

THE EXISTING LEGAL INSTRUMENTS ON AML/CFT IN NIGERIA: RELEVANCE TO ISLAMIC BANKING INSTITUTIONS

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ABSTRACT

International and local authorities are tirelessly making efforts to address the multifaceted challenges posed by money laundering. In the same trend, Nigeria has designed a legal framework in curbing the menace. Accordingly, many legal instruments exist in the country for this purpose. Given the Nigerian climate of legal pluralism, the legal instruments are not based on the principles of Islamic law. Consequently, the issue of the relevance of their applications to Islamic Banking Institutions in the country, which are essentially duty-bound to be Islamic compliant, becomes a serious question begging for answers. Therefore, this paper examines the obligations of the Islamic Banking institutions in Nigeria in complying with the various legal instruments on anti-money laundering in the country. A striking revealing finding from this study would show that as long as the provisions of those legal instruments are not contradictory to the Islamic code of conduct, the Islamic banking institutions have duties to support the anti-money laundering crusade and even bear a heavier burden for that purpose. Applications of the legal instruments are thus relevant to them to that extent.

Key Words: [Anti-Money Laundering; Nigeria; Islamic Banking Institutions]

I. INTRODUCTION

The multifaceted challenges posed by money laundering have become a source of concern globally. It is a concept that revolves around inextricable relationship between money and crime. While crime can take any form or shape and perhaps has some peculiarities to some environment, money is a universal concept.¹ Whenever the issue of money is raised in the modern time, the banking institutions cannot be reasonably excused. Consequently, banks become a key player and an integral part of the crusade on anti-money laundering and combating terrorism financing (AML/CFT). Banking in this circumstance encompasses the conventional and non-conventional banks.² Islamic banking institutions, unlike the conventional banks, have to operate in strict compliance and consonance with Sharia precepts (the Islamic law). This implies that its operation is limited to rules and regulations as imposed by in the sources of Islamic law, especially the Quran³ and the Sunnah.⁴ Consequently, this raises serious issues on the obligation of Islamic Banks to be bound with legislations that appear on the surface to be of common law origin.

Accordingly, given the Nigerian climate of legal pluralism, the relevance of applications of anti-money laundering laws, a legal instruments, that are not based on the principles of Islamic law, to Islamic Banking Institutions in the country, that are essentially duty-bound to be Islamic compliant, becomes a serious question begging for answers.

Therefore, this paper examines the obligations of the Islamic Banking institutions in Nigeria in complying with the various legal instruments on anti-money laundering in the country. A striking revealing finding from this study shows that as long as the provisions of those legal instruments are not contradictory to the Islamic code of conduct, the Islamic banking institutions have duties to support the anti-money laundering crusade and even bear a heavier burden for that purpose.

¹Money is said to be a language that cuts across borders and has no jurisdictional limitation. It is believed to be characterized by transnational movement. See David Hume Institute, Humes Papers on Public Policy, Edinburgh University Press, (1993), Vol. 1, No 2.

² Non-conventional banks all over the world invariably refer to the Islamic Banking and Finance Institutions (IBFI). Multitude of works on comparing conventional banking system with the Islamic finance practices that spread across jurisdictions, carried out by both Muslims and non-Muslims bear great eloquence to this reality. For an insight into some comparative studies on conventional and non-conventional banking systems, see, Munawar Iqbal, "Islamic and Conventional Banking in the Nineties: A Comparative Study" in Ataul Huq Pramanik (ed.), *Islamic Banking – How Far Have We Gone?* (Malaysia: IIUM Press, Third Print, 2009) pp. 375-394

³ Quran is the major source of Islamic law, all other sources derives their validity from the Quran. Quran from the Islamic perspectives is divine in nature that guides the entire way of life of mankind.

⁴Sunnah otherwise refers to as hadith is the saying and deeds of the prophet Muhammad and his righteous companion. It literarily means the way and manners of the prophet Muhammad. It is the second primary source of Islamic Law. It corroborates, explains further and amplified the principles of law as embodied in the Quran. It is therefore the Quran's supplements.

As a general rule of Islamic law, any rules or code of conduct that does not contravene the Islamic principles, regardless of their origin, are applicable to Muslims and Islamic institutions, as may be relevant to them. This study therefore concludes that, applications of the legal instruments on anti-money laundering in Nigeria are thus relevant to Islamic banking institutions in the country, as long as those legal instruments are not contrary to the Islamic principles regardless of their sources.

II. MEANING AND ORIGIN OF MONEY LAUNDERING

This segment of the paper focuses on the meaning and origin of money laundering. This background knowledge is necessary for clearer understanding of the main focus of this research. It is expected that when both the meaning and origin of money laundering is explained at this stage, the reader would be made to follow the subsequent discussions with higher appreciation of the issues involved.

i. Meaning of Money Laundering

Money laundering is not susceptible to a singular definition and scholars have examined the concepts from different perspectives. It is indeed a concept that is linked with virtually all financially oriented and motivated crimes. Money laundering has dangerous multiplier effects on the society as it remains the “life wire”, the “cataract”, “life-blood” and a propelling “engine” to other organized crimes.⁵ It has become an indispensable companion of terrorism activities and these two crimes⁶ have become interwoven, interrelated and overlapped so much that they are sometimes used as a synonymous concept. While terrorism financing is however believed to be soaring or having its major source, money laundering is always defined in terms of a whole process culminating into the concealing of the source and the owner of proceeds of crime.⁷

The word, “laundering”, in the literary connotations, presupposes washing and it is only dirty materials that ordinarily require washing in order to clean it of its dirt. When dirty clothes are taken to a Laundromat, the clothes change its forms and appear clean and new because all its dirt and grime would have been removed through the process of washing. Thus Money Laundering is therefore the process of ‘washing dirty money’.⁸ This is done in order to clean the money of its dirt and prevent the traces of what caused the dirtiness in the first instance and who was actually responsible to avoid being punished or blamed for such acts or omission.⁹ Therefore, whenever the proceeds of illegal activities are converted to financial assets, which appear (or confined with) legitimate origin, money laundering has taken place.¹⁰ It is therefore a process of legitimizing illegitimate earnings.¹¹

By definitions, money laundering is defined as a process of acquiring money illegally through unlawful acts like theft, drug dealing and by a means of cleansing that makes it appear to have a legitimate origin.¹² Thus, conciliation of the illegal origin of proceeds of crime to acquire a legitimate status is the thrust of money laundering.¹³ It is therefore a summation of activities that transform unusable illicit assets to the ones conferred with legally usable values for reinvest-able items.¹⁴

At another level, International organisations and bodies have described money laundering in various forms and manners. For instance, in the *European Communities Directive, 1990*, it is defined as:

“the conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, the concealment or disguise of the true nature, source, location,

⁵⁵ Nasir, M.A, unpublished PhD thesis at Ahmad Ibrahim Kulliyah of Law, International Islamic University, Malaysia. See also Mary Michelle Gallant, *Money Laundering and the Proceeds of Crime: Economic Crime and Civil Remedies* (Edward Elgar Publishing, n.d.) pg 6.

⁶Money laundering and combating financing terrorism are closely related that distinction is a mere semantics based on the principles of law that no person should be allowed to benefit from the profits of his crime see Aishat Abdul-Qadir Zubair, Umar Aimhanosi Oseni, and Norhashimah Mohd Yasin, “Anti-Terrorism Financing Laws in Malaysia : Current Trends and Developments,” *IIUM Law Journal* 23, no. 1 (2015).

⁷ Ernesto U Savona, *Responding to Money Laundering: International Perspectives* (Psychology Press, 2000).

⁸A. N. Ohanyere, *Money Laundering and Financial Crimes in Nigeria* (Arthill Publishers, 2003), https://books.google.com.my/books/about/Money_Laundering_and_Financial_Crimes.

⁹ Ibid.

¹⁰Sub-committee on Narcotics and Terrorism, Drug Money Laundering, Banks and Foreign Policy of United States Senate’s Report to the Foreign Relations Committee (1989), pg.8.

¹¹ The motive for money laundering is always geared towards removing the dirtiness (the illegitimacy) in the money and presents it as a product of legitimate transactions by cleaning off the track of its crime origins in order to avert suspicion and wrath of law against the crime that is committed

¹² *the Dictionary of Banking (2008)*

¹³ By an act of Successive transfers and several deals involving money obtained through illegal means the nomenclature might change to give ‘dirty money’ a legitimate appearance and this is done through the fusion of placement, layering and integration

¹⁴Donato Masciandaro and Brigitte Unger, *Black Finance: The Economics of Money Laundering* (Edward Elgar Publishing, 2007).

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....”¹⁵

Similarly, the Financial Action Task Force (FATF),¹⁶ gives a graphical explanation of the term as follows:

“The goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. Money Laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance as it enables the criminal to enjoy these profits without jeopardising their source.”¹⁷

It further defines money laundering succinctly as:

“The conversion or transfer of property knowing that such property is derived from an offence, for the purpose of concealing or disguising the illicit origin of the property, or of assisting any person who is involved in the commission of such an offence to evade the legal consequences of his actions. In other words, it is the concealment or disguising of the true nature, source, location, disposition, movement rights with respect to or ownership of property, knowing that such property is derived from an offence; (and) the acquisition, possession or use of property, knowing at that time of receipt that such property was derived from a criminal offence or from an act of participation in such an offence”¹⁸

An attempt was made during the United Nation Convention against Transnational Organised Crime 2001 popularly referred to as ‘Palermo’ Conference to define money laundering and it was described as all acts that include “The conversion or transfer of property, knowing it is derived from a criminal offense, for the purpose of concealing or disguising its illicit origin or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his actions.”¹⁹

In Nigeria, the definition of money laundering has gained the attention of the anti-money laws, with succeeding legislations giving more elaborate and improved definitions over the previous ones. The current *Money Laundering (Prohibition) Act 2011* (as amended in 2012) therefore gives broader definition of money laundering in line with FATF recommendations against the narrow perspectives of the *Money Laundering (Prohibition) Act of 2004*²⁰ that limited money laundering to the old principles of narcotic drugs. Thus, in the country, money laundering act is currently²¹ defined as committed by:

Any person who;

(a) *Converts or transfers resources or properties derived directly from;*

- i. *Illicit traffic in narcotic drugs and psychotropic Substances or*
- ii. *Participation in an organized criminal group and racketeering, terrorism, terrorist financing, trafficking in human beings and migrants, smuggling, tax evasion, sexual exploitation, illicit arms trafficking in stolen and , bribery and corruption, counterfeiting currency counterfeiting and piracy of products, environmental crimes, murder, grievous bodily injury, kidnapping, illegal restraints and hostage taking, robbery or theft, smuggling, extortion, forgery, piracy, insider trading and market manipulation and any other criminal act specified in this Act or any other legislation in Nigeria relating to money laundering, illegal bunkering, illegal mining, with the aim of either concealing or disguising the illicit origin of the resources or property or aiding any person involved to evade the illegal consequences of his action the goods:”²²*

From the foregoing analysis, it is clear that, concealing or disguising the illegal source of the proceeds of crime while the proceeds are cloned with legitimacy remains the kernel of money laundering as captured by the international and local instruments.

ii. **Origin of Money Laundering**

¹⁵Alastair N Brown, *Proceeds of Crime: Money Laundering, Confiscation and Forfeiture* (W. Green, 1996) citing article 1, Council Directive on Prevention of the use of the Financial System for the Purpose of Money Laundering.

¹⁶The FATF is an inter-governmental body which sets standards, and develops and promotes policies to combat money laundering and terrorist financing. It currently has 33 members: 31 countries and governments and two international organisations; and more than 20 observers: five FATF-style regional bodies and more than 15 other international organisations or bodies. A list of all members and observers can be found on the FATF website at http://www.fatf-gafi.org/Members_en.htm. Financial Action Task Force, “The Forty Recommendations,” 2003. see also Financial Action Task Force, “Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations,” Paris, *Www. Fatf-Gafi. Org*, 2004.

¹⁷ Financial Action Task Force, “Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations,” Paris, *Www. Fatf-Gafi. Org*, 2004

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ CAP M18 Laws of Federation of Nigeria(LFN),2004.

²¹ This is the extant legislative legislation of money laundering act

²² Section 15, *Money Laundering (Prohibition) Act (2011)*

Tracing the origin of money laundering is indeed a very difficult task. However, the earliest record traced its origin to the happenings in China in about 2000BC when merchants derived means of hiding their wealth and moving it for re-investment in other environment so as to evade tax. Most importantly, the merchants did this to avoid confiscation by the greedy rulers of that era who by knowing their worth will not only take over the assets, but equally banishing them.²³ These actions of those merchants technically completed the act and contained all necessary ingredients of money laundering which include “to hide, to move and invest wealth to which someone else has a claim”²⁴ This principle remains applicable till the present moment, although the operational mechanism of money laundering appeared to have been modified.²⁵

In the modern time, money laundering is linked to the breakthrough of the United States law enforcement agencies that were able to bring to book the head gangster Al-Capone.²⁶ He was convicted and sentenced by the American Supreme Court in 1931²⁷ for tax evasion and was fined \$50,000.²⁸ However, his trial and conviction did not stem the growth of money laundering, but rather sprung another cartel led by the notorious Lucky Luciano²⁹ and Meyer Lansky³⁰ to device other techniques. They subsequently introduced more sophisticated mechanisms in term of world of capital flight, creation of off-shore secrecy havens and viable drugs underground businesses.³¹ The illegal dealings of the gangster range from smuggled products, gambling, running of casinos and disguising proceed through web of banking products that had been created to facilitate the free flow.³²

²³ Aniedi J. IKPANG, “A Critical Analysis of the Legal Mechanisms for Combating Money Laundering in Nigeria,” *African Journal of Law and Criminology Volume 1 Number 1, Pp. 116 -130 (2011)*, <http://sachajournals.com/documents/image/ikpang002.pdf>.

²⁴ Nigel Morris-Cotterill, “A Brief History of Money Laundering” accessed January 25, 2016, <http://www.coumtermoneylaundering.com/public/content/brief-history-money-laundering>.

²⁵Ibid

²⁶ Al Capone was a United State of America based gangster who ran millions of Dollars illicit business empire within 1925 and 1931. He is an expert in tax evasion as he always claimed to earn far less than his worth and his money not kept in the bank but under his bed at home. He was arrested for tax evasion by the US law enforcement agency, subsequently tried and convicted. See Balsamo and Carpozi, *The Story of Organised Crime*, 1984, pp 100-107.

²⁷ By calculating the cost of Al Capone already compiled list of personal spending, his customized wears and assets with the help of his personal staffs, the IRS was able to establish a prima facie case against him. A 22 count charges was filed against him, where it was alleged that over US\$1Million tax was evaded. The case got up to the Supreme Court and in October 1931, the Court pronounced him guilty of tax evasion, a fine of US\$50,000 was imposed on him in addition to 11 years imprisonment. See also Brent Fisse, David Fraser, and Graeme Coss, *The Money Trail: Confiscation of Proceeds of Crime, Money Laundering and Cash Transaction Reporting* (Law Book Company, 1992) page 261. and Rowan Bosworth-Davies, Graham Saltmarsh, and Rowan Bosworth-Davies, *Money Laundering: A Practical Guide to the New Legislation* (Chapman & Hall London, England, 1994)pp. 1.

²⁸Bosworth-Davies R, and Salmarsh G., ‘A Practical Guide to New Legislation’, Chapman &Hall, (1994). Pg.1

²⁹ Lucky Luciano arrived America at age of ten from Sicily, he was close associate of leading figures in organized crime world and his association with Meyer Lansky brought a new dimension to money laundering in terms of various techniques invented by the duo especially the introduction of banking elements where a bank was set up in Swiss to facilitate and perfect laundering activities (the loan –back concepts), most importantly for hiding illicit profits meant for their facilitator Huey Long, the then Governor of Louisiana for creating opportunity of establishing gambling and ‘slot machine’ business to perfect disguising their proceeds of crime see also Ibid.

³⁰ Meyer Lansky (1901-1983) was a Jewish immigrant from Russia who broke into a life of crime running crap games and acting as a 'shtarke', or strong-arm man for Jewish and Italian gamblers on the Lower East Side of New York. He graduated to bootlegging and soon became the master of the 'share-out', keeping all the figures in his head and dividing up the spoils from smuggled liquor shipments. He moved on to illegal gambling in the thirties and forties, running the classiest casinos around and becoming the gambling consultant to President Batista during Havana's glory days. In World War II he even acted as a go-between for U.S. Naval Intelligence, paving the way for gangster help to the Allied invasion of Sicily. In 1951 he was named by the Senate Crime Committee as one of the leaders of organised crime in America, and his attempts to go into legitimate business were haunted by the shadows of his past. Available and culled online at www.coumtermoneylaundering.com and <http://en.wikipedia.org/wiki/moneylaundering> (accessed on the 17th January, 2016).

³¹Ibid

³² Ibid.

The techniques invented ever since then formed the bedrock upon which modern money laundering activities has been built. The duo of Luciano and Lansky are indeed the progenitor of modern organised money launderings crime.³³ Interestingly, the crime could not have been carried out successfully without the involvement of the banking sector. Hence the need to understand the banking factor in the crime and why emphasis is being placed on the relevance of compliance with anti-money laundering laws in Nigeria on the Islamic banking institutions in the country.

a. *The Banks Element in the modern development of money laundering*

The nature of money laundering, like any other organised crime that has financial element as an ingredient, is essentially based on the assumption that banking institution is germane and core to the philosophy of its contents. The banks therefore take precedence in the crusade and are vested with much responsibilities and role in stemming and combating money laundering phenomenon.³⁴ The crime of anti-money laundering cannot be understood with placing the contributions of banks in perspective just as its fight cannot be successful without assigning relevant role to them and while relevant agencies enforce their compliance with the laws.

Right from the Meyer Lansky era, the banks had played a dominant role. This becomes apparent from the Meyer Lansky unfettered usage of Swiss bank as far back as 1932 to facilitate those illegal dealings which ranges from hidings of Huey Long's³⁵ illegal proceed of crime and the subsequent issuance of loan to cleanse the criminal sources or tracks in order to disguise and represent the money as legitimate tenders.³⁶ Thus banking institutions has become a veritable tool to launderers from the conceptions of the crime in the modern era.

Consequently, the issue of banking institution compliance with the existing legal instruments in any country becomes a serious issue of worry in the fight against money laundering.³⁷ Banks cannot be absolved from the multifaceted challenges posed by the Money Laundering and emergence of Islamic banking institutions make these more complicated. The challenges cannot be different in Nigeria where both conventional and Islamic banking transactions now operate. This makes it imperative, as attempted in this study, to examine whether or not the Anti-Money Laundering Laws will be to the Islamic banking institutions in view of the belief that these nonconventional banks are primarily bound by Islamic law. A look at the trends on anti - money in the country, with enactments of laws to combat it, will be a good starting point to understand this clearly.

III. ANTI MONEY LAUNDERING LAWS IN NIGERIA

Nigeria³⁸ signed and ratified the Vienna and the subsequent Palermo convention. The country is therefore duty bound to implement the money laundering counter measures that are contained in the provisions of FATF 'Forty Recommendations'³⁹. Taking cue from the global responses and new reasoning, the emergence of democracy in Nigeria gave rise to favourable disposition not only to tackling this dreaded phenomenon, but to also fashion out legislations patterned to conform to the international standards as against the pre-democracy laws which were not moulded in accordance with the international requirements. Therefore, unlike during the military regime, the Nigerian government under the civilian regime took some significant steps in reviewing its pre-democracy anti-money laundering laws to be in conformity with the international standards.

In the light of the above development, the last two decades⁴⁰ witnessed a sharp departure from the lukewarm attitude towards the anti-money laundering crusade in the country. This could be noticed from the enactments of much legislation during the

³³ Carpozi, *The Story of Organised Crime*, (1984), 100-107.

³⁴ Fisse, Fraser, and Coss, *The Money Trail: Confiscation of Proceeds of Crime, Money Laundering and Cash Transaction Reporting*. P.293.

³⁵ Huey Long was the Governor of Louisiana that granted permission to Lansky and his people to operates casino centers and slot machine houses at New Orleans and his returns were taken off shore for onward deposit at Swiss bank created for this illegal purpose. See Bosworth-Davies, Saltmarsh, and Bosworth-Davies, *Money Laundering: A Practical Guide to the New Legislation*.

³⁶ Ibid.

³⁷ Banks in this regard refer to conventional and non-conventional banks

³⁸ Nigeria an African Country on the Gulf of Guinea, located in Western Africa, boundaries the Gulf of Guinea, between Benin and Cameroon, covering the area of 923,768sq km, is the most populous Africa nation (with about 180million population) and the focus of this study. This information is available online at "The World Factbook," accessed January 25, 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>.

³⁹ Adegboyega A. Ige, "A Review of the Legislative and Institutional Framework for Combating Money Laundering in Nigeria," *NIALS Journal on Criminal Law and Justice Vol. 1 2011*, 2011, <http://www.nials-nigeria.org/journals/Adegboyega A. Ige.pdf>.

⁴⁰ Nigeria returned to democratic in 1999 after long uninterrupted military regimes from 1983 to 1999. Thus, as at 2016, more than two decades had passed and by 2019, three decades would be complete since democracy returned to the country.

decades.⁴¹ A beneficial manifestation of this is that the country was consequently removed from being a pariah state⁴² by the international community.⁴³ The Vienna Convention⁴⁴ that culminated into the anti-money laundering international legal regime was not fully domestically observed and impactful while the military regimes lasted.⁴⁵ At best, apart from the representation of the country in the Convention, the Military subsequently signed and ratified the instrument in 1989. Also, the signing and ratification further informed criminalization of some aspects of money laundering in a different legislation.⁴⁶ There was nothing substantive on anti-money laundering laws until 1995 when the Money Laundering Decree⁴⁷ was promulgated. However, the Decree was still far below the international standards in its approach and provisions.⁴⁸

Consequently, the 1995 Decree was repealed and replaced with the new Money Laundering (prohibition) Act 2003. To improve on the law, it was first repealed in 2004 and again in 2011 with the current legislation therefore being the Money Laundering (Prohibition) Act 2011.⁴⁹ The Act⁵⁰ contained specific provisions to implement various aspects required by the FATF 'Forty Recommendations'. It highlights in detail the obligations of the financial and non-financial service provider⁵¹ and rolled out strict customers due diligence (CDD) measures. The Money Laundering (Provision) Act 2011 therefore addressed all key areas of the FATF recommendations⁵²

To further strengthen the anti-money law and its enforcement, some other new statutes were enacted⁵³ while some existing relevant ones were reviewed.⁵⁴ Also, various agencies were empowered to deal with the money laundering offences either

⁴¹ These include Independent Corrupt Practices Commission (ICPC) Act 2000, the Economics and Financial Crime Commission (EFCC) Act 2004 and the Money Laundering (Prohibition) Act, 2011 and its amendment in 2012

⁴² Pariah states are countries that are considered to be a non – cooperative countries in the fight against money laundering by the International communities and the yardstick is the extent of their local law's compliance with the standard laid down in the FATF recommendations.

⁴³ The administration of President Olusegun Obasanjo (1999-2007) took up the fight against corruption and money laundering by enacting the Independent Corrupt Practice and other Related Offences Act in 2000 and established the ICPC. The administration further established the EFCC in 2003, empowered by the EFCC Establishment Act 2004, as amended, charged with the responsibility of investigating and prosecuting all economic and financial crimes and coordinating all other related agencies

See .Anna Markovska and Nya Adams, "Political Corruption and Money Laundering: Lessons from Nigeria," *Journal of Money Laundering Control* 18, no. 2 (2015): 169–81, doi:10.1108/JMLC-10-2014-0040.

⁴⁴Ige, "A Review of the Legislative and Institutional Framework for Combating Money Laundering in Nigeria." See Adegboyega A. Ige, "A REVIEW OF THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORKS FOR COMBATING MONEY LAUNDERING IN NIGERIA," *NIALS Journal on Criminal Law and Justice Vol. 1 2011*, [http://www.nials-nigeria.org/journals/Adegboyega A. Ige](http://www.nials-nigeria.org/journals/Adegboyega_A_Ige).

⁴⁵ Military rule in Nigeria was in place within 1965 and 1979 in the first instance then 1984 and 1999.

⁴⁶ The relevant legislation in this regard is the *Nigerian Drug Law Enforcement Agency (NDLEA) Decree 48 of 1989* now National Drug Law Enforcement Agency Act Cap. 253 L.F.N. 1990 Act Cap. No 30 L.F.N. 2004.

⁴⁷Money Laundering Decree 3 of 1995 during the regime of General Ibrahim Babangida (Rtd)

⁴⁸ Nigeria was listed among Non-Cooperative Countries and Territories which are labelled as 'money laundering havens, a pariah state in 1989 during the military era and remains so despite the promulgation of *Nigerian Drug Law Enforcement Agency (NDLEA) Decree 48 of 1989*, Money Laundering Decree 3 of 1995 as well as Advance Fee Fraud and Other Fraud Related Offences Decree (1995) because those laws did not conform with standard set in FATF recommendations that is acceptable globally.

⁴⁹ Acts or omissions that constitute money laundering offences is clearly defined and stated under sections 15 to 19 of the said act.

⁵⁰ "Money Laundering (Prohibition) Act, 2011," accessed January 20, 2016, <http://nass.gov.ng/document/download/5943>.

⁵¹ Olatunde Julius Otusanya, Solabomi Omobola Ajibolade, and Eddy Olajide Omolehinwa, "The Role of Financial Intermediaries in Elite Money Laundering Practices: Evidence from Nigeria," *Journal of Money Laundering Control* 15, no. 1 (2011): 58–84.

⁵² The Money Laundering (Provision) Act (MLPA) 2011 had a wider coverage unlike the previous Acts, It provides broad list of predicate offences of money laundering and addressed in details all key aspects of the FATF forty recommendations which include; record keeping, reporting obligation, customer identification, secrecy provisions, compliance and others check and offences.

⁵³ An example of this is the *Economic and Financial Crimes Commission (EFCC) Act, 2004*, which stands as the operational and enforcement 'Act'.

directly or indirectly. Thus, the EFCC Act confers exclusive power on the Economic and Financial Crimes Commission (EFCC)⁵⁵ to deal with money laundering offences. The Act provides that the Commission shall be responsible for – “The investigation of all financial crimes including advance fee fraud, money laundering, Counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.; The co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority”.⁵⁶

More significantly, with the subsisting *Money Laundering (Prohibition) Act*,⁵⁷ bank accounts are put under strict surveillance of the Central Bank of Nigeria (CBN) and the EFCC.⁵⁸ This is to enable the bodies to identify and locate proceeds, properties, objects or other things related to the commission of an offence. Again, under the Act, EFCC, CBN and other regulatory agencies may by the Order of the Federal High Court exercise the following powers:

1. Place any bank account or any other account comparable to a bank account under surveillance⁵⁹
2. Obtain access to any suspected computer system
3. Obtain communication of any authentic instrument or private contract, together with all bank, financial and commercial records when the account, telephone line or computer system is used by any person suspected of taking part in a transaction involving the proceeds, of a financial or other crime⁶⁰ and bank secrecy or preservation of customer confidentiality shall not be applicable⁶¹

The obligations imposed by law on banks are clearly stated in the Act⁶² and these include:

- a. Duty to report international transfer that exceeds US\$10000 within 7 days of the transaction.⁶³
- b. Know Your Customers (KYC) obligation.⁶⁴
- c. Special surveillance on certain transfer that is unusual or with unjustifiable complexity and its correspondence sanction for failure to comply.⁶⁵
- d. Preservation of records for at least 5 years⁶⁶
- e. Communication of information on demand by the appropriate regulatory body⁶⁷ and
- f. Duty to prohibit or not allow the opening of anonymous account.⁶⁸

Money laundering is defined in a broader perspective under the Money Laundering (Prohibition) Act 2011 and the list of “predicate offences”⁶⁹ as contained under section 15 of the Act is equally very broad.

Nigeria has therefore in term of legal framework to combat money laundering comply essentially as a nation with the requirements of the international legislation as provided in the Financial Action Task Force (FATF) ‘Forty Recommendations’⁷⁰.

⁵⁴ In this regard, the *Central Bank of Nigeria Act, 2007, CAP C4LFN2007* was re-enacted to vest regulatory and supervisory powers on banking institutions in the Central Bank of Nigeria.

⁵⁵ This is the Commission established by the Act under its section 1 “”

⁵⁶ Section 6, EFCC Act 2004.

⁵⁷ This refers to the current 2011 Act

⁵⁸ Money Laundering (Prohibition) Act 2011, Section 6.

⁵⁹ Accounts comparable with bank account may include the account maintained by members of Cooperative Societies with the Societies.

⁶⁰“My Intellectual Banquet!: Money Laundering Act 2011 (as Amended) – A Legal Review,” accessed January 20, 2016, <http://akumuo.blogspot.my/2011/10/money-laundering-act-2011-as-amended.html>.

⁶¹Section 13 ,Money Laundering (Prohibition Act), 2011.

⁶²“Money Laundering (Prohibition) Act, 2011.”

⁶³ Section 2,Money Laundering (Prohibition Act), 2011

⁶⁴Section 3,Money Laundering (Prohibition Act), 2011

⁶⁵Section 6,Money Laundering (Prohibition Act), 2011

⁶⁶ Section 7,Money Laundering (Prohibition Act),2011

⁶⁷Section 8,Money Laundering (Prohibition Act), 2011

⁶⁸Section 11,Money Laundering (Prohibition Act), 2011

⁶⁹ Predicate crimes are the underlying crimes that give rise to money laundering among which narcotic drug trafficking is considered to be the most prominent. See IMF Working paper WP/15/XX

⁷⁰ The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. See the “International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation,” accessed January 19, 2016, http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf.

The step was crowned with assumption of full status of Egmont membership as Nigeria joined other comity of nations that has created financial intelligence unit to receive, analyse financial intelligence and disseminate to end users repor. The Nigeria Financial Intelligence Unit is domiciled in the EFCC.⁷¹

It is however still a source of worry that despite this array of anti-money laundering legislations in the country, money laundering related crimes continues unabated. The impression which this creates could either be that the existing legislations are not adequate or ineffective or perhaps the political will to execute is lacking. However the new government in Nigeria⁷² appears to be more firm and eager to deal with this menace.⁷³ The banking sector certainly has key roles to play and the Islamic banking institutions cannot be an exception. An understanding of the link between the Islamic banking and the requirement for compliance with anti-money laundering therefore becomes essential.

IV. MONEY LAUNDERING FROM ISLAMIC LAW PERSPECTIVES

i. Nexus of Anti-Money Laundering Law with the Islamic Banking Institution

It would appear inappropriate to just declare that the Islamic Banking Institution (IBI) is bound by the existing legal instruments in Nigeria simply because it is the creation of the same law as the Conventional Banking Institution (CBI). Rather, it must be clearly shown that money laundering laws, by every means, conform to the precepts of Islamic law (Shari'ah). Consequently, examining anti-money laundering laws in the context of its compliance with the Shari'ah is relevant.

Sharia constitutes the Islamic Code of Conduct, a terminology that sums up everything about Islam which was defined technically to mean the cannon of Islam.⁷⁴ It is a single term that may connote summation of two broad concepts of the '*Ibadat* (Worship) and *Mu'amalat* (transactions).⁷⁵ While '*ibadat* relates to religious and spiritual aspects of the Muslim's life, *Mu'amalat* covers his mundane life.⁷⁶ Sharia could therefore be defined simply as all acts and omissions that are not contrary to Islamic principles. Comprehensively, it means "the sum total of Islamic teaching and system, which was revealed to the Prophet Muhammad recorded in the Quran as well as deducible from the Prophet divinely guided lifestyle called the *Sunnah*'⁷⁷

Basically, the religious observance which formed the first aspect of Sharia is not a subject that could be modified in any form. It does not give room for amendment or variation, whereas the other part which is referred to as '*Muamalat*' is elastic in nature and could therefore be subjected to modifications within the conferment of Islamic rules of permissibility.⁷⁸

Matters relating to the Islamic Banking institution fall within the scope of *Mu'amalat*. It should equally be noted that one of the essential principles of *maqasid sharia* (Objectives of Islamic law) is that Sharia seeks to attend to all forms of human needs and it is based and designed for that purpose.⁷⁹ A fundamental principle that must always be borne in mind is that Sharia seeks to remove harms of human being and any act that can endanger man in any form must be avoided. Thus, bearing this in mind, one would be able to understand how Islamic law views money laundering and how the Islamic banking Institution could be obliged to comply with any anti-money laundering law. Further discussions below would shed more light on this.

ii. Conception of Money Laundering in the Sharia

The term money laundering is not specifically mentioned in any of the primary sources of the Sharia. This is perhaps because of the contemporary nature of the term. However, the implication of each component of money laundering is well clarified in Sharia. It is understood that all elements⁸⁰ of money laundering are prohibited stronger and wider terms in the Quran and the Sunnah, respectively, several years before the Vienna Convention surfaced in 1988.⁸¹

⁷¹ Section 6, Economic and Financial Crimes Commission (Establishment) Act, 2004

⁷² The new government came in on the 29th May, 2015 with Muhammadu Buhari as the president.

⁷³ A new bill on Anti-Money Laundering has just been sent to the National Assembly, which is the Federal Legislative Body, for a more stringent legislation

⁷⁴ Laldin, *Islamic Law: An Introduction*, (International Islamic University Malaysia, 2006).

⁷⁵ Abdul Karim Aldohni, *The Legal and Regulatory Aspects of Islamic Banking: A Comparative Look at the United Kingdom and Malaysia* (Routledge, 2011).

⁷⁶ This covers relationship between human beings (man and man) and between human beings and other creatures

⁷⁷ Mohammad Akram Laldin, *Introduction to Shariah and Islamic Jurisprudence* (CERT Publications, 2011).

⁷⁸ This is the principle called *hukm taklifi*. For a study on this, see Abdullahi Saliu Ishola and Issa Olawale Solahudeen, "Dynamicism of Islamic Law: *Al-Hukm At-Taklifi* in Perspective", *NATAIS Kwara Journal of Islamic Studies* (2016, forthcoming)

⁷⁹ Adnan Trakic and Hanifah Haydar Ali Tajuddin, *Islamic Banking & Finance: Principles, Instruments & Operations* (CLJ Publication, n.d Second edition, 2016).

⁸⁰ Money Laundering has components such as stealing, bribery, fraud, corruption, illicit drug trafficking and others that are basically un-Islamic.

⁸¹ This is when the international community sat to deal with the situation decisively and the entire 40 recommendations contained in the financial Action Task Force (FATF) as drawn in 1990 and its subsequent addition of 9 in 2004.

Essentially therefore, although the term “money laundering” may not expressly be mentioned in the sources of the Sharia, the dynamism of Islamic law makes it possible for any emerging contemporary issues to be addressed by deducing principles of law from the general provisions of the Quran and Sunnah.⁸² To this end, the conception of the money laundering in Islamic law can be easily explained through analysis of the views of the Sharia on each of the elements of money laundering as highlighted in the anti-money laundering laws in Nigeria.

V. ELEMENTS OF MONEY LAUNDERING IN THE SHARIA VIEW

The MLPA 2011 is intended to comply with the FATF forty recommendations and as such be in line with other acceptable international jurisdictions. It is divided into 3 parts as follows;

- ❖ Part 1 – Prohibition of money laundering
- ❖ Part 11- Offences
- ❖ Part 111- Miscellaneous

While part 1 is essentially combating measures, part 11 of the Act described in details the offences of money laundering taking cognisance of predicate offences and all the elements so described to constitute Money laundering will now be examined in line with Sharia.

General Sharia Perspectives on Money Laundering Components

Section 15, Money Laundering (Prohibition) Act⁸³ specified specific elements that constitute money laundering. These elements or components include illicit traffic in narcotic drugs and psychotropic substances; or participation in an organized criminal group and racketeering, terrorism; terrorist financing; trafficking in human beings; smuggling; tax evasion; sexual exploitation; illicit arms; trafficking in stolen money; bribery and corruption; counterfeiting currency; counterfeiting and piracy of products; environmental crimes; murder; grievous bodily injury; kidnapping; illegal restraints; and hostage taking; robbery or theft; smuggling; extortion, forgery, piracy, insider trading and market manipulation.

In it is interesting that all these aforementioned are equally prohibited under Sharia principle and therefore similar provisions can be found in the sources of the Sharia. This is done either directly or by implication from relevant provisions of the Quran and the Sunnah.⁸⁴ Starting from the conceptual perspective, money laundering is generally regarded as ‘dirty money’ and Islam abhors impurities in all its ramifications. Allah allows and accepts only those things that are pure. The Quran is categorical on this. An understanding of a relevant verse of the Quran on the issue was advanced in the explanations provided by the Prophet as narrated in hadith⁸⁵. Accordingly, Abu Huraira⁸⁶ reported that the Messenger of Allah⁸⁷, peace and blessings be upon him, said:

“O people, Allah is pure and He accepts only what is pure. Verily, Allah has commanded the believers as He commanded His Messengers. Allah said: O Messengers, eat from good things and act righteously, for I know what you do (Q23:51). And Allah said: O you who believe, eat from good things We have provided for you”.
(Q2:172)

Abu Huraira added:

“Then the Prophet mentioned a man who travelled far, Becoming dishevelled and dusty and he raises his hands to the sky, saying, “O Lord! O Lord!” while his food is unlawful, his drink is unlawful, his clothing is unlawful, and he is nourished by the unlawful, so how can he be answered?”⁸⁸

A motivation for money launderers is the aspiration to be nourished from his unlawful dealings, proceeds of crime and impurities which is contrary to the express provisions of the Quran stated above and the correspondence explanatory content of the Prophet on it. It therefore negates the principle of Sharia which advocates for financial practises that is not only a product of fair and transparent transactions, but where wealth will be circulated for the social economic developments and well-being of the nation.

A cursory look at the provisions of the Money Laundering (Prohibition) Act, 2011 on illicit activities will further corroborate the fact that the designated acts that constituted money laundering offences⁸⁹ have basis and correspondence evidential backing in Sharia principles to be so designated.

⁸² This achieved through *ijtihad* or *istinbat* which is a tool/principle under Islamic law where contemporary issues are deduced or inferred from the general provision of Sharia.

⁸³

⁸⁴ Quran and Sunnah are the major sources of Sharia the Islamic Law. Section 15 (1) (a) of The "Money Laundering (Prohibition) Act, 2011."

⁸⁵ The sayings and practices of the prophet Muhammad and the righteous caliph. It is also referring to as Sunnah.

⁸⁶ He is one of the leading hadiths narrators.

⁸⁷ Prophet Muhammad.

⁸⁸ "Forty Hadith An-Nawawi in English and Arabic | Faith in Allah بالإيمان بالله," accessed January 20, 2016, <http://abuaminaelias.com/forty-hadith-nawawi/>.

⁸⁹ "Money Laundering (Prohibition) Act, 2011." Part 2, Sections 15 to 19.

i. Illicit Activities

Illicit activities such as dealing in drugs or any form of intoxicant and gambling (which is referred to as *Qimar* or *Maysar*) are expressly prohibited in Quran 5:90. Similarly, corruption, stealing, bribery and other related vices were prohibited in strong term in many places in the Quran. To this end, Quran 2:188 provides thus:

“And eat up not one another’s property unjustly (in any illegal way e.g. stealing, robbing, deceiving, etc.), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully”

Notably again, proceeds of crime or any form of gains derived from illicit transactions is not only prohibited but attract severe punishment. Judicial corruption, offering of bribe to judicial officers and other dealings that can occasion subversion of justice while determining cases that involves commercial transactions are all prohibited in the Sharia.⁹⁰ Following this general background, specific analysis of the elements of money laundering from Sharia perspectives would further be helpful.

ii. Fraud, Corruption and Criminal Breach of Trust

All forms of organised crimes are prohibited, and all predicate ancillary or offences attributed to it in any manner are also punishable under the Sharia. Organised crime itself is referred to as “*Hirabah*” and Sharia extends the scope by make its ingredients to include wrongfully devouring the wealth of orphans (*aklmāl al-yatīm bi al-bāṭil*), usurpation (*ghaṣb*), monopoly or hoarding (*ihtikār*) and embezzlement of public funds (*Ghlool*). Besides, stealing and bribery that are condemnable vices that constitute punishable offences under the Sharia. Besides, fraud, corruption and breach of trust are other elements of money laundering that are equally prohibited in specific provisions of the Quran. *Ghlool* which means all forms of fraud and corrupt practices in terms of embezzlement of public fund are also outlawed and prohibited. In this regard, the Quran provides thus:

It is not for any Prophet to deceive. Whoever deceives will bring his deceit with him on the Day of Resurrection. Then every soul will be paid in full what it has earned; and they will not be wronged”⁹¹ Q3: 161

Trust otherwise called *Al-Amanah* in Sharia is a concept upon which much premium is placed and is guarded with utmost priority. Thus criminal breach of trust has no place under the Sharia. It is condemned and prohibited in strong terms. The Quran stated un-equivocally and declares as follows:

“O ye that believe! betray not the trust of Allah and the Messenger, nor misappropriate knowingly things entrusted to you”. (Q8:27)

iii. Suspicious Transaction Report (STR)

The right to privacy is not absolute under Islamic law. Right to privacy is adequately guaranteed as provided in the Quran as follows:

“O you who believe! Avoid suspicion as much (as possible), for suspicion in some cases is a sin, and do not spy on each other, do not speak ill of each other behind their backs, would any of you like to eat the flesh of his dead brother? No! You would hate it but fear Allah, for Allah is often-returning, most Merciful Q49 :12

From the above verse it is noticeable that suspicion in general sense is prohibited. But in creating an exception to the general prohibitions the verse goes further to clarify that the illegal suspicion is the one that by itself constitute a sin or crime. Thus any act of suspicion or inclusion into privacy that is geared toward controlling a crime cannot be caught by the above verse of the Quran. Money laundering as one of the very few exceptions to the general principles of confidentiality and reporting suspicious transaction therefore has a basis under Sharia. Concealing criminal acts is strongly prohibited under Sharia and reporting of suspicious transaction is NOT a sin and rather strongly required and endorsed. The Quran provides in clear terms in chapter two as follows:

“..do not conceal testimony, for whoever conceals it, his heart is stained with sin, and Allah knows all that you do” Q2:283

The Quran through this verse dismantles the dictum in the case of “*Tournier V. National Provincial and Union Bank of England*”⁹² where the court ruled against access to confidential financial information. The world has since moved away from the dictum in the Tournier’s case as the current global position is that money laundering constituted an exception to the confidentiality of client’s information. This new approach of Anti-Money Laundering legislation therefore keyed into the principles of Sharia and Islamic Banking institution would be implementing the Sharia by complying with AML principles of reporting obligations as equally stated in the Quran.

⁹⁰Umar A. Oseni, “Dispute Management in Islamic Financial Services and Products: A Maqāṣid-Based Analysis,” *Intellectual Discourse* 23 (2015).

⁹¹Pickthall, M. (2005), *The Meaning of the Glorious Qura’an, Al-Aar’ff Surah*, Islamic Dawah Centre International (IDCI), London, trans..

⁹² (1924)1 K.B.461(CA)

VI. Scope of prohibition in Sharia

Prohibition of money laundering offences is addressed by many clear provisions from the Quran as could be seen from earlier discussions. The sunnah of the Prophet also corroborated its prohibition in strong terms. A careful study and analysis of offences of money laundering that are prohibited under the sharia will reveal that scope is broader. The Shariah principles, for example prohibits proceed or profit that is generated from gambling and prostitution while interest (usury) is considered illegal, unlawful and prohibited. The scope of money laundering under Islamic jurisprudence is extended therefore extended to prostitution⁹³ otherwise called 'paghy', gambling (*soht*) *maysir* or *qimār* and interest (*ribah*) which ordinarily does not constitute punishable offences in many common and civil law jurisdictions.

Consequently, deriving benefit from unlawful act committed is a gross violation of Sharia principles and any act that portend danger to the public must be avoided irrespective of the benefit that such act is contained. This position is buttressed in the **Quran2: 229** as follows:

*"If they ask you concerning alcoholic drink and gambling say
In them is a great sin, and some benefits for men but there is
of them greater harm than their benefit"*

This Quran provision has been culminated into Islamic legal maxims in this form;
"Greater harm should be prevented by committing a lesser injury" (*ad-darar al-ashaddyuzal bi-d-darar al-akhaff*)

v. Prohibition and Elimination of Harm (Darar)

In line with the objective of Sharia, one of the prophet statements adopted as legal maxim on elimination of all forms of harm is relevant. The statement is "*La Darara wa-la Dirar*" which literarily means "No harm shall be inflicted or reciprocate". This maxim is a fusion of two words or concepts. The first part "*La Dirara*" means '*no harm shall be inflicted*'. This is clear evidence from the sunnah of the Prophet that harm must be prevented. It is therefore mandatory for any Islamic banking institution to prevent money laundering. The prevention can only be done when Anti-Money Laundering legislations are implemented. Money laundering is harm and harmful in nature and have to be prevented or curbed in line with the precept of sharia as contained in this maxim.

Moreover, as an ancillary to the concept of '*no harm shall be inflicted*', the Sharia principles further provides that anything which portend or constitute threat to the general public deserves no protection. This was clearly emphasized in the word of the prophet (*hadith*) that "*A transgressor has no right*" (*laysa li-irq Zalimhaqq*)⁹⁴. This further corroborates other provisions against launderer and they should not be covered or given any form of protection by the banking institutions of any kind.

The other part of the maxim '*Al-Dirar*', literarily means no reciprocation. The purport of this is that an inflicted harm should not be reciprocated. Invariably the victim should not retaliate with harm or take law into his hand but rather utilise the due process of law to seek redress. Explaining this maxim, Mohamad Akram Laldin,⁹⁵opined that this maxim makes preventive mechanism mandatory and every person is therefore charged to put in place necessary precautionary measures to avoid harm and whenever harms occurred measure should also be taken to remove such. Quran 2:195 provide thus:

"...make not your own hands contribute to destruction"

Money laundering has a multiplier negative and harmful effect on the society. Sharia therefore criminalizing all identifiable crimes that directly, indirectly or incidental constitutes predicate offences. The proceeds from crime and its utilization in any form are equally prohibited. To this extent, there is a synergy between money laundering legislations and the principles of Sharia on that.

It could therefore be inferred that Islamic Banking Institutions (IBI) has obligations to implement money laundering laws. Notwithstanding the facts that Islamic banking institutions and that of conventional banks are product of same legislation as provided under Section 33(1)(b) of the CBN Act 2007⁹⁶; Sections 23(1);52;55(2); 59(1)(a); and 61 of the Banks and Other Financial Institutions Act (BOFIA) 1991(as amended) and Section 4(1)(c) of the Regulation on the Scope of Banking Activities and Ancillary Matters, No 3, of the year 2010, the philosophy and motives of money laundering legislations does not negate the Sharia principles.

⁹³Islamic law criminalizing sex trade or prostitution understood. Accordingly, Islamic law illegalizes the ill-gotten money that comes from sex trade or prostitution see

⁹⁴Luqman Zakariyah, *Legal Maxims in Islamic Criminal Law: Theory and Applications*(BRILL, 2015)..

⁹⁵Laldin M.A, *Islamic Law: An Introduction*.(Research Centre, International Islamic University Malaysia, 2006).

⁹⁶Central Bank of Nigeria, herein after refers to as CBN. See Cap C4,Laws of Federation of Nigeria, 2004, See also "Central Bank of Nigeria Act, 2007 ," accessed January 19, 2016, <http://cenbank.org/OUT/PUBLICATIONS/BS/2007/CBNACT.PDF>.

Anti-Money laundering law is therefore not only applicable but relevant to Islamic Banking institutions and Islamic Banking Institution (IBI) is duty bound to be so guided. It is indeed a collective responsibility. The Quran warns that individual should be wary of act or omission whose consequence of such will have negative multiplier effect on all and sundry. It provides thus:

“And fear tumult or oppression, which affecteth not in particular (only) those of you who do wrong: and know that Allah is strict in punishment” (Q8:25)

A careful study of the provisions of those legal instruments reveals that they are not contradictory to the Islamic code of conduct; the Islamic Banking Institutions (IBI) therefore have duties to support the anti-money laundering crusade and even bear a heavier burden for that purpose. Applications of the legal instruments are thus relevant to them to that extent.

VII. CONCLUSION

In the modern regime of operation of the Islamic Banking Institution (IBI) along with the Conventional Banking Institution (CBI) in Nigeria engendered some legal issues. This is essentially because IBI is not only subject to the conventional banking laws but it must equally conform to the precepts of the Sharia. This work has however revealed that money laundering laws are not at variance with Sharia. Islamic Bank Institutions (IBI) are therefore expected by Sharia principles as well as the international and the local legislations on money laundering to diligently conform to the requirements of the relevant laws. Islamic Banking Institutions (IBI) that acts contrary only have the word Islamic as a mere prefix or a decoration and not Islamic Banking in line with the Sharia.

To profess Sharia publicly is one thing another thing is to act within the confine of Sharia. It is obvious that all Anti-Money Laundering legislations in Nigeria are Sharia compliant and therefore Islamic Banking Institutions in Nigeria are under obligation to comply with all relevant money laundering laws to fulfil the purpose of Sharia (Maqasid Sharia) that it professes.

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