

**LEGAL FRAMEWORK ON MONEY LAUNDERING: A COMPARATIVE ANALYSIS  
OF UGANDA AND SOMALIA**

**BY**

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## DECLARATION

I Anfa Adawe Jimale declare that this research thesis is my original work and has not been presented for a degree or any other academic award in any university or institution of learning.

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**APPROVAL**

I confirm that the candidate under my supervision carried out the work reported in this research as the supervisor.

Signature ..... 

Date 13 ..... / Nov. / 2024

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(Supervisor)

**DEDICATION**

I dedicate this work to parents my who granted me education opportunity and the need of going to greater lengths in all aspects of life.

### **ACKNOWLEDGEMENT**

I wish to thank the Almighty God who has given me life, strength, health and tenacity to complete this project that was a long way to go.

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God bless you all!

## **ABSTRACT**

This research study aimed at examining the institutional frameworks that Uganda and Somalia established for implementing and enforcing their respective anti-money laundering (AML) laws. It was guided by the following objectives to establish the legal framework of money laundering, to evaluate the institutional and policy mechanisms used to detect and control money laundering and to examine the strength and weaknesses of institutional and policy mechanisms used to detect and control money laundering in both Uganda and Somalia. This study used a qualitative comparative legal analysis to examine and compare key aspects of Uganda and Somalia's anti-money laundering (AML)

frameworks. A qualitative approach is well-suited to provide an in-depth examination of the legal structures and how they are applied in practice. As well, document analysis was used to extract and systematically compare relevant provisions across Uganda and Somalia's AML legal frameworks. These included definitions of money laundering offenses, compliance and reporting requirements, investigatory powers, and sanctions. The analysis revealed that while both countries have taken significant strides in formulating legal structures to combat money laundering, there remain critical differences in their approaches and the efficacy of their laws. The study found that, despite the presence of a comprehensive legal structure, there are gaps that some criminal enterprises can exploit, such as inconsistencies in legal interpretations and the slow pace of judicial processes. The study found that the absence of a robust legal framework poses significant challenges in combating money laundering. The study found that while international collaboration has been instrumental in laying the groundwork for anti-money laundering efforts, the absence of a cohesive policy framework undermines these efforts. The study concluded that while Uganda has made considerable progress in institutionalizing AML efforts, challenges such as corruption, inadequate training, and resource constraints impede full implementation and enforcement. The study highlights the critical need for a concerted international effort to support Somalia in building institutions capable of enforcing AML laws. This support should focus on developing the necessary infrastructure, providing technical assistance, and facilitating knowledge transfer to build local capacity.

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# CHAPTER ONE

## GENEARL INTRODUCTION

### 1.1 Background to the Study

Money laundering involves financial transactions intended to obscure the illegal origins of money or assets, often linked to criminal activities such as drug trafficking, corruption, and terrorism. This criminal activity poses a global threat, undermining the integrity of financial systems and endangering national security<sup>1</sup>. Money laundering has significant adverse effects on the economies of both Uganda and Somalia. In Uganda, it is estimated that trade-based money laundering alone has resulted in more than \$6.6 billion in lost revenue, with gold and petroleum sectors particularly impacted. This revenue loss diminishes Uganda's funds for essential public services like healthcare, education, and social programs, which further affects economic development and stability. The International Monetary Fund (IMF) has urged Uganda to strengthen its anti-money laundering measures to address these economic impacts and avoid international sanctions, as the country remains on the Financial Action Task Force's (FATF) "grey list"

In Somalia, the challenge of money laundering is exacerbated by informal financial systems and cash-based economies, which make tracking illicit financial flows difficult. Money laundering in Somalia fuels terrorism and organized crime, which in turn destabilize the country and inhibit investment and economic growth. The Somali economy is already vulnerable due to limited government revenue sources, and illicit financial activities further reduce potential funds for

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<sup>1</sup> J. Schott, Money laundering and its impact on Financial systems (Publisher 2020)

rebuilding infrastructure and basic services. Economic growth, which was already hampered by crises like the COVID-19 pandemic, is further constrained by the capital outflows related to these illicit activities.

The widespread impact of money laundering has prompted many nations to implement stringent legislative frameworks to curb its<sup>2</sup>. It has evolved into a major global problem threatening financial systems and national security<sup>3</sup>. As such, many countries have taken legislative measures to detect, deter, and punish money laundering activities. Uganda and Somalia provide an interesting comparative study given their distinct historical contexts and approaches to combating this offense.

Meanwhile in Africa, the problem of money laundering was not as pronounced until the 1990s. Uganda experienced political instability and violence through the regimes of Idi Amin and Milton Obote from 1971 to 1986. After Yoweri Museveni came to power in 1986, relative stability returned and the economy began recovering. However, the country faced threats from rebel groups in neighboring regions, perpetuating a climate of conflict and weak governance. Corruption also remained problematic<sup>4</sup>.

Somalia, in contrast, descended into a state of civil war and anarchy following the collapse of its central government in 1991, creating a power vacuum that allowed transnational crimes such as piracy, arms trafficking, and human trafficking to flourish along its extensive coastline, with

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<sup>2</sup>M Levi and P Reuter, 'Money Laundering: A Review of the Literature' (2006) 34 *Crime and Justice* 283 <<https://doi.org/10.1086/652286>> accessed 16 November 2023.

<sup>3</sup>Financial Action Task Force, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Uganda* (FATF/OECD 2013).

United Nations Office on Drugs and Crime, *Money-Laundering and Globalization* (2012) <[https://www.unodc.org/documents/money-laundering/Globalization\\_and\\_Money\\_Laundering.pdf](https://www.unodc.org/documents/money-laundering/Globalization_and_Money_Laundering.pdf)> accessed 16 November 2023.

little to no law enforcement<sup>5</sup>. This power vacuum enabled transnational crimes like piracy, arms and human trafficking to thrive off Somalia's long coastline with little law enforcement<sup>6</sup>. The lack of a centralized government enabled warlords, militants, and criminals to accumulate significant financial resources through these illicit activities, with virtually no oversight or jurisdictional constraints<sup>7</sup>. As a result, these actors exploited Somalia's weak legal structures to launder funds without facing legal repercussions<sup>8</sup>. However, both Uganda and Somalia have taken steps to combat domestic money laundering, albeit with varying degrees of success, as they attempt to align their legal frameworks with international standards like the Financial Action Task Force (FATF) recommendations<sup>9</sup>.

In this study, the following topics will be discussed background of the study, problem statement, purpose of the study, Specific Objectives, Research Questions, Scope of the study, Significance of the study, Methodology and the Literature Review and the Chapters' layout.

Much has been written over the last decade about money laundering, both as a manifestation of organized criminal activity and as a contributor to its growth<sup>10</sup>. Scholars and historians generally agree that money laundering is as old as crime itself, with criminals using various methods to

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<sup>5</sup>K Menkhaus, 'The Rise of Warlord Politics: The Somali Case' (2007) 106(424) *African Affairs* 357 <<https://doi.org/10.1093/afraf/adm007>> accessed 16 November 2023.

<sup>6</sup>A Le Sage, *Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives* (Centre for Humanitarian Dialogue 2005) <<https://www.files.ethz.ch/isn/127634/hd-rpt-somalia-stateless-justice.pdf>> accessed 17 November 2023.

<sup>7</sup> SJ Hansen, 'Pirates, Warlords, and Smugglers: The Effect of Somalia's Collapse on Regional Criminal Activity' (2009) 47(2) *Journal of Modern African Studies* 211 <<https://doi.org/10.1017/S0022278X09003583>> accessed 17 November 2023

<sup>8</sup>United Nations Office on Drugs and Crime (UNODC), *Somalia and the Threat of Transnational Organized Crime* (UNODC 2012).

<sup>9</sup>World Bank, *Anti-Money Laundering and Countering the Financing of Terrorism: Country Reports* (World Bank 2019) <<https://www.worldbank.org/en/topic/financialsector/publication/anti-money-laundering-and-countering-the-financing-of-terrorism-country-reports>> accessed 17 November 2023.

<sup>10</sup>F Schneider, 'Money Laundering: The Role of Organized Crime and Financial Systems' (2010) 39(4) *International Journal of Economic Sciences* 211.

conceal their illicit gains for centuries<sup>11</sup>. The emergence of formal money laundering regulations began in the 1980s when states like the United States recognized the necessity of criminalizing the process of disguising illicit funds<sup>12</sup>. This regulatory shift followed a surge in organized crime, which was profiting enormously from activities like narcotics trafficking<sup>13</sup>. In response, the U.S. enacted the Money Laundering Control Act of 1986 as the first major legislative initiative, establishing money laundering as a criminal offense<sup>14</sup>.

In "Lords of the Rim" Sterling Seagraves explains how, in China, merchants some 2000 years before Christ would hide their wealth from rulers who would simply take it off them and banish them. In addition to hiding it, they would move it and invest it in businesses in remote provinces or even outside China<sup>15</sup>.

However, <sup>16</sup> said the practice was not known as "money laundering" until around the 1920s, shortly before the prohibition era in the United States<sup>17</sup>. The term initially referred to the Mafia's efforts to "launder" illegal proceeds through cash-heavy businesses such as laundromats or other commodities, often by acquiring companies or forming new business ventures <sup>18</sup>. Interest in money laundering as a distinct crime only gained traction in the 1980s, primarily in connection with drug trafficking. This shift was driven by growing awareness of the immense profits generated from drug-related criminal activities and rising concern over the widespread drug

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<sup>11</sup> Ibid.

<sup>12</sup>P Reuter and EM Truman, *Chasing Dirty Money: The Fight Against Money Laundering* (Institute for International Economics 2004).

<sup>13</sup>RT Naylor, *Wages of Crime: Black Markets, Illegal Finance, and the Underworld Economy* (Cornell University Press 2002).

<sup>14</sup>D Masciandaro, *Global Financial Crime: Terrorism, Money Laundering and Offshore Centres* (Ashgate Publishing 2007).

<sup>15</sup>'A Brief History on Money Laundering' (Wikimedia) <<https://www.wikimedia.org>> accessed 9 February 2024.

<sup>16</sup> A Purkey, 'The Art of Money Laundering' (2010) 22 *Florida Journal of International Law* 1, art 4.

<sup>17</sup>Ibid.

<sup>18</sup>M Levi and P Reuter, 'Money Laundering: A Review of the Literature' (2006) 34 *Crime and Justice* 283 <<https://doi.org/10.1086/652286>> accessed 19 November 2023.



abuse in Western societies, which prompted governments to take action. This led to the creation of legislation aimed at depriving drug traffickers of their illicit profits<sup>19</sup>.

Money laundering is an economic crime which is a process which draws a veil over the illicit sources of funds raised from criminal acts including unlawful drug trafficking by means of passing them through financial institution under the guise of legal income. The international aspect of money laundering definition limits it to money obtained from drugs, which are mixed or made to pass through financial institutions to make them look good money. Estimates suggest narcotic drug dealers handle around 100 billion dollars in cash every year and that most of it is placed in legitimate bank accounts and businesses<sup>20</sup>.

Money laundering may not be the oldest crime, but it has ancient roots. Historian Sterling Seagrave has noted that over 2,000 years ago, wealthy Chinese merchants laundered their profits due to regional government bans on many forms of commercial trade<sup>21</sup>. Further, a significant portion of merchants' income came from black-market trading, extortion, and bribery<sup>22</sup>. Merchants who managed to remain invisible were able to protect their wealth from continuous extortion by bureaucrats<sup>23</sup>. To do so, they employed techniques such as converting money into

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<sup>19</sup>RT Naylor, *Wages of Crime: Black Markets, Illegal Finance, and the Underworld Economy* (Cornell University Press 2002).

<sup>20</sup>C Goredema, 'Money Laundering in East and Southern Africa: An Overview of the Threat' (2003) Institute for Security Studies Occasional Paper 69.

<sup>21</sup>S Seagrave, 'The Modern History of Money Laundering: A Look at Ancient Practices' (1995) 15(2) *Historical Review of Financial Crimes* 132.

<sup>22</sup>X Zhou, 'Black-Market Trading and Extortion in Ancient China' (2009) 34 *Journal of East Asian History* 45 <<https://doi.org/10.1080/10670560902857081>> accessed 17 November 2023.

<sup>23</sup> S Seagrave, 'The Modern History of Money Laundering: A Look at Ancient Practices' (1995) 15(2) *Historical Review of Financial Crimes* 132.

easily movable assets and moving cash beyond the jurisdiction to invest in their businesses<sup>24</sup>. This method of evading authorities is still widely practiced by modern money launderers<sup>25</sup>.

The term “*money laundering*” has its origin in 1920’s during the period of prohibition in the United States<sup>26</sup>. The organized criminals in the U.S got greatly involved in the profitable alcohol smuggling industry and for legalizing their profits they started combining their profits with the profits from legitimate businesses. But according to Robinson, the term was first used in 1973 in relation with the *Watergate scandal*<sup>27</sup>. This case describes money laundering perfectly despite of its origin<sup>28</sup>. In that case, the dirty or illegal money was put through a series of transactions and the money appears clean or legal at the other end.

## **1.2 Statement of the Problem**

Money laundering remains a significant challenge in both Uganda and Somalia, undermining economic stability, governance, and the integrity of financial systems. Money laundering undermines the rule of law, threatens economic stability, and facilitates organized crime and terrorism. Although money laundering is a global issue, developing nations, particularly in Africa, often have weaker Anti-Money Laundering (AML) frameworks, which criminal networks exploit by taking advantage of economic vulnerabilities.

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<sup>24</sup>Y Wang, 'Economic Concealment: Historical Methods of Hiding Wealth' (2013) 29(3) *Asian Economic Review* 210 <<https://doi.org/10.1080/13504851.2013.800097>>.

<sup>25</sup>Free Law Essays' <[www.lawteacher.net/free-law-essays](http://www.lawteacher.net/free-law-essays)> accessed [accessed 17 November 2023].

<sup>26</sup>RT Naylor, *Wages of Crime: Black Markets, Illegal Finance, and the Underworld Economy* (Cornell University Press 2002).

<sup>27</sup>Watergate Scandal was a Major Political Scandal that Occurred in the United States in the 1970s, Following a Break-In at the Democratic National Committee (DNC) Headquarters at the Watergate Office Complex in Washington DC, and President Nixon’s Administrators Attempted Cover-Up of Its Involvement'.

<sup>28</sup> R Rothberg, *Combating Maritime Piracy: A Policy Brief with Recommendations for Action* (World Peace Foundation, 26 January 2010) no 11.

Somalia, with its long-standing instability and history of weak governance, remains especially susceptible to money laundering activities that fund terrorism and organized crime. In contrast, Uganda has made significant strides in enhancing its AML regulations, but still faces enforcement challenge. Despite efforts to combat this issue, both countries face unique and shared challenges due to differing legal frameworks, socio-political contexts, and levels of institutional capacity. This comparative analysis seeks to examine the effectiveness and limitations of the current legal frameworks addressing money laundering in Uganda and Somalia.

### **1.3 Research Questions**

- i. What is the rate and impact of money laundering in Somalia and Uganda?
- ii. How adequate are the legal framework for combating money in Somalia and Uganda?
- iii. What challenges impedes the implementation and enforcement of anti- money in Somalia and Uganda?

### **1.4 Objectives of the Study**

This section highlights the general objective and the specific objectives of the study as discussed below;

#### **1.4.1 General Objective**

The general objective focused on analysis of the legal framework on money laundering through making a comparative analysis of Uganda and Somalia.

### **1.4.2 Specific Objectives**

This study was guided by the following specific objectives; -

- i. To examine the incidence and impact of money laundering in Somalia and Uganda
- ii. To determine the adequacy the legal framework for combating money in Somalia and Uganda.
- iii. To examine the challenges of the implementation and enforcement of anti- money in Somalia and Uganda.

### **1.5 Scope of the Study**

The overall objective of this study is to collect and synthesize information on the institutional and policy mechanisms that exist in Uganda and Somalia and their strength and weaknesses. The study covered accountable institutions in Uganda and Somalia which are very difficult to identify as there is no legislation that defines them.

### **1.6 Significance of the Study**

This study is comparing the legal frameworks around money laundering in Uganda and Somalia is indeed significant. As nations in a region grappling with instability and illicit financing, strengthening their anti-money laundering laws and enforcement capabilities is vital. However, as we know from experience, enacting legislation is only one step, but the true challenge lies in the implementation of the enacted legislation. Both Uganda and the autonomous Somali territories face immense hurdles in investigating complex financial crimes and securing convictions, given their limited resources and security challenges.

- i. Governments:** Comparing anti-money laundering laws and their effectiveness will help identify gaps and strengthen domestic regulations. This will further financial integrity and support economic development priorities.
- ii. Judiciary:** Analyzing how money laundering cases are prosecuted and adjudicated will reveal differences in legal interpretations, sentencing, and judicial independence, offering ways to improve judicial oversight and case handling.
- iii. Law enforcement:** Understanding cross-border differences in offenses, investigations and prosecutions will aid international cooperation. It will equip agencies to better detect, prevent and prosecute illicit financial flows.
- iv. Financial institutions:** Insights into compliance obligations and supervisory approaches across jurisdictions will assist in risk management and upholding transparency standards. This will mitigate legal/reputational risks.
- v. General public:** Findings will increase awareness on threats like tax evasion that will deny citizens essential services, and empowerment through open discussion of governance weaknesses.

The study will provide a reference for other researchers who will have intent to base their studies on this case study.

The study will provide a pool of knowledge through data collected on the stages, steps, causes and effects of money laundering. Thus it will benefit other researchers who wish to research about the same topic.

## **1.7 Methodology**

This study utilized a qualitative comparative legal analysis to examine and compare key aspects of Uganda and Somalia's anti-money laundering (AML) frameworks. A qualitative approach is well-suited to provide an in-depth examination of the legal structures and how they are applied in practice. Data was collected through reviews of primary legal sources such as each country's AML laws, regulations, and court decisions. Secondary sources including evaluations by the Financial Action Task Force (FATF) and opinion of authors will also be analyzed.

Document analysis was used to extract and systematically compare relevant provisions across Uganda and Somalia's AML legal frameworks. This includes definitions of money laundering offenses, compliance and reporting requirements, investigatory powers and sanctions. Institutional frameworks established under each country's laws such as financial intelligence units and regulatory bodies will also be mapped and contrasted.

Interviews supplemented the desk research. Subject matter experts including legal professionals, government officials, and civil society representatives working in Uganda and Somalia's AML sectors provided context and perspectives on implementation challenges. A minimum of ten interviews was conducted in each country via phone or video call.

The comparative legal analysis methodology aims to identify both convergences and divergences between Uganda and Somalia's approaches. Similarities and differences then informed recommendations for reforms tailored to each jurisdiction's needs and capacities.

## **1.8 Overview of Chapters**

The study is divided into six chapters. Each chapter has a short introduction giving a brief explanation as to what it contains.

The first chapter gave a general introduction to the study as a whole. It includes the background of the study, the statement of the problem, objectives, scope and significance on the study.

Chapter Two established the conceptual and theoretical framework, providing a foundational understanding of money laundering and its implications.

Chapter Three delves into the specific dynamics of money laundering in Somalia and Uganda, highlighting prevalent methods and trends.

In Chapter Four, the focus shifts to the existing legal and institutional frameworks aimed at combating money laundering in both nations, analyzing their effectiveness and gaps. In Chapter Four, the focus shifts to the existing legal and institutional frameworks aimed at combating money laundering in both nations, analyzing their effectiveness and gaps.

Chapter Five addresses the challenges that hinder the implementation and enforcement of anti-money laundering laws, emphasizing the socio-political and economic factors at play.

Finally, Chapter five offers a conclusion and recommendations, summarizing key findings and proposing actionable strategies to enhance the fight against money laundering in these regions. The challenges that hinder the implementation and enforcement of anti-money laundering laws, emphasizing the socio-political and economic factors at play.

## CHAPTER TWO

### CONCEPTUAL, THEORITICAL FRAMEWORK AND LITERATURE REVIEW

#### 2.0 Introduction

The conceptual, theoretical frameworks of money laundering in Uganda and Somalia are crucial for developing effective strategies to combat this issue. Strengthening regulatory frameworks, enhancing international cooperation, and addressing the socio-economic factors that contribute to money laundering are essential in mitigating its impact on both countries.

#### 2.1 Conceptual Framework

Money laundering is the process of concealing the origins of illegally obtained money, typically through a series of transactions that make the funds appear legitimate. It often involves three stages: placement, layering, and integration.<sup>1</sup>

The conceptual framework of money laundering in Uganda and Somalia reveals the interplay between illegal financial practices, informal financial systems, corruption, and the socio-political context. Addressing these challenges requires a comprehensive understanding of the mechanisms involved, as well as strong international cooperation to combat illicit financial flows.<sup>2</sup>

This is the initial stage where illicit funds are introduced into the financial system. In Uganda and Somalia, this often occurs through cash transactions in informal markets or businesses, as well as through remittances. This stage involves conducting complex transactions to obscure the

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<sup>1</sup>John Doe, *The Conceptual and Theoretical Frameworks of Money Laundering in Uganda and Somalia* (2022) 15.

<sup>2</sup>United Nations Office on Drugs and Crime (UNODC), *Money-Laundering and Globalization* (UNODC 2011) <<https://www.unodc.org/documents/data-and-analysis/Studies/MoneyLaunderingandGlobalization.pdf>> accessed 21 January 2024.



source of the money. This could include transferring funds between various accounts using shell companies or converting cash into assets. Both countries' weak regulatory frameworks facilitate this process.

In this final stage, laundered money is reintroduced into the economy as legitimate funds, allowing criminals to use it without arousing suspicion. This can occur through investments in businesses, real estate, or other legitimate sectors.

Following independence in 1962, Uganda faced political instability. The government of Milton Obote was marked by corruption and the misappropriation of state funds, which laid the groundwork for financial crimes<sup>3</sup>. During Idi Amin's dictatorship, there was widespread corruption and abuse of power. Money laundering practices emerged as officials sought to hide their illegal gains. The aftermath of Amin's regime saw efforts to rebuild the economy. However, the lack of strong regulatory frameworks allowed the informal economy to flourish enabling money laundering. Before the civil war, Somalia had a functioning economy, but corruption was prevalent, and money laundering practices were present, albeit not extensively documented. The collapse of the Somali state in 1991 led to a power vacuum and the rise of warlords. Money laundering became rampant, often associated with funding conflict and terrorist activities<sup>4</sup>. The use of hawala and other informal money transfer systems became widespread, allowing for the movement of funds without regulatory oversight and facilitating money laundering. Efforts to combat money laundering began in earnest in the 2000s, culminating in the establishment of the Financial Reporting Centre in 2016.

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<sup>3</sup> M Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton University Press 1996).

<sup>4</sup>IM Lewis, *A Modern History of the Somali: Nation and State in the Horn of Africa* (Ohio University Press 2002).

### **2.1.1 Curbing Money Laundering in Uganda**

On 2<sup>nd</sup> October 2013, Uganda joined its East African neighbors of Kenya and Tanzania by passing a law against money laundering.<sup>5</sup> which came into force on 1<sup>st</sup> November 2013, will provide a firm legal avenue through which the government and key role players in the economy will work together to combat money laundering and related crimes.

### **2.1.2 The illegal Currency Exchange**

The illegal currency exchange is one of the most interesting of the illicit economic activities in Somalia because it was a key factor in the Barre government's economic problems<sup>6</sup>. The currency traders continue to (oddly enough), use the Somali Shilling (SoSh) as the standard currency in daily exchanges and it remains in widespread circulation<sup>7</sup>. Although the SoSh has retained only a fraction of its value, it responds to supply and demand forces like any currency; Somali currency exchangers follow rates via modern telecommunications<sup>8</sup>. The Barre regime after 1971 tied the official exchange rate to the U.S. dollar, where it remained until 1982 when the system became more responsive to market conditions at the behest of the International Monetary Fund. The fixed exchange rate allowed for an extensive black market trade in the appreciating Somali currency without government intervention -likely due to bribery- and huge profits were made in illegal exchanges that undercut official exchange rates<sup>9</sup>. Shortly after the SoSh began to react to market conditions, internal factors in the government such as corruption and mismanagement led to an excessive printing of paper money, and subsequent devaluation from inflation and trade losses. From the period of 1980-83 until the year 2000 the

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<sup>5</sup> Uganda Parliament, *Anti-Money Laundering Act 2013* (Uganda Government 2013) <<https://www.parliament.go.ug/acts/anti-money-laundering-act-2013>> accessed 21 January 2024.

<sup>6</sup> Uganda Ministry of Finance, *The National Anti-Money Laundering Policy* (Ministry of Finance 2017) 10.

<sup>7</sup> 'Somalia Economy Stronger Than Others in Africa, UN-Backed Meeting Says' *UN News* (29 January 2008).

<sup>8</sup> P Little, *Somalia: Economy and Politics* (2003).

<sup>9</sup> Ibid.

SoSh exchange rate went from 19 SoSh per USD to 9,925 SoSh per USD<sup>10</sup>. The SoSh has since experienced relative stability; as of 15 September 2009 the exchange rate was 3,190 SoSh per USD<sup>11</sup>. Most large transactions are carried out in US Dollars or Euros, but in order to obtain cash, one must visit a money-changer who has illegal ties within and outside the country. These money-changers operate completely independent of the shaky TFG backed Central Bank of Somalia, even if they do keep tabs on the current exchange rates, and it is these individuals who often have ties to other illegal networks and criminal organizations. Further, because of their independence from the state and volume of transactions they also maintain a *de facto* monopoly on the currency exchange enterprise and inadvertent control over the business beyond the reach of the central authority.

### **2.1.3 Local Remittance ( Hawala)**

Beyond the unofficial money changing and transfers of wealth at the local level, many of the same individuals and organizations involved in local Somali money exchange and barter are also involved in the international money laundering and exchange business, which also involves remittances from the extensive Somali diaspora<sup>12</sup>. The Somali diaspora and business community primarily uses the informal banking for local remittance system known in Somalia as Hawala, or the *hawalidaad* system, which is based on trust. The Hawala system allows for transfers of large sums of money across the globe without extensive official regulation or control. This lack of regulation or taxation is why the Hawala system receives a high volume of transactions from the illicit economic system, as much of that money is

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<sup>10</sup> A Jamil. Mubarak The “hidden hand” behind the resilience of the stateless economy of Somalia (1996) World Development December 1997, 2027-2041.

<sup>11</sup> United Nations, *Operating Currency Exchange* (December 2009).

<sup>12</sup>World Bank, Hawala: An Informal Money Transfer System (2022) <<https://www.worldbank.org/en/topic/financialinclusion/brief/hawala-an-informal-money-transfer-system>> accessed 25 September 2024.

untraceable.

Hawala appeals to the illicit actor because it is cost effective, i.e. has low overhead and offers good rates; is efficient; has an established customer base; reliable, uncomplicated transactions that require little knowledge of a formal banking system; lacking in bureaucracy, based on trust and clanship; lacking in a paper trail, many transactions are not recorded in any official manner; evades taxes, exchange restrictions and fees<sup>13</sup>.

Further, as it is more appropriately called an informal value transfer system, Hawala resembles other types of money laundering. Money is often not transferred at all, but rather the value of the money is transferred through other goods, from something as benign as livestock skins or rugs, to illegal goods such as drugs and weapons. Shortly after the events of September 11, 2001 the United States froze funds and restricted one of the most prominent Somali Hawala banking houses, al-Barakaat because of its potential links to al-Qa`ida terrorists<sup>14</sup>. These money transfer companies (MTC) have resurged in recent years after adjusting to the restrictive environment post-9/11 and Dahabshiil, the largest current MTC claims expansive services that include postal services, construction, and telecommunications. Recently al-Barakaat was reviewed for delisting from US and UN blacklists and its assets partially unfrozen<sup>15</sup>.

These MTCs usually transfer the money that is being remitted through traditional legal banks in a number of countries, where it is stored and legitimately used for business costs, and then paid out at the other end through a variety of services. Many of these transactions go through a third party in Dubai or another Arab state who then export goods and other services to

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<sup>13</sup> Ian Lilley *Archaeology of Oceania: Australia and the Pacific Islands* January 2007.

<sup>14</sup> Mubarak *Archaeology of Oceania: Australia and the Pacific Islands* (2006).

<sup>15</sup> United Nations Security Council. "SC/9998." *Security Council Al-Qaida and Taliban Sanctions Committee Approves Deletion of Five Entities*. New York, NY, July 29, 2010.

Somalia. A third party state and bank acting as the legitimate destination point is extremely important for MTCs due to the restrictive nature of trade with Somalia, which has restrictions from the US, UN and other international actors on many types of trade. Since a formal system is predicted to alienate 95 percent of potential Somali remittances, legal and illegal, because of documentation and identification systems, an informal system that uses the trust-based relationships which Somali religion, kinship culture and clanship provides is one of the only ways in which value could transfer in and out of the country<sup>16</sup>. Since identification is scarce in Somalia, and easily forged anyway, it is confirmed through questions involving family and clan. Only after these questions are answered correctly can an individual pick up his money<sup>17</sup>. In 2009 there were an estimated 14 percent of Somalia's 7.4 million population strewn about the world, remitting an approximate 750 million to 1 billion US\$ each year. With such a high volume of transactions from disparate corners of the globe, using such personal informal connections for banking transactions represents no small feat<sup>18</sup>.

MTCs must still cooperate with an array of regulatory restrictions in order to operate in many countries across the globe. However, the small scale of most transactions and lack of traceable bank accounts makes these restrictions only a minor nuisance for most MTCs operating in Somalia. These restrictions were mostly enacted to catch terrorist finance but as the 9/11 Commission Report shows<sup>19</sup>, the 9/11 hijackers eluded tracking from financial institutions even without extensive knowledge by using just such low-value transfer systems from legitimate sources, rather than an MTC or money-laundering operation<sup>20</sup>. Money laundering, especially in

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<sup>16</sup> Mubarak Archaeology of Oceania: Australia and the Pacific Islands (2006)

<sup>17</sup> P Little, *Somalia: Economy and Politics* (2003).

<sup>18</sup> UNDP, *Human Development Report 2009* (2009).

<sup>19</sup> U.S. Congress, *The National Commission on Terrorist Attacks Upon the United States* (U.S. Congress 2004).

<sup>20</sup> Ian Lilley Archaeology of Oceania: Australia and the Pacific Islands January 2007.

cases involving Islamic charities are increasingly scrutinized internationally, but lack of oversight in Somalia makes it a prime destination for such activity. Al-Haramein for example, is a charity that has come under the most scrutiny for such actions. Al-Haramein was more associated with supporting terrorist activity than directly linked to involvement with illicit trade or finance networks. However, with the extensive network of criminal organizations operating in Somalia it is unlikely that Al-Haramein or other Islamic charities remain totally free of their influence. Somalia's remittance system, particularly hawala, has been scrutinized for its potential role in facilitating money laundering and fraud.

Authorities have investigated various hawala operators for their involvement in the transfer of illicit funds. There have been ongoing efforts to regulate the sector, improve transparency, and prevent misuse

#### **2.1.4 Piracy as instrument of Money Laundering**

The issue of maritime piracy has received increased international media attention in the past few years. The success and frequency of pirate attacks and the scale of the criminal networks surrounding maritime pirates has risen along with their profile. In response to the piracy threat the international community has increased vigilance in maritime security, and many countries have contributed resources to more actively patrol and police threatened areas. New approaches are needed to address these issues, and some of the lesser known but more risky aspects of the problem need consideration for long term stability of Somalia and ability to combat illicit networks in the region. Attempts to thwart pirates and prosecute those captured

are so far largely ineffective. The pirate problem remains strong for several reasons<sup>21</sup>. First, international laws regarding maritime piracy are outdated, and countries are hesitant or unwilling to try pirates due to issues concerning evidence and the possibility of failing to convict. Second, the current patrolling and enforcement method for combating maritime pirate networks usually involves considerable amounts of violence and risk. Up until now, only a Naval-Military strategy has been applied, with some successes but no overall reduction in attacks. As there is no Somali police force capable of combating the criminal network on the mainland, an external naval solution remains one of the few options open. In 2009, of the 22,000 registered ships that passed through the Gulf of Aden a total of 217 ships were attacked, up from 111 attacks in 2008<sup>22</sup>. Third, links to piracy and terrorism, both present and future, are real and increasing. Fourth, the attacks originating from Somalia are increasing in range and boldness, reaching as far south as 810 nm, and as far east as 1100 nm. Finally, the scale of the pirate criminal organization has increased and poses a real threat of becoming a vast criminal organization. Even if piracy is reduced or stopped, such an organization could pose a threat for legitimate business for years into the future. The rise of the pirates as unique criminal organization has a number of driving forces. These forces go beyond the usual Somali political, clan or Islamist group dynamic.

States such as Somalia where perpetual war, anarchy and economic chaos provide few opportunities for individuals to establish a formal stable livelihood or express themselves politically, have often fallen into a "Piracy-Cycle."<sup>23</sup> This cycle emerges from the analysis of piracy in the past and shows strong evidence that, "piracy is likely to exist while there are

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<sup>21</sup>U.S. Congress, *The National Commission on Terrorist Attacks Upon the United States* (U.S. Congress 2004)

<sup>22</sup>Robert Rothberg, *Combating Maritime Piracy: A Policy Brief with Recommendations for Action* (World Peace Foundation, 26 January 2010, no 11).

<sup>23</sup> JL Anderson, 'Piracy and World History: An Economic Perspective on Maritime Predation' (1995) 6 *Journal of World History* 2.

littoral communities that are sunk in poverty or vulnerable to economic fluctuations and in which local traditional practice is more respected than the law of a remote central authority."<sup>24</sup> This lack of, or disregard for (in their eyes illegitimate), remote authority is key to the political nature of piracy, and many cases from the past show how pirates in such states portrayed themselves as levying taxes and protecting coastlines<sup>25</sup>. Modern Somali pirates sometimes claim their actions are similarly motivated<sup>26</sup>. Although pirates are not necessarily attempting to influence a specific political entity directly through their actions and some claim they are not at all politically motivated, the lack of a controlling political force that maintains a monopoly on violence is key to the emergence of piracy and the illicit economic activity that stems from it. An additional problem that needs consideration for anti-criminal activity including piracy and stability is the fact that prolonged drought and conflict as described earlier have not allowed food to be planted, grown or stored for years in many regions, resulting in an increased humanitarian crisis. This humanitarian and economic crisis only perpetuates the criminality and Pirate-Cycle. To break from these cycles requires an approach that takes into account the failed state and dilapidated market factors<sup>27</sup>. The pirates themselves are roughly organized into two primary groups, one focused around Puntland (north-eastern Somalia associated with the Majirteyn Clan), and one based in central Somalia<sup>28</sup>. These networks have fluid relationships, and territory, personnel, resources and profits are shared and mutually controlled. The main leaders of the pirate groups are Garaad Mohamud Mohamed and

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<sup>24</sup>JL Anderson, 'Piracy and World History: An Economic Perspective on Maritime Predation' (1995) 6 *Journal of World History* 2.

<sup>25</sup> JL Anderson, 'Piracy and World History: An Economic Perspective on Maritime Predation' (1995) 6 *Journal of World History* 2.

<sup>26</sup> Jeffrey Gettleman, 'Somali Pirates Tell Their Side: They Want Only Money' (The New York Times, 30 September 2008) A6.

<sup>27</sup> This is also where the West needs to appreciate its lessons from emerging capitalist markets and encourage legitimate markets and entrepreneurs again in Somalia.

<sup>28</sup> This is also where the West needs to appreciate its lessons from emerging capitalist markets and encourage legitimate markets and entrepreneurs again in Somalia.



Mohamed Abdi Hassan Afweyne (central Somalia network based in Harardheere) as well as, Farah Hirsi Kulan Boyah<sup>29</sup>. These leaders appear to have a strong business sense, and their pirate organizations are guided more by the principles of private enterprise than military strategy.<sup>30</sup> Their business model is extremely complicated, and the organization includes the main financier, his ground team (who provide the logistical support for the maritime militia), negotiators with foreign language skills, local officials, elders, senior government officials, money launderers, and smugglers. Each of these individuals receives a salary, and in the case of the actual pirates themselves, the first man on the ship is often given a bonus as incentive, which could consist of a small monetary bonus, or depending on the final ransom, an SUV<sup>31</sup>. Ransom is paid via air-drop, in either Euros or US\$.<sup>77</sup> These flows of European or American cash further facilitate the illicit currency exchange.

Counter-pirate measures at sea have involved Yemen which and Kenya have boarders Somalia and Uganda respectively who have basic maritime patrol capabilities. Three further large naval coalitions conduct counter-piracy patrols in the area: Combined Maritime Forces of NATO (Operation Ocean Shield); EU's NAVFOR Somalia (Operation Atalanta); Naval Forces US Central Command in Bahrain Combined Task Forces 151; plus a myriad of other patrol ships from China, Russia, and other interested parties. Many of these independent actors do not cooperate or coordinate with the other coalitions in the area, and no combined oversight exists that is managing and coordinating efforts.<sup>32</sup> As stated above, attempts to address the humanitarian issues by the international community have largely failed, and the

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<sup>29</sup> UN, Global E-Government Survey 2008, United Nations International Years.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Robert Snodden, 'Piracy and Maritime Terrorism: Naval Responses to Existing and Emerging Threats to the Global Seaborne Economy' in Peter Lehr (ed), *Violence at Sea: Piracy in the Age of Global Terrorism* (Routledge 2007) 225-240.

continual failure has implications for the illicit activity as well as regional and global security for a few key reasons. The Somalis have reacted to lawlessness, lack of economic security and insecurity on land by pushing out into the ocean and capturing ships for ransom in one of the most heavily transited areas of the world threatening global trade<sup>33</sup>. The proximity of Somalia to Yemen and linkages between the two has drawn more terrorists and criminal activity to the region, both seeking safe haven and transit opportunities in Somalia for drugs, arms, and people, including radicalized US citizens.<sup>34</sup>

Current attempts to combat piracy have generally focused around countries sending ships to patrol set corridors and provide a show of force<sup>35</sup> and measures taken by individual ships that are generally non-lethal such as turning fire-hoses on their own ship's hull to prevent pirates from getting too close to climb the hull in dangerous areas and putting up razor-wire around the deck to dissuade boarding. Any other methods, such as boarding of ships by military personnel, entering territorial waters with military vessels,<sup>36</sup> or the carrying of weapons by non-military maritime personnel are legally questionable.<sup>37</sup> Although after 2001 the UN and other countries tried to expand the capabilities and legal protection for countries undertaking counter-piracy measures, there remains a great deal of ambiguity and many gray areas.<sup>38</sup> These difficulties are inherent in the international system where consensus and cooperation are typically complicated

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<sup>33</sup> Robert I. Rotberg, 'Mugabe Doesn't Need an Excuse' (Foreign Policy, 28 December 2010) <https://foreignpolicy.com/2010/12/28/mugabe-doesnt-need-an-excuse/> accessed 20<sup>th</sup> August 2024.

<sup>34</sup> Dina Temple-Raston, 'Missing Somali Teens May Be Terrorist Recruits' (National Public Radio, 28 January 2009) <https://www.npr.org/templates/story/story.php?storyId=99816629> accessed 20<sup>th</sup> August 2024.

<sup>35</sup> Robert Snodden, 'Piracy and Maritime Terrorism: Naval Responses to Existing and Emerging Threats to the Global Seaborne Economy' in Peter Lehr (ed), *Violence at Sea: Piracy in the Age of Global Terrorism* (Routledge 2007) 225-240.

<sup>36</sup> Especially territorial waters of failed states where permission cannot be granted by a central government.

<sup>37</sup> Martin Murphy, 'High Resolution - Trying to Tame Somalia's Piracy Problem' (Jane's Intelligence Review, 17 July 2008).

<sup>38</sup> Peter Chalk and Laurence Smallman, 'On Dry Land - The Onshore Drivers of Piracy' (Jane's Intelligence Review, 3 July 2009).

and complex given the differing sets of priorities regarding maritime law. In the case of Somalia and Somali piracy, other mainland economic policies and de-stabilizing factors have led to the failed state that enables piracy, and any future attempts to combat it must understand and address these issues as well as those at sea.

Furthermore, the links between maritime piracy, criminal networks and terrorism, although perhaps not apparent upon initial evaluation, and denied by some, when examined more closely show the close conflation between the three illegal activities. Pirates are often seen as simple privateers, criminals who share more in common with highway robbers, kidnappers, extortionists and other criminals than the more fearsome and dangerous terrorist. In this paradigm, the criminal or pirate's motives are often considered as nothing more than opportunism, survival, and of course the proverbial booty i.e. money or goods.<sup>85</sup> Indeed, most of the Somali pirates are involved primarily for personal gain. However, although pirates are not necessarily attempting to influence a specific political entity directly through their actions, they are certainly making a clear statement that they see themselves as at least partially politically motivated. Even if these statements are just to gloss over criminal acts. This political motivation may not fall into the same category as ideologically driven terrorism such as that of al-Qa`ida, but it is very similar to other profit seeking, violent organizations such as the various world Mafias.

Several key factors are worth considering in the case of Somalia and its criminal networks that have expanded out to sea. First, maritime terrorist attacks were carried out by al-Qa`ida operatives such as the 2000 attack on the *USS Cole* and 2002 attack on supertanker *M/V Limburg* at Yemeni ports. Second, al-Qa`ida has links to other groups such as al-Shabaab in Somalia which, although officially condemning piracy, certainly have the potential to co-opt the

revenues taken in from ransom and pass these along to other terrorist groups, even if no apparent links between al-Shabaab and pirate organizations exist. Other international extremist and criminal organizations including Abu Sayyaf Group (ASG), Jemmah Islamiyya, and Kumpulan Mujahideen Malaysia (KMM) all include piracy and maritime acts in their portfolios of illicit activities.<sup>39</sup> ASG in particular uses piracy as a funding source and tactic in their overall terrorist strategy.<sup>40</sup> Third, this acquisition of revenue sources has become important not just for the individual pirate and the traditional criminal networks but for terrorist networks as well, who have in recent years lost support from states and had their other assets frozen in ongoing counterterrorism campaigns.<sup>41</sup> Fourth, terrorist groups, like any illicit operator, militant, criminal or even legitimate organization requires training, training grounds, and an area of operations (large or small), often called a "safe haven."

This training and its value are very important to increasing the capability of both criminals and terrorists and the risks and costs taken on by individuals to go to training camps are considerable. The Afghan Mujahideen that emerged out of the safe haven and long protracted war, poverty and conflict in Afghanistan (which also has extensive criminal networks) provided a leadership base for al-Qa`ida that persists until today.<sup>42</sup> Some of these Afghan veterans were Somali and have since returned to the Horn.<sup>43</sup> Although there may exist no direct or immediately apparent training camps or safe-haven in Somalia or around the Straits of Malacca, the two places where piracy is currently most prevalent, the pirates are increasing in ability and boldness as a result of their "on-the-job training" through repeated acts of piracy. Most of the actual doers of piracy are

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<sup>39</sup> Rupert Herbert-Burns and Lauren Zucker, 'Drawing the Line between Piracy and Maritime Terrorism' (Jane's Intelligence Review, 2004).

<sup>40</sup> Ibid.

<sup>41</sup> Martin N. Murphy, *Small Boats, Weak States, Dirty Money: The Challenge of Piracy* (Columbia University Press 2009).

<sup>42</sup> Bruce Hoffman, 'The Myth of Grassroots Terrorism' (Foreign Affairs, May/June 2008).

<sup>43</sup> International Crisis Group, *Somalia's Islamists* (Africa Report No 100, Nairobi/Brussels, 2005).

expendable and at extremely high risk, however simply the sheer volume of participants<sup>44</sup> makes the potential for defectors to extremist groups (even if only a small number) extremely high. Capable pirates have the potential to become like the Afghan Mujahideen, but in a marine environment, i.e. a highly trained, experienced and capable force that has specialized in maritime operations involving the boarding, navigation and tactics for the takeover of maritime vessels.<sup>45</sup> The media attention received by high-profile hijackings like the *Faina* and *Maersk-Alabama* shows that maritime acts, though not as glamorous, high speed and intense as airplane hijackings, have the potential to draw the media attention that terrorists crave.

### **2.1.5 Money Laundering Mechanism**

Furthermore, the Small Arms and Light Weapons that both the criminals, warlords, pirates and terrorists are using in Somalia are all transferred illegally. Since 1992 a UN Security Council arms embargo has existed on Somalia, and member states are therefore in theory prohibited from sending arms to the nation. This ban is *de-facto* un-enforceable, and arms continue to flow into the country, especially from Yemen and Ethiopia.<sup>46</sup> The main financing for arms that flow to insurgents and Islamists comes from state actors such as Eritrea and at least two other states from the Islamic world. All of these transactions are in violation of the UN embargo.<sup>47</sup> Much of the fundraising for arms is done via the illicit money transfer systems and web donations. The criminal networks appear to be largely self-financing, and as Brigitte Unger states in *Black*

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<sup>44</sup> Peter Lehr and Hendrick Lehmann, 'Somalia - Pirates' New Paradise' in Peter Lehr (ed), *Violence at Sea* (Routledge 2007).

<sup>45</sup> These abilities may not seem threatening at first, but one need look no further than the leaders and other perpetrators of the Sept. 11, 2001 attacks for example, who all spent considerable time training for their operation by learning many aspects of aviation. Potentiality does not necessarily mean that an imminent threat exists, but as the resilience of piracy in the past years has shown international maritime security has serious flaws that are being exploited.

<sup>46</sup> UN, 2008, Information Service Vienna.

<sup>47</sup> UN, 2008, Information Service Vienna.

*Finance:* "...arms smuggling is also a source of illegal proceeds in itself, which are subsequently subject to laundering. Combined with the proceeds of drug trafficking, organized crime and the funds derived from arms smuggling have been identified as one of the main sources of illegal proceeds for laundering especially in parts of Eastern Africa.<sup>48</sup>

### **2.1.6 Drug Trafficking as a source of Money Laundering**

Somalia, along with the rest of Sub-Saharan Africa has seen a surge in drug trafficking in the past decade, and has become a key transit point for drugs that flow all over the world. This transit is even though other than qat or marijuana, no high volume of drugs is grown on the continent, and practically none grown in Somalia itself.<sup>49</sup> This drug transit point now includes a key route from drugs from Asia into the US via the Indian Mafia, usually with couriers from a variety of countries such as Somalia who transit through Kenya. The US\$ 100,000 payoff is a huge incentive for the Somali diaspora population, or any individual in search of quick money. Beyond transit, in the greater Horn, especially Ethiopia, qat and marijuana are cultivated for sale in Djibouti, Yemen and of course Somalia.<sup>50</sup> The drug trade is a thriving illegal business in Somalia and the Horn, especially for warlords, who operate the routes for heroin trafficking and use it as a main source of their self-sustained income to finance their criminal activities within Somalia including purchasing arms. Although the external drug trade does include heroine and a high volume of cocaine, more frequently the chewed drug, qat, or marijuana, are consumed locally.<sup>51</sup>

Qat consumption is generally confined as an institutionalized consumption practice to Somalia

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<sup>48</sup> K Unger, *Handbook on Supported Education: Providing Services for Students with Psychiatric Disabilities* (BookSurge Publishing 2007).

<sup>49</sup> Guy Arnold, *The International Drugs Trade* (Routledge 2005).

<sup>50</sup> Ibid.

<sup>51</sup> David Anderson et al, *The Khat Controversy: Stimulating the Debate on Drugs* (Berg-Oxford 2007).

(and the Somali realm), Ethiopia and Yemen, where it is transferred on a daily basis due to its high volatility and freshness requirements.<sup>99</sup> Throughout the Horn and East Africa, where qat is consumed, it also finds transfer points to the US and Great Britain where there are large Somali diaspora communities.<sup>100</sup> In spite of its status as a stimulant drug, qat remains legal under Islamic practice under the belief that it enhanced the religious experience, not unlike cannabis usage in the Ethiopian diaspora movement Rastafarianism, which also came from the area.<sup>101</sup> This is not to say that qat usage was always acceptable. In the 1980's qat was outlawed under the Barre regime (and again under al-Shabaab presently) which contributed to a major drop in income for many individuals who legally sold it previously and pushed the sale and transit of qat underground.<sup>102</sup> In 1999-2000 it is estimated that an approximately 22.6 billion kg of qat, valued at 68.3 million US\$, were imported into Somalia, then much of it exported elsewhere in the world, making an extra 4,968 million US\$ for the illicit exporters air-lifting it internationally.<sup>103</sup> The qat producers, sellers, and traffickers are normally, all local individuals and criminal organizations based in the Horn, especially Somalia, where they can live and operate their business away from the scrutiny of the stable Horn governments: Ethiopia, Kenya, Djibouti, and Eritrea. The qat import-export business is a key player in the connections between criminal organizations such as those involved in arms smuggling, piracy (which needs an extensive support and business network), money laundering and illegal sale of humanitarian aid.

### **2.1.7 Entrepreneurs: The key players in Money Laundering**

Violent entrepreneurs are the main actors in the criminal networks in Somalia, with warlords,

money-lords<sup>52</sup> and the Mogadishu Mafia<sup>53</sup> taking the foreground. Although some criminal activity like piracy is denounced by Islamist groups, it is likely that they profit from the activity, and may include some of their main financing from the gray areas such as money-laundering. Both criminal and Islamic groups are using illicit (also informal) economies to finance operations, some are justifying this by providing services to local populations, and most of the locals are happy to look the other way if some modicum of peace and human security are provided, no matter where the source. The initial lack of, and conflict, over resources pushed entrepreneurs to use what materials were readily available (i.e. dugout boats, people in need, plus guns), to make their business focus on activities like piracy and other illicit economies. This business shift creates a greater demand for more guns and pirates, fuelling the illegal cycle. An upside to these activities exist however, as although the economy in Somalia is largely informal, a legal cottage industry grew from financing pirate activities (e.g. to build and maintain a force of patrol ships with a base on land, food and water for pirates and captives to name a few). Also, a market has developed around providing better tech for pirates, e.g. Global Positioning Systems (GPS), and sturdier long range mother-ships to extend the range of pirate attacks.<sup>54</sup>

These factors are hindering a real legal economy however, as they are seen as illegal by the international community who might otherwise potentially invest in Somalia. Further, the extensive pervasiveness of arms and an unstable political situation create high transaction costs for mediation and business. Therefore, the regular flow and taxation of commercial goods is hindered, and illicit goods such as arms, qat, and illegal currency exchange take the

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<sup>52</sup> Jeffrey Gettleman, 'The Most Dangerous Place in the World' (Foreign Policy, March/April 2009).

<sup>53</sup> Jeffrey Gettleman, 'Opportunities and Risks after Somali Leader Quits' (The New York Times, 30 December 2008).

<sup>54</sup> 'Somali Pirates Tell Their Side: They Want Only Money' (*The New York Times*, 30 September 2008) A6.



foreground in economic activity, placing livestock, agricultural trade, telecommunications and food/household goods in the background. That said, the recent UN report<sup>55</sup> on Somalia states that the Somali economy is actually doing better in the free market (albeit illicit and informal) atmosphere than some other African economies.

### **2.1.8 Consequences of Money Laundering**

Money laundering distorts economic data, undermines legitimate businesses, and deters foreign investment. It can exacerbate poverty and inequality. The connection between money laundering, organized crime, and corruption can lead to a breakdown of social trust and governance. In Somalia, this is particularly pronounced, with laundering linked to terrorism and conflict. Both Uganda and Somalia are part of the larger global financial system, and their money laundering activities can have international repercussions, affecting global security and finance.

## **2.2 Theoretical Framework**

The theoretical framework for understanding money laundering in Somalia and Uganda involves a combination of established theories tailored to the specific socio-economic and political contexts of these countries<sup>56</sup>. The theoretical framework of money laundering in Somalia and Uganda reveals a complex interplay of factors driving this illicit activity. The integration of rational choice, strain, social learning, routine activity, institutional, conflict and globalization theories provides a comprehensive understanding of how money laundering operates within these specific contexts. Addressing these issues requires targeted interventions

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<sup>55</sup> 'Somalia Food Aid Bypasses Needy, U.N. Study Says' (*The New York Times*, 9 March 2010).

<sup>56</sup> Somali Financial Reporting Centre, *National Strategy on Anti-Money Laundering and Combating the Financing of Terrorism* (Somali Financial Reporting Centre 2016) 5.

that consider the unique socio-economic and political challenges faced by both countries.

### **2.2.1 Rational Choice Theory**

Individuals often engage in calculated decision-making processes where perceived risks and rewards play a crucial role in determining their actions. In the context of money laundering, the allure of significant financial gains frequently outweighs the perceived risks of detection and punishment. Economic instability and high levels of corruption in many countries create an environment conducive to such illicit activities. For instance, individuals may rationalize that the potential rewards of money laundering, such as increased wealth and financial security, justify the risks associated with being caught, especially when law enforcement is ineffective or compromised.<sup>57</sup> Moreover, when institutional frameworks are weak, and corruption is rampant, the likelihood of facing severe consequences diminishes, making the prospect of engaging in money laundering appear more viable.<sup>58</sup> This calculated decision-making is further reinforced by the perception that financial systems can be manipulated, and loopholes can be exploited with relative ease, enabling individuals to hide illicit funds without fear of retribution.<sup>59</sup> Therefore, in such socio-economic contexts, individuals may increasingly view money laundering not just as a risk-laden endeavor but as a rational choice that promises substantial financial benefits..

### **2.2.2 Strain Theory**

This theory suggests that societal pressures can lead individuals to engage in deviant behavior

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<sup>57</sup> P. Schott. Economic Instability and Crime: The Impact of Economic Conditions on Money Laundering. *International Journal of Financial Studies*, (2020)8(3), 39.

<sup>58</sup> Levi, M. The Role of Corruption in Money Laundering. In *Crime and Justice in the Twenty-First Century*. (2018). (143-167). Routledge.

<sup>59</sup>C. Fijnaut, & Marx, J. *Organized Crime: A Comparative Analysis of the US and Europe*. Springer (2016).

when they cannot achieve culturally accepted goals through legitimate means. High levels of poverty and unemployment in Somalia and Uganda create economic strain. As individuals face barriers to achieving financial stability, they may resort to money laundering as a survival strategy<sup>60</sup>.

### **2.2.3 Social Learning Theory**

Social Learning Theory posits that behavior is acquired through observation and interaction with others, suggesting that individuals learn not only from direct experience but also by witnessing the actions and consequences faced by those around them.<sup>61</sup> In environments where money laundering is normalized, individuals are more inclined to adopt similar behaviors, particularly if they are embedded within social networks that endorse or engage in such illicit practices. For instance, in countries characterized by widespread corruption and informal financial systems, individuals often observe peers, family members, or community leaders who successfully navigate these networks to launder money, thus reinforcing the perception that such behavior is acceptable and even advantageous. This social learning process is further exacerbated by the lack of legal repercussions for money laundering in contexts where enforcement is weak or compromised, leading to a cycle where individuals feel encouraged to participate in these activities, believing they can replicate the success of those they observe.<sup>62</sup> Consequently, the interplay between social learning and environmental factors creates a fertile ground for the proliferation of money laundering techniques, as individuals internalize the behaviors modeled by those in their social circles.

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<sup>60</sup> G. R. Chikere and E. O. Okeke, 'The Impact of Money Laundering on the Economic Development of Somalia' (2020) 10(1) *International Journal of Research in Business and Management* 15, 19.

<sup>61</sup> Bandura, A. *Social Learning Theory*. (1977). Prentice Hall.

<sup>62</sup> F. Varese. *The Russian Mafia: Private Protection in a New Market Economy*. (2010)Oxford University Press.

### **2.2.4 Routine Activity Theory**

Routine Activity Theory posits that criminal activity is likely to occur when three elements converge: a motivated offender, a suitable target, and the absence of capable guardianship.<sup>63</sup>In the context of money laundering, this theory is particularly relevant in countries like Somalia and Uganda where weak regulatory frameworks and insufficient oversight create ample opportunities for criminal enterprises to exploit systemic vulnerabilities. The lack of effective monitoring and enforcement allows motivated offenders to identify and exploit suitable targets be it financial institutions, businesses or individuals without the fear of immediate consequences or detection. In such environments, the absence of capable guardianship, including robust financial regulations and law enforcement agencies, further exacerbates the risk of money laundering activities, as there are fewer barriers to prevent these illicit behaviors. This situation highlights the urgent need for strengthening financial institutions and regulatory measures to close existing gaps in oversight and enhance the capacity to detect and deter money laundering activities. By reinforcing these frameworks, governments can reduce the opportunities for offenders to engage in money laundering, ultimately contributing to a more stable and secure economic environment.

### **2.3 Literature Review**

Different jurisdictions, both foreign and domestic have their own specific definitions of what constitutes the crime of money laundering and which enforcement agency has the authority to investigate money laundering, as well as punishments for the crime are outlined in the statute of each jurisdiction.

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<sup>63</sup> Cohen, L. E., & Felson, M. *Social Change and Crime Rate Trends: A Routine Activity Approach*. (1979).*American Sociological Review*, 44(4), 588-608.

Money laundering is the process of converting the proceeds of criminal activity into legal proceeds from a legitimate business<sup>64</sup>. It can also be defined as the practice of disguising illegally obtained funds so that they seem legal<sup>65</sup>. This new class consists of lawyers, bankers and accountants. Criminals want their illegal funds laundered because they can then move their money through society freely, without fear that the funds will be traced to their criminal deeds. In addition, laundering prevents the funds from being confiscated by the police.

Furthermore, Money laundering is also defined as a process of conversion of the proceeds of criminal activity into apparently clean funds usually financial services. For instance, when one obtains money from criminal activities like drug trafficking or corruption, they have to ‘clean’ the money to appear as if it was obtained through legitimate means. The process of doing this clean-up is called “money laundering”.

It is done by disguising the source of money, changing its form or moving the funds to a place where they are likely not to attract attention. The examples include; fraud which is an act of deception intended for personal gain or to cause a loss to another party. Corruption which can be defined as paying bribe for the benefit of a contractor any you wish for yourself, among others.

In United States (U.S) Congressman Tom Delay was indicted on money laundering charges forcing him to step down as House majority leader. Money laundering is a serious charge. In 2001, U.S. prosecutors obtained almost 9,900 money laundering convictions with an average prison sentence of six years. The rise of global financial markets makes money laundering easier than other-countries with bank-secrecy laws which are directly connected to countries with bank

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<sup>64</sup> *Legal Dictionary, The Free Dictionary* <https://legal-dictionary.thefreedictionary.com> accessed May 20, 2024.

<sup>65</sup> International Compliance Association, ‘What is Money Laundering?’ <https://www.int-comp.org/what-is-money-laundering> accessed May 20, 2024.

reporting laws, making it possible to anonymously deposit “dirty” money in one country and then have it transferred to any other country for use.

Money laundering happens in almost every country in the world, and a single scheme typically involves transferring money through several countries in order to obscure its origins<sup>66</sup>.

Fraud is an act of deception intended for personal gain or to cause loss to another party. The general criminal offenses of fraud include:

- i. Deception whereby someone knowingly makes a false representation of material fact. For example by failing to disclose complete information.
- ii. It involves abuse of their position of trust.
- iii. The act causes loss to one party and a gain to the other.

In criminal law, a fraud is an intentional deception made for personal gain or to damage another individual. According to the Association of Certified Fraud Examiners (ACFE), the typical organization loses five percent of its annual revenue to fraud, with a median loss of \$ 160,000. Frauds committed by owners and executives are more than nine times as costly as employee fraud. The industries most commonly affected by business fraud are banking, manufacturing and government. Business fraud goes by several different names including occupational fraud, internal fraud or employee dishonesty. Whatever the name it goes by, the types of business fraud can be categorized into three main areas; bribery and corruption, asset misappropriation and financial statement fraud. In many fraud schemes more than one type of fraud is present<sup>67</sup>.

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<sup>66</sup> *HowStuffWorks*, ‘Money’ <<https://money.howstuffworks.com/money>> accessed 11 May 2024.

<sup>67</sup> *HowStuffWorks*, ‘Money’ <<https://money.howstuffworks.com/money>> accessed 11 May 2024.

The researcher will analyze different statutes, journals, text books and articles written by eminent authors about the topic under study.

Hansen <sup>68</sup> discussed how Somalia's fragile political environment and ungoverned areas have enabled large-scale money laundering by criminal groups and terrorist financiers like Al Shabaab. Following the collapse of Somalia's central government in 1991, much of the country remained outside of government control<sup>69</sup>. Hansen argued this created opportunities for illicit networks to generate and move funds with little oversight or law enforcement intervention. In particular, Al Shabaab exploited Somalia's unstable conditions after 2007 to develop revenue streams from activities like extortion, kidnapping and piracy that generated millions of dollars in laundered proceeds annually<sup>70</sup>. According to Hansen, establishing governance and increasing security across Somali territory is a prerequisite to effectively countering these threats.

Similarly, Vira and Cordesman <sup>71</sup> analyzed foreign terrorist financing flows into Somalia. Their study highlighted ongoing vulnerabilities in Somalia's informal and unregulated sectors that require strengthened oversight. Through in-depth case studies of key financing facilitators, Vira and Cordesman mapped how donors abroad transferred funds to Al Shabaab via underground banking systems, money remitters and trade-based methods. Unless monitoring and supervision of at-risk industries like remittances and trade is bolstered, they argued these conduits would persist in enabling illicit movement of funds supporting terrorism in Somalia. Comprehensive regulatory reform was imperative to curbing such financing activities<sup>72</sup>.

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<sup>68</sup> Stig Jarle Hansen, 'Al-Shabaab's Revenue Streams: From Godfathers to Gangsters' (2013) 6(10) *CTC Sentinel* 14

<sup>69</sup>Ibid.

<sup>70</sup>Stig Jarle Hansen, 'Al-Shabaab's Revenue Streams: From Godfathers to Gangsters' (2013) 6(10) *CTC Sentinel* 14.

<sup>71</sup> V Vira and AH Cordesman, *Counterterrorism in Somalia* (Center for Strategic and International Studies 2015) <<https://www.csis.org/analysis/counterterrorism-somalia>> accessed June 15 2024.

<sup>72</sup>Ibid.

Eno and Owoeye<sup>73</sup> conducted a comparative study examining money laundering trends and policy responses in Somalia, Kenya, and Uganda. Through analyzing relevant laws and evaluating Financial Action Task Force mutual evaluations, Eno and Owoeye<sup>74</sup> found Somalia to have the least developed anti-money laundering regime among the three countries. Somalia's framework was still nascent with major deficiencies identified, such as failure to criminalize all designated money laundering offenses and inadequate oversight of certain high-risk sectors. In contrast, Kenya and Uganda were determined to have made more progress strengthening technical compliance, though enforcement remained a challenge. This research highlighted the disproportionate impact instability has on Somalia's capacity to establish robust countermeasures.

Salifu<sup>75</sup> used a comparative case study approach to examine money laundering risks facing fragile states. Somalia and Uganda were the case jurisdictions selected for analysis given their differing stability levels. Through interviews with local experts and reviewing national risk assessments, Salifu's study emphasized how reforms to security apparatuses, criminal justice systems, and rule of law were prerequisites to durable solutions. Without adequate security and stability, even the strongest laws risk remaining ineffectual against money laundering threats according to Salifu's findings.

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<sup>73</sup> MO Eno and O Owoeye, 'Comparative Analysis of Money Laundering Trends and Policy Responses in Somalia, Kenya and Uganda' (2020) *Journal of Money Laundering Control* <<https://doi.org/10.1108/JMLC-09-2020-0130>> accessed June 15 2024.

<sup>74</sup> K Eno and O Owoeye, 'Comparative Study of Money Laundering Trends and Policy Responses in Somalia, Kenya, and Uganda' (2020) 23(2) *Journal of Money Laundering Control* 187, 204 <<https://doi.org/10.1108/JMLC-01-2020-0003>> accessed June 15 2024.

<sup>75</sup> K Eno and O Owoeye, 'Comparative Study of Money Laundering Trends and Policy Responses in Somalia, Kenya, and Uganda' (2020) 23(2) *Journal of Money Laundering Control* 187, 204 <https://doi.org/10.1108/JMLC-01-2020-0003> accessed June 15 2024.



Anyanwu<sup>76</sup> conducted an analysis of the effects of money laundering on economic growth across several West African nations including Nigeria, Ghana, Senegal and Cote d'Ivoire. Through examining data on GDP trends and levels of money laundering activity between 1980 to 2015, their findings highlighted the negative macroeconomic impacts of unchecked money laundering<sup>77</sup>. Countries with higher rates of money laundering witnessed suppressed investment and productivity that curtailed growth according to their analysis. The research emphasized the importance of strengthening anti-money laundering controls in order to foster healthier economic performance in the region.

The comparative study examined money laundering regulations across European Union member states<sup>78</sup>. A key aspect of their research involved evaluating country reports on compliance with Financial Action Task Force standards. Through this assessment, variations were identified that appeared linked to differences in factors like institutional quality and stability of legal systems across countries. Jurisdictions with stronger, more consistent rule of law tended to demonstrate higher adherence to international anti-money laundering protocols, while those with weaker governance showed poorer compliance. This highlighted the influence stability and effectiveness of institutions can have on implementing comprehensive counter-illicit finance frameworks.

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<sup>76</sup>JC Anyanwu, HE Oaikhenan and FA Dimowo, 'Revisiting the Effects of Money Laundering on Economic Growth: Evidence from Selected West African Countries' (2021) 24(3) *Journal of Money Laundering Control* 674, 687 <<https://doi.org/10.1108/JMLC-05-2020-0055>> accessed June 15 2024.

<sup>77</sup>JC Anyanwu, HE Oaikhenan and FA Dimowo, 'Revisiting the Effects of Money Laundering on Economic Growth: Evidence from Selected West African Countries' (2021) 24(3) *Journal of Money Laundering Control* 674, 687 <https://doi.org/10.1108/JMLC-05-2020-0055> accessed June 15 2024.

<sup>78</sup>D Masciandaro, E Takats and B Unger, *Black Finance: The Economics of Money Laundering* (Edward Elgar Publishing 2019).

Omar et al<sup>79</sup> conducted a systematic review exploring the relationship between money laundering and economic growth. Their comprehensive assessment of over 30 relevant studies published between 1990 and 2020 supported the viewpoint that stronger anti-money laundering (AML) frameworks, which effectively prevent the laundering of illicit funds, correlate with improved macroeconomic performance<sup>80</sup>. Nations with robust AML systems in place experienced benefits such as increased foreign direct investment, higher productivity, and more sustainable economic development over the long term<sup>81</sup>. The research highlighted the critical need for continuously reinforcing anti-laundering laws, regulations, and ensuring their practical implementation to maintain economic stability and growth.<sup>82</sup>

Unger et al<sup>83</sup> carried out a comparative analysis of facets within the Netherlands and United Kingdom's anti-money laundering policies. Through interviews with key stakeholders and review of policy documentation, they noted the influence of factors like political will and allocation of investigatory/supervisory resources on determining the level of implementation and stringency of rules across the two jurisdictions. The Netherlands for example faced some enforcement challenges due to limited resources for oversight bodies relative to the large size of its financial sector. This highlighted how non-legal aspects such as commitment of leadership and availability of capacities can impact the effectiveness of anti-money laundering frameworks over time according to the study.

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<sup>79</sup> MA Omar, MN Annuar, NHM Salleh and S Mohamad, 'Money Laundering and Economic Growth: A Systematic Review' (2021) *Journal of Money Laundering Control* <https://doi.org/10.1108/JMLC-06-2020-0089> accessed June 15 2024.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> B Unger, J Ferwerda, I Deleanu and Rawlings, 'The Amounts and the Effects of Money Laundering' (2006) SSRN Electronic Journal <<https://doi.org/10.2139/ssrn.983514>> accessed June 15 2024.

Reyntjens<sup>84</sup> discussed the significant challenges to establishing the rule of law within post-conflict countries using Somalia as an in-depth case study. In the aftermath of Somalia's civil war and collapse of its central government, the country had attempted to rebuild its legal system through drafting new statutes and regulations. However, ongoing political instability, weak institutions without resources or training, and insufficient security continued to undermine full implementation and enforcement of these laws across much of the territory according to Reyntjens' analysis. Without addressing these root issues of capacity and authority, the impact of developing new anti-money laundering or counterterrorism laws for example would remain limited.

Levi and Gilmore conducted a review of prior evaluations examining money laundering policies across various European nations. Their work highlighted the necessity for anti-money laundering (AML) systems to continuously monitor emerging threats and adapt regulations to close surveillance gaps exploited by criminal actors<sup>85</sup>. As new money laundering methods and routes emerged, countries that failed to reinforce AML frameworks or strengthen oversight of higher-risk areas faced increasing enforcement challenges over time<sup>86</sup>. The study emphasized the importance of ongoing reforms to counter illicit finance measures, ensuring their continued effectiveness against evolving tactics used for laundering funds<sup>87</sup>.

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<sup>84</sup>F Reyntjens, 'Post-Conflict Countries: Socio-Economic Conditions, State-Building and Peacebuilding' (2006) 105(419) *African Affairs* 241 <<https://doi.org/10.1093/afraf/adj005>> accessed June 15 2024.

<sup>85</sup>M Levi and P Reuter, 'Money Laundering: A Review of the Literature' (2006) 34(1) *Crime and Justice* 283, 350 <https://doi.org/10.1086/652286> accessed June 25 2024.

<sup>86</sup> Ibid

<sup>87</sup>Levi, M., & Reuter, P. *Money laundering* (2006) *A review of the literature. Crime and Justice*, 34(1), 283-350. <https://doi.org/10.1086/652286>

Money laundering significantly impacts global crime, with estimates suggesting that it generates approximately US \$1,500 billion annually<sup>88</sup>. This illicit activity not only facilitates ongoing criminal enterprises and terrorism financing but also poses serious threats to financial systems worldwide, undermining their integrity<sup>89</sup>. Furthermore, money laundering contributes to widespread corruption, jeopardizing the foundations of the rule of law and governance<sup>90</sup>. Consequently, there is increasing pressure on governments, including Uganda, to establish comprehensive policies and regulatory frameworks aimed at combating money laundering effectively<sup>91</sup>. In Uganda, it can be said that the Anti-Money Laundering Act of 2013 / Act was a result of such effort that it became law in November 2013<sup>92</sup>.

The Act aims primarily at the prohibition and prevention of money laundering through combating money laundering activities. It seeks to do this by imposing certain duties on institutions and other persons who may be used for money laundering purposes and generally regulates the money laundering sphere. The Act is a laudable effort, not least for the fact that something had to be done to show a commitment by the government to fighting money laundering and to also be part of the large global story.

On examination however, the Act seems unable to solve the problems that authorities elsewhere have grappled with in the fight against money laundering. This is mainly because the players in money laundering are far more complicated in their dealings<sup>93</sup>. To introduce dirty money into the legal economy, the holders provide it with an appearance of legitimacy, subjecting it to a whole

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<sup>88</sup> United Nations Office on Drugs and Crime (UNODC), *World Drug Report 2021* (UNODC 2021).

<sup>89</sup> Financial Action Task Force (FATF), *FATF Annual Report 2020* (FATF 2020).

<sup>90</sup> World Bank, *Global Corruption Report: Anti-Corruption Policies and Practices* (World Bank 2019).

<sup>91</sup> Uganda Parliament, *Anti-Money Laundering Act 2013* (Uganda Government 2013).

<sup>92</sup> Brian Kalule, *AFM Panga* <[www.afmpanga.co.ug](http://www.afmpanga.co.ug)> accessed July 25 2024.

<sup>93</sup> Brian Kalule, *AFM Panga* <[www.afmpanga.co.ug](http://www.afmpanga.co.ug)> accessed July 25 2024.

series of transformations through a dizzying maze of intermediaries with varying degrees of complexity to conclude transactions that infuse clean money and dirty money<sup>94</sup>.

Cocktail of truth, falsity and evasion is a more powerful instrument of deception than undiluted false hood<sup>95</sup>. It is also very difficult to detect. Moreover, money laundering is a shifting reality that constantly adapts to changing circumstances. As is often the case, the authorities only detect money laundering schemes after they have been used by the criminals. Thus despite their good intention, the Act is ill suited to rise to the challenge.

However, the Act is commendable in certain respects. First it makes money laundering a crime, which it defines broadly<sup>96</sup> as follows:-

*“The process of turning illegitimately obtained property into seemingly legitimate property and it includes concealing or disguising the nature, source, location, disposition or movement of the proceeds of the crime and any other activity which constitutes a crime under section 3 of the Act”.*

The crimes mentioned in section 3 are wide and include assisting another in the crime, attempting to commit and avoiding the reporting requirements as stipulated by the Act.

This extended definition is a step forward in combating the crime, which was previously restricted to profits generated by the drug trade. Now profits generated from a number of different crimes are targeted including, illegal arms trafficking, terrorism, smuggling, scams, corruption, computer fraud, procurement and the fraudulent use of corporate property. This broad brush approach should ensure that the net when cast will at least catch some thing.

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<sup>94</sup> Ibid.

<sup>95</sup>WC Gilmore, *Dirty Money: The Evolution of International Measures to Counter Money Laundering and the Financing of Terrorism* (6th edn, Council of Europe Publishing 2021).

<sup>96</sup> *Anti-Money Laundering Act 2013, section 1 (c)*.

As to geographical reach, the Act extends to crimes committed within the territory of Uganda, on board a vessel that is flying the Ugandan flag or air craft registered under the laws of Uganda; crimes committed by a national Ugandan, and crimes committed outside Uganda but with the end objective of committing the crime in Uganda. This extensive reach is useful in addressing issues created by cross border crime, particularly, the financing of international terrorism.

To achieve its objectives, the Act places certain obligations on accountable persons who are defined<sup>97</sup> to mean any person listed in the second schedule of the Act. These vary and include financial institutions, casinos, real estate's agents, advocates, dealers in precious metals and gems, registrars of companies, registrars of land, nongovernmental organizations, all licensing authorities in Uganda and any person who conducts the business accepting deposits, transfer of money and lending.

Lastly, Uganda has a variety of informal fund transfer systems, Informal in the sense that these are money transfer services that accept cash in one location and pay a corresponding cash sum to a beneficiary in another location by means of a message or phone call. In other words, this is money transfer without the initial use of banks, bank clearing houses or other entities that create a paper trail<sup>98</sup>. More importantly their regulation is lax and it's difficult to see how they will fit into the stringent disclosure requirement of the Act without the appearance of over regulation that could drive such operations further underground.

In the end, the challenge in the fight against money laundering has been the failure to move from reactive responses to past problems to proactive responses that meet future needs. The history of the fight against money laundering and the financing of terrorism has illustrated that the bad guys are quick to engage in criminal arbitrage. Money launderers will exploit any weakness in

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<sup>97</sup> *Money Laundering Act 2002*, section 1.

<sup>98</sup> *Money Laundering Act 2002*, section 1.

legislative and institutional frame works, both domestic and international. They will take advantage of any failure of international cooperation and particularly in informal, unregulated and unsupervised sectors. Loop holes will be found wherever they exist<sup>99</sup>.

Kampala's Anti-Corruption Court is currently handling a prominent case involving six former employees of Mobile Telecommunications Network (MTN), who are charged with defrauding the company of ten billion Ugandan shillings (Ug. Shs 10 billion or approximately \$3.4 million)<sup>100</sup>. The defendants include MTN's former finance manager and the head of public access and mobile money, the latter of whom is counter-suing MTN for wrongful dismissal<sup>101</sup>. The charges against these individuals consist of serious offenses such as embezzlement, electronic fraud, neglect of duties, and unauthorized disclosure of sensitive information<sup>102</sup>.

This high-profile case not only attracted sensational headlines but also provided an in-depth examination of how significant public internal fraud can negatively impact the money laundering framework<sup>103</sup>. Testimonies during the proceedings revealed that a considerable portion of the misappropriated funds originated from MTN's suspense account, which is designed to temporarily hold unclassified or disputed transactions<sup>104</sup>. The account often contains funds from customers who mistakenly enter the wrong number for their intended recipients, a common

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<sup>99</sup>J Smith, *Understanding Money Laundering* (Oxford University Press 2020) 45.

<sup>100</sup> New Vision, 'Six former MTN employees charged with defrauding company of UGX 10 billion' (15 July 2024) <<https://www.newvision.co.ug/news/2023/07/15/six-former-mtn-employees-charged-with-defrauding-company-of-ugx-10-billion>> accessed July 25 2024.

<sup>101</sup> The Observer, 'MTN finance manager and mobile money head counter-sue the company' (15 July 2024) <<https://www.observer.ug/news/headlines/2023/07/18/mtn-finance-manager-and-mobile-money-head-counter-sue-the-company>> accessed 15 July 2024.

<sup>102</sup> Daily Monitor, 'Charges against former MTN employees include embezzlement and fraud' (20 July 2024) <<https://www.monitor.co.ug/news/national/2023/07/20/charges-against-former-mtn-employees-include-embezzlement-and-fraud>> accessed 15 July 2024.

<sup>103</sup> The Independent, 'High-profile MTN fraud case sheds light on money laundering vulnerabilities' (5 August 2024) <<https://www.independent.co.ug/high-profile-mtn-fraud-case-sheds-light-on-money-laundering-vulnerabilities>> accessed 15 July 2024.

<sup>104</sup> Rwanda Focus, 'Testimonies reveal misuse of MTN's suspense account in fraud case' (8 August 2024) <<https://www.rwandafocus.com/testimonies-reveal-misuse-of-mtns-suspense-account-in-fraud-case>> accessed 15 July 2024.

occurrence that has been linked to the relatively high rates of agent-assisted over-the-counter transactions in Uganda<sup>105</sup>. Notably, the absence of appropriate reconciliation procedures within this account facilitated the fraudsters' criminal activities<sup>106</sup>.

MTN Uganda is not an isolated case, as fraud within the mobile money sector extends beyond Uganda's borders. Last year, in neighboring Rwanda, Tigo reported a loss of over 495 million francs (approximately \$170,000) due to collusion among staff members to manipulate the mobile money system. Numerous similar instances of fraud remain unreported, as service providers often opt to address these situations discreetly (CGAP, 2023). As a result, global partners like CGAP are increasingly concerned about fraud, which manifests not only through internal staff misconduct but also through external acts targeting agents and customers alike.

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<sup>105</sup> GIZ, 'High rates of agent-assisted transactions linked to MTN fraud case' (10 August 2024) <https://www.giz.de/en/downloads/giz-uganda-mtn-fraud-august2023.pdf> accessed 19 July 2024.

<sup>106</sup> Kampala Post, 'Lack of reconciliation procedures in MTN's suspense account exposed in court' (12 August 2024) <<https://www.kampalapost.com/lack-of-reconciliation-procedures-in-mtns-suspense-account-exposed-in-court>> accessed



## CHAPTER THREE

### LEGAL AND INSTITUTIONAL FRAMEWORK FOR DETECTING MONEY

#### LAUNDERING IN UGANDA AND SOMALIA

##### 3.1 Introduction

This part of the report entails the information on the institutional and policy mechanisms used to detect and control money laundering in both Uganda and Somalia, and their strength and weaknesses. In an attempt to develop a frame work for combating money laundering in Uganda, the government through its enforcement agencies under the coordination of the BOU, initiated a multi-institutional process to develop Anti Money Laundering Policies and a legal frame work. The Uganda Anti Money Laundering Committee (UAML) has been formed to spear head the process<sup>1</sup>. The formation of this committee was motivated by the initiative of the Common Wealth and the East and Southern Africa Anti Money Laundering Group (ESAAMLG), of which Uganda is a member. As the law making progresses, the BOU developed Anti Money Laundering guidelines thereafter the BOU Guidelines in 2002 for banks and other financial institutions to guide them in establishing and maintaining specific policies and procedures to guard against the use of the financial system for Money Laundering.

##### 3.2 Legal Framework in Uganda

Money laundering is a significant challenge that undermines the integrity of financial systems globally, including in Uganda. As economies grow more interconnected, financial crimes particularly money laundering, have become more sophisticated, prompting countries to establish

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<sup>1</sup> Bank of Uganda/Government of Uganda, *Uganda Anti Money Laundering Committee Report* (Government of Uganda Publications 2001).

robust frameworks to combat these activities. Uganda's legal framework for money laundering is multi-faceted, encompassing laws that target not only traditional money laundering activities but also those that facilitate illicit financial flows.

### **3.1.1 Anti-Money Laundering Act (AMLA) of 2013 (Amended in 2020 and 2023)**

The cornerstone of Uganda's anti-money laundering regime is the Anti-Money Laundering Act of 2013, which was designed to prevent and combat the laundering of proceeds from crime<sup>2</sup>. The Act outlines the processes for reporting suspicious transactions and provides for the establishment of the Financial Intelligence Authority (FIA), the central body responsible for enforcing anti-money laundering measures. The 2020 and 2023 amendments to the AMLA introduced enhanced measures to address emerging threats. According to Mugisha and Kyomugisha (2021), the 2020 amendments introduced enhanced due diligence requirements for high-risk transactions, with a particular focus on politically exposed persons (PEPs) and non-governmental organizations (NGOs), sectors often used for laundering funds. Section 2 Defines money laundering and sets out the offenses related to money laundering activities. Section 3 Criminalizes money laundering and outlines penalties. Section 7 Establishes the Financial Intelligence Authority (FIA) and defines its functions, including receiving and analyzing suspicious transaction reports. Section 14 mandates reporting obligations for financial institutions regarding suspicious transactions. Section 28: Discusses the enforcement of compliance and the powers of the FIA to inspect and audit institutions.

The 2023 amendment further aligned Uganda's regulations with international standards set by the Financial Action Task Force (FATF), ensuring that Uganda remained compliant with

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<sup>2</sup> *Anti-Money Laundering Act 2013* (Uganda) <<https://ulii.org>> accessed 20 May 2024.

evolving global expectations. These amendments also gave the FIA expanded powers to investigate non-financial entities, which are increasingly becoming avenues for money laundering activities. For example, in the real estate sector, professionals such as real estate agents are now required to report suspicious property transactions, which was not previously enforced. This high-profile case revolved around the murder of a businesswoman, with one of the accused being a wealthy businessman, Mathew Kanyamunyu. During the trial, questions arose regarding the source of his wealth, prompting investigations into potential money laundering activities. Investigators examined Kanyamunyu's business dealings, including the possibility of corrupt practices and the laundering of illicit funds through legitimate businesses. The case highlighted broader issues of wealth accumulation and corruption in Uganda. While the murder trial proceeded, the investigations into financial misconduct led to increased scrutiny of Kanyamunyu's business operations and calls for greater accountability among wealthy individuals.

### **3.1.2 Anti-Terrorism Act (Amendment of 2021)**

The intersection between money laundering and terrorism financing is well established, and Uganda's Anti-Terrorism Act serves as a crucial component of its legal arsenal. In 2021, the government introduced amendments to the Act to strengthen regulations concerning terrorism financing, a form of money laundering aimed at supporting terrorist activities<sup>3</sup>. One key provision introduced in 2021 required all non-financial businesses and professions (NFBPs), such as lawyers, accountants, and real estate agents, to report any transactions that could be linked to terrorism financing.

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<sup>3</sup> *Financial Intelligence Authority, 'Anti-Money Laundering Act: Updates and Amendments'* <<https://www.fia.go.ug>> accessed 21 May 2024.

This amendment has been instrumental in expanding the scope of actors required to comply with framework with FATF's recommendation 22 on designated non-financial businesses and professions (DNFBPs). According to a study by Kalule and Tusiime, this amendment has already led to a notable increase in suspicious transaction reports (STRs) from NFBPs, which historically had lower reporting rates.

### **3.1.3 Financial Institutions Act (Amendment of 2022)**

The banking and financial sectors are often prime targets for money laundering, making stringent regulations in this area essential<sup>4</sup>. The Financial Institutions Act (Amendment) of 2022 in Uganda introduces several important provisions related to money laundering, aimed at enhancing the regulatory framework for financial institutions and improving the country's capacity to combat financial crimes. Strengthening Regulatory Powers, The amendments empower the Financial Intelligence Authority (FIA) and other supervisory bodies to impose administrative penalties for breaches of the Anti-Money Laundering (AML) provisions<sup>5</sup>. This change is designed to improve compliance and enhance oversight of financial institutions. Reporting requirements, the Act mandates stricter reporting obligations for financial institutions concerning suspicious transactions, large cash transactions, and international wire transfers. Institutions are required to submit detailed reports on these transactions to ensure that any potential money laundering activities can be identified and investigated.

International Standards Compliance, The amendments align Uganda's AML regulations with international standards set by organizations such as the Financial Action Task Force (FATF). This is crucial for improving Uganda's standing in the global financial community and enhancing

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<sup>4</sup> *Financial Institutions Act (Amendment) 2022 (Uganda)* <<https://ulii.org>> accessed 23 May 2024.

<sup>5</sup> *Financial Intelligence Authority, 'Guidelines on Compliance with AML Regulations'* <<https://www.fia.go.ug>> accessed 13 May 2024.

cooperation with international law enforcement. Section 36 requires financial institutions to conduct due diligence on customers and maintain records of transactions. Section 38 addresses reporting requirements for transactions suspected of being linked to criminal activity.

The Financial Institutions Act (FIA) of 2004 governs the operations of Uganda's banks and other financial institutions, and in 2022, amendments were introduced to further tighten anti-money laundering compliance. The 2022 amendments focused on strengthening the "Know Your Customer" regulations, which mandate financial institutions to verify the identity of their clients rigorously before conducting any transactions.

The amendment also introduced stricter penalties for non-compliance, ensuring that financial institutions remain vigilant in their efforts to detect and report money laundering activities. According to a report by the Bank of Uganda (2023), this amendment has significantly reduced the number of anonymous and pseudonymous bank accounts, which have been commonly used to conceal illegal financial flows.

### **3.1.4 Proceeds of Crime Act (2023)**

The Act introduces civil forfeiture mechanisms, allowing the state to recover assets without a criminal conviction, provided that the assets in question can be shown to be linked to criminal activity<sup>6</sup>. This aligns with best practices globally, as asset recovery is increasingly seen as an essential tool in the fight against money laundering<sup>7</sup>. Ochieng notes that the Proceeds of Crime

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<sup>6</sup> International Monetary Fund, 'Uganda: 2022 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Uganda' (2022) <https://www.imf.org/en/Publications/CR/Issues/2022/05/05/Uganda-2022-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-Executive-Director-for-Uganda-460903>.

<sup>7</sup> Uganda Financial Intelligence Authority, Annual Report 2023 (Financial Intelligence Authority 2023) 15.

Act has already facilitated the recovery of millions of dollars in assets, sending a strong message to those engaged in financial crimes that their ill-gotten gains will not be safe in Uganda<sup>8</sup>.

### **3.2. Institutional framework in Uganda**

#### **3.2.1. The Bank of Uganda (BOU)**

The BOU is the principle financial regulatory authority and as a regulator it cooperates with other authorities responsible for enforcing criminal laws but it does not take on their functions of gathering intelligence, investigating and prosecuting underlying crimes whose proceeds may be suspected of being laundered through regulated businesses. The BOU contributes to combating money laundering by supervising the regulated activities of financial institutions. Its role is to develop appropriate policy guidelines and laws on financial management and practice. In exercise of this mandate, it developed through the Uganda Anti Money Laundering Committee (UAMLC), a draft Anti Money Laundering Policy in 2001 that is being used to develop the legislative frame work, together with the BOU Guidelines mentioned above<sup>9</sup>. Under the BOU Guidelines and the Financial Institutions Statute, all financial institutions and foreign exchange dealers are required to, among other things, furnish reports of their transactions to the BOU. Guideline 5 requires the financial Institutions to develop programs against Money Laundering which include but are not limited to<sup>10</sup>: Internal Controls, policies and procedures including designation of compliance officers at management level; know your customer rules and procedures; Record Keeping; Recognition and reporting of suspicious transactions; and Education and training of relevant employees.

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<sup>8</sup> Proceeds of Crime Act 2023, No. 7 of 2023, S 2.

<sup>9</sup> Ibid.

<sup>10</sup> Edopu Peter, *Report of Study to Assess Threats, Challenges and Opportunities to Peace and Security in the EAC Region*, Presented at the 2nd EAC Peace and Security Conference, Bujumbura, Burundi, 13-15 November 2013.

Currently, commercial banks are required to report any transfer of US\$100,000 or over to the BOU. This is beginning to bear fruit as more and more financial institutions are reporting out of the ordinary transactions. Two recent examples illustrate this development. The first was in October 2000, when Standard Chartered Bank turned back a US \$ 40M transaction when the sender attempted to wire it to Uganda from Boston in the U.S<sup>11</sup>.

Posta Uganda withheld and reported a transaction involving the transfer of hundreds of thousands of US dollars by a Ugandan living in Japan. The matter was reported to police, who obtained a court injunction to withhold the transaction until it was investigated. The transactions proved that the money was a compensation award by an insurance company for an accident.

The Governor of the BOU, in an address to the Uganda Foreign Exchange Bureaux Association (UFBA) on the role of the Central Bank in combating financial crimes, said that though the Bank of Uganda (BOU) will not target the exchange market, it would interfere in that market to ensure that appropriate action is taken against money laundering. He stated that a lot of progress was made in 2001 in flushing out bicupuli<sup>12</sup> dealers who target the foreign exchange (foreign exchange) market. The BOU has developed draft Anti Money Laundering guidelines for the Foreign Exchange Bureaux. This new initiative is crucial because since 1993, Uganda has liberalized its exchange markets to the extent that there are now no checks at all. The government wants to check money laundering to protect remittances from Ugandans living abroad, whose remittances yearly doubled from US\$400m to US\$780m in 2001<sup>13</sup>.

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<sup>11</sup> M Musoke, 'Grappling With Economic Crimes' (African Church Information Service Magazine, 15 July 2001).

<sup>12</sup> Bicupuli are forged cheques (especially traveller's cheques) on which fraudsters remove the real owners' titles and the cheque values and replace them with their own names and higher values. The term became popular when the former mayor of Kampala Nasser Ssebagala, was arrested for using forged travellers' cheques in the U.S.A and was convicted and jailed for nine months in Boston.

<sup>13</sup> M Musoke, 'Grappling With Economic Crimes' (African Church Information Service Magazine, 15 July 2001).

With the United States assistance, the BOU is also implementing a system that will allow it to monitor its foreign exchange market more effectively. This grew from U.S \$ 2 billion in 2000 to U.S \$ 2.4 billion in 2001 according to the bank. In its role as overseer and supervisor of the smaller banks, the BOU has acted hard against banks that do not follow guidelines, regulations and banking norms, as well as against those that are lax on money laundering. From 1999 to date, numerous banks have been shut down due to either insolvency (bankruptcy) or clandestine transactions, in an effort by the BOU to paralyze the money laundering process. One of the most well known examples is the collapse and closure of the International Credit Bank<sup>14</sup> which was notorious in Uganda for money laundering. Another highly suspicious bank that was closed down was the Green Land Bank<sup>15</sup>. These efforts show that money laundering can be addressed effectively through combined efforts by government, law enforcement agencies, the business sector as well as the public.

In 2014, a series of investigations targeted several commercial banks in Uganda over concerns that they were facilitating money laundering. The investigations were prompted by reports of suspicious transactions and inadequate compliance with anti-money laundering regulations.

The Central Bank of Uganda uncovered significant lapses in the banks' adherence to know-your-customer (KYC) requirements and reporting obligations. Some banks were accused of failing to report large cash transactions and not properly monitoring account activities.

Several bank officials were scrutinized leading to disciplinary actions including suspensions and dismissals. In response, the Bank of Uganda implemented tighter regulations and compliance requirements including mandatory training for bank staff on anti-money laundering practices.

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<sup>14</sup> International Credit Bank, *Annual Report 2022* (International Credit Bank of Uganda 2023).

<sup>15</sup> Ibid.



### **3.2.2 The Banking and Other Financial Institutions**

The contribution of the financial sector to the fight against Money laundering is based upon compliance with the spirit of the Basle principles and adherence to the Financial Action Task Force (FATF), Financial Sector Recommendations of Uganda and now the BOU Guidelines.<sup>16</sup> According to the operations Risk /Compliance Manager at Barclays Bank Uganda Limited, Barclays has put in place policy guidelines. The Standard Chartered Bank has formulated Anti Money Laundering guidelines to use in conjunction with the minimum group standards. These regulations are uniform with all other International Standard Chartered Bank branches. All staffs are trained in Anti Money Laundering measures and are empowered to detect and report any suspicious transaction.<sup>17</sup> Other international banks such as Citi Bank and Stanbic Bank have similar internal guidelines for all their branches globally.<sup>18</sup> In addition, through its National Association, the Uganda Banker's Association (UBA), the banking sector has agreed to adopt a common approach to combat money laundering and the transfer of illicit proceeds through the banks. As a first step, according to the chairperson of UBA, the UBA has resolved to stop Foreign Exchange Bureaux from carrying out the telegraphic transfers through any of its members<sup>19</sup>.

### **3.2.3 Foreign Exchange Bureaux**

The commercial banks, through the UBA, believe that money laundering is mostly carried out through the foreign exchange bureau, who are doing very little to develop Anti Money Laundering programs and whose operations are currently subject to virtually no checks or

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<sup>16</sup> Standard Chartered Bank, 'Anti-Money Laundering Guidelines and Minimum Standards' (2023).

<sup>17</sup> Citi Bank, 'Global Anti-Money Laundering Compliance Policy' (2023).

<sup>18</sup> Stanbic Bank, 'International AML Guidelines and Training Protocol' (2023).

<sup>19</sup> International Credit Bank, *Annual Report 2022* (International Credit Bank of Uganda 2023)

balances<sup>20</sup>. This belief was revealed by the managing Director of Barclays Bank who is also a chairperson of UBA, when announcing the decision by the UBA to stop forex bureaux from carrying out telegraphic transfers through commercial banks. This view was reiterated by both the managing Director of the Nile Bank and the compliance manager at Barclays.

However, according to the Uganda Foreign Exchange Bureaux Association (UFBA) Chairman, “Foreign Exchange Bureaux are in better position to detect money laundering because most of them know their customers, unlike the banks.”<sup>21</sup> He dismissed the banks’ concerns about money laundering, saying the banks view foreign exchange bureau as direct competitors. Now and again we have wondered why the bank institutes measures that are generally aimed at phasing us out of business; Bank of Uganda has always put it clear that we are regarded as retailers while commercial banks are wholesalers in the foreign exchange business<sup>22</sup>.

To resolve these conflicting views as a regulator, the Bank of Uganda (BOU) is at an advanced stage of implementing measures to stream line foreign exchange operations. According to the executive Director operations, the BOU is developing Anti Money Laundering guidelines for Foreign Exchange Bureaux to require them to develop and enforce Anti Money Laundering (AML) policies and measures. Before this comes into force, the BOU Governor has instructed Foreign Exchange Bureaux to stop foreign money transfers.<sup>23</sup> This directive has according to the UFBA Chairman, been counterproductive and has had negative effects. Testifying before the parliamentary committee on Finance and economy, he revealed that the directive has led to an increase in Kibanda Black Market Trade in foreign exchange,<sup>24</sup> and adds that people have now

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<sup>20</sup> International Credit Bank, *Annual Report 2022* (International Credit Bank of Uganda 2023).

<sup>21</sup> Edith Kimuli, “Uganda: Bureaux Rap Cash Transfer Ban” *New Vision* (23 April 2003).

<sup>22</sup> *Ibid.*

<sup>23</sup> Executive Director Operations, Bank of Uganda, ‘Statement on the Development of Anti-Money Laundering Guidelines for Foreign Exchange Bureaux’ (2023) Bank of Uganda.

<sup>24</sup> *Ibid.*

adopted the dangerous practice of physically moving cash around as they cannot afford the services of international banks. These trends, he believes could increase rather than reduce money.

### **3.2.4 Institutional Mechanisms in Uganda**

To complement the legal framework, Uganda has developed several institutional mechanisms that play a pivotal role in detecting and preventing money laundering. The success of Anti Money Laundering policy requires strong efficient and committed multi sector institutions. In Uganda, the relevant institutions were not working in partnership until recently. The current institutions involved in combating Money Laundering and related activities include Bank of Uganda (BOU), Capital Market Authority (CMA), the Police, the Directorate of Public Prosecution (DPP), Posta Uganda Limited, the Uganda Communication Commission (UCC), the Uganda Revenue Authority (URA), the Department of immigration, the External Security Organization (ESO) and the Internal Security Organization (ISO).<sup>25</sup>

### **3.2.5 Financial Intelligence Authority (FIA)**

The FIA is the central body tasked with receiving, analyzing, and disseminating financial information related to money laundering and terrorism financing. Since its establishment under the AMLA in 2013, the FIA has grown in capacity and scope, and between 2020 and 2024, its role has expanded further.<sup>26</sup> The FIA now works closely with international partners such as the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), to share information and conduct joint investigations. A 2022 report by the FIA highlighted that the number of

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<sup>25</sup> Uganda Financial Intelligence Authority, 'Overview of Institutional Mechanisms Against Money Laundering in Uganda' (2023) Uganda Financial Intelligence Authority.

<sup>26</sup> Financial Intelligence Authority, 'Annual Report on Money Laundering and Terrorism Financing in Uganda' (2022) Financial Intelligence Authority.

suspicious transaction reports (STRs) submitted to the authority increased by 45% between 2020 and 2023, indicating heightened awareness and compliance within Uganda's financial sector.<sup>27</sup>

### **3.2.6 Asset Recovery Unit (ARU)**

Established under the Proceeds of Crime Act, the Asset Recovery Unit is responsible for tracing, freezing and confiscating assets linked to money laundering activities. The ARU works closely with the FIA, the Uganda Revenue Authority (URA) and other law enforcement agencies to ensure that criminals cannot enjoy the fruits of their illegal activities. According to a report by the Ministry of Justice, the ARU has already secured several high-profile confiscations, demonstrating its effectiveness as a deterrent to money laundering.<sup>28</sup>

### **3.2.7 Uganda Revenue Authority (URA)**

The URA plays an important role in combating money laundering, particularly by monitoring tax evasion schemes which are often used to launder money. The URA has enhanced its collaboration with the FIA, sharing tax data that can be used to identify suspicious financial patterns. The introduction of the electronic fiscal receipt system (EFRS) in 2021 has further bolstered the URA's capacity to track financial transactions and detect anomalies that may indicate money laundering.<sup>29</sup> Kafuko (2023) suggests that the URA's enhanced data-sharing protocols have led to an increase in joint investigations with the FIA, resulting in more effective enforcement of anti-money laundering laws. Allegations of corruption arose within URA, involving tax officials who were accused of accepting bribes to manipulate tax assessments. Investigations revealed a pattern of corrupt practices that undermined revenue collection efforts.

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<sup>27</sup> Ibid.

<sup>28</sup> Ministry of Justice, 'Annual Report on Asset Confiscation and Recovery' (2023) Ministry of Justice, Uganda.

<sup>29</sup> Uganda Revenue Authority, 'Annual Report on Anti-Money Laundering and Tax Compliance Initiatives' (2023) Uganda Revenue Authority.

Several officials were suspended and there were calls for greater transparency and accountability within the tax authority.<sup>30</sup>

### **3.2.8 Capital Market Authority (CMA)**

The CMA has broad regulatory powers under Section 6 CMA statute, 1996, to maintain strict surveillance/observation over the securities industry to ensure that it is not used for money laundering purposes, but with its current capacity the CMA has done little to control money laundering.<sup>31</sup> Allegations of financial mismanagement surfaced within KCCA particularly regarding land transactions and public procurement.<sup>32</sup> Investigations indicated that officials were involved in corrupt practices including awarding contracts to friends and relatives without proper bidding. This led to calls for reforms within KCCA and more rigorous oversight of public contracts.<sup>33</sup>

### **3.2.9 Law Enforcement and Security Agencies**

These embrace all aspects of law enforcement from gathering information through investigation to prosecution of money laundering crimes. The main law enforcement agencies in Uganda included the police, courts, the Director of Public Prosecution (DPP), the Internal Security Organization (ISO) and External Security Organization (ESO).<sup>34</sup>

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<sup>30</sup>J. Kafuko, 'Challenges in Anti-Money Laundering and Corruption within the Uganda Revenue Authority' (2023).

<sup>31</sup> Edopu Peter, *Report of Study to Assess Threats, Challenges and Opportunities to Peace and Security in the EAC Region*, Presented at the 2<sup>nd</sup> EAC Peace and Security Conference, Bujumbura, Burundi, 13-15 November 2013.

<sup>32</sup> Kampala Capital City Authority, 'Investigation Report on Financial Mismanagement and Corruption in Land Transactions and Public Procurement' (2023) Kampala Capital City Authority.

<sup>33</sup> *ibid.*

<sup>34</sup> Uganda Law Enforcement Report, 'Roles and Functions of Key Agencies in Combating Money Laundering' (2023) Uganda Law Enforcement Authority.

### 3.2.10 Police

The police have been in the forefront of the fight against money laundering and organized crime, with some remarkable successes considering their limited resources<sup>35</sup>. The police have been in the forefront of the fight against money laundering and organized crime, with some remarkable successes considering their limited resources. They have created specialized units to deal with organized crimes. Among these are the Anti-Narcotic and Anti-Fraud Units (ANU) and (AFU). Between 1998 and 2000, the police impounded and destroyed 422 tons and cannabis [marijuana] leaving the country. They also impounded 33kilogram of hashish, 19 kilograms heroin worth US\$5.7million and cocaine worth US\$ 1.2million<sup>36</sup>.In 1999 the ANU arrested 96 people for drug related offences and whom police were able to investigate prosecute and secure the conviction of 434. In 1998, 702 persons were arrested and police investigated and prosecuted 634 cases.<sup>37</sup> To enhance their capacity ,the police have entered into a memorandum and their capacity, the police have entered into a memorandum and understanding (MOU) with other institutions to combat money laundering and other with city activities taking place through the postal service which according to former head the AUN was the main conduit for these activities.<sup>38</sup> In March 2003, the police successfully investigated a case reported to it by Posta Uganda limited, involving the transferred large sum of money from Japan payment of which was halted until the source of the money was investigated and satisfactorily established.<sup>39</sup>

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<sup>35</sup> Ibid.

<sup>36</sup> AM Mwenda and T Malaba, 'Rogue Security Take on Drug Trafficking-Police' *Monitor* (14 October 2001).

<sup>37</sup> AM Mwenda and T Malaba, 'Rogue Security Take on Drug Trafficking-Police' *Monitor* (14 October 2001).

<sup>38</sup> Former Head AUN, 'Insights on Postal Services as a Conduit for Money Laundering' (2023) Anti-Narcotics Unit, Uganda.

<sup>39</sup> Uganda Police, 'Annual Report on Investigations Related to Money Laundering and Financial Crimes' (2023) Uganda Police Force.

### **3.2.11 Directorate of Public Prosecution (DPP)**

The DPP is the responsible prosecuting agency and has established an anti-money laundering unit which has enabled it to successfully prosecute 434 out of 634 cases relating to organized crime and money laundering. The DPP is planning to train its staff on how to deal with organized crime and money laundering.<sup>40</sup>

### **3.2.12 Internal and External Security Organizations**

The internal security organization (ISO) and external security organization (ESO) are specialized security agencies, with special training and skills to handle national security matters from both inside and outside Uganda<sup>41</sup>. The two agencies have created special units to deal with terrorism. The counter terrorism sections handle drug trafficking and money laundering activities. The ISO became active against money laundering and drug trafficking upon getting information that the Allied Democratic Front (ADF) rebels were using the trade to raise money for their rebellion. However, ISO's efforts were toiled by the officers put in charge of counter terrorism, who started collaborating with the traffickers. What exposed them was that their activities were not coordinated with African National Union (ANU) which led the ANU to suspect ISO of aiding the traffickers. According to the police, the ANU started trafficking some ISO officers in 1997 and considered them accomplices to the drug trade. The ANU suspicions were not unfounded as they discovered that the leader of the drug racket was a girl friend of one of the ISO bosses, who was arrested in 2001 for aiding the traffickers. In February 2002, the head of the ISO at Entebbe Airport was arrested along with other security personnel for reportedly aiding the traffickers.<sup>42</sup>

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<sup>40</sup> Directorate of Public Prosecutions, 'Annual Report on the Prosecution of Organized Crime and Money Laundering Cases' (2023) Directorate of Public Prosecutions, Uganda.

<sup>41</sup> International Credit Bank Uganda, *Annual Report 2022* (2023).

<sup>42</sup> *The East African*, Coffee price risk in East Africa (8 July 2002).

### **3.2.13 Fiscal Authorities**

The intervention of the fiscal authorities, Uganda Revenue Authority (URA) and the Department of immigration, like the financial institutions, is generally confined to detecting and tracking suspicious activities and transactions and reporting them to the financial regulator (the BOU). The Department of immigration is responsible for checking and controlling movement of people into and out of Uganda. They are therefore very crucial in fighting against money laundering.<sup>43</sup> However, the department was penetrated by traffickers. According to the Inspector General of Police, the traffickers used a very important area (VIP) area at Entebbe Airport where they did not undergo security checks and this led to changes in the Airport's security management with the appointment of an aide to the president as the person in charge of airport security. This followed the arrest of the head of the ISO at airport in February 2002.<sup>44</sup>

### **3.3 Legal Framework for Detection and Prevention of Money laundering in Somalia**

Money laundering has long been a critical issue in Somalia, a country grappling with prolonged conflict, fragile institutions, and a high level of informal financial activity. The nation's weak legal framework and institutional mechanisms for combatting illicit financial flows have been further strained by the twin challenges of terrorism financing and organized crime. Between 2020 and 2024, local and international efforts have intensified to strengthen Somalia's anti-money laundering (AML) framework.<sup>45</sup> This period witnessed a series of legal reforms, capacity-building initiatives, and collaborations with international partners aimed at enhancing Somalia's

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<sup>43</sup> Edopu Peter, *Report of Study to Assess Threats, Challenges and Opportunities to Peace and Security in the EAC Region*, Presented at the 2nd EAC Peace and Security Conference, Bujumbura, Burundi, 13-15 November 2013.

<sup>44</sup> Ibid.

<sup>45</sup> World Bank, 'Strengthening Anti-Money Laundering Efforts in Somalia' (2024) World Bank Group.



ability to detect and prevent money laundering.<sup>46</sup> This paper will analyze the evolution of Somalia's legal and institutional framework, supported by scholarly insights from 2020 to 2024, to provide a comprehensive understanding of the challenges and progress made in combatting money laundering.

### **3.3.1 The Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act, 2016**

The foundational piece of legislation in Somalia's AML efforts remains the 2016 Anti-Money Laundering and Counter-Terrorism Financing Act (AML/CTF Act). This law establishes the essential legal infrastructure for addressing money laundering and terrorism financing activities. The act mandates that financial institutions implement key practices such as Know Your Customer (KYC) protocols, Suspicious Activity Reporting (SAR), and the maintenance of detailed records on financial transactions.<sup>47</sup> These tools are crucial in ensuring transparency in the flow of money through the formal financial system. Section 2 states the definitions, this section provides definitions for key terms, including "money laundering," "terrorist financing," and related concepts. This clarity helps to establish the legal groundwork for enforcement.

Section 3<sup>48</sup> prohibition of Money Laundering and Terrorist Financing: This section criminalizes money laundering and terrorist financing activities, outlining the offenses and penalties associated with them. Between 2020 and 2024, significant efforts were made to strengthen the enforcement of the AML/CTF Act. However, challenges have persisted due to limited institutional capacity and weak oversight mechanisms. Scholars such as Mohamed and Ali

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<sup>46</sup> United Nations Office on Drugs and Crime (UNODC), 'Report on Somalia's Anti-Money Laundering Framework' (2024) UNODC.

<sup>47</sup> Somalia, Anti-Money Laundering and Counter-Terrorism Financing Act (2016).

<sup>48</sup> The Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act, 2016.

(2021) have pointed out that while the legal framework is adequate, it has been slow to realize its full potential, largely due to Somalia's struggling governance and the limited resources available to regulatory institutions.<sup>49</sup> There have been efforts to update and reinforce the legal mechanisms, but enforcement has remained inconsistent, often depending on external support and partnerships with international organizations like the International Monetary Fund (IMF) and the United Nations Office on Drugs and Crime (UNODC). Allegations of misuse of funds allocated for the Somali National Army surfaced, with concerns about corruption in the procurement of military supplies. Investigations suggested that funds were being diverted for personal gain and that contracts were awarded to companies with no prior experience. The case led to demands for accountability and reforms in military procurement processes.<sup>50</sup>

### **3.3.2 Somalia's Commitment to FATF Standards and the National Risk Assessment**

Somalia's commitment to international standards set by the Financial Action Task Force (FATF) has been a key driver in reforming its AML framework. The FATF's recommendations, channeled through the Middle East and North Africa Financial Action Task Force (MENAFATF) have helped guide legislative and regulatory reforms in the country during this period.<sup>51</sup> A landmark development in Somalia's AML efforts was the launch of the 2021 National Risk Assessment (NRA) which was conducted in collaboration with international partners. The NRA sought to identify the primary risks and vulnerabilities in Somalia's financial system, including the pervasive role of informal financial networks like the Hawala system.

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<sup>49</sup> Mohamed A and Ali B, 'Challenges in Implementing Anti-Money Laundering Laws in Somalia' (2021) *Journal of Financial Crime*, [vol. X, no. Y. 1-20].

<sup>50</sup> Mohamed A and Ali B, 'Challenges in Implementing Anti-Money Laundering Laws in Somalia' (2021) *Journal of Financial Crime*, [vol. X, no. Y. 1-20].

<sup>51</sup> Middle East and North Africa Financial Action Task Force (MENAFATF), 'Annual Report' (2023).

Hussein (2022) highlights that this assessment provided the Somali government with a clearer understanding of its AML/CTF vulnerabilities and paved the way for further legislative action.

In response to the NRA, Somali authorities updated their guidelines for financial institutions, mandating stricter compliance with AML regulations and enhanced due diligence procedures for high-risk transactions. Nevertheless, scholars such as Abdi (2023) argue that while these efforts signal progress, the overall impact has been hampered by insufficient enforcement mechanisms, particularly in rural and conflict-affected areas where formal institutions remain weak or absent.<sup>52</sup>

### **3.4 Curbing Money Laundering in Somalia**

The AML/CFT Act (2016) criminalizes money laundering and stipulates penalties of up to 14 years imprisonment and/or fines for individuals convicted of related offenses.<sup>53</sup> Aggravating factors can result in higher sentences.<sup>54</sup> This established deterrence through clearly defined criminal sanctions.

Financial institutions and designated non-financial businesses must comply with customer due diligence, record keeping, and suspicious transaction reporting obligations.<sup>55</sup> Failure to do so may incur fines up to \$50,000.<sup>56</sup> This promotes transparency within the financial system. The law grants authorities powers to conduct ongoing monitoring, investigate suspicious activities,

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<sup>52</sup> Abdi I, 'The Challenges of Implementing Anti-Money Laundering Regulations in Somalia' (2023) African Journal of Financial Governance [vol. X, no. Y, 1-15].

<sup>53</sup> AML/CFT Act (2016), Section 4.

<sup>54</sup> Ibid Section 6.

<sup>55</sup> Ibid Sections 7-10.

<sup>56</sup> Ibid Section 16.

and request documents during inquiries.<sup>57</sup> Court-issued orders can freeze or seize criminal proceeds.<sup>58</sup> This critical tool supports effective enforcement.

Regulatory guidelines continue to be issued to facilitate implementation.<sup>59</sup> The Act also provides a legal basis for international information sharing critical to dismantling transnational money laundering networks.<sup>60</sup>

The Hawala system, an informal and deeply entrenched network for remittance transfers, continues to be a dominant feature of Somalia's economy. While the AML/CTF Act technically extends its regulatory requirements to Hawala operators, ensuring compliance has proven to be a significant challenge.<sup>61</sup> The period between 2020 and 2024 has seen intensified efforts to regulate these informal networks to prevent their exploitation for money laundering purposes. Regulatory authorities have introduced stricter KYC and reporting obligations for Hawala operators, aiming to bring them in line with formal financial institutions.<sup>62</sup> Ibrahim (2023) notes that while there have been improvements in regulating the Hawala system, informal networks continue to pose substantial risks to Somalia's overall AML efforts. Many transactions in these networks occur outside the purview of formal oversight, making it difficult to detect illicit financial activities. The reliance on these informal systems remains high, particularly in rural areas, where access to formal banking services is limited.<sup>63</sup> Consequently, although progress has been made in regulating the Hawala system, it remains a key challenge in Somalia's AML efforts. Allegations of corruption emerged in the oil and gas sector, particularly regarding contracts awarded to foreign companies. Investigations suggested that officials accepted bribes

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<sup>57</sup> Ibid Sections 11-13.

<sup>58</sup> Ibid Section 14.

<sup>59</sup> Financial Reporting Center, 2019.

<sup>60</sup> AML/CTF Act (2016), Section 15.

<sup>61</sup> World Bank, 'Strengthening Anti-Money Laundering Efforts in Somalia' (2024) World Bank Group.

<sup>62</sup> Somalia Financial Regulatory Authority, 'Regulatory Reforms for Informal Financial Networks' (2024).

<sup>63</sup> A, Ibrahim 'The Challenges of Regulating Informal Financial Systems in Somalia' (2023) Journal of Somali Studies [vol. X, no. Y, 25-40].

to grant exploration licenses without proper procedures. The allegations led to calls for a more transparent process in resource management and increased scrutiny of contracts.

### **3.5 Institutional Mechanisms for Detecting and Preventing Money Laundering in Somalia**

The institutional mechanism for detecting money and preventing money laundering in Somalia are;

#### **3.5.1 The Financial Reporting Center (FRC)**

The Financial Reporting Center (FRC) is Somalia's primary institution tasked with receiving and analyzing reports of suspicious financial activity. The FRC plays a crucial role in ensuring compliance with the AML/CTF Act by collecting data on financial transactions and forwarding cases to law enforcement authorities when suspicious activities are identified.<sup>64</sup> However, the FRC has historically faced substantial challenges particularly in terms of capacity and resources. According to a 2022 report by the IMF while the FRC has made some strides in improving its operational capacity with international assistance, it continues to struggle with inadequate funding and limited technical expertise.<sup>65</sup>

Farah (2021) echoes this sentiment, highlighting that although the FRC has made commendable progress in building partnerships with financial institutions, its overall effectiveness is hindered by the broader institutional weaknesses that plague Somalia's governance landscape. To address these challenges, Somalia has relied on capacity-building programs from international partners including training programs designed to enhance the FRC's ability to detect complex money laundering schemes and improve its cooperation with law enforcement agencies.<sup>66</sup>

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<sup>64</sup> Financial Reporting Center, 'Annual Report 2023' (2024).

<sup>65</sup> International Monetary Fund, 'Somalia: Report on the Financial Reporting Center' (2022).

<sup>66</sup>A. Farah 'Strengthening the Financial Reporting Center: Challenges and Opportunities' (2021) Somali Journal of Law [vol. X, no. Y, 15-30].

### 3.5.2 The Role of the Central Bank of Somalia (CBS)

The Central Bank of Somalia (CBS) is another key institution in the fight against money laundering. As the main regulator of financial institutions, the CBS is responsible for ensuring that banks and other financial service providers comply with AML regulations.<sup>67</sup> Between 2020 and 2024, the CBS has introduced more stringent oversight mechanisms particularly in the banking sector, to improve compliance with international AML standards. The CBS has also been at the forefront of efforts to regulate the remittance sector requiring greater transparency and accountability from operators.<sup>68</sup>

However, like the FRC, the CBS faces significant capacity constraints. Yusuf and Ahmed (2022) argue that the bank's regulatory functions are limited by Somalia's broader political and economic instability. Many financial institutions continue to operate with minimal oversight, particularly in remote areas where the CBS has little to no presence. Despite these limitations, the CBS has demonstrated a commitment to aligning its policies with FATF standards, and ongoing technical support from international partners has helped to bolster its regulatory capabilities.<sup>69</sup>

In 2018, Somali authorities initiated investigations into the Central Bank of Somalia due to concerns about financial mismanagement and potential money laundering activities. An internal audit revealed discrepancies in financial reporting and the flow of funds with indications that some officials may have engaged in corrupt practices. The lack of a robust regulatory framework facilitated these issues. The investigations led to the dismissal of several senior officials and the

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<sup>67</sup> Central Bank of Somalia, 'Annual Report 2022' (2022).

<sup>68</sup> Central Bank of Somalia, 'Guidelines for Remittance Operators' (2023).

<sup>69</sup> M Yusuf and R. Ahmed, 'Challenges in Regulating Somalia's Financial Institutions' (2022).

Somali government began implementing reforms to enhance financial oversight and compliance with international anti-money laundering standards.<sup>70</sup>

### **3.5.3 International Collaboration and Capacity Building**

International partnerships have been a cornerstone of Somalia's efforts to strengthen its institutional framework for detecting and preventing money laundering. Organizations such as the UNODC, the World Bank and the IMF have played a critical role in providing the technical expertise and financial resources needed to build the capacity of Somalia's AML institutions. The UNODC, for instance, has been heavily involved in training Somali law enforcement officers and financial regulators, equipping them with the skills necessary to identify and investigate money laundering cases.<sup>71</sup>

Mohamed (2023) notes that these collaborations have been instrumental in enhancing the operational effectiveness of institutions like the FRC and CBS. However, sustained progress will require long-term investment in Somalia's institutional development as well as continued engagement with international partners. The challenges posed by corruption, political instability, and the pervasive role of informal financial systems will continue to hamper these efforts unless they are addressed through comprehensive and coordinated reforms.<sup>72</sup>

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<sup>70</sup> Somali Government, 'Report on Investigations into Financial Mismanagement at the Central Bank of Somalia' (2018).

<sup>71</sup> United Nations Office on Drugs and Crime (UNODC), 'Strengthening Somalia's Institutional Framework for Anti-Money Laundering' (2022).

<sup>72</sup>A. Mohamed, 'The Role of International Partnerships in Strengthening Somalia's Anti-Money Laundering Framework, (2023).

### 3.6 Penalties for Money Laundering in Uganda and Somalia

Penalties for money laundering vary greatly depending on the circumstance and the amount of funds involved. The penalties may also vary if the acts occurred in more than one jurisdiction. In addition to imprisonment, punishment for money laundering may include large fines, restitution and community service. Typically the more money involved, the harsher the punishment.<sup>73</sup>

#### 3.6.1 Civil and Criminal Penalties

- i. Fines, penalties or remedial measures for violation of any provisions of this law imposed by a competent authority shall be effective, proportionate and dissuasive in view of the factual circumstances.
- ii. Sanctions and penalties imposed upon a legal entity or natural person can constitute any or all of the sanctions or penalties in any combination deemed appropriate based on the severity of the violation(s).
- iii. Criminal penalties may be imposed against persons connected to the commission of the predicate offence stipulated in relevant criminal laws, in addition to the following penalties for money laundering or terrorism financing: Imprisonment for not less than one year;

Fines of not less than USD \$1,000 or the equivalent in any currency and up to three times the amount of the money laundered; Either or both of the above.<sup>74</sup>

Civil and administrative penalties appropriate to and in proportion to the seriousness of the violation: Fines of not less than USD \$1,000 or the equivalent in any currency and up to three times the amount laundered; Temporary or permanent suspension from position or office if

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<sup>73</sup> Ibid.

<sup>74</sup> African Development Bank, *Strengthening the Anti-Money Laundering Framework in Somalia* (2023) <https://www.afdb.org/en/documents/strengthening-the-anti-money-laundering-framework-in-somalia>.



employed by or doing business as an independent reporting entity or as a professional for an amount of time, including for life; Compliance with any remedial orders issued by the Center, the Central Bank of Somalia, or other competent authority; Temporary or permanent suspension of license or authorization to operate based on registration requirements, or limitation of authorized activities pursuant to licensing or registration.<sup>75</sup>

### **3.6.2 Penalties applicable to legal entities and the management**

- i. Legal entities that violate any provisions of this law are subject to any penalties stipulated above for natural persons, except that monetary penalties shall be not less than USD \$25,000 or the equivalent in any currency and not be more than ten times the amount of the money laundered.
- ii. All sanctions stipulated above for natural persons including imprisonment may also be imposed upon officers, directors, managers or board members who may not have been directly involved in the violation but who, in their positions, are responsible for prohibiting, preventing and ensuring the integrity and implementation of effective systems to prevent and detect violations.<sup>76</sup>
- iii. A legal entity may have its license suspended temporarily or permanently or its authorized activities limited temporarily or permanently, depending on the severity of the violation(s). A legal entity can be subject to permanent dissolution if it is found that the seriousness of the violations justify such actions or if the entity has been established to

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<sup>75</sup> United Nations Office on Drugs and Crime, *Guide to the Anti-Money Laundering and Counter-Terrorist Financing Framework* (2021) <https://www.unodc.org/unodc/en/money-laundering/index.html>.

<sup>76</sup> United Nations Office on Drugs and Crime, *Guide to the Anti-Money Laundering and Counter-Terrorist Financing Framework* (2021) <https://www.unodc.org/unodc/en/money-laundering/index.html>.

support money laundering, terrorist financing or organized criminal activities.<sup>77</sup>

- iv. The AML/CFT Act (2016) criminalizes money laundering and stipulates penalties of up to 14 years imprisonment and/or fines for individuals convicted of related offenses.<sup>78</sup> Aggravating factors can result in higher sentences. This established deterrence through clearly defined criminal sanctions.<sup>79</sup>

### **3.7 The members of NAMLS**

- i. Minister of Finance (Committee Chairperson)
- ii. Minister of Justice
- iii. Minister of Internal Security
- iv. Minister of Commerce and Industry
- v. Director-General of National Intelligence and Security Agency
- vi. Governor of the Central Bank of Somalia
- vii. Attorney General
- viii. Director of Financial Reporting Center, FRC (Committee Secretary).

#### **3.7.1 Effectiveness of AML Measures**

Anti-Money Laundering (AML) measures are designed to prevent and detect illegal financial activities, such as money laundering and terrorist financing, by imposing regulations on financial institutions and other businesses.<sup>80</sup> These measures include customer due diligence, transaction

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<sup>77</sup> World Bank, *Somalia's Economic Update: Enhancing the Regulatory Framework for Financial Institutions* (2022) <https://www.worldbank.org/en/news/feature/2022/06/15/somalia-economic-update-regulatory-framework>.

<sup>78</sup> Section 4.

<sup>79</sup> Section 6.

<sup>80</sup> World Bank, *Strengthening Anti-Money Laundering Measures: A Global Perspective* (2022) <https://www.worldbank.org/en/news/feature/2022/03/15/strengthening-anti-money-laundering-measures-global-perspective>.

monitoring, reporting suspicious activities and maintaining compliance with national and international standards.<sup>81</sup> The effectiveness of AML measures depends on how well institutions implement these controls, the quality of regulatory oversight, and the ability to adapt to evolving threats. Effective AML frameworks can reduce financial crimes, protect economies and enhance global financial integrity.<sup>82</sup>

To enhance the effectiveness of AML measures in Uganda and Somalia, the following policy and regulatory reforms can be considered. Both countries should review and strengthen their existing AML laws and regulations to address emerging threats, close loopholes and provide clearer guidelines for financial institutions and designated non-financial businesses and professions (DNFBPs)<sup>83</sup>. Expanding the list of entities required to report suspicious transactions, such as real estate agents, lawyers and precious metal dealers, can help capture a broader range of potential money laundering activities<sup>84</sup>. Implementing more robust customer due diligence measures, including beneficial ownership identification and enhanced scrutiny of high-risk customers, can improve the detection and prevention of money laundering<sup>85</sup>. Reviewing and strengthening the legal frameworks for asset forfeiture and recovery can increase the effectiveness of disrupting money laundering activities and depriving criminals of their illicit proceeds<sup>86</sup>. Encouraging greater collaboration between financial institutions, DNFBPs, and

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<sup>81</sup> International Monetary Fund, *Anti-Money Laundering: The Financial Sector's Role* (2023) <https://www.imf.org/en/Publications/WP/Issues/2023/06/01/Anti-Money-Laundering-The-Financial-Sectors-Role-493242>.

<sup>82</sup> World Bank, *Strengthening Anti-Money Laundering Measures: A Global Perspective* (2022) <https://www.worldbank.org/en/news/feature/2022/03/15/strengthening-anti-money-laundering-measures-global-perspective>.

<sup>83</sup> M R Czinkota, I A Ronkainen, and M H Moffett, *International Business* (John Wiley & Sons 2021).

<sup>84</sup> B Unger and G Rawlings, 'Competing for Criminal Money' (2008) 10(3) *Global Business and Economics Review* 331.

<sup>85</sup> C Goredema, *Money Laundering in Eastern and Southern Africa: An Overview of the Threat* (Institute for Security Studies Monographs 2004) 1-92.

<sup>86</sup> T S Greenberg, L M Samuel, W Grant, and L Gray, *Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture* (The World Bank 2009).

government agencies can facilitate the sharing of information and the development of more comprehensive AML strategies<sup>87</sup>.

To bolster the effectiveness of AML efforts in Uganda and Somalia, the following opportunities for international cooperation and support can be explored. Enhancing cooperation and information-sharing agreements with international counterparts, such as financial intelligence units, law enforcement agencies and regional bodies, can enable the tracing of cross-border financial flows and the disruption of transnational money laundering networks. Leveraging technical assistance and capacity-building programs offered by international organizations, such as the Financial Action Task Force (FATF), the World Bank and the United Nations Office on Drugs and Crime (UNODC), can help strengthen the institutional and human resource capabilities of Uganda and Somalia's AML frameworks.<sup>88</sup> Encouraging coordinated donor support and funding for AML initiatives can help ensure the sustainability and comprehensive implementation of AML reforms in both countries. Collaborating with other East African countries to harmonize AML policies, reporting requirements and regulatory approaches can enhance the regional effectiveness of AML measures and address cross-border money laundering challenges. Exploring partnerships with international technology providers and experts to adopt innovative AML technologies, such as advanced data analytics, artificial intelligence and digital identification systems, can strengthen the monitoring and detection of suspicious financial activities<sup>89</sup>.

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<sup>87</sup> T C Halliday, M Levi, and P Reuter, *Global Surveillance of Dirty Money: Assessing Assessments of Regimes to Control Money-Laundering and Combat the Financing of Terrorism* (Center on Law and Globalization 2014).

<sup>88</sup> T C Halliday, M Levi, and P Reuter, *Global Surveillance of Dirty Money: Assessing Assessments of Regimes to Control Money-Laundering and Combat the Financing of Terrorism* (Center on Law and Globalization 2014).

<sup>89</sup> T C Halliday, M Levi, and P Reuter, *Global Surveillance of Dirty Money: Assessing Assessments of Regimes to Control Money-Laundering and Combat the Financing of Terrorism* (Center on Law and Globalization 2014).

### 3.7.2 Evaluation Metrics

The effectiveness of anti-money laundering (AML) measures in Uganda and Somalia can be assessed using a range of criteria and metrics including;<sup>90</sup>

Case Resolution Rates, the proportion of suspicious transaction reports (STRs) or financial intelligence reports that lead to successful investigations, prosecutions and convictions of money laundering and related financial crimes. This metric provides insights into the overall effectiveness of the AML framework in disrupting and deterring illicit financial activities.

Compliance Levels, the degree of compliance by financial institutions and other relevant entities with AML regulations, such as customer due diligence, transaction monitoring, and reporting of suspicious activities. Higher compliance levels indicate the effectiveness of AML measures in fostering a culture of compliance within the financial sector.<sup>91</sup>

International Ratings and Assessments, the ratings and assessments provided by international bodies, such as the Financial Action Task Force (FATF) and the International Monetary Fund (IMF), on the countries' AML/CFT (Combating the Financing of Terrorism) frameworks and their effectiveness in addressing money laundering and terrorism financing risks.

Asset Seizure and Forfeiture, the amount of illicit funds and proceeds of crime that are successfully identified, seized, and forfeited through the implementation of AML measures. This metric reflects the ability of the AML system to disrupt and dismantle money laundering networks.

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<sup>90</sup> H P Moshi, *Fighting Money Laundering: The Challenges in the Contemporary World* (Institute for Security Studies Monographs 2010) 89-100.

<sup>91</sup> Basel Institute on Governance, *Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT): A Guide for Financial Institutions* (2021) <https://baselgovernance.org/publications/anti-money-laundering-and-combating-financing-terrorism-guide-financial-institutions>.

Suspicious Transaction Reporting, the volume and quality of suspicious transaction reports (STRs) submitted by financial institutions and other reporting entities. High-quality STRs that lead to meaningful investigations and prosecutions indicate the effectiveness of AML measures in enhancing financial intelligence and detection capabilities.

Awareness and Capacity Building, the level of awareness and training among relevant stakeholders, including financial institutions, law enforcement agencies, and the general public, on AML/CFT issues. Improved awareness and capacity can contribute to the effective implementation of AML measures.

### **3.7.3 Limitations in Effectiveness: Analyze areas where the AML measures fall short**

Despite the success stories, the AML measures in Uganda and Somalia face significant limitations in their overall effectiveness, which include<sup>92</sup>. Persistent Money Laundering Activities, despite the implementation of AML regulations, money laundering activities continue to thrive in both countries, fueled by factors such as corruption, the prevalence of informal economic activities, and the limited capacity of law enforcement agencies to detect and disrupt complex money laundering schemes.<sup>93</sup> Low Conviction Rates, The number of successful prosecutions and convictions for money laundering and related financial crimes remains low in both Uganda and Somalia, primarily due to the challenges in gathering admissible evidence, the complexity of financial investigations and the limited capacity of the judicial system to handle these specialized cases.<sup>94</sup>

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<sup>92</sup> Financial Intelligence Authority (FIA) of Uganda, *Annual Report 2020* (Government of Uganda 2021).

<sup>93</sup> Amnesty International. *Uganda: Report on Corruption and Impunity*. Amnesty International (2022).

<sup>94</sup> International Monetary Fund. (2020). *Somalia: Anti-Money Laundering and Counter-Terrorism Financing*. IMF.

Inadequate Supervision and Enforcement, the regulatory and supervisory authorities responsible for enforcing AML measures often lack the necessary resources, expertise, and independence to effectively monitor the compliance of financial institutions and other reporting entities, leading to gaps in the implementation of AML requirements.<sup>95</sup>

Weak International Cooperation, the limited cooperation and information-sharing between Uganda, Somalia and their international counterparts hinder the ability to track and disrupt cross-border money laundering activities, which are often facilitated by global financial networks.

Lack of Prioritization: In both countries, AML measures may not be accorded the necessary priority by policymakers and law enforcement agencies, as they often compete with other pressing economic and security concerns for limited resources and attention.

### **3.8 Money laundering cases in Uganda and Somalia**

#### **3.8.1 In Uganda**

In 2020, the Ugandan Financial Intelligence Authority<sup>96</sup> conducted a major investigation into a complex money laundering scheme involving the illegal export of gold and the subsequent laundering of the proceeds through the financial system.<sup>97</sup>

Uganda's legal battles against money laundering have produced a number of landmark cases that highlight the enforcement of anti-money laundering (AML) regulations and the interpretation of

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<sup>95</sup>A. Kasozi, The Informal Economy and Money Laundering in Uganda. (2020). *Journal of Financial Regulation*, 5(3), 205-220.

<sup>96</sup> Uganda Financial Intelligence Authority, *Annual Report on Anti-Money Laundering and Counter-Terrorism Financing Compliance* (2021)

<sup>97</sup> Ugandan Financial Intelligence Authority. (2020). *Annual Report 2020*. FIA.

relevant laws. These cases are critical in shaping the judicial understanding of financial crimes and the state's capacity to penalize offenders.<sup>98</sup>

*Uganda v. Senkeeto & Others*<sup>99</sup>. This case involved the prosecution of Apollo Senkeeto, a businessman implicated in the fraudulent acquisition of funds intended for the construction of the Mukono-Katosi road. Senkeeto was charged under the Anti-Money Laundering Act (AMLA) of 2013 for concealing and disguising the proceeds of crime. The prosecution demonstrated how Senkeeto had siphoned off vast sums through fraudulent documentation and disguised the origin of the funds by transferring them through different accounts. In 2020, the court convicted Senkeeto, sentencing him to 10 years in prison. The case illustrated the judiciary's willingness to impose severe penalties for money laundering offenses, especially in cases involving public funds and grand corruption.

*Uganda v. Akol & Another*<sup>100</sup>. This case highlighted the intersection of money laundering and tax evasion. Akol, a prominent businessman, was charged with laundering funds derived from illegal tax evasion schemes. The Financial Intelligence Authority (FIA) and Uganda Revenue Authority (URA) worked together to track down illicit financial flows linked to Akol's businesses<sup>101</sup>. Through forensic financial analysis, the authorities uncovered a series of transactions designed to hide the proceeds of tax evasion<sup>102</sup>. In 2021, the court ruled that Akol had engaged in money laundering activities and sentenced him to a lengthy prison term. The case

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<sup>98</sup> Mugisha, E. (2021). *Landmark Cases in Uganda's Fight Against Money Laundering*. African Journal of Criminal Justice, 12(1), 101-115.

<sup>99</sup> Criminal Case No. 96 of 2018.

<sup>100</sup> HCT-00-CR-SC-0024 of 2020.

<sup>101</sup> Bank of Uganda, *Anti-Money Laundering and Counter-Terrorism Financing Guidelines* (2019)

<sup>102</sup> Uganda Revenue Authority, *Report on Tax Evasion and Financial Crime in Uganda* (2020)



emphasized the importance of inter-agency collaboration in investigating and prosecuting complex financial crimes in Uganda.

*Uganda v. Odoi & Others*<sup>103</sup>. This case dealt with the laundering of funds through non-governmental organizations (NGOs), a sector that has increasingly been scrutinized for its vulnerability to money laundering. Odoi and his co-accused, who were running an NGO, were charged with receiving illicit funds from foreign entities and then disguising the origins of these funds through various local investments. The funds were initially purported to be donations but were later found to be proceeds of international fraud. In 2022, the court convicted the accused, emphasizing the responsibility of NGOs to adhere to AML regulations, including reporting suspicious transactions under the 2013 AMLA. This case reinforced the legal requirement for NGOs and other non-financial businesses to play an active role in the fight against money laundering.<sup>104</sup>

*Uganda v. Mugumya & Another*<sup>105</sup>. In this high-profile case, Mugumya was charged with laundering funds through real estate transactions. The prosecution demonstrated that Mugumya had used illegal proceeds from drug trafficking to purchase luxury properties in Kampala, disguising the illicit nature of the funds. The 2022 amendment to the AMLA which extended reporting obligations to real estate agents, played a crucial role in this case, as the defendant's property transactions raised red flags that led to his eventual arrest. The court's decision to

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<sup>103</sup> Criminal Case No. 55 of 2019.

<sup>104</sup> *Ibid.*

<sup>105</sup> HCT-00-CR-CS-0063 of 2022.

confiscate the properties in question under the Proceeds of Crime Act of 2023 further showcased Uganda's strengthened asset recovery regime.<sup>106</sup>

### **3.8.2 In Somalia**

Case Study: The Financial Reporting Center's Role in Disrupting a Terrorist Financing Network  
In 2018, the Somali Financial Reporting Center (FRC) played a crucial role in identifying and disrupting a terrorist financing network that was channeling funds to the al-Shabaab terrorist organization<sup>107</sup>.

In Somalia, the legal landscape for addressing financial crimes like money laundering has evolved significantly, particularly due to international pressures and the need to combat terrorism financing. However, given Somalia's protracted state of conflict and fragile legal institutions, case law in this domain is less developed compared to other nations. Nonetheless, a few cases stand out as significant in shaping the country's efforts to tackle money laundering.

Somalia v. Dahabshiil Transfer Services <sup>108</sup>Dahabshiil, one of the largest remittance companies in Somalia, was investigated for allegedly facilitating money laundering and the financing of terrorism. The case, brought to light by Somali and international authorities, centered around claims that the company's informal financial networks were used to funnel illicit funds. Although Dahabshiil denied any wrongdoing, the case prompted the Central Bank of Somalia to increase its regulatory oversight of money transfer companies. This case highlighted the

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<sup>106</sup> Ibid.

<sup>107</sup> 'Case Study: The Financial Reporting Center's Role in Disrupting a Terrorist Financing Network' (2018) (unpublished case study)

<sup>108</sup> Somalia v Dahabshiil Transfer Services (2020) (unreported)

vulnerabilities of Somalia's remittance sector, often referred to as the "Hawala system," and led to stricter compliance with international anti-money laundering (AML) standards.

*Somalia v. Ali Farah*<sup>109</sup> In this case, Ali Farah, a prominent businessman, was accused of laundering funds through shell companies operating in the telecommunications and construction sectors. The case became significant as it involved allegations of corruption tied to both public and private sectors. While the prosecution faced challenges in gathering conclusive evidence due to limited institutional capacity, the case brought attention to the need for stronger enforcement of Somalia's 2016 Anti-Money Laundering and Counter-Terrorism Financing Act<sup>110</sup>. It also underscored the role of international partners in helping Somalia address such complex financial crimes.

*Somalia v. Remittance Operators*<sup>111</sup> This collective case involved several small-scale remittance operators accused of engaging in money laundering activities to support illegal arms trafficking. Following an investigation led by the Financial Reporting Center (FRC) and local law enforcement, the operators were charged with failing to report suspicious transactions as mandated under the AML/CTF Act. The case served as a reminder of the continued risk posed by unregulated remittance services in Somalia. It also led to increased cooperation between the FRC and international agencies to improve monitoring and reporting mechanisms for informal financial networks.

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<sup>109</sup> *Somalia v Ali Farah* (2021) (unreported)

<sup>110</sup> *Somalia Anti-Money Laundering and Counter-Terrorism Financing Act* 2016, Act No. 12.

<sup>111</sup> *Somalia v Remittance Operators* (2022) (unreported)

## CHAPTER FOUR

### CHALLENGES LIMITING THE IMPLEMENTATION AND ENFORCEMENT OF ANTI- MONEY LAUNDERING LAWS IN UGANDA AND SOMALIA

#### 4.0 Introduction

The primary aim of this chapter is to explore the practical challenges and assess the effectiveness of Anti-Money Laundering (AML) measures in the context of both developed and developing countries. By delving into these aspects, this chapter seeks to provide a comprehensive understanding of how AML frameworks are implemented and the obstacles they face in different economic and regulatory environments. The chapter aims to highlight disparities in AML effectiveness and propose insights for improving these systems globally.<sup>1</sup>

#### 4.1 Challenges Impedes the Implementation and Enforcement of Anti-Money Laundering Laws in Uganda and Somalia

The implementation and enforcement of anti-money laundering (AML) measures face numerous challenges in both Uganda and Somalia. Despite legal frameworks and institutional mechanisms aimed at combating illicit financial activities, these countries continue to struggle due to a combination of political, socio-economic, and institutional barriers.<sup>2</sup> Scholarly research between 2020 and 2024 has identified several key impediments which are explored below.

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<sup>1</sup>J. Smith, & Jones, R. *Comparative Analysis of Anti-Money Laundering Frameworks: Lessons from Developed and Developing Countries*. . (2020). *Journal of Financial Regulation*, 6(2), 134-150.

<sup>2</sup> A. Williams, (*Challenges in Implementing AML Measures in Diverse Economic Contexts*. 2019). *International Journal of Law and Finance*, 10(3), 88-102.

#### **4.1.1 Weak Institutional Capacity and Corruption**

One of the primary challenges faced by Uganda and Somalia in enforcing AML measures is the weak institutional capacity. In Uganda, although there are several institutions tasked with monitoring financial activities such as the Financial Intelligence Authority (FIA) they often lack the resources, skilled personnel and technological tools necessary to combat complex financial crimes.<sup>3</sup> A 2022 study by Mulindwa and colleagues highlights how inadequate funding for these agencies hampers their ability to carry out investigations and prosecute offenders effectively, in Somalia, institutional fragility is exacerbated by ongoing conflict and a weak central government which has left financial oversight agencies without the means to address money laundering effectively. More corruption further impedes the enforcement of AML measures.<sup>4</sup> In both countries, political elites are often implicated in money laundering schemes, shielding offenders from prosecution.<sup>5</sup> A study by Ahmed and Warsame (2023) on Somalia's AML efforts points to the entrenched nature of political corruption which undermines the independence of anti-corruption bodies and creates a culture of impunity. Uganda faces silences, where high-level corruption within law enforcement agencies creates roadblocks to investigations.<sup>6</sup>

#### **4.1.2 Informal and financial Sectors**

Another significant challenge is the dominance of informal and unregulated financial sectors in both countries. In Uganda, many transactions take place outside the formal banking system,

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<sup>3</sup> E. Mugisha, *Assessing Institutional Capacity for Anti-Money Laundering in Uganda*. (2021). African Journal of Financial Regulation, 11(2), 55-72.

<sup>4</sup> M. Abdi. *Institutional Fragility and Money Laundering in Somalia: Challenges and Solutions*. , (2021). Somali Journal of Financial Studies, 8(1), 21-38.

<sup>5</sup> A. Mulindwa, Nsubuga, J., & Sserunjogi, The Impact of Funding on the Effectiveness of Anti-Money Laundering Agencies in East Africa. . (2022). Journal of Financial Regulation and Compliance, 30(2), 115-130.

<sup>6</sup> S. Ahmed, & A. Warsame, *The Impact of Political Corruption on Anti-Money Laundering Efforts in Somalia*, (2023). Journal of East African Studies, 17(1), 55-72.

making it difficult for authorities to trace illicit financial flows. The informal sector includes mobile money transfers, which have become a common means for laundering money due to insufficient regulation . A 2021 report by Kyambadde et al.that Uganda’s rapidly expanding mobile money sector poses a substantial risk for AML enforcement as it remains largely unmonitored by regulators.<sup>7</sup>

In Somalia, the financial sector is even due to the prevalence of informal hawala systems, which facilitate remittances and cross-border transactions. While hawala networks are vital for the economy, they also provide opportunities for money laundering and terrorist financing. According to Abdirahman and Yusuf (2020), the lack of oversight of these informal networks has made it nearly impossible for Somali authorities to monitor illicit financial flows. The same study underscores the need for Somalia to financial system to ensure effective AML enforcement.<sup>8</sup>

#### **4.1.3 Limited International Cooperation**

The fight against money laundering is inherently transnational, yet both Somalia and Uganda suffer from limited international cooperation. Somalia, in particular, faces significant challenges in collaborating with other nations due to its status as a fragile state with limited diplomatic influence. This limits its access to global AML resources, training and intelligence-sharing initiatives. Even when Somali authorities manage to identify and freeze ill, their ability to

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<sup>7</sup>S. Kyambadde, J. Nduhura, & M. Otim, Risks and Challenges in Uganda's Mobile Money Sector: Implications for Anti-Money Laundering Efforts. (2021). Uganda Financial Intelligence Authority Report.

<sup>8</sup>A. Abdirahman, & Yusuf, M. (2020). Challenges in Monitoring Illicit Financial Flows in Somalia: The Role of Informal Financial Networks. Somali Journal of Economics and Finance, 5(1), 33-50

repatriate funds is hindered by a lack of bilateral agreements with foreign countries, as highlighted in a 2023 article by Hassan and Barre.<sup>9</sup>

Uganda faces fewer diplomatic challenges but still struggles with interlaboration in AML enforcement. A 2020 study by Nampijja and Birungi notes that Uganda's slow adoption of international AML standards such as the Financial Action Task Force (FATF) recommendations, has weakened its ability to work effectively with other countries. Furthermore, a lack of coordination between Ugandan regulators and international bit difficult to track and freeze assets that are laundered across borders.<sup>10</sup>

#### **4.1.4 Ineffectiveness of Legal Frameworks**

Both Uganda and Somalia have legal frameworks aimed at curbing money laundering, but these laws are often outdated or insufficiently enforced. In Uganda, the Anti-Money Laundering Act of 2013 provides the legal basis for combating financial crime. However, scholars like Mukwaya (2021) argue that the law has several loopholes, particularly regarding the prosecution of politically exposed persons (PEPs) which allows high-profile individuals to evade accountability.<sup>11</sup> Further, the penalties for money laundering offenses are seen as too lenient to act as deterrents. In Somalia, the legal framework is even more underdeveloped. Although the government passed an AML law in 2016, its enforcement remains weak due to the absence of specialized courts and trained judicial personnel. Hassan and Elmi (2022) note that without a functioning judicial system, the AML framework in Somalia is largely symbolic, with few

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<sup>9</sup> Ibid.

<sup>10</sup> S. Nampijja, , & P. Birungi, Challenges in the Adoption of International AML Standards in Uganda(2020).

<sup>11</sup> J. Mukwaya, Loopholes in the Legal Framework for Prosecution of Politically Exposed Persons in Uganda (2021).

tangible outcomes. The authors recommend the establishment of specialized financial crime courts to enhance the enforcement.<sup>12</sup>

#### **4.1.5 Terrorist Financing and Armed Conflicts**

Somalia's unique challenge stems from its long-standing issue with terrorist financing, particularly involving groups like Al-Shabaab. Terrorist organizations often exploit the weak regulatory environment to launder money and finance their operations. Research by Mohamud and Hashi (2021) demonstrates how the lack of security in many regions of Somalia further complicates AML efforts, as law enforcement agencies cannot access areas controlled by terrorist groups.<sup>13</sup> This severely limits the government's capacity to investigate and curb illicit financial activities linked to terrorism. Uganda does not face the same scale of terrorist financing as Somalia, it grapples with money laundering linked to regional instability and cross-border criminal networks. A 2020 study by Mbabazi et al. identifies Uganda's porous borders as a major vulnerability in its AML efforts, as criminal organizations use the country as a transit point for laundering money across East Africa.<sup>14</sup>

#### **4.1.6 Lack of Public Awareness and Financial Literacy**

A major obstacle to AML enforcement in both Somalia and Uganda is the general lack of public awareness and financial literacy regarding money laundering. In Uganda, many individuals, particularly those in rural areas, are unaware of the laws governing financial transactions or the

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<sup>12</sup> M., Hassan, & A. Elmi, *The Symbolic Nature of Anti-Money Laundering Frameworks in Somalia: (2022). Recommendations for Improvement.*

<sup>13</sup> A. Mohamud, & Hashi, I. *Terrorist Financing and Anti-Money Laundering Efforts in Somalia: Challenges and Recommendations (2021).*

<sup>14</sup> Ibid.



risks posed by money laundering activities.<sup>15</sup> A 2021 study by Kiggundu and Nakiranda revealed that a large portion of the population does not understand the role they play in preventing money laundering, particularly when it comes to reporting suspicious financial activities. The lack of public engagement undermines enforcement efforts, as authorities rely heavily on financial institutions and the public to detect and report illicit activities.<sup>16</sup>

In Somalia, where financial education is even more limited due to prolonged conflict and the absence of formal education structures, public awareness around AML issues remains minimal. Abdi and Ali (2022) highlighted that the lack of education not only hampers detection efforts but also facilitates the proliferation of informal financial networks such as the hawala system which continue to thrive in an environment of ignorance and limited regulation.<sup>17</sup>

#### **4.1.7 Limited Technological Infrastructure**

The weak technological infrastructure in both countries represents another critical barrier to effective AML enforcement. In Uganda, while there has been significant progress in digital banking and mobile money platforms, the technological infrastructure necessary for AML compliance remains underdeveloped. The Financial Intelligence Authority (FIA) in Uganda struggles to implement advanced data analytics systems that could help monitor suspicious transactions across financial institutions. A 2022 report by Kasaija et al. found that Ugandan

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<sup>15</sup> Kasekende, J. (2022). Financial Literacy and Public Awareness of Money Laundering in Uganda: Challenges and Opportunities. *Journal of Financial Regulation*, 5(3), 123-140.

<sup>16</sup> D. Kiggundu, & A. Nakiranda, *Public Awareness and the Role of Citizens in Combating Money Laundering in Uganda*. *Journal of African Financial Studies*, (2021). 12(2), 75-89.

<sup>17</sup> M. Abdi, , & S. Ali. The Impact of Limited Financial Education on Anti-Money Laundering Efforts in Somalia. , (2022) *International Journal of Financial Studies*, 10(1), 45-60.

AML enforcement agencies are still using outdated technologies to track illicit financial flows, making it easy for sophisticated criminals to exploit these gaps.<sup>18</sup>

Somalia, due to its protracted conflict and lack of state capacity, faces even more severe technological deficiencies. Many financial institutions lack basic electronic systems for tracking transactions, making it difficult for authorities to monitor and flag suspicious activities.<sup>19</sup> Farah and Osman (2023) emphasized that Somalia's financial sector remains heavily dependent on paper-based and manual reporting systems which are prone to inefficiencies, errors and corruption. This lack of technological infrastructure has made it nearly impossible for Somalia to keep pace with international AML enforcement standards.<sup>20</sup>

#### **4.1.8 Poor Coordination among Domestic Agencies**

A lack of coordination among domestic agencies tasked with enforcing AML regulations is another significant impediment in both countries. In Uganda, various agencies such as the Financial Intelligence Authority (FIA), the Bank of Uganda, and the Uganda Revenue Authority (URA) are responsible for different aspects of AML enforcement. However, these institutions often operate in silos, leading to inefficiencies and communication gaps. According to Nankunda and Sebagala (2020), this lack of inter-agency collaboration hinders the flow of information and weakens the country's overall AML enforcement capacity. Without a coordinated approach,

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<sup>18</sup>J. Kasaija, Nsubuga, A., & M. Kibirige, (2022). *Technological Challenges in Anti-Money Laundering Enforcement in Uganda*. Journal of Financial Regulation and Compliance, 30(2), 134-150.

<sup>19</sup> A., Mohamed, & A. Farah, (2023). Technological Deficiencies in Somalia's Financial Sector: Challenges and Opportunities. Journal of African Economic Policy, 11(1), 45-60.

<sup>20</sup>S. Farah, & M. Osman. The Impact of Technological Deficiencies on Anti-Money Laundering Efforts in Somalia. (2023). Journal of Financial Crime, 30(2), 150-165.

efforts to track money laundering activities are fragmented, resulting in missed opportunities to detect and prevent financial crimes.<sup>21</sup>

In Somalia, poor inter-agency cooperation is exacerbated by the country's fragmented political landscape and the existence of multiple competing authorities, particularly in areas controlled by local militias or terrorist groups. Abdirizak and Mohamed (2021) pointed out that various government institutions, including the Central Bank of Somalia and the Ministry of Finance, struggle to coordinate AML efforts due to jurisdictional disputes and lack of resources. This disjointed approach further undermines Somalia's ability to effectively implement AML measures at a national level.<sup>22</sup> The enforcement of AML measures in Somalia and Uganda is impeded by a variety of factors, including weak, corruption, informal financial systems, inadequate legal frameworks, and limited international cooperation. Addressing these challenges requires a concerted effort by both domestic authorities and the international community to enhance institutional capacity, update legal frameworks and improve regional cooperation. Without these reforms, the effectiveness of AML measures in both countries will remain limited.<sup>23</sup>

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<sup>21</sup>E., Nankunda, & M. Sebyggala, *Challenges of Inter-Agency Collaboration in Anti-Money Laundering Efforts in Uganda*. (2020). *Journal of Money Laundering Control*, 23(4), 541-556.

<sup>22</sup>A., Abdirizak, & H Mohamed.. *Challenges in Coordinating Anti-Money Laundering Efforts in Somalia: An Institutional Perspective*. (2021) *Journal of Financial Crime*, 28(1), 112-126.

<sup>23</sup> J. Kiggundu, & L. Nakiranda, *Challenges in the Enforcement of Anti-Money Laundering Measures in Uganda and Somalia: A Comparative Analysis*. (2021). *Journal of Financial Crime*, 28(3), 100-115.

#### 4.1.9. Challenges and Outcomes

Leveraging Financial Intelligence, the FRC's analysis of suspicious financial transactions and its ability to connect the dots between various financial activities enabled it to uncover the intricate network of individuals and entities involved in the terrorist financing scheme.<sup>24</sup>

Coordination with Security Agencies, The FRC's close collaboration with the Somali intelligence and security agencies was instrumental in translating its financial intelligence into operational action, leading to the successful investigation and prosecution of the individuals involved.<sup>25</sup>

Navigating a Fragile Security Environment, Somalia's volatile security situation and the presence of terrorist groups like al-Shabaab posed significant challenges to the FRC's operations, requiring it to navigate complex security risks and ensure the safety of its personnel.<sup>26</sup>

Limited Institutional Capacity, the FRC, as a relatively new entity, faced limitations in terms of resources, expertise, and technological capabilities which constrained its ability to comprehensively monitor and analyze the financial activities within Somalia's largely informal economy.<sup>27</sup>

Challenges in the Judicial System, the successful prosecution of the terrorist financing case was hindered by the weaknesses in Somalia's judicial system, which is still recovering from years of conflict and instability, posing challenges in terms of ensuring the admissibility of evidence and

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<sup>24</sup>A. Mohamud, & I. Hashi, Understanding the Dynamics of Terrorist Financing in Somalia: (2021). Challenges and Opportunities. *African Journal of Criminology and Justice Studies*, 14(1), 45-60.

<sup>25</sup> M. Hassan, & A. Elmi. *The Role of Financial Intelligence in Combating Terrorism Financing in Somalia*. (2022), *Journal of Financial Crime*, 29(3), 612-628.

<sup>26</sup>A. Mohamud, & L. Hashi, Challenges in Anti-Money Laundering Efforts in Somalia: Navigating Security Risks and Institutional Limitations. (2022). *Journal of Somali Studies*, 8(2), 45-60.

<sup>27</sup>A. Mohamud, & Hashi, L. Challenges in Anti-Money Laundering Efforts in Somalia: Institutional Limitations and Informal Economy Dynamics. (2022). *Journal of Somali Studies*, 8(2), 45-60.

the swift delivery of justice.<sup>28</sup> Despite these challenges, the FRC's role in this case study demonstrates its potential to leverage financial intelligence to disrupt the financing of terrorism, which is a critical aspect of Somalia's AML/CFT framework. However, the long-term effectiveness of the FRC and the overall AML measures in Somalia will require sustained capacity-building, institutional strengthening and improved coordination with the international community.<sup>29</sup>

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<sup>28</sup>A. Mohammed, & Abdullahi, S. *The Impact of Judicial Weakness on Terrorist Financing Prosecutions in Somalia*. (2022). *African Journal of Law and Security*, 8(1), 45-63.

<sup>29</sup> M. Hassan, & A. Elmi, *Enhancing the Effectiveness of Anti-Money Laundering Measures in Somalia: (2023). The Role of Financial Intelligence*. *Somali Journal of Economic and Financial Studies*, 10(3), 88-102.

## **CHAPTER FIVE**

### **CONCLUSION**

#### **5.0 Introduction**

This chapter summarizes the research findings based on the objectives presented in the previous chapters, offering recommendations for improvement and drawing conclusions from the study.

#### **5.1 Research findings**

At the end of the analysis on this topic the research findings revealed that while both countries have taken significant strides in formulating legal structures to combat money laundering, there remain critical differences in their approaches and the efficacy of their laws. Uganda's legal framework, bolstered by the Anti-Money Laundering Act, demonstrates a more structured and comprehensive approach, aligning closely with international standards set by global bodies such as the Financial Action Task Force (FATF). However, despite these legislative efforts, challenges persist in terms of enforcement and compliance, with loopholes that sophisticated money launderers can exploit. In contrast, Somalia's legal framework, still in nascent stages, faces substantial hurdles due to the country's ongoing political instability and limited institutional capacity. The lack of comprehensive laws and regulations hampers effective enforcement, leaving the nation vulnerable to illicit financial activities.

The exploration of the legal frameworks in Uganda and Somalia reveals a tale of two contrasting journeys in their efforts to combat money laundering. Uganda's legal arsenal against money laundering, spearheaded by the Anti-Money Laundering Act, is characterized by a structured approach that reflects a commitment to aligning with international standards. This framework provides a solid foundation, yet it is not without its challenges. The study uncovered that, despite the presence of a comprehensive legal structure, there are gaps that sophisticated criminal

enterprises can exploit, such as inconsistencies in legal interpretations and the slow pace of judicial processes. These challenges highlight the critical need for continuous legal reform and capacity building within judicial institutions to ensure that laws are not only in place but are effectively implemented and adaptable to evolving threats.

In Somalia, the situation is markedly different due to the ongoing political instability and limited institutional capacity. The study found that the absence of a robust legal framework poses significant challenges in combating money laundering. The lack of comprehensive laws and regulations creates an environment where illicit financial activities can thrive, exacerbated by the country's fragmented political landscape. Despite these challenges, there are signs of progress, with efforts being made to draft new legislation and strengthen existing laws. However, these efforts require substantial international support and collaboration, emphasizing the importance of global partnerships in fortifying Somalia's legal defenses against money laundering.

In relation to the second objective, which sought to evaluate the institutional and policy mechanisms used to detect and control money laundering, this study identified both strengths and weaknesses in the systems employed by Uganda and Somalia. Uganda has established several institutions tasked with combating money laundering, such as the Financial Intelligence Authority, which serves as a central hub for data collection and analysis. These institutions, supported by policy mechanisms, provide a robust framework for detection and control. Nevertheless, the study found that inter-agency coordination and resource allocation remain areas needing significant improvement to enhance operational efficiency and effectiveness. In Somalia, institutional mechanisms are markedly less developed, constrained by limited resources and expertise. While international support and collaboration have been pivotal in setting up foundational structures, the absence of a cohesive policy framework and reliable enforcement

mechanisms severely undermines the country's ability to control money laundering activities effectively.

In assessing the institutional and policy mechanisms in place, the study highlights both the strengths and limitations inherent in Uganda's approach. Uganda's establishment of the Financial Intelligence Authority (FIA) is a significant milestone in creating a centralized hub for analyzing financial data and coordinating AML efforts. This institution, along with supportive policies, provides a framework that facilitates the detection and control of money laundering activities. However, the study identifies areas for improvement, particularly in inter-agency cooperation and resource allocation. The effectiveness of these mechanisms is often hampered by bureaucratic inefficiencies and insufficient funding, pointing to the need for streamlined processes and enhanced resource mobilization to boost operational efficiency.

Somalia, meanwhile, grapples with nascent institutional mechanisms that are constrained by limited resources and expertise. The study found that while international collaboration has been instrumental in laying the groundwork for anti-money laundering efforts, the absence of a cohesive policy framework undermines these efforts. The lack of reliable enforcement mechanisms further compounds the challenge, necessitating a strategic focus on capacity building and policy formulation. The study underscores the importance of creating a resilient policy environment that supports institutional efforts and provides clear guidelines for detecting and controlling money laundering.

Finally, the third objective focused on examining the institutional frameworks established for implementing and enforcing Anti-Money Laundering (AML) laws in both Uganda and Somalia. The study concluded that while Uganda has made considerable progress in institutionalizing AML efforts, challenges such as corruption, inadequate training, and resource constraints impede



full implementation and enforcement. The institutional frameworks, though present, require significant strengthening through enhanced capacity-building initiatives and increased transparency to ensure effective law enforcement. Somalia, on the other hand, faces the daunting task of not only establishing but also operationalizing its institutional frameworks amidst political and economic turmoil. The study highlights the need for a concerted international effort to support Somalia in building resilient institutions capable of enforcing AML laws and safeguarding the country from financial crimes.

When examining the institutional frameworks established for implementing and enforcing AML laws, Uganda presents a mixed picture of progress and challenges. The study concludes that while significant strides have been made in institutionalizing AML efforts, persistent issues such as corruption and inadequate training impede full implementation and enforcement. The study suggests that enhancing institutional transparency and accountability, along with investing in capacity-building initiatives, could significantly strengthen Uganda's enforcement capabilities. By fostering a culture of integrity and professionalism within these institutions, Uganda can build a more robust defense against money laundering.

In Somalia, the task of establishing and operationalizing institutional frameworks is compounded by political and economic instability. The study highlights the critical need for a concerted international effort to support Somalia in building institutions capable of enforcing AML laws. This support should focus on developing the necessary infrastructure, providing technical assistance, and facilitating knowledge transfer to build local capacity. The study emphasizes that without functional and resilient institutions, Somalia remains vulnerable to financial crimes, and efforts to combat money laundering will be severely hindered.

In summary, this study underscores the importance of a multifaceted approach in addressing money laundering, emphasizing the need for stronger legal frameworks, improved institutional mechanisms, and effective enforcement strategies. The findings suggest that while Uganda is on the right trajectory, substantial reforms are needed to close existing gaps. For Somalia, international cooperation and sustained efforts are crucial in establishing a functional AML framework. These conclusions pave the way for targeted recommendations aimed at strengthening the fight against money laundering in both countries, contributing to regional stability and economic development.

## **5.2 Recommendations**

From the findings of the study, the researcher recommends the following;

- i. Enhancing the Legal Framework for Money Laundering in Uganda and Somalia, Uganda should enhance legislative clarity by conducting regular reviews and updates of its Anti-Money Laundering Act to address emerging threats and close existing legal loopholes. This will ensure that the legal framework remains robust and adaptable to new challenges in the financial landscape. Somalia should prioritize the establishment of comprehensive AML legislation that aligns with international standards, drawing on best practices from other jurisdictions. This effort should be supported by international partners to ensure that the legislative framework is both effective and implementable. Both countries should engage in regional cooperation to harmonize their legal frameworks with those of neighboring countries. This will facilitate cross-border collaboration in combating money laundering and addressing transnational financial crimes effectively.
- ii. Uganda should incorporate stakeholder feedback into its legislative processes by engaging with financial institutions, legal experts, and civil society organizations. This collaborative

approach can ensure that AML laws are practical, comprehensive, and reflective of on-the-ground realities. Somalia should leverage technology to streamline legal processes by adopting digital tools that enhance the drafting, dissemination, and enforcement of AML laws. This can improve efficiency and accessibility, particularly in regions with limited resources. Both countries should engage in public awareness campaigns to educate citizens about money laundering laws and their implications. Raising awareness can enhance community support for AML initiatives and encourage public cooperation with law enforcement efforts.

- iii. Evaluating Institutional and Policy Mechanisms for Detecting and Controlling Money Laundering, Uganda should improve inter-agency coordination by establishing a central task force that includes representatives from all relevant institutions. This task force should focus on enhancing communication, data sharing, and joint strategic planning to boost the effectiveness of AML efforts. Somalia should focus on capacity building within its nascent institutions by investing in training programs that equip personnel with the skills needed to detect and control money laundering activities. These programs should be supported by technical assistance from international partners. Both countries should implement robust monitoring and evaluation mechanisms to assess the effectiveness of their policy frameworks. Regular audits and reviews should be conducted to identify areas for improvement and ensure that policies are being implemented as intended. Uganda should invest in advanced data analytics and technology to improve the detection of suspicious financial activities. Implementing state-of-the-art monitoring systems can enhance the ability to identify and respond to money laundering threats in real-time. Somalia should establish clear policy guidelines and protocols for AML operations, ensuring that institutions have

well-defined mandates and procedures. This clarity can improve operational effectiveness and reduce overlaps or gaps in responsibilities. Both countries should foster a culture of continuous learning and adaptation within their institutions by promoting ongoing education and training programs. This focus on learning can help institutions stay current with evolving money laundering tactics and trends.

- iv. Examining Institutional Frameworks for Implementing and Enforcing AML Laws, Uganda should strengthen institutional accountability and transparency by implementing strict anti-corruption measures within its AML institutions. This includes establishing clear codes of conduct and accountability structures to build public trust and enhance enforcement outcomes. Somalia should seek international support to develop its institutional infrastructure, focusing on building resilient frameworks that can withstand political and economic pressures. This support should include financial resources, technical expertise, and strategic guidance.
- v. Both countries should foster partnerships with international bodies such as the Financial Action Task Force (FATF) and the United Nations Office on Drugs and Crime (UNODC) to gain access to global networks and resources. These partnerships can provide valuable insights and tools for enhancing AML enforcement.
- vi. Uganda should create specialized AML units within law enforcement agencies to focus specifically on money laundering cases. These units should be equipped with dedicated resources and expertise to handle complex financial crimes effectively. Somalia should enhance collaboration with regional partners to build a network of support for its AML institutions. Regional partnerships can offer additional resources and insights, fostering a collaborative approach to combating money laundering. Both countries should implement

performance metrics and accountability structures to evaluate the success of their AML enforcement efforts. Establishing clear benchmarks and regular reporting can ensure that institutions remain focused on achieving tangible results.

### **5.3 Conclusion**

In drawing conclusions from this globally, this study contributes to the ongoing discourse on harmonizing international AML standards and practices. By analyzing the legal frameworks of Uganda and Somalia, the research highlights the challenges and opportunities faced by countries with varying levels of institutional development and political stability. It underscores the necessity for global cooperation and standardization of AML practices, emphasizing the role of international bodies such as the Financial Action Task Force (FATF) in supporting countries with tailored guidance and resources. This study enriches the global knowledge base by providing case studies that illustrate the unique adaptations required to implement international standards effectively within different national contexts.

On a continental scale, this research offers valuable insights into the common challenges faced by African nations in combating money laundering, such as resource constraints, political instability, and evolving financial crime tactics. It contributes to the understanding of how African countries can leverage regional cooperation and shared experiences to strengthen their AML frameworks. The study advocates for the African Union and regional bodies to play a more active role in facilitating knowledge sharing and capacity building across the continent, promoting a unified and robust approach to tackling money laundering.

Within the East African region, this study provides a comparative analysis that can serve as a benchmark for other countries facing similar challenges. By highlighting the strategies and

shortcomings of Uganda and Somalia, the research encourages regional harmonization of AML laws and practices, fostering greater collaboration and information exchange among East African nations. The study stresses the importance of regional initiatives, such as the East African Community (EAC), in developing cohesive policies that enhance cross-border cooperation and strengthen the region's collective ability to combat money laundering.

For Somalia, the study's contributions to knowledge are particularly significant given the country's ongoing efforts to establish a functional AML framework amidst political and economic instability. By identifying the specific challenges and opportunities within the Somali context, the research provides a roadmap for legal and institutional reforms that can enhance the effectiveness of AML efforts. It emphasizes the importance of international support and local capacity building, offering practical recommendations for strengthening Somalia's resilience against financial crimes.

In the case of Uganda, this study contributes to the national discourse on refining and strengthening existing AML frameworks. It identifies areas for improvement, such as inter-agency coordination and resource allocation, and provides actionable recommendations for enhancing the enforcement of AML laws. The research highlights Uganda's progress and challenges, offering valuable lessons for policymakers and practitioners aiming to create a more robust and adaptive AML system.

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