties or any other thing related to the commission of an offence under the act.[14]And customer confidentiality or bank secrecy shall not be invoked as a ground for objecting to these measures.[15] The employees of financial institutions are not left out as the act obligates the financial institutions to develop programmes to combat money laundering or any other illegal crime which includes designating compliances officers at every branch and local office, regular training programmes, centralization of the information collected and also the establishment of an internal audit unit. This is done in order to create awareness of the menace of money laundering among the employees.[16] Also the opening or maintaining of different or anonymous accounts by any person, financial institution or corporate body is prohibited and if contravened, constitutes an offence liable on conviction.[17]

The act also makes provision for the offences that constitutes money laundering. The act defines money laundering as converting or transferring resources obtained from illicit traffic in narcotic drugs and substances, participating in terrorist financing, trafficking, tax evasion, bribery and corruption, counterfeiting currency, kidnapping, forgery, piracy, insider trading and market manipulation and any criminal act which is specified in the act with the aim of concealing or disguising the illicit origin of the resources in order to evade illegal consequences of such action. A person found guilty of any of the offences listed is liable on conviction to imprisonment for a term not less than five (5) years but not more than ten (10) years.[18] Also in a situation where investigations are being carried out on a customer due to a suspicious transaction, any person being a director of a corporate body or employee of a financial institution who notifies the owner of the funds involved in the transaction about such report, destroys records, carries out such transaction under a false identity, makes or accepts cash payments that exceeds the amount stipulated under the act or fails to report an international transfer of funds or securities which is required to be reported, therefore contravening the provision of section 2,3,4,5,6,or 7 of this act commits an offence.[19] Such a person may also be banned indefinitely or for a period of five (5) years from practicing the profession for committing such offence.[20] Also any person who engages or benefits from a criminal conduct acting as an accessory or conspirator

[14] S. 7(1)
[15] S 13(4).
[16] S 9.
[17] S11.
[18] S 15 (la) (b)(c).
[19] S 16 (1).
[20] S16(3).

thereby aiding and abetting other persons to commit an offence is liable on conviction to the same punishment which has been prescribed for such offence by the act.[21] If such offence is committed by a corporate body, the court may order that such body be wound up and all its assets and properties be forfeited to the federal government. The federal high court has exclusive jurisdiction to try offences under this act.[22] However a new act was legulated in May 2022 which relativity up graded the punishment regime without necessarily expunging any major provision of the previous act.

The Economic and Financial Crimes Commission (Establishment) Act 2004

The Economic and Financial Crimes Commission (EFCC) was established in 2002 by an Act of the National Assembly, which was amended in 2004.This act provides for the establishment of the economic and financial crimes commission charged with the responsibility of the enforcement of all economic and financial crimes[23] law among all other things which in the act is referred as 'the commission'. This act was signed by the former president, Chief Olusegun Obasanjo in June 2004. The act provides the commission as the designated Financial Intelligence Unit (FIU) in Nigeria with the responsibility of co-ordinating the various institutions involved in the fight against money laundering and enforcement of all laws that concerns dealing with economic and financial crimes in Nigeria.[24] The act provides that the commission shall be responsible for enforcing and administrating provision of this act, investigation of all financial crimes which includes money laundering, computer credit card fraud, illegal charge transfers, advance fee fraud etc., the coordinating and enforcing of economic and financial crime laws. The commission shall be responsible for adopting the necessary measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences and collaborating with the governmental bodies within and outside and Nigeria in matters concerning identifying and determining the whereabouts and activities of persons suspected of being involved in criminal activities which includes economic and financial crimes, maintaining and monitoring a system that identifies suspicious transactions and persons involved.

Maintaining data, records and reports on persons, organizations, proceeds or other items involved in economic and financial crimes and also dealing with matters that are connected to extradition, deportation and mutual legal or other assistance between Nigeria and any other country involved in

[21] S 17,18.
[22] S 20(1).
[23] Economic and Financial Crimes include any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, etc.
[24] S 1(1) (2c).

economic and financial crimes. The commission is therefore in charge of supervising, controlling, coordinating all activities relating to investigating and prosecuting of offences that are connected or related to economic and financial crimes and shall liaise with all government security and law enforcement agencies and other financial institutions in order to eradicate such crimes in the country. The commission also has power to cause investigations to be conducted on any persons or corporate body, or on properties of any persons where it appears that such persons' lifestyle and extent of the properties are not justified by his source of income.[25] For the eradication of offences under this act, the commission shall initiate, develop or improve specific training programmes for its law enforcement agents.

The Act also creates for offences which are liable on conviction ranging from imprisonment for a term not exceeding five (5) years or to life imprisonment or to a fine of Five Hundred Thousand Naira (#500,000) or to both imprisonment and fine. This applies to cases where a bank officer or other financial institution or designated non-financial institution fail to comply with the provisions of this act. Also, to persons who willfully provides or collects money from or for another person with the intention of using such money for an act of terrorism or commits or attempts to commit a terrorist act, or assists another in providing funds, financial assets or economic resources to facilitate the commission of a terrorist act. Any person who in the discharge of his duty under this act gives false information also commits an offence under this act. The regulatory agencies or bodies in the financial sector in exercising its functions shall liaise with the commission to investigate and monitor the commission of economic and financial crimes. The court that has jurisdiction to try offenders thereby imposing penalties, ensuring all matters brought are dispatched and given accelerated hearing and adopting all legal measure to avoid delays is the Federal High Court or High Court of a State of the Federal Capital Territory. It is also noted under this act that a person who is convicted of an offence shall forfeit all assets and properties to the federal government and same also applies where it is established the convicted person also has assets or properties in a foreign country. The act also provides that the passport of any person convicted of an offence shall also be forfeited and shall not be returned until such person has served the sentence imposed or has been granted pardon by the president[26] and such person when arrested must make a full disclosure of all his assets and properties.[27]

The Enforcement of the Money Laundering Statutes in Nigeria

The relevant organs with the mandate to enforce the laws that concern money laundering in Nigeria include, the Attorney General of the Federation (AGF), the Nigerian Police and the Anti-Graft

[25] Part II- Functions of the commission. S 6, 7.
[26] S 23.
[27] S 27(1).

Commissions. The 1999 constitution of the Federal Republic of Nigeria confers the AGF with the power to institute and undertake criminal proceedings against any person before any court of law in Nigeria and also to take over and continue any such proceedings which may have been instituted by any other authority or person.[28]Therefore, by the principles of this provision the AGF has the power to prosecute a person accused of the offence of money laundering. The Police Act 2004 on the other hand provides the Nigerian police with wide investigatory and prosecutorial powers which empowers the police to institute a criminal proceeding against any person before any court in Nigeria.[29]The fight against money laundering is not left to the AGF and the police alone but also to the special anti-graft commissions (EFCC & 1CPC) which are established with specific mandate.[30]

The Role of the Financial Action Task Force in Combating Money Laundering in Nigeria

Nigeria is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) which was established in December 1999 by the government of the ECOWAS[31] with the aim to incorporate and reflect the imperative to fight terrorist financing. The GIABA became an associate member of the FATF in June 2010 with its purpose aimed at protecting the national economy and financial system against the proceeds of crime and combating terrorist financing, improving measures and efforts to combat the proceeds of crime and also strengthening cooperation amongst its members.[32]

The Financial Action Task Force on the other is an inter-governmental body which was established in 1989 by the G-7 with the aim of developing policies to combat money laundering and terrorist financing and the financing of proliferation of weapons of mass destruction. The position of the FATF as regards Nigeria's anti-money laundering campaign was contained in its publication where the FATF expressed its dissatisfaction thereby referring Nigeria amongst other countries as posing high risks to the world's financial system because of the way issues

[28] S 174(1).
[29] S 23.
[30] Adegboyega Ige, 'A Review of the Legislative and Institutional Frameworks for Combating Money Laundering in Nigeria 'FNIALS Journal on Criminal Law and Justice Vol 1 2011)117-120.
"Economic Community of West African States (ECOWAS). Established on May 28 1975 via the treaty of Lagos, ECOWAS is a 15-member regional group with a mandate of promoting economic integration in all fields of activity of the constituting countries. Member countries making up ECOWAS are Benin, Burkina Faso, Cape Verde, Cote d' Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo. Considered one of the pillars of the African Economic Community, ECOWAS was set up to foster the ideal of collective self-sufficiency for its member states. As a trading union, it is also meant to create a single, large trading bloc through economic cooperation.
[32]Inter-Governmental Action Group against Money Laundering in West Africa (GIABA)http://www.FATF-gafi.org/pages/intergovernmentalactiongroupagainstmoneylaunderinginwestafricagiaba.html accessed 08 June 16.

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that related to money laundering was handled.[33] Nigeria was then blacklisted as it was regarded as a high risk area for money laundering and as a result of this lost over $25 billion worth of investment as no genuine investor was willing to invest in the country. The FATF also required that the government considered tax evasion as a form of money laundering offence. The FATF then recommended that Nigeria implemented adequate measures to identify and freeze terrorist assets and also enact and enforce relevant laws and regulations to address the deficiencies in the system in regards the issues of combating money laundering, urging Nigeria to demonstrate that anti-money laundering supervision was being undertaken effectively within its financial sector. In response to the FATF, Nigeria created other legislative measures as stated above which led to the implementation of its anti-money laundering law regime and investigations, prosecutions and convictions on corruption and money laundering related cases.[34]

The FATF 2012 recommendations set standards which are recognised as the global anti-money laundering (AML) and counter terrorist financing (CFT) standards which are endorsed by over 180 countries in the world including Nigeria. These standards are aimed at promoting the effective implementation of the legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of both the national and international financial system which countries must implement through all necessary measures and must have in place. These measures include, identifying risks and developing policies, pursuing money laundering, terrorist financing and financing of proliferation, supplying preventive measures for both the financial sector and other designated sectors, establishing powers and responsibilities for the competent authorities in order to combat money laundering and terrorist financing, also enhancing transparency and availability of information concerning the beneficial owner and facilitating international cooperation.[35] The FATF therefore mandates that countries in compliance enact the recommendations in their national laws in both the financial institutions and designated non-financial institutions which have already been enacted in both the economic and financial crimes commission act and the money laundering act amongst other things to criminalise both money laundering and terrorist financing as

[33]FATF Public Statement 22 February 2013http://www.FATF-gafi.org/countries/s-t/turkey/documents/FATF publicstatement22february2013.html accessed 08 June 2022. Time 12:00pm.

[34] Omoh Gabriel, 'FATF Blacklist: Failure of Nigeria's Banking Reform and War Against Corruption' (Vanguard, 27 February 2012) http://www.vanguardngr.com/2012/02/FATF-blacklist-failure-of-nigerias-banking-reform- and-war-against-corruption/ Accessed 08 June 2022 2022. Time 3:00am

[35] The FATF Recommendations http://www.FATF-gafi.org/publications/FATFrecommendations/documents/ FATF-recommendations.html accessed 09 June 2022.

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an offence[36], to undertake customer due diligence measures in verifying and identifying the customer, the beneficial owner and also scrutinizing the transaction which are undertaken throughout the course of the relationship.[37] The financial institutions are therefore required to maintain all necessary records on transactions both domestic and international for at least five years which should also be made available to domestic competent authorities upon request to the appropriate authority.[38] Also reporting suspicious activity to the Financial Intelligence Unit (FIU), financial institutions are prohibited from disclosing the fact that a suspicious transaction report or related information is being filed with the FIU.[39] As regards transparency and beneficial ownership of legal persons, the FATF mandates countries to ensure that there is adequate and accurate information on the beneficial owners and take measures to prevent the misuse of legal arrangements for money laundering or terrorist financing.[40] Countries are also mandated to ensure that there is a range of effective and proportionate sanctions be it civil or criminal available to deal with persons that fail to comply with the anti-money laundering or combating terrorist financing requirements.[41] Also in relation to facilitating international cooperation, countries are mandated to provide effectively the widest possible range of mutual legal assistance in cases relating to money laundering, associated predicate offences, terrorist financing investigations, prosecutions and other related proceedings.[42] And take rapid action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered.[43] Following the provisions of the money laundering act and the economic and financial crime commission act, it has been observed that Nigeria has complied to the recommendations of the FATF thereby applying them to the national laws.

The establishment of the FATF was facilitated by the Organisation for Economic Cooperation and Development Countries (OECD)[44] in order to confront the menace of the phenomenon of money laundering and this succeeded in instigating proactive measures in combating money laundering. On the other hand, several countries have showed cooperation by enacting national laws precisely constructed to address the crime of money laundering within their jurisdiction as non-compliance of the FATF recommendations would lead to such country

[36] Rec 3, 5.
[37] Rec 10.
[38] Rec 11.
[39] Rec 20, 21.
[40] Rec 24, 25.
[41] Rec 35.
[42] Rec 37.
[43] Rec 38.
[44] An international economic organisation of 34 countries, founded in 1961 to stimulate economic progress --and world trade. It is a forum of countries describing themselves as committed to democracy and the market economy, providing a platform to compare policy experiences, seeking answers to common problems, identify good practices and coordinate domestic and international policies of its members.

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being blacklisted and rendered as posing high risk to the world's financial system.

The Link Between Corruption and Money Laundering

Corruption as defined by the World Bank simply means abusing the public office for personal or private gain and this occurs when a public official accepts, solicits or extorts a bribe. Corruption ranges from political corruption to systemic corruption, grand corruption and petty corruption.[45] The independent corrupt practices and other related offences commission act defines corruption to mean offences that are related to bribery, fraud, abuse of power by extorting, inflating contracts, drug trafficking, sexual exploiting, embezzling, money laundering, illegal oil bunkering, pension funds scandals and so on.[46] Corruption is a big problem in Nigeria today which is caused by the system itself as a result of greed, inadequate legislative control, weak enforcement mechanisms, pressure from the society, desire for wealth whereby individuals want to get rich quick, poverty, unemployment etc.

Corruption affects the nation as a whole; it damages the image and reputation of the country which makes it difficult for meaningful investments or developmental cooperation to be established. For example, during an event at the Buckingham Palace with the Queen of England which was attended by political leaders and other public figures, David Cameron the former prime minister of the United Kingdom, in a conversation with the Queen described Nigeria as 'Fantastically Corrupt'[47]. Transparency International (TI) ranks Nigeria as the 136th most corrupt country in the world and the 3rd most corrupt country in West Africa.[48] This is as a result of the lack of integrity, trust and credibility of the political institutions and the politicians themselves, lack of transparency and accountability, corrupt judiciary and the damaging lack of the political will by the government to confront this menace called corruption.[49] The failure to provide social amenities, the problem of power supply and lack of infrastructures, are all linked to corruption. This has affected the educational institutions to the extent that none of the universities in the country is rated among the best in Africa or the first two hundred (200) in the world, this is reason why most

[45] The World Bank, Helping Countries Combat Corruption: The Role of the World Bank, Poverty Reduction and Economic Management Network, September 1997. See pages 19-20 on definitions of corruption. http://search.worldbank.org/all?qterm=corruption&os=40 accessed 24 June 2022.

[46] S 2.

[47] David Cameron calls Nigeria and Afghanistan 'Fantastically Corrupt' http://www.bbc.co.uk/news/uk-politics- 36260193 Accessed 16 June 2022. Time 11.

[48] Nigeria ranks 136th most corrupt country in latest global corruption index http://leadership.ng/news/392876/nigeria-ranks-136th-corrupt-country-latest-global-corruption-indexhttp://www.transparency.org/cpi2014 accessed 16 June 2022. Time 7:00pm.

[49] How Corrupt is Nigeria? http://www.vanguardngr.com/2014/12/corrupt-nigeria/ accessed 16 June 2022.

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Nigerians leave the country to acquire a degree in a foreign country instead. Also, the health sector is affected, as a result of insufficient medical facilities and infrastructures, people tend to travel to countries like India, United States of America (USA) for proper medical treatments while politicians are mostly treated by doctors in the United Kingdom (UK). It was reported that the President of Nigeria, Muhammadu Buhari recently visited the UK for an ear infection treatment. This goes as far to show the extent in which corruption has damaged the nation.[50] Corruption increases unemployment and under development and also causes mass poverty therefore breeding all kinds of crimes such as vandalism, armed robbery, kidnapping etc.[51]

The link between corruption and money laundering is inevitable as the proceeds illegally obtained are often times laundered by the public officials also referred to as politically exposed persons (PEP) into foreign bank, offshore accounts, shell companies in offshore havens such as the Cayman Islands, Singapore, Hong Kong etc. in order to conceal anonymity, which are invested in obtaining luxurious mansions in different parts of the world such as the United States, United Kingdom, Switzerland etc., expensive cars, and have lavish lifestyles. This can also be referred as political corruption.

The United Nations Convention against Corruption defines PEPs as individuals who are or have been entrusted with prominent public functions and also includes their family members and close associates[52]. The FATF gives further example of PEPS to include heads of state/ government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, political party officials, their family members related either through marriage or similar form of partnership, and their close associates connected either socially or professionally.[53] For example, the recent panama papers[54] leak revealed some prominent Nigerians who are politically exposed persons, having links with off shore assets in British Virgin Islands, Hong Kong. They include; the former senate president of Nigeria Bukola Saraki, another former senate president David Mark, a former delta state

[50]Nigeria's Buhari 'Broke Promise to End Medical Tourism 'http accessed 16 June 2022. Time 11:12pm.
[51] Corruption: 'A Case of Nigeria' http://www.antigraft.org/cc-case/corruption-case-nigeria accessed 17 June 2022.
[52] Article 52.
[53] FATF Guidance, Politically Exposed Persons (Rec 12, 22) http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Recl2-22.pdf accessed 14 June 2016.
[54] The Panama Papers are 11.5 million leaked documents that detail financial and attorney-client information for more than 214,488 offshore entities. The leaked documents were created by Panamanian law firm and corporate service provider Mossack Fonseca: some date back to the 1970s.The leaked documents illustrate how wealthy individuals, including public officials, are able to keep personal financial information private. While offshore business entities are often not illegal, reporters found that some of the Mossack Fonseca shell corporations were used for illegal purposes, including fraud, tax evasion, and evading international sanctions.

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governor James Ibori who served a jail term in a prison in London, a former Army Chief and Minister of Defence, Gen. Theophilus Danjuma (retd.), Africa's richest man, Alhaji Aliko Dangote and his cousin, Sayu Dantata.[55]

The Anti-Corruption Bodies in Nigeria

1. The Economic and Financial Crime Commission (EFCC)
2. The Independent and Corrupt Practices Commission (ICPC)
3. The Nigerian Financial Intelligence Unit (NFIU)

The Economic and Financial Crime Commission

The Economic and Financial Crime Commission is an inter-agency commission which was established in 2003 by the former president of Nigeria president Olusegun Obasanjo and has been till date an arrow head in the fight against corruption in Nigeria. Economic and financial crimes include crimes that have a damaging effect on the economy and political system of the country which are committed with the aim of earning wealth illicitly. The agency has the power to prevent, investigate and prosecute offenders who engage in money laundering, corruption, abuse of office, capital market fraud, embezzlement, bribery, looting, illegal arms dealing, smuggling, illegal mining, tax evasion, foreign exchange malpractices which includes currency counterfeiting, intellectual property theft and other related offences.[56] The agency is also responsible for enforcing the provisions of other laws and regulations relating to economic and financial crimes, including the Economic and Financial Crimes Commission Act 2004, the Money Laundering Act 2004, the Advance Fee Fraud and other fraud related offences act, the Bank and Financial Institutions Act 1991, and Miscellaneous Offences act.[57] For identifying, tracing, freezing, conflicting or seizing proceeds derived from terrorist activities. Its main focus is to combat economic and financial crimes which also includes cases involving banks and other financial institutions such as issuance of forged cheques, negotiable instrument fraud, and also cybercrime, credit card scam etc.

The EFCC has been a notable and outstanding anti-corruption in Nigeria. It has recorded successes in convicting and sentencing individuals, including government officials, governors, ministers, senators who have been involved in such economic and financial crimes. With the help of several international policing and intelligence organisations such as the International Criminal Police Organization (INTERPOL), the Federal Bureau of Investigation (FBI), the United Nations

[55]Panama Papers: 'Eminent Nigerians in Another Corruption Cesspoolhttp://www.punchng.com/panama- papers-eminent-nigerians-in-another-corruption-cesspool/ accessed 21 June 2022. Time 6:00pm

[56] Economic and Financial Crimes Commission Act 2004.

[57] The EFCC Website: Operations https://efccnigeria.org/efcc/index.php/about-efcc/operationsaccessed24 June 2022

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Office on Drugs and Crime (UNODC) and also the Financial Action Task Force (FATF), the commission has made significant progress in dealing with money laundering and the recovery of assets.

The EFCC has impacted positively to the economy and the image in curbing out corruption from the country. Since the EFCC came into existence, it has overwhelmingly assisted in bringing back a little integrity, transparency and accountability in Nigeria. There have been over 5000 petitions, 2103 cases under investigations, more than 400 prosecutions, 2000 arrests and counting, a minimum number of 88 convictions from which several houses, cars, airplanes/ private jets, oil tankers, properties and over Five Billion Dollars of cash and assets have been confiscated.[58] The agency has so far recovered more than Two Trillion Dollars ($2,000,000,000,000) looted from the national treasury.[59]

The agency has addressed financial corruption by prosecuting and convicting a number of high-profile corrupt individuals including government officials and bank executives. Out of thirty-six state governors, thirty-one of them and other politically exposed persons have been investigated for embezzlement and misappropriation of public funds, some of whom were arraigned such as Joshua Dariye, former governor of plateau state over multiple cases of money laundering, former governor of Abia Orji Uzor Kalu, the indictment of former governors Gbenga Daniel of Ogun state and Alao Akala of Oyo state. Some others include;

The former governor of Bayelsa State, Late Diepreye Alameiyeseigha who was removed from office in 2005, he was under the custody of the EFCC after he was allegedly accused of money laundering in London. He was arraigned by the metropolitan London police in the Court in London after which he was granted bail, he fled to Nigeria where he was re-arrested and brought to court in Nigeria. In 2005, he was convicted and sentenced to two years' imprisonment. April 2008 the agency started an investigation on the very notable daughter of the former Nigerian president, Senator Iyabo Obasanjo-Bello for taking Ten Million Naira ($100,000) stolen from the ministry of health. The former Health Minister and her deputy were at that time on trial for stealing over N30,000,000 ($300,000) from the Ministry's allocation unspent from the past year but the case was later struck out by the court.[60]

EFCC's investigation also revealed that the former National Security Adviser(NSA)

[58] https://efccnigeria.org/efcc/index.php/external-cooperation/eu-unodc-project-l accessed 24 June 24, 2022.

[59] Money laundering: EFCC recovers looted $2trn in 12 years http://www.vanguardngr.com/2016/02/money-laundering-EFCC-recovers-looted-2trn-in-12-years/accessed 17 June 2022. Time 5:00pm..

[60] Ayorinde Oluokan, 'EFCC, Courts and Prosecution of Corrupt Politicians' (25 December 2012) http://www.ocnus.net/artman2/publish/Africa_8/EFCC-Courts-and-Prosecution-of-Corrupt-Politicians.shtml accessed 22 June 2022.

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Mohammed Sambo Dasuki who is currently undergoing trial allegedly diverted funds about Two Billion, One Hundred Million Dollars ($2,100,000,000), which was set aside for the nation's security and bought properties in foreign cities like Dubai and London thereby compromising the nation's security and endangering the lives of the Nigerian soldiers fighting the members of the Boko Haram sect[61] in the northern part of the country[62].

Fifteen Billion Naira (#15,000,000,000) which was allegedly offered as bribe by the People Democratic Party (PDP)[63] to the electoral official (INEC)[64] which involved bank executives, former ministers of state and also political officials in connection with the 2015 election has been recovered by the EFCC.

Seven Hundred Million Naira (#700,000,000) raw cash was found in the home of the former minister of petroleum, Diezani Alison Madueke who was also arrested in London for offences relating to bribery, corruption and money laundering.[65]

i. The agency is currently investigating the spokesman for the former president campaign organization, Femi Fani Kayode (former Minister of Aviation) over the receipt of public funds to the sum of Eight Hundred and Forty Million Naira (#840,000,000) in the heat of the last presidential election.[66]

ii. The former director general of the Nigerian Maritime Administration and Safety agency (NIMASA) Raymond Omatseye was recently charged by the EFCC on a twenty-seven (27) count charge of alleged bid rigging and contract splitting and

[61] An Islamic extremist group based in north-eastern Nigeria, also active in Chad, Niger and northern Cameroon. The group's leader is Abubakar Shekau. The group had alleged links to al-Qaeda, but in March 2015, it announced its allegiance to the Islamic State of Iraq and the Levant (ISIL). Since the current insurgency started in 2009, it has killed 20,000 and displaced 2.3 million from their homes and was ranked as the world's deadliest terror group by the Global Terrorism Index in 2015.

[62] Vincent Ehiabhi, 'EFCC Exposes What Dasuki Bought with $2.IB Arms Fund' https://www.naij.com/668448- dasukigate-efcc-exposes-dasuki-bought-arms-procurement-fund.html accessed 19 June 2022.

[63]The People's Democratic Party is a major contemporary political party in Nigeria. Its policies generally lie towards the centre-right of the political spectrum. It won every Presidential election between 1999 and 2011, and was until the 2015 elections, the governing party in the Fourth Republic.

[64]The Independent National Electoral Commission (INEC), set up in 1998, is the electoral body which was set up to oversee elections in Nigeria.

[65] Bassey Udo, 'Ex- Petroleum Minister, Diezani Alison-Madueke Arrested in London' (Premium Times 02 October, 2015) http://www.premiumtimesng.com/news/headlines/190933-exclusive-ex-petroleum-minister- diezani-alison-madueke-arrested-in-london.html accessed 18 June 2022.

[66] Soni Daniel, #840m Cash Receipt: EFCC Secures Remand Warrant to keep Femi Fani-Kayode (Vanguard, 10 May 2010) http://www.vanguardngr.eom/2016/05/breaking-news-n840m-cash-receipt-EFCC-secures-remand-warrant-keep-femi-fani-kayode/ accessed 18 June 2022.

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a contract scam worth One Billion Five Hundred Million Naira (#1,500,000,000) and is currently on trial.[67]

iii. The former Senate President (Bukola Saraki) and his deputy (Ike Ekweremadu) are currently on trial for the offence of criminal conspiracy and forgery of the senate standing rules.[68]

The EFCC website also contains a list of country's most wanted criminals which includes among others; a former deputy governor of Osun State, Senator Iyiola Omisore in a case of receiving and misappropriating the sum of over Seven Hundred Million Naira (#700,000,000) from the Office of the National Security Adviser who has recently been arrested and is currently in their custody, also Ibrahim Saminu Turaki, the former governor of Jigawa State in connection with a case of criminal conspiracy, stealing, money laundering and misappropriation of public funds to the total of Thirty-Six Billion Naira (#36,000,000,000).[69]

According to the information gathered by daily trust, the agency has also frozen over 281 bank accounts across the country in both existing and liquidated banks, some of which are being held on interim forfeiture while others have been decided in court and have secured a final forfeiture and the money has been given to the rightful owners. With the help of the United States Department of Justice, the US has resolved to return Four Hundred and Eighty Million Dollars ($480,000,000) that was stolen by the former head of state General Sani Abacha and also the Swiss government has so far returned Seven Hundred and Twenty-Eight Million Dollars ($728,000,000) of stolen funds from the Abacha's family.[70]

Conclusion

The economic and financial crime commission has so far been successful in creating a regime of respect for the rule of law and an environment which is investment friendly for both the financial and industrial sectors of the economy. They have also improved the public awareness about the issues relating to corruption through the vehicle of an anti-corruption revolution campaign, which is an initiative designed to help the members of the society take ownership of the anti-graft campaign.[71]

[67] EFCC Intensifies Prosecution of Ex-Nimasa Bosses, Others (Vanguard, 10 May 2016) http://www.vanguardngr.com/2016/05/efcc-intensifies-prosecution-ex-nimasa-bosses-others/ accessed 24 June 2022.

[68] Senate Rules Forgery: FG to Arraign Saraki, Ekweremadu Tomorrow http://www.dailytrust.com.ng/news/ general/senate-rules-forgery-fg-to-arraign-saraki-ekweremadu-tomorrow/151721.html accessed 05 July 2022.

[9S] http://EFCCnigeria.org/EFCC/index.php/wanted accessed 18 June 2022.

[70] Us to return $480m Abacha looted to Nigeria http://www.africareview.com/news/US-to-return-Abacha- loot-to-Nigeria-/-/979180/3169252/-/r6lljlz/-/index.html accessed 29 June 2022.

[71] Ifeyinwa Nzejekwu, 'The Contributions of EFCC in Promoting Financial Accountability and Transparency in Nigeria' (2011).