Domino implications of corruption and money laundering in developing countries: a preliminary analysis on the way forward

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ABSTRACT

There are numerous victims and consequences of corruption and money laundering (ML) in many developing countries (DCs). This article reiterates the conspicuous symbiotic relationship between corruption and ML, making it difficult to isolate them in financial crime. The article uses a doctrinal approach and relies on both primary and secondary documents in the analysis. Some of the documents are inclusive of but not limited to the United Kingdom Bribery Act 2010, the United States Foreign Corrupt Practices Act 1977, the Nigerian Economic and Financial Crimes Commission Act 2011 and Independent Corrupt Practices and other Related Offences Commission Act 2000 and some pronouncements of the World Bank. It is incontestable that corruption and ML have devastating domino implications in DCs, particularly Nigeria, and the time is now ripe to increase efforts towards tackling this problem which has a strong potential to become even more serious. This article seeks to highlight the problem of ML in DCs and bolster efforts to reduce it.

Keywords: corruption; money-laundering; United Kingdom Bribery Act 2010; Economic and Financial Crime Commission Act 2011; Foreign Corrupt Practices Act 1977; Nigerian Constitution; World Bank; developing countries.

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INTRODUCTION

Interestingly, comments that are made concerning corruption have always been fascinating. To begin with, corruption itself is amorphous in nature and can include but is not limited to such things as bribery, extortion, favouritism, nepotism, cronyism and so on. It means different things to various people. What may be acceptable conduct in a particular jurisdiction could even be classified as despicable in another. Perhaps, these jurisdictional perspectives can be attributed to being part of the problems associated with trying to curb the menace in the society. For instance, there is not an agreed definition of corruption that one can say is universal. This definitional issue of corruption was succinctly captured in the words of R J Williams:

> The study of corruption is like a jungle and if we are unable to bring it to a state of orderly cultivation, we at least require a guide to the flora and fauna. This need has impelled many writers to find a precise definition which will accurately characterise the phenomenon. Yet it is important to note that there are nearly as many definitions as there are species of tropical plants and they vary as much in their appearance, character, and resilience. The point is that the search for a true definition of corruption is like the pursuit of the Holy Grail, endless, exhausting and ultimately futile.[1]

The above is in tandem with what the Council of Europe (CoE) observed about corruption as far back as 1995. The CoE alluded to the fact that it was (and still is) as a result of the various difficulties that usually spring up trans-border amongst nations that there is this problem of agreeing universally on what definition to accord 'corruption'. Of course, this may be the reason why there is difficulty in trying to shake off the corruption and money laundering problems. There are many multifaceted explanations of what corruption stands for.[2] Money laundering (ML) on its own is simply a criminal activity that hides the origin of the source of illegal funds with the intention of using the final product as a legitimate resource.

Another fascinating aspect of the above is anchored in the reality that, in spite of the different ramifications of corruption and by extension ML, there is agreement that they are not good for society. Corruption and ML are not exclusive to any part of the world. The quantum of the effects can best be attributed to the level of the checks and balances put in place to control them. Perhaps the consensus is that they are more noticeable in DCs. This may be debatable. However,

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1   R J Williams, (1976) 'The problem of corruption: a conceptual and comparative analysis' Political Action Committee Bulletin 41.
2   Council of Europe Multidisciplinary Group Programme of Action against Corruption, adopted by Committee of Ministers 1995, 25: see also R Alexander, 'Corruption as a financial crime' (2009) 30(4) Company Lawyer 98–104.

the robustness of the checks and balances related to these two issues in DCs is noticeably weak. Tellingly, this can be attributed to many factors. In this article, DCs are those countries with a less developed industrial base and a lower Human Development Index (HDI) relative to other countries. Sometimes, they are referred to as the 'Global South'. The categorisation is often dependent on different parameters used. The agreement on which countries fit into this definition is blurred.[3] Many of these countries are located in Africa, Central and South America and include almost all Asian countries and other island states.[4] This category is different from that of the 'least developed countries'.

We have also highlighted the assertion that it is practically very difficult if not impossible to isolate ML when discussing corruption. The reason is simple. Studies have indicated that the two are symbiotically linked.[5] Indeed, this is simply factual and not fictitious. It has also been noticed that attempts to quantify the exact level of corruption and ML that occurs has ended in futility. The results have been described as 'guesstimates' and possibly as exercises to justify funding prospects.[6] In truth, it is a colossal task to ascertain the exactness of the quantity of funds involved in corruption and ML.[7]

Aside the above, it is advisable to note that money illicitly generated through corrupt processes and other crimes ends up being laundered. However, we need a word of caution in this instance. All illicitly acquired funds do not necessarily undergo the ML processes. Alternative ways

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3   'Developing country', UN Statistics Division, 'Historical and updated classification of developed and developing regions' (May 2022).

4   Ibid.

5   D Chaikin and J C Sharman, *Corruption and Money Laundering: A Symbiotic Relationship* (Palgrave Macmillan 2009) 21–31. See also D Chaikin 'Commercial corruption and money laundering: a preliminary analysis' (2008) 15(3) Journal of Financial Crime 269–281. See also E Ekwueme and M Bagheri, 'The intersection of commercial corruption and money laundering: a look at international responses and adequacy of regulations' (2013) 95 Amicus Curiae 21–22.

6   B Rider, 'Accountability and responsibility – reinforcing the criminal law' Paper delivered at the opening ceremony of the Centre of Anti-Corruption Studies, 1 April 2009.

7   J Walker and B Unger, 'Measuring the global money laundering: the Walker Gravity Model' (2009) 26(2) Review of Law and Economics 825–853. See also F Schneider and U Windischbaur, 'Money laundering: some facts' (2008) 26(3) European Journal of Law and Economics 387–404. See also M Camdessus, 'Money laundering: the importance of international countermeasures' address by the Managing Director of IMF, FATF Plenary Meeting, Paris, 10 February 1998. See also J C Sharman and D Chaikin, 'Corruption and anti-money laundering systems: putting a luxury good to work' (2009) 22(1) Governance: An International Journal of Policy Administration, and Institution 27–45.

to use illicit money can be formulated by criminals.[8] The purpose is to enable the perpetrators to be in a position to reuse the funds within the legitimate economy. Surely, from the point of view of the criminal, it makes no sense if the profits cannot be used in the formal economic sector.[9] If this is the case, then the original incentive, one can adduce, would be lost.

Indeed, the victims of this twin-like malaise are strikingly obvious in DCs. Of course, this assertion is easy to note in the light of various negative conspicuous consequences glaringly experienced with particular reference to DCs. Victims of corruption and ML are reflected in many ramifications. Simply put, it is right to indicate that the wrong-doing in question is not a victimless crime.[10] The authors note that the term 'corruption' is also interchangeably used with 'bribery' in most instances. Therefore, this article seeks to tackle the malaise in DCs, particularly in Nigeria, by highlighting the problem of ML, and bolstering the efforts put in place to reduce it there.

The discussion moves next to focus on the connectivity that is evident between corruption and ML that necessitates a joint discussion. This is followed by a third section, where the discussion focuses attention on the negative consequences of ML in DCs. The fourth section will focus on the way forward with regard to some recommendations to mitigate the problems, particularly in Nigeria, and the fifth section is the conclusion.

CORRUPTION AND MONEY LAUNDERING CONNECTIVITY: IMPERATIVE JUSTIFICATION FOR A JOINT DISCUSSION

For a very long time, the commentaries about corruption and ML were in a form of separate analytical approaches. This was the posture presented before evidence and research within academia brought to the fore that the two are inextricably linked.[11] This assertion has been fortified by the comments and observations of legal persons exemplified by a leading international financial institution – the World Bank. It is incontestable that the World Bank has been recognised as being significant in global development projects of many countries, particularly DCs. It does this by helping them to achieve their desired economic goals and therefore

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8   M Levi, 'Money laundering: private banking becomes less private' in R J Hodess and T Wolf (eds), *Global Corruption Report* (Transparency International 2001) 206.

9   J D McClean, *International Cooperation in Civil and Criminal Matters* (Oxford University Press 2002) 261.

10   CITAC, 'Ethics statement'.

11   See the publications listed at n 5 above.

it is surmised that the World Bank's observation must be taken very seriously. It once indicated that we need to take cognisance that the cankerworm of corruption and money laundering must be assessed as strongly related and has a self-reinforcing phenomenon. The proceeds of corruption are usually disguised and eventually undergo the money laundering process manipulated by people that are corrupt who usually spend this or invest the proceeds. Simultaneously, corrupt activities in any country's AML (Anti Money-Laundering) institutions – this can include financial institutions' regulators, Financial Intelligence Units (FIUs), police, prosecutors, and the judiciary can actually incapacitate the AML mechanisms of that country and make it totally ineffective. It has been seen that the nexus that exists between money laundering and corruption has increased the focus of the Bank on corruption-related proceeds. It is observed that a significant deterrence to the corruption problem is the fact that there is no water-tight or absolute safe haven for the proceeds. They can be traced, seized, confiscated and repatriated back to the victim countries.[12]

In addition, it is evidenced that the same tools that are used to checkmate corruption are also employed to counter ML. It is clear that some of the tools used in customer due diligence in anti-money laundering (AML)/counter-terrorism financing, like the details of a client's background, the source of funds, plus the identity of a beneficiary, do play an important role in promoting general financial integrity and would hinder corruption.[13] Indeed, the close cooperation that exists between financial intelligence units (FIUs), anti-corruption agencies, law enforcement and the private sector is crucial in order to maximise the impact the AML regime can have to combat corruption.

In many DCs, with Nigeria as a reference point in this article, the law enforcement agencies usually specify that corruption should be the main predicate offence that generates illegal funds to be laundered. It is on account of this that AML policy is, to a large extent, primarily employed as an anti-corruption tool. The authors surmise that this should be assessed as a significant indication that there is a clear link that justifies a joint commentary, since most of the AML policies can be used primarily to control corruption.[14]

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12   StAR Initiative: Challenges, Opportunities, and Action Plan (World Bank/ UNODC 2007).

13   D Chaikin and J C Sharman, 'APG Asia/Pacific Group on Money Laundering Research Paper prepared for the FATF/APJ Project on Corruption and Money Laundering' (September 2007) 7.

14   E Ekwueme, 'Convergence of dirty money and private to private corruption: fact or fiction? How efficient are the tools to contain this? A discourse from Anglo-American and less developed countries' perspectives', University of London unpublished PhD thesis 2020) 47.

Interestingly, there was a time that a World Bank project undertaken by its Financial Market Integrity Unit, focused on the use of AML data for anti-corruption purposes. The intention was to share it with other countries, inclusive of DCs, to combat corruption and repatriate the proceeds. In fact, the World Bank partnered with the Egmont Group and conducted research on the governance of FIUs. The result was used to strengthen corruption prevention in FIUs.

The essence of the United Nations Office on Drugs and Crime

The perusal of the contents of some United Nations Office on Drugs and Crime (UNODC) literature indicates that it supports a joint commentary. The above is regarded as the backbone of the United Nations Convention against Corruption 2003 (UNCAC) that is relevant to financial crimes. It observed that there is a very important nexus present in corruption and ML. The innate ability to transfer and hide funds is a vital component of the corruption process, especially grand corruption. This is evident because individuals that work in public sectors and in some very important private sectors are habitually exposed to bribery and are usually intimidated to conceal illicit financial activities.[15] The statutes created to fight corruption can also be deployed in controlling ML activities and related offences and UNODC has reiterated the essence of establishing corruption as a predicate offence of ML.[16]

Indeed, the UNODC, through its Global Program, has continued to play a major role in extending AML technical assistance to DCs. It did list as a matter of priority the ML/corruption linkage as one of its vital areas of research. This emphasised the risks or short-comings presented by under-regulated corporate service providers and anonymous corporate vehicles.[17]

Of importance is the fact that the World Bank and UNODC have been cooperating since as far back as 2007 and initiated the Stolen Assets Recovery (StAR) Initiative. The intention is to continue to help in repatriating assets that are usually expropriated through corrupt means to the home countries, the ratification of the UNCAC, and the extension of technical assistance to less developed economies. It is not difficult to observe from the above the interconnectivity of corruption and ML. Evidence of the success recorded on repatriation abound. One typical example are the famed 'Abacha loots' repatriated to Nigeria. This is irrespective of the eyebrows raised as to the allocation,

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15   UNODC Anti-Corruption Tool Kit, 20.

16   Ibid.

17   J Blum, M Levi, R T Taylor and P Williams, 'Financial Havens, Banking Secrecy, and Money Laundering' paper prepared for UNODC 1998.

accountability and transparency associated with the disposal of the returned funds in Nigeria. The StAR Initiative sent the signal that corruption is a negative activity that should be abhorred and that the exercise will continue to be a stumbling block to corruption. This may have been overstated. It is worth noting that in 2020 18 countries received assistance from StAR, which included many DCs.[18] There is the feeling that the StAR Initiative is like a consciousness-raising or hortatory initiative. However, the publicity and the results achieved so far can still be classified as positive vibes.[19]

The input of the United Nations Convention against Corruption 2003

The UNCAC is truly a respectable and reliable source that is global and has made very significant contributions to tackle corruption. It has been described as the first genuinely global, legally binding instrument on corruption and other related matters developed with extensive international participation. This comprises a broad consensus of signatory states and international private sectors and civil society organisations.[20] The UNCAC articles are very important in tackling corruption and by extension ML.

The UNCAC, in reality, has laid out its importance on the nexus that is evident between corruption and ML. A perusal of the contents of the second clause of the preamble readily attests to this. The vital or germane areas include but are not limited to articles 14, 23, 52 and 58 respectively. For instance, article 14 indicates that the signatories should set up mandatory AML supervisory arrangements. This should be inclusive of the following: customer due diligence and clear signs of beneficial ownerships. There should be the presence of a suspicious transaction monitory mechanism and arrangements to monitor interstate movement of cash and negotiable instruments. Others include relevant information about electronic transfers, adherence to the standards of the existing AML bodies, and ensuring that international cooperation among law enforcement, judicial and financial regulatory agencies is maintained.[21]

Article 23 was drafted in a mandatory tone to facilitate the signatories to legislate for the criminalisation of money-laundering in their domestic law. The parties are expected to put in place various

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18   See StAR Initiative, World Bank/UNODC.
19   CITAC (n 10 above).
20   A Argandona, 'The United Nations Convention against Corruption and its impact on international companies' (2006) IESA Business School Working Papers No 656.
21   Ekwueme (n 14 above) 50–51.

predicate offences that are needed to satisfy the ML offence. It is evident that many DCs have complied with this provision. For instance, besides other legislations, in Nigeria the Economic and Financial Crimes Commission Act 2011 demonstrates this.

UNCAC article 52 indicates that signatories have to ensure that their financial institutions should use enhanced scrutiny when they are dealing with accounts that are opened by public officials. These include both domestic and foreign officials that are engaged in the conduct of prominent public functions, plus their families and close associates. They are known as politically exposed persons (PEPs). The idea is that it is highly likely that these people are exposed to huge sums of public money by virtue of their positions and there is a significant chance that they will also be exposed to corruption and ML. But we need to note that not all PEPs are corrupt and caution should be exercised in dealing with them.[22] There is no universally agreed definition of who should be classified as a PEP.[23] Various groups like the Financial Action Task Force (FATF), Wolfsberg Group, Joint Money Laundering Steering Group and others have their own assessment of who a PEP should be.

PEPs also conduct business in their private status. Some offer bribes and have numerous companies that are set up with the intention of avoiding the regulatory radars. They do this by sometimes disguising the beneficial owners. But various laws have been put in place to curtail this.

Article 58 of UNCAC encourages countries to set up FIUs. The intention is for them to be capable of receiving, analysing and disseminating relevant information like suspicious transaction reports (STRs). These are needed in order to help track issues of corruption and ML. Resources are limited for setting these up in DCs. However, DCs want to be seen to be in conformity with international standards and compliance with UNCAC and FATF recommendations evidences this. But certain reservations have been raised by some authors on the expectation by the developed world for DCs to meet these requirements, considering the fact that there are glaring resource constraints.[24]

Organisation for Economic Cooperation and Development Bribery Convention 1997

The Organisation for Economic Cooperation and Development (OECD) Bribery Convention 1997 evidences the close link between corruption and ML. Bribery that occurs internationally also permeates the private

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22   FATF Guidance on Politically Exposed Persons (2013).
23   K Choo, 'Politically exposed persons (PEPs): risks and mitigations' (2008) 11(4) Journal of Money Laundering Control 271–278.
24   P Reuter and E Truman, 'Chasing dirty money' (Institute for International Economics Washington DC 2008) 7.

sector. Significantly, the Bribery Convention contains AML provisions. Article 7[25] calls upon signatories that have the offence of bribing a domestic official as a predicate offence of ML to extend the same to foreign public officials. This is important and tacitly recognises the fact that, when a public or private official is bribed, depending on the amount, efforts will be made to launder the funds. This makes it imperative that the issues are to be analysed together. The Convention is against making bribery a tax-deductible expense in commercial transactions.[26]

To buttress the connectivity, the Convention highlighted that there has to be a clear indication that the available suspicious transaction reporting systems have led to the discovery of foreign bribery and related ML incidents. It is expected that the incidents of foreign bribery occur regularly and involve ML. Therefore, it should be within the remit of legitimate expectations, that reporting systems should have the capacity to detect foreign bribery on a regular basis. But, unfortunately, this has proved not to be the case and many STRs did not lead quickly on to bribery investigations in most of the countries examined.[27] This was an issue in advanced countries, and it was not unsurprising to find a more disappointing scenario in DCs. Non-inclusion of foreign bribery examples in the typology could be a reason for this at that time.

The OECD at some point presented documents that indicated the connectivity. It also entered into alliance with other legal persons and their pronouncements also highlighted the connection. For instance, as early as 1999, the Asia Development Bank/OECD Anti-Corruption Initiative for Asia and the Pacific was established. It has been noted that their joint Work Plan of 2007/2008 expressed a very serious intention in collaborating with Asia Pacific Group (APG) to investigate the link. It focused on a good thematic review jointly with APG on ML that was tailored to the framework of the FATF/APG Project Group on the links between anti-corruption, ML and terrorist financing.[28] A report was eventually issued that was entitled *Mutual Legal Assistance, Extradition and Asset Recovery of Proceeds of Corruption in Asia and the Pacific*.

The contribution of the Commonwealth to the link

The work of the Commonwealth Secretariat conducted through its Economic Affairs, Governance, Legal and Constitutional Affairs Division is important. This incrementally built on the efforts earlier made as far back as 1999 on the commitment of the Commonwealth

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25   OECD Bribery Convention 1977.
26   Ibid.
27   OECD Working Group, *Second Phase Mid-Term Report* (2006) 87.
28   Asian Development Bank/OECD Anti-Corruption Initiative Report (2007) 6.

heads of government to the Framework for Commonwealth Principles of Good Governance and Combating Corruption. As a follow-up to UNCAC implementation, the Commonwealth as far back as 2005 published a major review with regard to Asset Recovery. Some of the recommendations included but were not limited to removal of immunities from criminal prosecution for heads of state, enhanced scrutiny for both domestic and foreign PEPs, and mechanisms for dealing with corruption by a serving head of state. Others include effective conviction and civil confiscation measures as part of AML provisions. The Commonwealth also suggested that bilateral treaties should not be needed in this area. Finally, it recommended that there should be asset registries for public officials which should be used as an effective preventive mechanism, particularly when verified with tax information.[39]

There is evidence in some Commonwealth jurisdictions of a clear lack of political will to implement the above recommendations. In truth, cronies or political associates are sometimes appointed to sensitive positions, and they usually cover the corrupt antics of the individuals that secured these appointments.

Asia Pacific Economic Cooperation on demonstration of the link

The initiative by the Asia Pacific Economic Cooperation (APEC) focused on the promotion and awareness of corruption and ML. In fact, under the 'Bussan Declaration', APEC agreed to the implementation of the relevant articles of UNCAC. These are pertinent in tackling the malaise. APEC believed that these articles can have a positive impact on the group's economies by ushering in a more transparent and honest community in the Asia Pacific region. This adds credence to the fact that it is always going to be the case that the two should be discussed together.[30]

Financial Action Task Force-style regional bodies

For ease of reference, the FATF was established in 1989 by the Group of 7 (G7) to help control ML. It was later that regional bodies were established to continue the fight against ML, terrorist financing and proliferation of weapons of mass destruction. These bodies, evidently, have had some impact through their regional efforts to modulate the malaise. There are nine regional bodies as at 2025. The authors will focus on a few of them to demonstrate that their pronouncements specifically draw attention to the linkage.

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29   Blum et al (n 17 above) 55–56.
30   The focus was on UNCAC, arts 14, 23 and 24.

The statement that emanated from the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) observed that the difficulty in its region is that the topical issue of ML has been totally misunderstood and regarded as a separate and independent matter. It noted that most countries developed financial sector reform strategies and anti-corruption strategies that failed to address the FATF recommendations. It indicated further that ML is simply the other side of corruption and other criminal activities. Additionally, it is important that AML programmes should not only be integrated within national development plans, but also within financial sector reform and anti-corruption programmes.[31] This simply signifies that dirty money is laundered as a result of corruption.

To add spice to the linkage, the Inter-governmental Action Group against money-laundering in West Africa (GIABA), in its report on the corruption–AML nexus entitled *Corruption and Money Laundering in West Africa: Assessment Problem Status and Effectiveness of National and Regional Control Initiative*, laid bare that the link between the two must be seen as a very strong manifestation of the evil of organised crime. The very weak level of extant AML can rightly be attributed as a result of corruption.[32] It is fair to indicate that this section has presented sufficient justifiable pronouncements from credible organisations that justify a joint discussion as a result of the connection.

AN INSIGHT INTO THE NEGATIVE CONSEQUENCES IN DEVELOPING COUNTRIES

Holistically, it is due to the causative factors that trigger the ills (although not covered in this article) that have paved the way for the negative consequences noticeable in the economy of DCs. It is important to bear in mind that, as a result of the glaring indications that corruption and ML are symbiotically linked, it is therefore justifiable to assert that the two emit the same gloom in DCs.[33]

Deceleration on the rate of economic growth in developing countries

A major effect of corruption and ML in DCs is that they slow down the rate of economic growth. It must be recognised that the World Bank at some point estimated that the proceeds of corruption has equalled

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31   ESAAMLG, Strategic Plan Report (2005) 12.
32   GIABA, 'Corruption-money laundering nexus: an analysis of risks and control measures in West Africa' (May 2010) 3.
33   The academic literature points to the direction that there is a clear nexus, therefore, deductively, this should be a valid conclusion.

losses of between 20 to 40 per cent of official development assistance in developing countries. In addition, there has evidently been a 0.5 to 1.0 percentage point drag on economic growth. It was indicated that widespread corruption and ML in DCs create the above gulf when compared to a similar country that has little corrupt activities.[34]

In Africa alone, the estimate is that the cost of the two activities, particularly corruption in procurement, is more than USD148 billion a year. In real terms, this is thought to represent about 25 per cent of the gross domestic product.[35] Plans were made to repatriate estimated billions stolen yearly from DCs.[36] Corruption can increase the cost of goods by 20 per cent.[37] It has been noted that a large amount of money passes through the corruption and ML processes. However, the exact amount has not actually passed the empirical test. Even in both developed and developing countries, it is estimated that the annual money that is paid as bribes, could be USD1 trillion. This is seen as a conservative estimate.[38]

Diminished investment prospects

The suspicion is that the requisite investment prospects in DCs may be discouraged as a result of the problems. As earlier indicated, investments in a relatively corrupt country, when compared with a relatively reduced 'corrupt free country', can turn out to be 20 per cent more expensive.[39] Without prejudice, to conduct business on a large scale in an environment like Nigeria does have a very strong potential to be more expensive. This is irrespective of the usual anti-corruption messages often emitted by the Government. As at the time of writing, the '$182m Halliburton bribery scandal case' has not yet been judicially concluded in Nigeria.[40] This is irrespective of the fact that this has long been concluded in the United States (US). The Government in power reopened the matter through its corruption agency – the Economic and

34   See StAR Initiative (n 12 above).

35   This estimate was given in 2014 by the United Nations Economic Commission for Africa, 'Tracking Africa's stolen billions'.

36   Warren Hoge, 'Countries to get help recovering stolen assets' *New York Times* (New York 17 September 2007).

37   E Bunt, 'Corruption costs Africa billions' (*BBC News* 18 September 2002).

38   Till Johannes Hartman and Carlos Ferreyra, 'What are the costs of corruption?' (*World Bank Blogs* 22 December 2022).

39   D Kaufmann, 'Economic corruption: some facts' 8th International Anti-Corruption Conference 1997.

40   Will Fitzgibbon and Musikilu Mojeed, 'Files open new window on $182-million Halliburton bribery scandal in Nigeria' (International Consortium of Investigative Journalises 10 February 2015).

Financial Crimes Commission (EFCC).[41] There are strong insinuations that powerful individuals are involved in the matter, and that the case may be scuppered by the judiciary.

In fact, a survey of about 3600 firms in 69 countries was carried out for the *World Development Report*. This highlighted the negatives. There were indications that the twin-like issues presented serious problems (and still do) to potential investors. More than 40 per cent of entrepreneurs admitted that they paid bribes to get things moving. Interestingly, a large number of companies are fully aware that the fact that bribes were paid should not be taken as a guarantee to get the service. As a result, many legal persons have feared that more bribes would be requested by other officials, thereby increasing business costs and encouraging economically unproductive relations.[42]

On the other hand, foreign direct investments (FDIs) may still flow to DCs in which corruption is systemic. The reason is predicated on the fact that the bribe could be affordable and the result can be predictable. Corrupt officials in this instance are aware of the amount of bribery that can be affordable. However, at the same time, it can be argued that corruption would still have a significant effect on the quantum of FDIs that can flow to DCs. If it is on a large scale, investments may be concentrated towards the extractive sectors of the economy. Here, there is the possibility that the operations may be very slow or, alternatively, in light manufacturing or trading operations which can be relocated if rent-taking becomes unbearable. However, some foreign investors can decide to shun the country. High levels of corruption can also be a reason for a disincentive for FDIs. But for some firms, corruption is seen as a cost of doing business which will be recouped from revenues.[43]

Some firms do not like operating in a corruption-infested environment. Investors are unwilling to invest in countries where institutions encourage corruption, nepotism and red-tape because these factors increase the cost of doing business.[44] It is not surprising that such DCs would miss out on FDIs. More so, the firms that think that they can bribe their way through are usually held back on account of the sanctions and punishments that could be meted out. It is very

41   Sani Tukur, 'EFCC reopens Halliburton bribery case, senior Nigerian lawyer quizzed, 5 other SANs for probe' (*Premium Times* 13 February 2016).

42   World Bank, *World Development Report 1997: The State in a Changing World* (Oxford University Press 1997) 99–110.

43   W Shan-Jin, 'How taxing is corruption on international investors?' (National Bureau of Economic Research Working Paper 6030 1997).

44   A A Mengistu and B K Adhikary, 'Does good governance matter for FDI inflows? Evidence from Asian economies' (July 2011) 17(3) Asia Pacific Business Review 281–299.

likely that we do not have many foreign investors who are willing to take this risk. We need to point out that tax deductibility of bribery money is now prohibited by the OECD Bribery Convention 1997 and by extension other robust bribery legislations that have extraterritorial impact on DCs. These include but not limited to the United Kingdom (UK) Bribery Act 2010 that has a zero tolerance to bribery and US Foreign Corrupt Practices Act 1977.

Undermining of developing countries' privatisation processes

Corruption and ML have the capacity to undermine DCs' genuine privatisation efforts for the reformation of their economies. As a result of this, criminal organisations may have the potential in terms of capacity to outbid the legitimate purchasers of former 'state-owned enterprises'. It has been noticed that illicit money is often invested in this manner and criminals will thus increase their power to conduct more criminal activities. In such a situation, it is evident that they may succeed in depriving the countries of what should be regarded as legitimate market-based and tax-paying enterprises.[45]

Corrosion of microeconomic stability

In DCs, corrosion of microeconomic stability can occur through the loss of government revenues and excessive spending. This is noticeable due to corruption in tax and customs departments, through debts that are incurred when the necessary scrutiny of the finance ministries and central banks are bypassed, situations when contracts are awarded to high-cost bidders or without the required competitive-tendering, and through general expenditure control.[46]

There was a time when a senior and well-paid chief executive officer of a Thailand manufacturing company admitted that he would prefer to be a customs officer. His reasoning rested on the fact that custom officials receive massive bribes in some DCs to process and clear goods.[47] This observation does not come to some people as a surprise. For instance, in a country like Nigeria, it is an open secret that the customs officials and other government workers in some ports, more particularly those in Tin Can and Apapa wharf, located in Lagos, receive massive bribes for processing goods for importers. They tacitly divert

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45 J McDowell and G Novis, 'The consequences of money laundering and financial crime' (2001) 6(2) Economic Perspectives 6–8.

46 Ibid.

47 J Svensson, 'Eight questions about corruption' (2005) 19(3) Journal of Economic Perspectives 19–42.

money that is supposed to go to government coffers. No doubt, many custom officials in Nigeria have become very rich overnight.[48]

Impact on small enterprises or business outfits

In DCs, small business outfits are highly likely to be affected in corruption and ML incidents. The evidence from the private sectors' assessment, did suggest, albeit possibly rightly, that corruption increases the cost of doing business and that small firms bear the brunt of this in a very disproportionate manner. Bribes, obviously, can prevent these businesses from expanding.[49]

Environmental impact, the poor and resource depletion

It is obvious that the environment will definitely suffer on account of corruption and ML. Indeed, it should be recognised that, in many DCs, laws have been passed to protect the environment. Special agencies have also been created with the responsibility to monitor these laws. But, it has been noticed that there is absence of the required connectivity in many DCs with regard to policies and implementation. Of course, compliance with these laws imposes on firms some costs which they avoid by paying bribes.[50]

In a country like Nigeria, there is obviously a noticeable degradation of some areas of the Niger Delta region on account of oil spillage. The region produces more than 70 per cent of the country's crude oil. There is the feeling that it is possible that the oil companies have behaved in such a manner that it is likely that they have not taken the local communities as major stake holders in exploring for oil. The companies want to maximise their shareholders' profits. But this should not lead to degrading the environment of the local communities. There is the suspicion that some locals are bribed to keep mute. This has also led to the emergence of various militant groups in the region with the mandate of 'protecting their local resources' in the communities.[51] However, at the time of writing, the Nigerian Government had authorised the release of funds to clean up the polluted areas. But very little progress has been achieved as at 2025.

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48 'Star campaigner takes on corruption and waste on Nigerian docks' (*Marketplace Africa* 18 October 2017).

49 M Amin and V Motta, 'The impact of corruption on SMEs' access to finance: evidence using firm-level survey data from developing countries' (October 2023) 698 Journal of Financial Stability 101175.

50 N Iheanacho, C I Ike and A E Ozegbo, 'Corruption, environmental sustainability and economic performance in emerging economies: evidence from Nigeria' (2023) 12(1) International Journal of Management, Economics and Social Sciences 52–78.

51 Ibid.

There are also rents that can be earned in certain tropical rain forests in DCs. In this circumstance, permits can be obtained corruptly and inspectors bribed. The effect on the environment can be devastating. It is noticeable that air pollution, soil erosion and even negative climate changes can occur as a result.[52]

In most of these circumstances, it is not surprising to expect that it is the poor that usually bear the brunt. This is in tandem with the view that there are many victims of corruption and ML. Where there is grand or systemic corruption this filters into petty corruption. In a situation where access to public goods and services requires bribery, the poor do suffer.[53]

The natural resources of DCs are depleted due to these vices. This can be seen in primary forests. Facilitation payment of USD50 was alleged to be paid as bribe money in Cambodia to fell a cubic metre of timber.[54] Additionally, in Indonesia, the Government ran into losses of about USD4 billion per year or five times their annual budget as a result of corruption in this sector.[55] There is also the negative impact in the health sector of some DCs. For instance, there was a time in Ghana when it was indicated that only about 50 per cent of the money that was allocated to hospitals reached them.[56]

False impression of economic growth, impact on money laundering plus reputational implications

There is this false impression that corruption can add to the pace of economic growth. The propagators feel that this serves as an avenue for the allocation of scarce resources and accelerates some investments. It can also strengthen the private sector by reducing the uncertainty and even the negative effects of bureaucracy.[57] It can also possibly fulfil some societal needs and can include a better form of economic choice and the promotion of the market economy that may not be possible without corruption.[58] Grease money or speed money has a

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52   Ibid.

53   CITAC (no 10 above)

54   See *Cambodia Public Expenditure Review: Improving the Effectiveness of Public Finance* vol 11 Main Report (World Bank 2012).

55   United Nations Development Program (UNDP) Report, 'Tracking Corruption, Transforming Lives: Accelerating Human Development in Asia and Pacific' (2008) 98.

56   Magnus Lindelow, Inna Kushnarova and Kai Kaiser, 'Measuring corruption in the health sector: what we can learn from public expenditure tracking and service surveys in developing countries' (Transparency International Global Corruption Report 2006) 30.

57   K Gillespie and G Okruhlik, 'The political dimensions of corruption cleanups : a framework for analysis' (1991) 24(1) Comparative Politics 77–95.

58   Ibid.

strong potential to sidetrack delays and red tape. Some workers that are allowed to extort money work harder, particularly where bribes are allowed to act as a piece rate.[59] The authors surmise that the above situation is only beneficial in the short term and cannot be sustained long term with regard to economic planning. The anti-corruption legislations are against this. For instance, the UK Bribery Act 2010 and EFCC Acts have zero tolerance on this. There is no doubt that the perpetrators are fully aware of what will await them when they contravene the above Acts.

In many DCs, AML provisions lack robustness, or bribery is often used to render them very weak. Officials of anti-corruption agencies can be bribed. In fact, some banks that are supposed to be positive conveyors of economic development are sometimes acquired by corrupt officials in DCs. As a result, their corrupt money is usually laundered through these banks to safe havens. In certain cases in these financial institutions, STRs are deliberately not reported to FIUs.[60]

ML can increase the possibility that these banks will then be corrupt and controlled by criminals. These institutions may be small in number, but then financially they can trigger contagion issues. This has the potential to give rise to reputational negative consequences caused by operational risks and affect investor trust. It is no secret, that a reputation for integrity is a hallowed asset for investors globally, and the lack of it weakens the financial system.[61] The scandal that engulfed the Bank of Credit and Commerce International massively diminished its reputation. The bank lost out on many businesses prior to its eventual liquidation and this resonated across the globe.

It is fair to state that it is the malaise that has contributed to undermine the efforts in DCs to harness the global framework that can be employed in tackling the issues.[62] In many DCs the ML regulations and systems set up to tackle it do not operate very smoothly due to weak institutional set-ups. This leads to the stagnation of democratic progress. It is also noted that in certain situations, ML can stimulate the local economy. Sometimes, the laundered money can be exported. But within the country where it has occurred, part of the funds can be used to purchase property and other assets. This stimulates the local economy, but it can also lead to high prices in real estate. This is a positive for people that want to sell for high prices, but, on the

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59   P Mauro, 'The effect of corruption on growth and public expenditure' in A J Heidenheimer and M Johnson (eds), *Political Corruption and Context* (Transaction Publishers 2002) 339–352.

60   Ekwueme (n 14 above) 89.

61   IMF Background Paper (12 February 2001).

62   N Magarura, 'The effect of corruption factor in harnessing global anti-money laundering regimes' (2010) 13 Journal of Money Laundering Control 1.

other hand, locals are priced out of the market and it can corrode the profitability of domestic businesses.[63]

Enhanced criminal activities and hindrance to growth momentum

It is evident that, if ML is allowed to flourish in the financial sector, it will lead to enhanced criminal activity in the real economy. The criminals are not interested in pursuing credible government development policies. The criminals will have the capacity to fund gangs and they will compete to outdo rival gangs. This usually leads to violence.[64] When corruption is associated with organised crime, legitimate business is discouraged, allocation of resources is distorted and political legitimacy is also compromised.[65] Regrettably, this is the situation that many DCs find themselves in and it is patently very difficult to wriggle out of this.

DCs' momentum for development and growth is therefore hindered. When a few pocket the resources meant for development, there will be negative impact. Cases of this nature are many in DCs. For instance, in 2014 the Vice President of Equatorial Guinea was convicted *in absentia* in France and his assets worth more than USD30 million were relinquished in the US.[66] The economic damage done in DCs is colossal. As indicated earlier, this distorts microeconomic stability which is the basis for sustainable economic growth.[67]

Negativity of money laundering and capital flight in developing countries

It is important to indicate that the perspective of DCs and developed countries on the negativity of money laundering and capital flight is quite different. ML refers to transactions that are connected to transactions that relate to property that is derived from a criminal activity. An example is corruption. But capital flight in itself is the large export of funds from a given place. This can be evidenced on a large scale and may have a legitimate or illegitimate origin. However, the

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63   L Brent and L Bartlett, 'The negative effects of money laundering on economic development' (Paper prepared for Asian Development Bank Regional Technical Assistance Project No 5967 Countering Money Laundering in Asia and Pacific Region 2002).

64   'Russia Mafia threatens Switzerland' (*BBC News* 8 August 1999).

65   UNDP, 'Corruption and good governance' (Discussion Paper 3 1997) 35.

66   R Alexander, 'Pursuit of criminal property' in B Rider (ed), *Research Handbook on International Financial Crimes* (Edward Elgar 2015) ch 36, 448.

67   Hassan Karnameh Haghighi, Majid Sameti and Rahim Dallali Isfahani, 'The effect of macroeconomic instability on economic growth in Iran' (2012) 4(3) Macrothink Institute.

negative economic effect on DCs is the same because both destabilise their polities.[68]

Large capital flight can be triggered by a political flux like the fall of the Soviet Union. The funds may be returned when stability normalises. Also, the reign of a corrupt dictator can trigger this. For instance, this was noticed in Democratic Republic of Congo when Joseph Mobutu was in power a long time ago. It was also seen in Nigeria when former dictator Sani Abacha was in charge. The financial flows that accompany these activities are very unstable and can contribute to the instability of exchange rates, the amount of funds available in the economy of DCs, plus affecting inflation and the general price index.[69] These are negatives for DCs. These transactions do not usually appear in official government data and this distorts or presents inaccurate information to policymakers. It will then be difficult to manage monetary levels, interest rates, inflation and exchange rates.[70] It is no secret that these will impose massive problems on the public and cause policy making to be difficult.[71]

The UNODC has indicated that more than USD400 billion-worth of illicit financial transactions have originated from Africa and that Nigeria is accountable for more than USD100 billion.[72] Some of these laundered funds were never returned to the victim countries. And it is a shame that even in some situations when the funds were retuned, accountability was opaque.

Permeation and distortion of political process in developing countries through organised crime

As a result of the problems caused by these illegal practices, it is indicative that the proceeds of corruption and ML may have been used to influence political decisions in DCs. This has led to political and social unrest in many DCs. In truth, in many transitional economies, there is the presence of a deep-rooted independent link that exists between ML, organised crime, politics and the public sector. This has very strong potential to foster significant symbiosis between the state and criminal organisations in DCs.[73] Sometimes, political office holders are sponsored with dirty funds. When they win elections, they

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68   Ekwueme (n 14 above) 92–94.
69   Ibid.
70   P J Quirk, 'Microeconomic implications of money laundering' (IMF Working Paper Issue 66 1996) 42.
71   P Loungani and P Mauro, 'Capital flight from Russia' (IMF Policy Discussion Papers Issue 6 27 June 2000).
72   This is an estimate not an exact figure.
73   M Chene, 'Organised crime and corruption' (Anti-Corruption Resource Centre 28 May 2008) 2–5.

are influenced to take decisions that suit the criminals.[74] This is not healthy for DCs and was the case in Colombia in the 1990s. The then President, Ernesto Samper, was accused of collecting the sum of USD6 million from the Cali Cocaine Cartel to fund his presidential election.[75] It is fair to comment that the above facts may not be the only exclusive domino implications.

THE WAY FORWARD FROM A HOLISTIC PERSPECTIVE

It is evident that the consequences of ML and corruption are damaging to DCs. This article therefore makes the following recommendations which have the potential to minimise the issues in DCs. The governments of DCs should endeavour to allocate more resources to corruption and AML enforcement structures. This article recommends that there should be a respectable percentage increase of the present allocation of not less than 80 per cent in various polities. It will be reasonable to expect a drastic reduction of the malaise if the money is applied sensibly.

For the DCs that experience (many of them do) serious resource constraints, the authors recommend that foreign aid should be sought. When this is received, it should be monitored prudently to make sure it is applied in the right direction. In fact, this resource issue is also present in developed countries. When the FATF visited the UK in 2018 for a peer review, the report stated that the UK has a robust anti-ML setup. However, the UK was advised to endeavour to allocate more resources to its FIU.

Moving forward, we note that the International Monetary Fund (IMF) and World Bank have massive impacts on DCs in terms of the assistance granted to them. This article recommends that as a condition precedent in granting these facilities, the IMF and the World Bank should insist that the DCs must incorporate the study of ML and corruption in their respective academic institutions from an early stage. This will enhance a better appreciation of the issues and would possibly reflect on the reduction of ML and corruption. Presently, ML and corruption awareness modules are only offered as training to staff of certain financial institutions in tandem with the recommendations of FATF.

In DCs, asset declaration must be complied with when appointments are made to public offices. It is evident that this is not adhered to in many DCs. This article therefore recommends that the departments

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74   V Adetula, 'Money and politics in Nigeria' (IFES-Nigeria 15 December 2008) xxvii.

75   G H Millard, 'Drugs and organised crime in Latin America' (1997) 1(1) Journal of Money Laundering Control 73–78.

responsible for this should wake up to their responsibilities. Officials who are PEPs should declare their assets before starting new appointments. Additionally, not more than three months after leaving office, they should have to again declare their assets a second time to compare with the earlier declaration.

Appointments generally should be made on merit in DCs and background criminal checks conducted on officials. However, we must note that the fact that a background check was conducted and comes out clear does not necessarily mean that individuals will not be caught in rent-taking when they start their jobs. But on balance, it is better to do the checks.

The authorities should consider removing immunity from serving government officials. This has been a debatable issue in many DCs. In Nigeria, immunity covers the President, Vice President, governors and their deputies during their tenures.[76] Presently, prosecutions for corruption commence after they finish their tenures, and, if there is evidence of corruption, it is not usual for all the assets or funds to be recovered. Arguably, removal of immunity will make those concerned realise that they can be removed whilst in power if found guilty of corruption.

Another area to look into in DCs to reduce the problem of ML and corruption is in the judiciary. It is no secret in DCs, exemplified by Nigeria, that this is a massive issue. Various cases of this vice have been reported in the judiciary. The Government should strengthen the judiciary with an injection of funds to improve its operational capability and capacity. If a country's judiciary is lax and corrupt, it has a magnifying negative effect in delivery of justice and, of course, the domino implications in fighting the scourge cannot be predicted.

Additionally, the DCs should pay more attention to the issues of corporate governance in their banks and other generic companies. Many corruption/ML funds filter through financial institutions. Robust checks and balances on compliance matters should be strengthened to monitor this. This has the potential to reduce the scourge. Boards of directors should pay more attention to audit committees and appoint prudent non-executive directors (NEDs) who can detect when audit reports are altered. The fact is that if control mechanisms in the financial systems are lax, this is an invitation to impunity. Encouragement to practise corporate ethics should be fortified and not be seen as a mere 'box-ticking exercises'. It must be seen to manifest from 'top to bottom' in companies.[77]

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76   This is contained in the Constitution of the Federal Republic of Nigeria 1999, s 308, as altered.

77   E Ekwueme, 'Pushing corruption and money laundering into reverse momentum: echoes from the corporate governance arena' S2, 2(1) Amicus Curiae 61–78.

This article recommends that the procedure to encourage whistleblowing mechanisms in DCs should be highlighted and encouraged. Adequate rewards should be put in place to encourage this. At the moment, in Nigeria, the Whistleblowers Policy of 2016 encourages people to come forward and report infractions. Rewards of between 2 and 5 per cent are given to the informants. The authors are of the opinion that this incentive is too small and should be increased to at least 20 per cent of recovered money. Adequate provision should be made to protect the whistleblowers and provision should also be made to punish frivolous and vexatious reports.

It is recognised that many DCs still retain traditional and distinct religious practices. These are fundamentally different from the imported Christian or Islamic religions. A careful analysis of the situation will indicate that people in local communities are more likely to be honest in dealing and performing their duties if they are requested to take their 'traditional oath' with regard to integrity to discharge their functions. It is recommended that the various DCs should toe this line. With this in place, incidents of corruption and ML are very likely to be minimal. It must be noted that this tradition has been passed down through many generations, and the people do usually make efforts to be compliant due to fears of repercussions. This recommendation may sound absurd, but the practice is still recognised in many DCs as being effective in propagating honesty.[78]

In addition, the data-centralised bank verification number (BVN) has been introduced in Nigeria by the Nigeria Central Bank and is presently helping to reduce the scourge as many fraudulent depositors are scared to retrieve their funds from the banks. The BVN now involves the identification of an individual, and it is based on a combination of physiological and behavioural characteristics, such as signature, fingerprints and so on.[79] The authors additionally recommend that the authorities in DCs with particular reference to Nigeria should introduce property verification numbers (PVNs). This would enable the detection of fraudulent property holders, particularly those who have acquired property through corrupt means if they cannot justify how they came by the funds.[80]

78   Argandona (n 20 above) 231–233.

79   BVN: robust customer verification and validation, NIBSS.

80   It is the consensus from various quarters that this will go a long way to detecting properties that were acquired using dubious means. It would be easier for these properties to be confiscated if credible reasons are not given as to the source of funds.

CONCLUSION

It is endlessly fascinating that examination of the subject of corruption and ML will always yield some interesting issues. In truth, the issues mean various things to different people. And in certain circumstances, the observations from various angles, no doubt, produce novel conclusions. We note that corruption and ML are from all indications irrefragably connected, and it is therefore practically very difficult to isolate the two in any analysis. Credible observations have been presented to buttress this assertion. Moreover, the dichotomy in approach in clarifying what meaning to attach to corruption is also noted. Interestingly, it is settled within academia that it is not surprising that most of the illegal proceeds acquired through corruption end up undergoing the laundering process, in order to enable the culprits to enjoy the 'fruits of their labour' within the formal or legitimate economy.

Perhaps, more interesting is the congruence or crystallisation of the opinions of experts that, after all is said and done, their conclusion is simply that the phenomena are not beneficial to society. The negative or the domino implications with special reference to DCs is to say the least devastating. On account of this the article has put forward some recommendations that the authors believe would have some impact on minimising the malaise in DCs.

On the whole, the authors recommend the local authorities should be proactive in their approach and aim to rapidly minimise illegal practices to a manageable level. Any suggestion that such efforts will make these activities completely evaporate is to say the least utopian. However, if the consequences are minimised, it will go a long way in helping policy-makers formulate better-focused positive pathways to navigate out of the present quagmire.