

Churches and Private Educational Institutions as Facilitator of Money Laundering in Nigeria

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ABSTRACT

The goal of this study is to empirically evaluate the role of churches and private educational institutions in money laundering and related organised crimes in Nigeria. There is worldwide concern over the ways in which criminally acquired assets are being concealed, transferred and preserved. Many countries including Nigeria have enacted laws against money laundering; drugs trafficking; and, corruption. The study investigates the association of money laundering through the private schools and churches; and, four independent variables namely: Laws and Regulations, enforcement efficiency, banking compliance and corruption. The multiple regression models of Aldrich (2005) and Fisher (1922) are employed to investigate the association of the variables. The study hypothesises that money laundering in Nigeria is enhanced by the proliferation of churches and private educational institutions by which finances are largely unchecked by the authorities to such a degree that defective banking regulations; lack of government control of the funds of private schools and faith groups; inadequate enforceability of anti-money laundering laws; and, corruption are the propelling factors. The study suggests that private schools and churches in Nigeria are facilitating money laundering, corruption and organised crimes. It finds that there are serious loopholes in Nigeria's money laundering laws which enable criminal assets to be preserved and protected under the auspices of schools and church's assets. The study concludes that there is an urgent need for the overhaul of the national criminal laws and the regulation of the assets of private schools and churches in such ways that can deprive the criminal concealment of illegally acquired assets.

Keywords: Assets, Crime, Money laundering, Nigeria, Churches, Fraud Techniques.

INTRODUCTION

Money laundering, terrorism and drugs trafficking are among the most prevalent global criminal activities. Money Laundering refers to the process and act of concealing illegally acquired assets through a legally constituted institution such as banks. Simply put, it is the act of hiding stolen and corruptly acquired assets from the prying eyes of the regulatory authorities. Masciandaro (2000) defined money laundering as "an autonomous criminal economic activity whose essential economic function lies in the transformation of liquidity of illicit origin, or potential purchasing power, into actual purchasing power usable for consumption, saving, investment or reinvestment". In essence, "money laundering is a process in which assets obtained or generated by criminal activity are moved or concealed to

obscure their link with the crime” (IMF, 2005). Amedeo, *et. al.* (2008) observes that money laundering is “a multiplier of criminal financial activities” and a major process that strengthens “the ties between the real and the financial side of criminal economy”.

Money laundering is necessitated by the desperate need to: (1) hide the source and proprietary ownership of the assets; (2) retain control of the assets; and, (3) disguise and neutralise suspicion.

The perpetrators of money laundering routinely use three methods in their illicit transactions namely: Assignment; Shielding; and Mixing. Assignment involves the placement of the illicit assets into legitimate financial and social institutions in order to be able to convert the assets into smaller units for easier modes of transfer. Shielding is the disguising process which involves various attempts to erase the trail of the assets from the source of origin. The shielding process requires the transfer of assets through foreign banks; electronic transfer of company shares; and, stocks dealing. The mixing strategy of money laundering is complex and sophisticated ways by which launderers are able to convincingly integrate the proceeds of crime into “legitimate” economy. The process involves the establishment of companies in different countries; the entering of joint venture with legitimate foreign investors; the use of legitimate firms to export and transfer funds abroad; the use of private institutions and non-profit organisations (including churches) to safeguard and maintain banking transactions etc.

As far back as the 1930s, money laundering has been regarded as a crime by the United States government. It is very difficult to accurately estimate the value of money laundering due to the covert nature of the criminal activity. In 2000, it was estimated that approximately 3.9% of the global gross domestic product (GDP) originated from criminally acquired assets and the world’s money laundering is more than US\$2.5 trillion yearly (see IMF, 2002; Agarwal and Agarwal, 2004).

The European Union Council on the “prevention of the use of the financial system for the purpose of money laundering” Directive 91/308/EEC of 1991 provides an extensive list of acts which constitute money laundering as follows:

“(1) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, 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 activity to evade the legal consequences of his action; (2) 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 criminal activity or from an act of participation in such activity; (3) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; (4) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing paragraphs. Knowledge, intent or purpose required as an element of the above mentioned activities may be inferred from objective factual circumstances...”

Walker (1994 and 2007) suggests that corruptly acquired assets account for the highest volume of money laundering and closely followed by assets acquired through narcotic drugs trafficking. Money laundering cannot succeed without the existence of an enabling environment of crime and corruption. Edgardo and van Dijk (2003) argue that

“organized crime and corruption are shaped by the lack of strength of the control mechanisms of the State and civil society”.

Schneider (2008) explains that it is extremely difficult to effectively device adequate measures for the control of international and domestic money laundering because money laundering is “defined almost differently in every country, the measures taken against it are different and vary from country to country”; and, there is the lack of an approved international organisation responsible for the enforcement of uniform control of money laundering across national boundaries.

Guiora and Field (2007) suggest that one of the problems confronting the enforcement of money laundering is the sophistication of “Informal Value Transfer Systems” also known as “underground banking” which does not necessarily comply with the customary banking procedures. Between 1999 and 2009, underground banking practices have led to the liquidation of several banks in Nigeria.

Edgardo (2008) investigated the legal and economic factors determining the success and failure of the fight against organized crimes using data from 107 countries which are known to be highly corrupt and lacking good governance. Edgardo suggests that national level official data produced and published by the law enforcement agencies are inadequate and cannot be relied upon because of the politics involved in crime prevention in different countries thus the information on the extent of organized crime activity in a country had to be developed from other sources to obtain primary data. In consideration of the data collection challenges, Edgardo (2008) adapted the data of the World Economic Forum’s survey which provided information on the extent of victimization of businesses by organized crimes across the globe and finds that the most valuable and reliable strategy that is likely to curb organised crimes are connected to those that give adequate attention to “high level public sector corruption” and for the measures to be successful, four requirements must be met as follows:

- (i) The introduction of impartial justice system allowing for adequate use of discretion by the courts without interference by the State and the powerful few in the society;
- (ii) Protection of evidence, and swift “convictions based on evidentiary material provided by financial intelligence systems aimed at the systematic confiscation of assets in the hands of criminal groups and under the control of illegal businesses linked to organized crimes”;
- (iii) Intensive and consistent investigation of allegations of “high level public sector corruption”; and
- (iv) The introduction of awareness policies to encourage “the operational presence of government and/or non-governmental preventive programmes”.

Edgardo’s study offers significant insight into the understanding of organised crimes; however, the findings are too vague and cannot be realistically applicable to all countries. The data used and the model of analysis is likely to produce a fluke outcome. The study also failed to recognise the extent of some governments’ participation in organised criminal activities. Where corruption is entrenched in the body politics of a country, it is practically impossible for the government to effectively enforce anti-corruption laws making it impossible for organised crimes of huge final values to be controlled.

Although the present study focuses on private educational institutions, churches and money laundering; previous studies on the effect of religion on crime have produced mixed results. Stack and Kposowak (2006) and Pettersson (1991) argue that the most efficient method of analysing the effects of religion on crime is the use of quantitative model. They went further to identify “the barriers of crime, as tax fraud acceptability, and religiosity, braking down the levels of religious adherence”; in essence, social cohesion and mitigating

circumstances influence the rate of criminality. This finding is affirmed by Lee (2006). On the other hand, Cook and Powell (2003) suggest that the social persuasion and influence that occurs within religion does not affect the rates of criminality.

Nevertheless, financial crimes are among the world's fastest growing illicit activities. It fosters other vices including narcotic trade, terrorism, homicide and people trafficking. These have led countries to enact stringent laws to deal with the problems. For instance, in the United Kingdom, the Money Laundering Regulations 2007; the Financial Services and Markets Act of 2000; and, the Proceeds of Crime Act 2002 stipulate the ways of dealing with suspicious as well as criminal assets. In the European Union, the European Union Directive 2005/60/EC prohibits the "use of the financial system for the purpose of money laundering and terrorist". In the United States, the Patriot Act of 2001 and the Bank Secrecy Act of 1970 (as amended by Anti-Money Laundering Acts) regulates the financial institutions and persons with regards to money laundering and criminal assets.

In Nigeria, there are laws directed toward the prevention of money laundering and other economic crimes. The laws are: The Money Laundering Act 1995; The Money Laundering (Prohibition) Act 2004; the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994; the Banks and other Financial Institutions Act 1991; and, the Advance Fee Fraud and Other Fraud Related Offences Act 1995 (formerly, Decree 419). The Economic and Financial Crimes Commission established in 2004 is responsible for the overall enforcement of the anti-money laundering and all economic crimes legislation in Nigeria.

Despite the prevailing laws and regulations, money laundering and other organised crimes continue to prevail and develop in Nigeria. It is important to mention that all the prevailing laws on money laundering and criminal concealment of illicit assets in Nigeria are principally directed towards corporate entities and individuals thus, have one central defect; they fail to widen the scope of coverage of the regulated entities to include non-profit organisations, associations, private educational establishments and faith groups such as Mosques and churches. It is this loophole that is being exploited by criminals.

According to official sources in Nigeria including the central bank and the Economic and Financial Crimes Commission, Nigeria's money laundering activities in 2009 and 2010 is estimated at US\$1.250 billion. In 2010, Economic and Financial Crimes Commission in Nigeria affirmed that files containing evidence of money laundering of the sum of US\$35 million involving a church was missing from the custody of the law enforcement agency leading to the termination of legal actions against the church.

METHOD AND MATERIALS

Fundraising is a major source by which churches sustain their existence and school fees and other charges are the official known sources of private school's fund. In some countries, the bank accounts of religious and charitable organisations are seen as 'sacred' and unquestionable. There is a continuous proliferation of private educational institutions and churches in Nigeria; almost every street in the Southern part of the country is host to at least one church. Each church including all its branches posses at least one bank account. There is no legislation for the monitoring and supervision of the sources of church funds; there is no regulation as to the maximum amount of money that churches and the private educational institutions can hold in their bank accounts and, there is no peg on the maximum number of bank accounts each church can operate. This provides huge money laundering opportunities for corrupt politicians and organised criminals to be able to conceal criminally acquired assets.

The data used were collected from 16 States in Southern Nigeria namely: Lagos, Ondo, Ogun, Ekiti, Oyo, Rivers, Cross River, Akwa Ibom, Edo, Delta, Bayelsa, Imo, Abia,

Anambra, Ebonyi, and Enugu. The data consist of the current and savings account of 5 large and 5 medium size churches; 16 private secondary schools (one from each State) and 10 private universities. The largest churches refer to those with minimum total estimated members of 5,000 and the medium size churches are those with an estimated total of 3,000 members. The churches chosen for this analysis are those that have a minimum of five branches across different cities and the private secondary schools chosen are those that have existed for at least five years. The data include: the number of bank accounts held by each church branch and each school; the volume of monies in the bank; the frequency of bank deposits and transfers; and, the number of private properties acquired in the name each of the educational institution and each branch of the churches.

Data analysis was conducted using multiple regression statistical technique of Aldrich (2005) and Fisher (1922). The Multiple Regression statistical model involves the prediction of the action of one variable also known as the dependent variable on the basis of their score values weighed against many other variables known as independent variables. In this paper, money laundering through Nigerian private educational institutions and churches are single parameter representing the dependent variable and the independent variables measured are: Laws and Regulations (LR), Enforcement efficiency (EE), Banking compliance with national regulations (BC) and corruption (CR).

Table 1 presents the results of the multiple regressions. The R-square is 0.6615 adjusted for sample bias resulting in $R = 0.6181$ meaning that 61% of the change in the dependent variable (Money laundering through private educational institutions and churches) can be explained by a change in the independent variables LR, EE, BC and CR. The F-statistic is 0.1587 and statistically significant on the Durbin-Watson level of confidence of 5%. The regression parameters show that changes in the independent variables would result to the change in the dependent variable. They illustrate that the laxity in the four independent variables in Nigeria contributes significantly toward the prevalence of money laundering and other organised financial crimes. However, it is difficult to ascertain the measurability of money laundering because it is not directly observable (Amedeo, *et. al.*, 2008).

Table 1: Summary of Results of Multiple Regression

Equation Parameters					
R Square	0.6615				
Adjusted R square	0.6181				
Standard Error	137.7381				
F – Statistic	0.1587				
Multiple Regression Equation		Independent Analysis			
	Coefficients	Standard Error	R Squared	Gradient	Intercept
Intercept	119.476	134.566	0.627	1.59	482.4
LR	33.467	32.267	0.751	3.91	412.66
BC	4.086	2.017	0.659	29.59	336.84
EE	21.178	14.017	0.609	33.63	425.07
CR	49.45	23.703			

Note: Durbin-Watson Statistic is 2.89787; Critical D-W Values: Lower (Dl) = 0.69; Upper (Du) = 1.97; Critical F-Statistic at 95% Confidence is 3.25917; there is positive Auto-correlation at 5% confidence

DISCUSSION

The multiple regression results show a positive association of the dependent variable with all four independent variables. This suggests that money laundering through the private educational institutions and churches is intertwined with corruption, ineffective enforcement of laws, weakness of the laws, and lack of adequate compliance by the financial institutions. It also suggests that the fiscal structure of Nigeria is affecting the country's risk rating. This is consistent with Edgardo and van Dijk (2003) which states that:

“A country's financial and liquidity risk ratings are all positively related to the organized crime index ... higher country risk ratings are associated with higher levels of organized crime”.

Corruption is endemic in Nigeria, perpetrators range from top level government officials to business men and firms. Between 2000 and 2010 not less than 15 former State governors, 5 bank executives, and 4 firms have been charged with corruption and money laundering related offences involving an estimated US\$270 billion. The bulk of the stolen assets has been traced to foreign bank accounts. The process and strategies adopted by the Nigerian government to deal with money laundering suspects lack transparency; there is selective enforcement of anti-corruption laws in that some suspects cannot be indicted and are simply untouchable due to the extensive network and powers of the persons and firms benefiting from financial crimes in the country.

The judiciary in Nigeria is not independent enough to be able to handle cases of money laundering against certain persons and certain firms. In *Attorney General of Rivers State v. the Economic and Financial Crimes Commission & 3 Others suit No. FHC/PHC/CSI78/2007*, the plaintiff (Justice Mary Odili) was the wife of former Rivers State governor and acting in her capacity as the State Attorney General; sought perpetual injunction to restrain the defendant (authorised anti-fraud and anti-corruption agency of the federal government) from investigating and indicting former Governor Peter Odili (her husband) on the grounds that the defendant's activities were unlawful interference with the internal affairs of the government of Rivers State. The injunction was granted by the court on the grounds that the defendant's investigation of the former governor was “invalid, unlawful, unconstitutional, null and void”. The injunction further forbids the defendant from publishing the report of the criminal investigations to which Peter Odili was personally mentioned and, also forbids the defendant from taking further actions concerning the former governor regarding alleged corruption, looting of the State treasury and money laundering.

In *Federal Republic of Nigeria v. Ibori & others FHC/ASB/IC/09*, the defendants were acquitted by a Nigerian court of 170-count of corruption and money laundering however, one of the defendants was later convicted on the same charges in a separate suit filed in the United Kingdom court.

The study finds that corrupt government officials and politicians in Nigeria that are actively involved in harvesting the proceeds of crime are very conscious of the possibility of being arrested and charged in Europe and the United States therefore, have devised various methods of concealment including, conversion of all stolen monies into foreign currencies and storing such monies in large concrete underground bunkers usually in their secret country-side homes; purchasing of multiple houses using the names of friends and churches; giving the assets to churches on secret trust agreements whilst proclaiming such assets to be anonymous donations and gifts to the churches, establishing private educational institutions in the name of unsuspected business persons or entering into anonymous joint-ventures with others to establish same; and, using the names of friends to buy large quantity of securities and shares in blue chip firms. These criminal ways of concealment are energised by the

prevalence of corruption in the country. According to the United Nations Convention against Corruption:

“Corruption is a complex social, political and economic phenomenon that affects all countries. Corruption undermines democratic institutions, slows economic development and contributes to governmental instability. Corruption attacks the foundation of democratic institutions by distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only reason for existing is the soliciting of bribes. Economic development is stunted because foreign direct investment is discouraged and small businesses within the country often find it impossible to overcome the "start-up costs" required because of corruption.”

The above statement of the UN Convention against corruption seems to have summed up the negative effects of corruption however, the UN has not been able to devise the mechanism by which the problem of corruption could be eradicated rather, it delegate the duties of corruption control to individual national governments. It is foreseeable that corrupt national governments cannot eradicate corruption.

The study suggest that churches in Nigeria are autonomous private governments immune from national legal control mechanism in that the churches and charitable organisations control proprietary rights including huge volume of liquid assets without the need for accountability to the national government. It also suggests that the government does not control and monitor the finances of private educational institutions. This void in the national control of churches is the prime reason for the prevalence of money laundering within the church private government; this is consistent with Hills (2001).

The churches and private educational institutions in Nigeria are conveniently conducting money laundering business in the face of the apparent weak corporate governance, low ethical standards, and lack of banking transparency in the country. This is consistent with Ogunleye (2001) which suggest that the banks cannot be free of criminality due to “uncontrollable or external factors that influence bank performance”. The present study further finds that the weakness of banking regulation is correlated to money laundering activities, in conformity with Ogunleye (1999 and 2001) which suggests that fraud and inadequate risk management in the banking sector caused the liquidation of 36 banks in Nigeria.

The study finds that the establishment of multiple branches of the same church enabling each branch to operate a separate bank account in various banks facilitates the splitting of huge criminal assets into small units for easier concealment by the churches and private educational institutions. The study also finds that the churches appoint several individuals as pastors and encourage them to break away to establish new independent churches to facilitate the splitting of large size illicit assets to smaller units for the concealment in banks and other financial institutions. The church officials including pastors are also actively engaging in several criminal activities including rape, deception, extortion, false miracles/healings, adultery, incest, sodomy, organised armed robbery, drugs trafficking and large scale fraud.

CONCLUSION

Governments and law enforcement agencies worldwide routinely rely on banks and banking regulations including voluntary reporting by financial institutions for the detection of suspected money laundering crimes. This study provides a new dimension of looking at the

problem. It demonstrates that the banks should not be the starting point of money laundering investigations rather; there are several other previously ignored medium that is actively facilitating the concealment of the proceeds of crime including churches, private firms and educational institutions.

In terms of policy implication, in the light of the findings of this study, there is an urgent need to legislate to control the activities of all association of persons including faith groups and, there is an urgent need for governments around the world to actively scrutinise the assets of private enterprises; this may be very challenging however, there could be a mechanism in place for monitoring the rate of fund transfers by firms, private educational institutions and churches. The starting point could be in the form of compulsory requirements for registration of all associations including religious groups and allied units and routine declaration of assets whilst the sources of the assets should be transparent.

The registration process should include the declaration of compliance with national money laundering laws and the regular declaration of assets including the sources of the assets. There should be a maximum value of assets which each branch of a church is allowed to hold. However, it may be difficult to enforce the laws in the light of the growing sophistication used by money launderers who are actively using the private educational institutions, churches and other covert mode of operations.

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