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THE PROBLEM OF IDENTIFYING SUSPECT WEALTH IN THE FINANCIAL SYSTEM: FOCUS ON NIGERIA

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Abstract

The study's main objective was to assess the problems of identifying suspect wealth in the financial system. The research methodology adopted for this study is a qualitative approach from an interpretive philosophical perspective. Data was collected and analysed from anonymous practitioners in the anti-financial crime value chain, which led to the formation of four focus groups, and the findings from each group were synthesised to reveal the overall findings across the value chain. The research methods used were a triangulation of primary data from Focus group discussions, observation of participants and field notes from law enforcement activities on the anti-financial crimes value chain. It was revealed that significant problems in identifying suspects' wealth are third-party money laundering, trade-based money laundering, concealment of beneficial ownership, and excessive use of cash transactions to obscure illicit sources of funds. Identifying suspect wealth through the financial system is a novel study area with limited quantitative data. Therefore, the qualitative approach uses qualitative data to assess the problems of identifying suspect wealth from a Nigerian perspective. The sample used in this study did not consider employees of financial institutions; therefore, future studies should consider them. This study focused on problems of identifying suspect wealth through the financial system in Nigeria.

Keywords: *Financial System, Suspect Wealth, Suspect Assets, Criminal Wealth, Proceeds of Crime.*
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1. INTRODUCTION

"Until very recently, there was little real concern in governments and inter-governmental organisations to address the problems and issues of corruption in the context of sustainable development and stability (Rider, 2007)".

Historically, it has been proven that organised criminals use proceeds of crime to protect themselves from detection and arrest; the more profitable the criminal enterprise, the more difficult it becomes for law enforcement to link proceeds of crime to criminals, and this becomes the very means by which organised crime is created and sustained (Smellie, 2005).

Pakistan is estimated to have lost $79 billion through money laundering, and these funds, along with their returns when used within the country, will be available to solve many of Pakistan's economic problems (Khan et al., 2018). The Stolen Assets Recovery Initiative (StAR) reported that between $20 to $40 billion worth of public assets are embezzled annually, amounting to almost 40% of developmental assistance globally, and only a fraction of this money is successfully recovered, which could have been used for development finance (Wang, 2021). Crude oil theft activities in Nigeria alone account for $6 billion per annum of illicit financial flows out of Africa (Umar & Mohammed, 2021).

There are now a global acceptance that financial and organised crimes can only be stopped by law enforcement confiscating the proceeds of crime, i.e., the profits generated by the criminal activity (Smellie, 2005). However, little or no success is achieved in tracing the proceeds of crime. Therefore, the central research question is: What are the problems of identifying suspect wealth in the financial system?

The study covered practitioners such as financial crime intelligence analysts, investigators, Proceeds of crime managers, and prosecutors from the Economic and Financial Crimes Commission (EFCC) Headquarters in Abuja, Nigeria. To ensure that crime does not pay, we must prevent, disrupt, dismantle, trace and recover suspects' wealth laundered through our financial systems. The other sections of the research paper are the literature review, research methodology and methods, results and discussions, and conclusion and recommendations.

2. LITERATURE REVIEW

Financial System

A financial system distributes income equally, reduces poverty, includes the excluded population in the formal financial sector, and ensures that the populace is protected against economic shocks (Ade'Soyemi et al., 2020). Therefore, it comprises institutions that facilitate the exchange of funds for economic purposes. Offshore financial centres, the weakest link in the value chain, have weakened the global financial system (Thomas-James, 2022). The financial system comprises the banking sector, stock market, bond market, and shadow banking sector used to finance the real economy and fintech industry through innovation over the years from traditional to modern finance (Libich & Lenten, 2022).

In recent times, the financial system has experienced disruption of traditional models due to the emergence of networked technologies, and this is the driving force of financial systems creating mobility in business along with the emergence of the innovation-driven global economy, for example, digital finance (Heckel & Waldenberger, 2022).

Suspect Wealth

Suspect wealth is believed to be the proceeds of crime generated through financial crimes and predicate offences like corruption, tax evasion, and, in some instances, the unclear issue of tax avoidance or aggressive tax avoidance perceived to be immoral and detrimental in the context of international development, which are all eventually laundered through the money laundering process (Thomas-James, 2019; 2021). Other sources are rigged procurement processes, embezzlement of public funds, bribery, and criminal acquisition of assets.

In some instances, suspect wealth is also referred to as criminal wealth, proceeds of crime, illicit financial flows, illicit proceeds, unexplained wealth, illicit enrichment, proceeds of unlawful activities and illegal acquisition of personal wealth (McIntyre et al., 2023).

The Fraud Diamond by Wolfe and Hermanson (2004) was the selected theory underpinning this study. The fraud diamond advances the fraud triangle by adding capacity to the existing pressure, opportunity, and rationalisation (Oyedokun, 2016; Abdullahi & Mansor, 2015). This theory was used as the paradigm in the works of Bello (2020) and Gbegi and Adebisi (2014). Thus, suspects must be able or competent to exploit the financial system by passing their illicit wealth undetected. Therefore, a good knowledge and understanding of the financial system is required to save the proceeds of crime in the financial system.

Wang (2021) sought to provide an empirical comparative analysis of the movement of suspect wealth across borders and international efforts to tackle the same. Analysis of previous settlement of cases concerning suspect wealth and the limitations were assessed to expose issues of dealing with suspect wealth. It was revealed that \$20 - \$40 billion worth of public assets are stolen yearly, i.e., almost 40% of development assistance and only a fraction is recovered. The paper recommended tackling suspect wealth within the existing international framework and shared international efforts.

Olujobi (2021) investigated how Nigeria can reduce corruption by seeking legal assistance in recovering the stolen assets of suspects, which would discourage the corruption proceeds from being kept in safe havens. The study adopted a conceptual and doctrinal legal research technique using primary and secondary sources of legislative provisions and compared proceeds of corruption recovery laws across jurisdictions, including Nigeria. It was revealed that corruption can only be punished in the jurisdiction where it occurred; consequently, a neglect in returning such proceeds to the country of origin. It was recommended that there should be transparency in the recovery process, enhancement of the civil forfeiture regime, and bilateral and mutual legal assistance treaties among countries for tracing and repatriation of proceeds of corruption to Nigeria.

Bikelis (2022) examined whether criminalising illicit enrichment could deter people from profiting from serious crimes. A normative analysis of illicit enrichment and 28 criminal cases of illicit enrichment in Lithuania were analysed. It was found that the criminalising of illicit enrichment is not achieving the objective for which it was created and may even obstruct other measures that may be more effective in Lithuania.

The studies reviewed showed gaps in variables concerning suspect wealth and the financial system in Nigeria. Therefore, this study must address the scope, variables, data, and geographic gap within the area of interest.

3. METHODOLOGY

The research methodology adopted for this study is a qualitative approach from an interpretive philosophical perspective. Data was collected and analysed from anonymous anti-financial crime value chain practitioners, leading to four focus groups. The findings from each group were synthesised to reveal the overall findings across the value chain. The research methods used were a triangulation of primary data from Focus group discussions, observation of participants, and field notes from law enforcement activities on the anti-financial crimes value chain.

The population comprised financial crime prevention, detection, and response practitioners from the Economic and Financial Crimes Commission. A purposive sampling technique was used to select departments, and simple random sampling was used to select participants of the four focus groups from four departments (Intelligence, Investigation, Proceed of Crime Management, Legal and Prosecution).

To answer the central research questions, the participants were asked to describe the problems of identifying suspect wealth in financial institutions and recommend ways to improve this task. The trustworthiness and rigour of the research were ensured so that generalisations could be made from the analyses and findings of the study in line with the theory underpinning the study.

4. RESULTS

Qualitative data was gathered through Focus group discussions, which were divided into four groups. These discussions considered anti-financial crime practitioners from intelligence, investigation, proceeds of crime management, and prosecution. These data sources are presented in Table 1, showing the various departments and the number of participants in each focus group so that the perspectives of each group are considered.

Table 1: Distribution of participants among focus groups

S/N	Focus Group	Number of Participants
1	Department of Intelligence	3
2	Department of Investigation	6
3	Department of Legal and Prosecution	5
4	Department of Proceed of Crime Management	5
	Total	**19**

Source: Authors compilation 2024

Table 1 shows the distribution of participants, with a higher number for departments with more staff and for those holding senior positions and above. Participants were randomly selected for the focus group discussions. Further demographics of the participants were not included to maintain their anonymity.

Hence, the qualitative approach to data analysis used thematic analysis to identify themes from the discussion data. The discussions from the four focus groups revealed the priority problems of identifying suspect wealth in financial institutions when asked, "What are the problems of identifying suspect wealth in the financial system?”

1. Third-party money laundering uses investment cover and funds transfer through Bureau de Change operators, with most transactions going undetected through financial institutions.
2. Concealment of beneficial ownership of companies by corporations.
3. The excessive use of cash transactions obscures the sources of money going into and out of financial institutions.
4. Collusion or connivance of financial institution employees to hide suspects’ wealth.
5. Financial institutions do not fully cooperate with law enforcement agencies when suspects' wealth is traced, and the suspects seldom cooperate.
6. Ineffective regulatory oversight has occurred regarding Know Your Customer (KYC), customer due diligence (CDD), and enhanced due diligence (EDD), as the regulators need more robust sanction regimes.
7. Advancements in financial technology and financial institution payment systems create more problems in identifying suspect wealth due to poor knowledge and awareness of these new technologies.
8. The comingling of legitimate and illegitimate funds by suspects makes it harder to identify suspect wealth in financial institutions.
9. International transfers or cross-border transactions are not easy to identify and trace due to the sovereignty of the countries involved.
10. Non-compliance with existing laws regulating financial transactions by the financial institutions.
11. Selective reporting of suspicious transactions (STR) and currency transactions (CTR) by the financial institutions.
12. Inadequate resources are deployed to check criminal activities, and there is a low capacity to identify and trace suspect wealth.
13. Trade-based money laundering, i.e., professional money laundering services, disguise the proceeds of crime, such as financing entrepreneurs.
14. The introduction of virtual assets and currencies makes it more challenging to identify suspect wealth.

15. Linking suspects' assets to criminal activities is problematic when the money trail is not followed.
16. Limited know-how in investigating suspects' unexplained wealth or income.
17. Private lawyers excessively use client accounts to hide suspect wealth in financial institutions or rely on confidentiality clauses.
18. Acceptance of crime culture by beneficiaries of proceeds and their inability to report such criminals to the relevant authorities.

The findings from field notes and observation of participants during the focus group discussions were;

- The cross-border movement of funds in financial institutions makes identifying suspect wealth more complex and cumbersome due to inadequate cooperation and collaboration among countries.
- Domestic cooperation and collaboration among agencies are also inadequate due to the assumption that cases can be concluded without assistance or the lack of understanding of how to cooperate and collaborate with other agencies.
- Enhancing major case management principles in complex money laundering cases is needed. This improvement could significantly enhance the capacity of analysts and investigators to detect the laundering of suspects' wealth through the financial system.
- Organisations do not adequately use internal resources or data due to secrecy between departments or a culture of working in silos, non-alignment to any strategic objective and therefore, leading to poor cooperation and collaboration of departments internally.
- There needs to be more capacity building in the areas where these gaps exist; hence, efforts to train officers in general skills that will not resolve these gaps should be changed to specific gaps identified.

The second question of the focus group discussion was on how we might better address the task of identifying suspect wealth. Hence, the question was: How may the task of identifying suspect wealth be better addressed to ensure that preventive and detective controls are in place to identify and recover the proceeds of crimes?

1. Proper regulation and timely sanctioning of defaulting financial institutions.
2. Training and retraining of financial institution employees.
3. Implementation and enforcement of money laundering laws.
4. Strengthen the KYC, CDD, and EDD framework in financial institutions.
5. Promote transparency concerning beneficial ownership.
6. To uphold integrity, implement a code of conduct/ethics for financial institution employees, especially those dealing with suspect wealth.
7. Proper tax assessments to uncover suspect wealth and net worth.
8. Employees should also be held accountable for breaches.
9. Reduce the use of cash in daily transactions.
10. Conduct financial investigations to trace suspect wealth.
11. Training of investigators from law enforcement.
12. Build the capacity of the Financial Intelligence Unit to detect suspicious activities and suspicious transactions.
13. Assets declaration for all relevant roles in the public and private sector.
14. Promote and facilitate domestic cooperation among stakeholders.
15. Bank verification numbers are to be mandated in all transactions.
16. Public enlightenment campaign to raise awareness about financial crimes.
17. Whistleblowing that provides tips or information concerning financial crimes and money laundering to be encouraged.
18. Continuous monitoring of client accounts in private law firms to detect possible money laundering.

5. DISCUSSIONS

The main problems in identifying suspect wealth in the financial system are third-party money laundering, trade-based money laundering, concealment of beneficial ownership, and excessive use of cash transactions to obscure the illicit sources of funds. Enhancing our anti-money laundering efforts requires addressing other challenges, such as the cross-border movement of money and improved international/domestic cooperation and collaboration. The limited capacity of analysts and investigators further underscores the necessity of working together.

Considering how to address better the task of identifying suspects' wealth, the practitioners pointed to the financial institutions being the primary gatekeepers to the financial system, expecting them to be adequately regulated by the government, conduct regular training for their employees, enforce the provisions of the money laundering laws, strengthen their know your customer and due diligence procedures which will directly influence the beneficial ownership of funds or investments going through the financial institutions. They are also expected to maintain very high levels of ethics in discharging their duties, especially when managing suspect wealth. These are the areas the participants prioritised to address the task of identifying suspect wealth.

With the implementation of these controls, the financial institution will be in a better position to identify suspicious activities or suspicious transactions and conduct the necessary financial investigations before sending Suspicious Activity Reports (SARs), Suspicious Transaction Reports (STRs), or Currency Transaction Reports (CTRs) to the designated Financial Intelligence Units (FIUs). The FIUs will, in turn, conduct further intelligence gathering and analysis to build high-grade Intelligence Reports and Intelligence Products that will eventually be disseminated to law enforcement agencies to carry out Intelligence Driven Investigations (IDI) to either arrest and prosecute the suspects or to recover the proceeds of crime after establishing the predicate offence. However, conducting the prosecution and recovery simultaneously, i.e., parallel investigations is preferable.

The findings align with the fraud diamond theory, which proposes suspects' capacity to move their wealth through the financial system undetected. For the suspects to hide their wealth successfully, they must circumvent all these controls in the financial institutions.

6. CONCLUSION

The main objective was to assess the problems of identifying suspect wealth in the financial system. Significant problems included third-party money laundering, trade-based money laundering, concealment of beneficial ownership, and excessive use of cash transactions to obscure illicit sources of funds.

Identifying suspect wealth through the financial system is a novel study area with limited quantitative data. Therefore, the qualitative approach uses qualitative data to assess the problems of identifying suspect wealth from a Nigerian perspective. The sample used in this study did not consider employees of financial institutions; Therefore, future studies should consider them. This study focused on problems of identifying suspect wealth in the financial system.

Recommendations

To deliver joint capacity building for stakeholder agencies to enhance capacity, cooperation, and collaboration among them, both domestic and international after a deliberate training needs assessment or training schedule. There should also be joint sessions between financial institutions, FIUs, and law enforcement to understand how the activities at different levels contribute to eventually identifying, freezing, seizing, and confiscating suspects' wealth.

Internal policies, guidelines, processes, and procedures should specify how departments can cooperate and collaborate internally.

Adopting the necessary result-oriented strategy and major case management principles is required to identify suspects' wealth in the financial system and eventually confiscate it. A result-based management approach should be implemented so that all stakeholders can cooperate and collaborate efficiently and effectively.

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