Diffusion of International Anti-Money Laundering Standards into Ethiopian Laws:
Issues of Adequacy and Effectiveness

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Abstract

Ethiopia has signed and ratified several international and regional instruments adopted to combat and prevent money laundering (ML) and other forms of organized crime. To express the country's commitment to implement these instruments and combat the threat of ML and associated predicate offenses to the country's financial stability and national security, the government of Ethiopia has enacted various anti-money laundering (AML) laws. This article examines the diffusion of the international AML standards into Ethiopia's legal system and the adequacy of the country's AML legal norms in addressing the structural causes of ML and its predicate offenses. A socio-legal research approach was utilized to conduct the study. It uncovers that Ethiopia's AML legal norms have evolved primarily because of external pressure. Ethiopia was pressurized to comply with the international AML standards, specifically with the Financial Action Task Force on Money Laundering (FATF) 40 Recommendations. Eventually, the country's AML norms comply with FATF recommendations. This saved the country from being labeled as a country with strategic AML deficiencies or being blacklisted as a non-cooperative country and territory. It is unlikely, however, to alter the structural causes of ML and its predicate offenses. To curb the peril of ML to Ethiopia's economy and security, it is necessary to either transform the country's economy from cash-intensive to cashless or enact comprehensive AML legal norms that reflect the country's social, political, and economic settings.

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1. Introduction

Ethiopia signed and ratified several international and regional instruments that incorporate AML measures. Ethiopia ratified the *United Nations (UN) Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* of 1988 (Vienna Convention),[1] *the UN Convention Against Transnational Organized Crime* of 2000 (Palermo Convention) with its three supplementary protocols,[2] and the *UN Convention against Corruption* of

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Frequently used acronyms

AML	Anti-money laundering
AML/CFT	Anti-money laundering/ Combatting the financing of terrorism
DNFBPs	Designated non-financial businesses and professions
ESAAMLG	Eastern and Southern African Anti-Money Laundering Group
FATF	Financial Action Task Force on Money Laundering
FIS	Ethiopian Financial Intelligence Service
ML	Money laundering
UNODC	United Nations Office on Drugs and Crime

[1] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1998).

[2] Proclamations enacted to ratify the (i) United Nations Convention Against Transnational Organized Crimes Proclamation No.526/2007; (ii) Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition Ratification Proclamation No. 735/2012; (iii) Protocol against the Smuggling of Migrants by Land, Sea and Air Ratification Proclamation No.736/2012; (iv) Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Ratification Proclamation No.737/2012.

2003[3]. Ethiopia also ratified the *African Union Convention on Preventing and Combating Corruption,*[4] and the IGAD Conventions on *Mutual Legal Assistance and Extradition*[5]. These treaties became an integral part of the laws of the country, according to Art 9(4) of the *FDRE Constitution.*

To comply with those international AML standards and to express the country's commitment to be part of the international campaign against ML, several domestic AML normative frameworks were enacted. ML was first criminalized in the Ethiopian legal system in 2004 which revised the *Penal Code* of 1957. One of the reasons for the revision of the Code was to incorporate modern legal concepts. ML was one of the modern legal concepts incorporated into the *Criminal Code.*[6] After five years, a detailed AML law–*Prevention and Suppression of ML and the Financing of Terrorism Proclamation No. 657/2009*[7] was enacted thereby augmenting the *Criminal Code* through a special legislation. In 2013, Proclamation No. 657/2009 was repealed and replaced by *Proclamation No. 780/2013.*[8] Apart from the main AML law, the Ethiopian Financial Intelligence Service (FIS) enacted two directives that regulate, respectively, the compliance of financial institutions[9] and certain non-financial businesses and professions[10] to the Ethiopia's AML

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[3] UN Convention against Corruption Ratification Proclamation No. 544/2007.

[4] The African Union Convention on Preventing and Combating of Corruption Ratification Proclamation No. 545/2007.

[5] IGAD Convention on Mutual Legal Assistance in Criminal Matters Ratification Proclamation No.732/2012; IGAD Convention on Extradition Ratification Proclamation No. 733/2012.

[6] See Art. 684 of the Criminal Code of the Federal Democratic Republic of Ethiopia (FDRE Criminal Code) (2004).

[7] A Proclamation on Prevention and Suppression of Money Laundering and the Financing of Terrorism Proclamation No. 657/2009.

[8] A Proclamation on Prevention and Suppression of Money Laundering and the Financing of Terrorism No. 780/2013.

[9] Financial institution means a bank, an insurance company, a microfinance institution, postal savings, money transfer institution, or any other institution designated as such by the National Bank of Ethiopia pursuant to the relevant law. See more at Ethiopia Financial Intelligence Service (FIS), (2014), 'Financial Anti-Money Laundering and Countering the Financing of Terrorism Compliance Directives No. 01'.

[10] Designated non-financial businesses and professions (DNFBPs) include trust service providers; real estate agents, developers and brokers; miners and dealers in precious metals or precious stones; lawyers, notaries and other independent legal professionals when they prepare for, carry out or engage in transactions with their client or on behalf of their client; independent accountants and audit firms; and other businesses and professions that may be designated by the Ethiopian FIS. See more at FIS, (2016),

law. Moreover, a national *AML/CFT* (Anti-money laundering/ Combatting the financing of terrorism) *Policy* was issued in 2019.[11]

The diffusion of international AML standards into Ethiopia's legal system as well as the adequacy of existing legal norms in addressing the structural causes of ML and its predicate offenses are fundamental issues that necessitate exploration. Thus, the main purposes of this article are to: (i) examine how the international AML standards have been diffused into the Ethiopian legal system, and (ii) explore how adequate are Ethiopia's AML legal norms in addressing the underlying causes of ML and its predicate offenses. To conduct this study both primary and secondary data were collected. The primary data were collected through in-depth interviews with participants from the Ethiopian Financial Intelligence Service (FIS), the Ministry of Justice, and other experts who have knowledge and engagement with the country's AML initiatives. The secondary data were collected from government reports, media releases, FATF public statements, and the reports of other international and regional organizations such as the World Bank, European Union, and Eastern and Southern African Anti-Money Laundering Group (ESAAMLG).

This article is organized into six sections, including an introduction and a conclusion. The second section looks at international AML standards. The third section reviews the global experience with the diffusion of international AML legal norms. The fourth section deals with the diffusion of international AML standards into Ethiopia, and the fifth section examines the adequacy of the country's AML legal norms to address the threats of ML to the country's financial integrity and national security.

2. International Anti-Money Laundering Standards

The international legal order against ML was created in the late 1980s.[12] In 1988, the *Vienna Convention* was enacted. A year later, FATF was established. In 2000 and 2003, respectively, the *Palermo* and *Merida Conventions* were endorsed. The FATF has issued 40 recommendations that

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'Designated Non-Financial Business and Professions' Anti-money Laundering and Countering the Financing of Terrorism Compliance Directives No. 02'.

[11] FDRE (2019), 'National Anti-money Laundering and Combating the Financing of Terrorism Policy'.

[12] Roberto Durrieu (2013), '*Rethinking money laundering & financing of terrorism in international law: Towards a new global legal order*', Martinus Nijhoff Publishers; N Beekarry (2011), 'International anti-money laundering and combating the financing of terrorism regulatory strategy: a critical analysis of compliance determinants in international law,' *Nw. J. Int'l L. & Bus.*, *31*, at 137.

countries should implement in their criminal justice systems, regulatory bodies, and financial institutions to prevent and suppress ML. Other organizations such as the World Bank, International Monetary Fund (IMF), the Egmont Group of financial intelligence units, and the Basel Committee on Banking Supervision have all contributed to the development of the international AML legal order. The primary international AML legal standards, however, are the UN Conventions and FATF Recommendations.

2.1 International anti-money laundering standards in the UN spectrum

The UN is the first international organization to undertake significant action to fight ML. The UN endorsed three notable conventions cognate of ML and other facets of organized crime: the *Vienna Convention*, *Merida Convention,* and *Palermo Convention* and its supplementary three *Protocols*. The *Vienna Convention* is the first international legal instrument to address the issue of proceeds of crime and requires States to establish ML as a criminal offense.[13] The Convention intends to undermine the financial strength of drug traffickers by imposing a binding obligation on its Parties to criminalize the act of laundering the proceeds of drug-related crimes including the need to identify and trace criminal proceeds, adopt confiscation measures, and enhance international cooperation between law enforcement organs and other concerned bodies.[14]

The *Vienna Convention* has widespread acceptance; so, it is regarded as the foundation of the international legal regime in the AML field because it sets the path for more concerted efforts to address the problem of ML.[15] The major deficiency within the wording of the *Vienna Convention* as far as ML is concerned, however, was its specificity in scope and application, i.e., only drug-related ML.[16] This meant that money generated from other offenses fell within the convention's blind spot and as such was free to be laundered without encroaching on any instruments against ML. This lacuna led to the criminalization measures initiated by the *Palermo Convention.*

The Palermo Convention, *the UN Convention against Transnational Organized Crime*, represents a major step forward in the fight against

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[13] P. Alldridge (2016). '*What Went Wrong with Money Laundering Law?'* London: Palgrave Macmillan.

[14] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) (1988).

[15] W. C. Gilmore (2004). '*Dirty money: the evolution of international measures to counter money laundering and the financing of terrorism,'* Council of Europe.

[16] Ibid.

transnational organized crimes, notably ML. While this is similar to the *Vienna Convention*, it goes further by expanding the scope of the predicate offence[17] of ML beyond drug trafficking. It specifically obligates signatory countries to include all serious crimes as predicate offenses for criminalizing ML.[18] Serious crime according to this Convention means an offense punishable by a maximum deprivation of liberty of at least four years or more serious penalty.[19] Akin to the *Vienna Convention*, the *Palermo Convention* requires signatory states to criminalize ML and its underlying offenses, establish a comprehensive domestic regulatory and supervisory regime, establish financial investigation units, and develop global, regional, sub-regional, multilateral, and bilateral cooperation to combat ML.[20]

The *Palermo Convention* was supplemented by three protocols: Protocol against the Smuggling of Migrants by Land, Sea, and Air; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components, and Ammunition.[21] Human trafficking, migrant smuggling, and firearms trafficking create opportunities for criminal syndicates to earn high profits, which are then laundered and intermingled into legitimate businesses or utilized to commit further criminal activities. Concerning ML, these protocols have two main goals: (i) to prevent and suppress predicate offenses covered in each protocol, and (ii) to detect, freeze, seize, and confiscate the proceeds of these criminal activities.

Since corruption is a major factor that hinders the combating of various types of serious crimes, the Merida Convention–*UN Convention against Corruption*–was adopted on 31 October 2003 and came into force on 14 December 2005. The main purpose of this Convention is to ensure that all

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[17] Since ML is an epicenter of illicit businesses and the only way to be able to use one's ill-gotten gains in the legal economy, it is necessary to commit two autonomous criminal acts (with both its probability of conviction and sentence) to profit from criminal behavior: the crime itself and laundering of the proceeds of the crime. The first crime that produces proceeds is called a predicate offense. Schott defines a predicate offense for ML as "the underlying criminal activity that generates proceeds, which when laundered, leads to the offense of ML". 'Criminal assets' can be derived from the commission of any type of predicate offense that generates revenue. See more at P. A. Schott (2006), '*Reference guide to anti-money laundering and combating the financing of terrorism*,' World Bank Publications, at 3; *See also* Durrieu, *supra* note 12 at 12.

[18] United Nations Convention against Transnational Organized Crime (Palermo Convention) (2000), Art. 6(2(b).

[19] Id., Art 4.

[20] Id., Art 7.

[21] Ibid.

Contracting States criminalize and put in place measures against corruption.[22] The Convention has criminalized several acts of corruption and the laundering of corruption proceeds.[23]

Apart from the UN General Assembly's adoption of conventions and protocols, other UN organs such as the UN Security Council (UNSC) and the United Nations Office on Drugs and Crime (UNODC) played a crucial role in combating ML and its underlying offenses. The UNSC endorsed resolutions concerning ML which are binding on all UN member states. In 2005, the Council through its Resolution 1617, urged all Member States to implement the comprehensive, international standards embodied in the FATF 40 Recommendations on ML.[24] The Global Program against Money Laundering, Proceeds of Crime, and the Financing of Terrorism (GPML) of UNODC actively operate in the fight against ML.[25] The objective of the program is to strengthen the ability of Member States to implement measures against ML and the financing of terrorism and to assist them in detecting, seizing, and confiscating illicit proceeds.[26]

2.2 FATF's anti-money laundering standards

The G-7 industrialized countries established FATF[27], an inter-governmental body, at the end of 1980s. FATF was created in response to the growing concern about the global drug problem.[28] During the mid of 1980s, there was widespread recognition of international drug trafficking, as a global problem requiring a global resolution. By the late 1980s, the global drug trade that was lucrative to drug traffickers, was a concern for citizens and governments of the world.[29] Both drugs and drug money moved across borders freely, and national legislation and law enforcement seemed powerless to put a halt to

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[22] United Nations Convention against Corruption, 2003.

[23] Id., Art. 23.

[24] UNSC, Resolution 1617 (2005), https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/446/60/PDF/N0544660.pdf?OpenElement

[25] See more at 'Global Programme against Money Laundering,' https://www.unodc.org/unodc/en/money-laundering/global-programme-against-money-laundering/.html

[26] Ibid.

[27] See FATF member countries at: https://www.fatf-gafi.org/en/countries/fatf.html The European Commission and the Gulf Co-operation Council are counted as members.

[28] FATF (2019), *Financial Action Task Force – 30 Years* (1989-2019),' FATF, Paris.

[29] M.M. Gallant (2014). 'Money Laundering Consequences: Recovering Wealth, Piercing Secrecy, Disrupting Tax Havens and Distorting International Law,' *Journal of Money Laundering Control*, 17 (3), pp. 296–305, https://doi.org/10.1108/JMLC-12-2013-0048

it.[30] The G-7 industrialized countries' ministers decided that a multinational approach was necessary to fight the international drug trade and to prevent the global misuse of the banking sector and other financial institutions to launder drug money.[31]

They created the FATF, which was tasked with developing an international consensus on measures to detect and seize the proceeds of illicit drugs and other crimes.[32] Initially, FATF was created to address the problem of drug-related ML, but its mandate was extended to include all proceeds of serious crimes at the beginning of 2000s.[33] Over the past two decades, the mandate of FATF has been further extended to include countering terrorist financing and financing weapons of mass destruction.

FATF sets international AML standards, ensures the compliance of countries with those standards, studies the techniques and typologies of ML, and conducts outreach activities that aim to spread the standards globally.[34] FATF issued 40 AML Recommendations in 1990 and that are revised in 1996, 2001, 2003, 2012, and most recently in March 2022 to take account of new developments in ML and to reflect developing best practices internationally.[35] The FATF Recommendations set out the essential measures that countries should have in place to prevent and suppress ML.

Preventive measures are primarily implemented by reporting entities[36] and their regulatory authorities. It encompasses the identification of risks and implementing risk-based approaches, undertaking the principles of know your

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[30] FATF *supra* note 28.

[31] D. Masciandaro (2004). 'Combating Black Money: Money Laundering and Terrorism Finance, International Cooperation and the G8 Role*', Universita di Lecce Economics Working Pape*r No. 56/26,
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=561183

[32] D. Chaikin, & J.C. Sharman, (2009). '*Corruption and Money Laundering*,' Palgrave Macmillan, New York.

[33] FATF (2012-2022), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, FATF, Paris, France.

[34] McCarthy, J. K. (Ed). (2018), '*The Money Laundering Market: Regulating the Criminal Economy',* Agenda Publishing Limited.

[35] FATF, *supra* note 33.

[36] Reporting entities encompass financial institutions and designated non-financial businesses and professions such as banks, insurance, microfinance institutions, lawyers, accountants and auditors, notaries, precious metal and stone dealers, and real estate developers and dealers. These entities have an obligation of protecting themselves from abusing by criminals. See more at FATF, *supra* note 33.

customer/customer due diligence (KYC/CDD),[37] reporting suspicious and over-threshold cash transactions, keeping records, and supervising reporting entities for their compliance with AML rules.[38] The criminalization of ML and its underlying offences, investigation and prosecution of perpetrators, and tracing, seizing/freezing, and confiscation of criminal proceeds are among the suppressive measures recommended by FATF.

These recommendations are widely recognized, including by the UN Security Council, IMF, and World Bank, as setting out appropriate minimum standards to which all jurisdictions should adhere. FATF's proven success as a global standard-setter on measures to combat ML saw its mandate expand to include new threats to the integrity of the international financial system including countering terrorist financing and financing of proliferation of weapons of mass destruction.[39] Currently, over 200 jurisdictions worldwide have committed to the FATF Recommendations.[40]

3. Diffusion of International Anti-Money Laundering Standards

The international AML standards have diffused rapidly in the last three decades.[41] Scholars from various traditions explored the diffusion of international norms across countries. Dobbin, Simmons, and Garrett provide four theories in which public policies are diffused: *social construction*,

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[37] KYC and CDD are critical components of ML prevention system. Reporting entities have the responsibility to identify their customers, beneficial owners, and agents of the customers. KYC is usually performed at the outset of a business relationship between the reporting entity and its customers. The law prohibits reporting entities from maintaining anonymous accounts or accounts with clearly fictitious names. This is to prevent the entities from having business or professional relationships with criminals. After reporting entities knowing their customers, the law requires them to conduct CDD, which is a continuous process. Reporting entities must take the necessary steps to review and update their customer information on a regular basis. See more at FATF, *supra* note 33; H. Nobanee & N. Ellili (2018), "Anti-money laundering disclosures and banks' performance", 25 *Journal of Financial Crime* 1, pp. 95-108.
https://doi.org/10.1108/JFC-10-2016-0063
[38] See more at FATF, *supra* note 33.
[39] Ibid.
[40] FATF (n.d), "Countries", https://www.fatf-gafi.org/en/countries.html (last accessed 22 October 2023).
[41] Chat Le Nguyen (2014). "The international anti-money laundering regime and its adoption by Vietnam", 4 *Asian Journal of International Law* 1, at 208.

coercion, *competition*, and *learning* theories.[42] According to *constructivists*, countries adopt public policies for ideological purposes such as achieving economic growth, maintaining peace and security, and protecting human rights, among others.[43]

Coercion is one of the mechanisms of policy diffusion. It occurs when one state is forced to comply with international norms either through physical force or manipulations such as economy or diplomacy. Coercion theorists depict a world in which a few powerful players exert disproportionate influence over others through carrots and sticks, solitude power, or hegemonic ideas.[44] *Competition* theorists explain that policy adoption is a matter of rational decision and cost-benefit analysis. Countries adopted policies that give them a competitive advantage.[45] *Learning* theorists argue that countries draw their policies from the experiences of other countries.[46]

Sharman[47] has discussed the diffusion of AML standards in developing countries. Akin to Dobbin, Simmons, and Garrett, Sherman provides four general mechanisms of policy diffusion across countries: learning, coercion, competition, and mimicry.[48] Sharman concluded that "the diffusion of AML policy among developing countries has been driven by discursive, power-based mechanisms".[49] The author also argued that AML policy in developing countries was diffused through direct and indirect effects of power, rather than through rational learning or to address local policy issues. The author further stated that AML policy has diffused even though its effectiveness is at best unproven, despite the significant and politically high-profile costs it creates. Nguyen strengthened Sharman's conclusion by stating that the AML of Vietnam, a developing state, emerged predominantly as a result of external pressure rather than voluntary compliance with the international AML standards.[50]

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[42] Frank Dobbin, Beth Simmons & Geoffrey Garrett (2007). 'The Global Diffusion of Public Policies: Social Construction, Coercion, Competition, or Learning?' 33 *Annual Review of Sociology,* p. 449.

[43] Id, at 462.

[44] Ibid

[45] Id, at 463.

[46] Ibid.

[47] J.C Sharman (2008). 'Power and discourse in policy diffusion: Anti-money laundering in developing states,' 52 *International Studies Quarterly* 3, at 636.

[48] Ibid.

[49] Id., at 635

[50] Chat Le Nguyen, *supra* note, 41 at 197.

International AML standards have been driven largely by the interest of G-7 industrialized countries to minimize potential harm caused by ML to their financial systems and economies. These States are active actors in developing AML standards, establishing crucial international AML institutions, and supporting other States' AML initiatives. These countries employed several coercive mechanisms to spread international AML standards across countries. These coercive mechanisms emanate from UN conventions[51], FATF recommendations[52], and the procedures of other international and regional organizations such as IMF, World Bank, and FATF-Style Regional Bodies (FSRBs)[53].

FATF is the main player in diffusing international AML standards throughout the world. FATF used two approaches to diffuse its recommendations: consensual and coercive. In the first decade of its existence, the FATF succeeded in diffusing its 40 Recommendations through a program of outreach and regional seminars. However, in 2000, this consensual approach was substituted by the coercive approach, which is a strategy of coordinated identifying strategic deficiencies and followed blacklisting.

FATF conducts regular mutual evaluations and in case of non-compliance with the recommendations, countries can get blacklisted as non-cooperative countries. This can damage the reputation of listed countries and their

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[51] Most countries have become parties to the Vienna Convention, Merida Convention, and Palermo Convention and its Protocols. States sign and ratify these conventions to demonstrate their commitment to battling organized crime. These conventions, in turn, obligate their State Parties to criminalize these crimes and cooperate in their prevention and suppression. See more Art 5 of Palermo Convention, Art 3 of Vienna Convention, Art 15-24 of Merida Convention.

[52] FATF exerts coercive power using its Recommendation 21: "Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations".

[53] By 2005 the FATF had fostered the creation of eight new regional organizations known as FSRBs (FATF-Style Regional Bodies). FSRBs were established to disseminate international standards throughout the world. The main task of the regional bodies is to devise systems for combating ML and terrorist financing in their respective regions. The FSRBs conduct evaluations of the AML/CFT systems of the member states and make recommendations for their improvement. These bodies cover every part of the world, devoted to disseminating and promoting the 40 Recommendations among its member states through self-and peer assessment. The list of nine FSRBs is available at: https://apgml.org/fatf-and-fsrb/page.aspx?p=94065425-e6aa-479f-8701-5ca5d07ccfe8

financial intermediaries in the global financial market and can cause substantial economic losses to both government and private sectors.[54] However, the practice of blacklisting is criticized for the political nature of the process that generates a competitive advantage for its core members, the US, and for being arbitrary and lacking a consistent methodology.[55] The FATF has been criticized for not applying its principles to more powerful nations, but the 'blacklisting' regime has been effective in driving countries to comply with AML standards.

Besides coercion and external pressure, the international AML standards are also diffused through *state socialization* which appears to be one of the most accepted mechanisms for the international diffusion of norms.[56] Although the concept may vary when applied to different contexts,[57] this article adheres to the concept of state socialization "as a process of inducting actors into the norms and rules of a given community. Its outcome is sustained compliance based on the internalization of these new norms".[58] The diffusion of AML standards under the mechanism of state socialization has operated mainly through normative persuasion.[59]

Normative persuasion often takes place through dynamic communication in international institutions when agents present arguments and try to convince each other of the rightness of the norms. Then, agents actively and reflectively internalize the new understanding of appropriateness.[60] This process can occur at sites of mutual evaluation, plenary meetings of the FATF and the FSRBs (FATF-Style Regional Bodies), and conferences, seminars,

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[54] Mark T. Nance (2018). "The regime that FATF built: an introduction to the Financial Action Task Force," 69 *Crime, Law and Social Change*: 109-129.

[55] Ibid.

[56] Sebastian Heilmann & Nicole Schulte-Kulkmann (2011). 'The Limits of Policy Diffusion: Introducing International Norms of Anti-Money Laundering into China's Legal System,' *Governance*, 24(4), 639-664, https://doi.org/10.1111/j.1468-0491.2011.01543.x

[57] Various concepts of socialization are given in I. John Ikenberry & Charles Kupchan (1990), 'Socialization and Hegemonic Power', *International Organization Journal*, 44(3), pp. 283 – 315, DOI: https://doi.org/10.1017/S002081830003530X; J. T. Checkel (2005), 'International institutions and socialization in Europe: Introduction and framework', *International organization Journal*, 59(4), 808-826, https://doi.org/10.1017/S0020818305050289; K. Alderson (2001), "Making sense of state socialization", *Review of international studies*, *27*(3), 415-433, https://doi.org/10.1017/S0260210501004156

[58] Checkel *supra* note 57, at 808-813.

[59] Ikenberry and Kupchan *supra* note 57, at 290-292; Checkel *supra* note 57, at 801.

[60] Checkel, *supra* note 57, at 812.

workshops, and training sessions.[61] At these events, the participants can learn and "draw lessons"[62] from experts, their counterparts, and other countries. They can develop a better understanding of the harms of ML, the AML standards, and the need for active implementation and conformity with these standards.

In a nutshell, the rapid diffusion of international AML standards has resulted from the application of both mechanisms. The fear of reputational damage and sanctions and state socialization pushes countries to implement and comply with the international AML standards.

4. Diffusion of International AML Standards into the Ethiopian Legal System

4.1 Ethiopia's anti-money laundering laws

Ethiopia is a signatory state of various international and regional conventions enacted to prevent and suppress ML and other forms of organized crime. To domesticate these international and regional instruments, express the country's commitment to implement these instruments, and dismantle the threat of ML and associated predicate offenses to the country's financial stability and national security, the country has enacted several domestic laws.

Since 2004, Ethiopia has enacted three AML proclamations, three regulations, three directives, one standard operating procedure, one guideline, and a *National AML/CFT Policy*. From these legal norms, one proclamation, one regulation, and one directive were amended. Moreover, the country has conducted a national risk assessment of ML and terrorist financing, and has developed a national AML/CFT roadmap. A logical question that arises is whether the country's AML normative frameworks are evolving through the voluntary compliance of the country to international AML standards or whether Ethiopia is pressurized to comply with these standards. In the succeeding section, this issue is explored in detail.

4.2 How did the international AML standards diffuse into Ethiopia?

Global practice demonstrates that international AML standards were diffused to developing countries through power-based pressure. Rational and bounded rationality plays little or no role in the diffusion of AML standards in developing economies. The same pattern of normative diffusion occurred in

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[61] Sharman, *supra* note 47, at 138-150.

[62] R. Rose (1993). 'Lesson-drawing in public policy: A guide to learning across time and space' (Vol. 91). Chatham: Chatham House Publishers.

Ethiopia's AML system. International AML standards have been diffused to Ethiopia's AML system primarily through external pressure and to a lesser extent by state socialization.

4.2.1 Diffusion by pressure

The Ethiopian AML normative frameworks evolved primarily as a result of external pressure, rather than voluntary compliance with the international AML norms. Ethiopia did not have much choice but rather was compelled to gradually implement and comply with the international AML standards.[63] The developed world, specifically through the Bretton Wood Institutions (World Bank and IMF), had put pressure on Ethiopia, mainly through economic incentives, to formulate an AML legal framework that adheres to international standards –the FATF 40 recommendations.

The pressure emanated due to two reasons.[64] First, Ethiopia's pace of economic growth drew the attention of the international community. Second, the Ethiopian economy was opaque, and the international community was concerned that criminals would take advantage of it. Unless proper AML measures were in place, their financial systems and economies would be affected.

In 2004, Ethiopia revised the *Penal Code* of 1957. This was a good opportunity to include AML provisions. As a result, a single article that deals with ML was incorporated.[65] Although the *Criminal Code* did not explicitly define the concept of ML, it incorporated three wider substantive offenses of ML: concealing, arrangement, and acquisition offenses.[66] Concealing offenses encompasses disguising or transferring criminal property from one's actions through investment, transfer, or remission. The offense of arrangement covers intentional involvement in a scheme to conceal or disguise the property's illicit origin, helps any person involved in the commission of the same crime, or conceals the true nature, source, location, disposition, movement, or ownership, or right with respect to the property.[67] Lastly, the *Criminal Code* considers the acquisition offense, including the use and possession of property or money while knowing its unlawful source, as ML offense.

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[63] Interview with IGAD researcher, Addis Ababa, 18 December 2021.
[64] Ibid.
[65] See the FDRE Criminal Code, *supra* note 6, Art. 684.
[66] Ibid.
[67] Id., Art. 684(5)

The *Criminal Code* is a pioneer in introducing the concept of ML to the Ethiopian legal system. However, it has several deficiencies. First, there is a discrepancy between its English and Amharic versions on the issue of serious crime. The English version puts imprisonment and the value of the property as commutative requirements, but the Amharic[68] version puts them as alternatives. According to the informants of this study,[69] the discrepancy has created a problem in the application of the law.

The other limitation is the place of ML in the *Criminal Code*. ML is placed under Title III Chapter II of the *Criminal Code* which deals with movable property, and subsequently, Chapter III comes with immovable property. Hence, there was an argument that ML is about movable property and does not include immovable property.[70] However, both movable and immovable properties are included in the definition and application of ML. When one uses the proceeds of crime to purchase a house, an immovable asset, this house serves as a means for laundering criminal proceeds.

According to FATF, an AML regime has to contain both preventive and punitive approaches. The prevention mechanisms include applying the principles of know your customer/customer due diligence (KYC/CDD), maintaining internal control and risk management systems, and reporting suspicious and above-threshold cash transactions to the financial intelligence units. The punitive approaches are reactive measures to punish the culprits and confiscate the proceeds or instrumentalities of crime. The *Code* focuses on the punitive approach, whereas the prevention approaches were overlooked.[71] From the nature of the *Criminal Code*, it is natural to focus on punitive measures. However, a comprehensive AML legal regime has to include both punitive and preventive approaches. Even from the punitive approach, the emphasis of the *Criminal Code* was on the punishment of the culprits through imprisonment or fines, but not on tracing, freezing, seizing, and confiscating the proceeds or instrumentalities of crime.[72]

To address the shortcomings of the *Criminal Code*, in December 2009, a separate AML/CFT legislation was enacted –*A Proclamation for the*

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[68] Amharic Language is the working language of the Federal Government; in case of discrepancies or contradictions between the Amharic and English versions, the Amharic version takes precedence.

[69] Interview with an AML/CFT legal expert, Addis Ababa, December 25, 2021; Interview, *supra* note 63.

[70] Ibid.

[71] Ibid.

[72] Ibid.

Prevention and Suppression of Money Laundering and Terrorist Financing No. 657/2009. Its aim is to "have an effective implementation of the provisions of the *Criminal Code* criminalizing ML as an offense".[73] This law was intended to supplement Art. 684 of the *Criminal Code*. It provided ML prevention mechanisms and identified institutions responsible for its implementation.

The law designated financial institutions, money transfer agents or a foreign exchange bureau, and financial leasing companies as the entities responsible for enforcing the country's AML legislation. The Ethiopian Revenues and Customs Authority, a notary office or an organ authorized to authenticate documents, a licensing authority, and the Ethiopian Investment Agency were also designated to carry out the AML legislation. Moreover, non-governmental organizations, religious institutions, charitable organizations, an advocate, an auditor or a licensed accountant, a person engaged in real estate business, a dealer in precious metals and gems, and a broker, dealer, or investment advisor were required to comply with the country's AML legal norms.[74] These institutions are responsible for protecting themselves from money launderers by identifying their customers, keeping records, and reporting suspicious and cash transactions.

Following the Proclamation, the National Bank of Ethiopia (NBE) issued *Customer Due Diligence of Banks Directives No. SBB/46/2010*. This directive was enacted to "strengthen internal control and risk management systems of banks to prevent them from exposure to undue reputational, operational, legal and concentration risks that may result from abuse of money launderers and terrorist financiers".[75] This directive requires banks to identify their customers and beneficial owners of any transaction, report suspicious transactions and wire transfers and keep records, and make them available on a timely basis to the NBE and other competent law enforcement authorities.

Even though the proclamation has detailed AML provisions; it falls short of international AML standards.[76] In 2010, FATF put Ethiopia under its International Co-operation Review Group (ICRG) process. This brought a drastic change in the development of the country's AML regime. From the beginning of 2010 to 2013, the FATF semiannually proclaimed the strategic deficiencies of the country's AML regime. FATF declared that ML is not

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[73] Proclamation No. 657/2009, *supra* note 7, at its preamble.
[74] Id., Art 2(1).
[75] National Bank of Ethiopia / NBE (2010), 'Customer Due Diligence of Banks Directives No. SBB/46/2010.
[76] Interview, *supra* note 63.

adequately criminalized in Ethiopia. FATF also added that the country lacks effective, proportionate, and dissuasive sanctions to deal with natural or legal persons that do not comply with the national AML requirements.[77] Moreover, FATF expressed its discontent with Ethiopia's progress in addressing these deficiencies and Ethiopia's commitment to engage with the FATF–FATF-style regional bodies, the ESAAMLG. Finally, the FATF called on its members and the international community to consider the risks arising from the deficiencies associated with the country's AML system.

Ethiopia took various measures, in the absence of which the FATF would have blacklisted the country as a non-cooperative country. For a developing country, blacklisting could have serious ramifications for the country's reputation, trade, and business relations. It would isolate the country from the global economy and financial system in the form of aid and loans from the IMF, the World Bank, and other international organizations and developed countries. If a developing country is blacklisted, obtaining these and the attraction of foreign direct investment becomes a colossal challenge.

It was under such a context that Ethiopia's a new AML law, *Prevention and Suppression of Money Laundering and Terrorist Financing Proclamation No. 780/2013* –that complies with international AML standards– was enacted. The new act was issued on February 4, 2013. In comparison to previous laws, this proclamation contains novel provisions on previously unaddressed issues such as criminalizing ML and ancillary offenses; enforcing AML measures on financial institutions, designated non-financial businesses and professions, politically exposed persons, and corresponding banks; restraining illicit properties by competent authorities; confiscating the proceeds or instrumentalities of crime. Moreover, in January 2014, a regulation was issued, i.e., *Procedures for Freezing of Terrorist Assets Regulation No. 306* to facilitate the implementation of *Proclamation No. 780/2013* and the *United Nations Security Council Resolutions 1267* and *1373*.

In conformity with the new AML law, the FIS (Ethiopian Financial Intelligence Service) enacted *Financial AML and Countering the Financing of Terrorism Compliance Directives No. 01/2014,* which superseded the *National Bank of Ethiopia's Customer Due Diligence of Banks Directives No. SBB/46/2010*. This directive is issued to strengthen the internal control and risk management systems of financial institutions, to ensure the existence of sound policies, procedures, and controls that enable them to exercise

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[77] FATF. (2013), 'FATF Public Statement 22 February 2013:
  http://www.fatf-
  gafi.org/countries/st/turkey/documents/fatfpublicstatement22february2013.html#ethiopia

KYC/CDD (know your customer/customer due diligence) and identify their new and existing customers.

On June 27, 2014, the FATF welcomed Ethiopia's progress in improving its AML regime, noting that Ethiopia has established the legal and regulatory frameworks to meet its commitments in its action plan in response to the strategic deficiencies identified by the FATF in June 2010.[78] Ethiopia was therefore no longer subject to the FATF's monitoring process under its ongoing global AML compliance process.

In 2014, the World Bank conducted an on-site visit to Ethiopia and produced a mutual evaluation report on AML and combating the financing of terrorism. The report analyses the level of compliance of the country's AML system with the FATF 40 Recommendations and its level of efficacy and provides recommendations on how the system would be strengthened. The report specifically encourages the government of Ethiopia to complete the national risk assessment that started in 2013, to broaden and reorient suspicious transaction reporting, analysis, and ML investigations, prosecutions, and asset freezing and confiscation toward the most significant sources of illicit proceeds and identification of the most common ML methods/techniques.[79] Moreover, the report urges Ethiopia to provide further training and awareness-raising for government officials and reporting entities, to expand financial services to the unbanked and those without access to financial services, and to provide more resources/staff to the FIS.[80]

Following that, the government finalized the national risk assessment in 2016.[81] The FIS enacted a *Designated Non-Financial Business and Professions (DNFBPs) AML and Countering the Financing of Terrorism Compliance Directives No. 02* in 2016. This directive is issued to strengthen internal control and risk management systems of certain non-financial businesses and professions that are susceptible to ML, such as lawyers, accountants, and real estate dealers. The directive is also enacted to ensure the existence of sound policies, procedures, and controls that enable them to

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[78] FATF (2014b), 'Improving Global AML/CFT Compliance: on-going process - 27 June 2014', https://www.fatf-gafi.org/countries/a-c/argentina/documents/fatf-compliance-june-2014.html

[79] World Bank-ESAAMLG. (2015), 'Mutual Evaluation Report Anti-Money Laundering and Combating the Financing of Terrorism the Federal Democratic Republic of Ethiopia', https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/WB-ESAAMLG-Mutual-Evaluation-Report-Ethiopia-2015.pdf

[80] Ibid.

[81] Interview with a FIS official, Addis Ababa, 19 December 2021.

exercise KYC/CDD (know your customer/customer due diligence) and identify their new and existing customers.

In February 2017, FATF in its public statement stated that Ethiopia has shown a high-level political commitment to engage with the FATF and ESAAMLG to improve the effectiveness of its AML regime and address any related technical deficiencies. Further, FATF recommends Ethiopia to (i) implement the findings of its national risk assessment, (ii) fully integrate DNFBPs (Designated Non-Financial Business and Professions) into its AML regime, (iii) ensure that the proceeds or instrumentalities of crime are confiscated, (iv) implement terrorism-related targeted financial sanctions and proportionately regulating non-profit organizations in line with a risk-based approach, and (v) establish and implement weapons of mass destruction-related targeted financial sanctions.[82]

In June and November 2017, the FATF released similar public statements and listed Ethiopia as one of the "jurisdictions with strategic AML deficiencies that pose a risk to the international financial system".[83] In a similar vein, the European Commission blacklisted Ethiopia for having strategic deficiencies in its AML regime that pose a significant threat to the Union's financial system.[84] The Commission also urged, "banks situated in Europe to apply enhanced due diligence on financial flows from Ethiopia".[85]

As a result, Ethiopia started implementing the findings of the national risk assessment and integrating some DNFBPs (Designated Non-Financial Business and Professions) into its AML system.[86] The country is investigating and prosecuting of ML and its precursor offences, as well as tracing, freezing,

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[82] FATF, (2017a), 'Improving Global AML/CFT Compliance: On-going Process - 24 February 2017', https://www.fatf-gafi.org/countries/a-c/bosniaandherzegovina/documents/fatf-compliance-november-2017.html

[83] FATF, (2017b), 'Improving Global AML/CFT Compliance: On-going Process - 23 June 2017', https://www.fatf-gafi.org/countries/a-c/afghanistan/documents/fatf-compliance-june-2017.html; FATF, (2017c), 'Improving Global AML/CFT Compliance: On-going Process - 3 November 2017', https://www.fatf-gafi.org/countries/a-c/bosniaandherzegovina/documents/fatf-compliance-november-2017.html

[84] B. Samson (November 12, 2017), 'EU Lists Ethiopia Over Money Laundering', Addis Fortune, https://addisfortune.net/articles/eu-lists-ethiopia-over-money-laundering/

[85] Ibid.

[86] Ibid.

and seizing the proceeds or instrumentalities of crime with the intent of confiscation.[87]

Aside from these, Ethiopia has enacted a "*Prevention and Suppression of the Financing of the Proliferation of Weapons of Mass Destruction Proclamation No. 1132/2019*". *A National AML and Combating the Financing of Terrorism Policy* was also issued in 2019. The policy was developed based on the findings of the Mutual Evaluation Report of 2015 and the National Risk Assessment of 2016. The policy's primary objectives are to detect, deter, and prevent ML and related predicate offenses, as well as to protect the integrity of the financial system from illegal activities and illicit financial flows.[88] Moreover, the FIS issued *Suspicious Transactions Detection and Reporting Guidelines for Financial Institutions No. 02* in 2019.

In October 2019, the FATF praised Ethiopia's progress in improving its AML regime.[89] FATF specifically stated that Ethiopia's AML frameworks have been improved and the technical deficiencies identified in February 2017 have been addressed. Finally, FATF proclaimed that "Ethiopia is no longer subject to the FATF's monitoring process under its ongoing global AML compliance process".[90]

The preceding discussion reveals that Ethiopia's AML regime evolved primarily as a result of external pressure. The FATF, IMF, UNODC, World Bank, and, to a lesser extent, the ESAAMLG, are the architects of the development of Ethiopia's AML legal regime. This is reflected in the policy document, directives, and manuals. As Amharic is the federal government's working language, the policy, laws, manuals, and formats prepared to combat and prevent ML are expected to be in Amharic. However, except for the standard operating procedures to receive, analyze and disseminate financial intelligence, and the sideline interpretation of the anti-money Proclamation No. 780 and the FIS Establishment Regulation No. 171 and Amendment

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[87] *See*, for example, T. Fasika (October 11, 2020), 'Ethiopia: Attorney General Files Money Laundering, Usury Suits', *Addis Fortune*, https://addisfortune.news/attorney-general-files-money-laundering-usury-suits/; see also Muluken, Y. (October 12, 2020), 'Attorney General indict high profile individuals for money laundering', *Capital Newspaper*, https://www.capitalethiopia.com/featured/attorney-general-indict-high-profile-individuals-for-money-laundering/

[88] FDRE, *supra* note 11.

[89] FATF (2019b), 'Improving Global AML/CFT Compliance: On-going Process - 18 October 2019', http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/fatf-compliance-october-2019.html#Ethiopia

[90] Ibid.

regulation to reestablish the FIS No. 490/2022 (a norm on the same level laws of the country); other documents and formats are in English.

This could be justified by the need for external consultation and technical assistance. Ethiopia received technical assistance from the UNODC, the World Bank, the ESAAMLG, and other partner organizations in preparing AML regulations and conducting the national risk assessment.[91] Obtaining external consultation on the formulation of normative frameworks is necessary, particularly to maintain international standards. Another reason for enacting Ethiopian AML normative frameworks in the English language could be to make the work of external monitoring groups easier and to boost Ethiopia's name and status in the international arena.[92] Eventually, this has enabled the country's AML legal regime to comply with international AML standards.

4.2.2 Diffusion by state socialization

Even though Ethiopia's AML normative frameworks emerged primarily as a result of external pressure, there have been several attempts to socialize[93] the legal norms. Several workshops and conferences were held to discuss the draft bills of the AML laws, the mutual evaluation report, the national risk assessment, and the National AML/CFT Policy.[94] Several awareness-raising trainings were also provided. The workshops and trainings were designed to strengthen the normative persuasion of local law enforcement agencies, regulatory authorities, reporting entities, and the public.[95] Similarly, the workshops, conferences, and training help to develop a better understanding of the ramifications of ML, ML prevention and suppression mechanisms, and the importance of actively enforcing the country's AML legal norms.

As highlighted in Sections 4.2.1 and 4.2.2, international AML standards have been diffused to Ethiopia's legal regime primarily due to the fear of

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[91] Interview, *supra* note 63.

[92] Interview with an AML/countering the financing of terrorism freelance trainer, Addis Ababa, 7 December 2021.

[93] State socialization appears to be one of the most accepted mechanisms for the international diffusion of norms. It operates mainly through normative persuasion which takes place through dynamic communication in international institutions when agents present arguments and try to convince each other of the rightness of the norms. This process can occur at sites of mutual evaluation, at the plenary meetings of the FATF and the FSRBs (FATF-Style Regional Bodies), and at conferences, seminars, workshops, and training sessions.

[94] Interview, *supra* note 69.

[95] Ibid.

reputational damage and sanctions. However, the mechanisms utilized to socialize the AML standards also play a crucial role in owning those laws by the country's competent authorities, regulatory bodies, reporting entities, the judiciary, and the public.

5. Compliance and Adequacy of Ethiopia's AML Legal Regime

The Ethiopian AML legal regime complies with international AML standards. This saved the country from being placed on a blacklist in 2014 and 2019. However, the country's AML legal norms are short of being adequate in addressing the threat ML poses to its economy and security. ML continues to pose serious economic and security ramifications for Ethiopia.[96] Ethiopia is one of the jurisdictions with a high risk of ML–6.63/10, according to the 2022 Basel AML Index.[97] The sources of criminal money, such as corruption, human trafficking, people smuggling, arms trafficking, illicit trade practices (contraband), illicit financial flows, extortion, and environmental crimes are thriving in the country.[98] These criminal activities generate a significant amount of filthy money. Criminal entrepreneurs launder the proceeds of these crimes and amassed wealth. This money is also utilized to corrupt state officials[99], infiltrate the country's financial system, and finance the commission of further criminal activities.

ML affects the country's foreign currency reserves, reduces domestic revenue, and impedes fair market competition.[100] It also jeopardizes the national security of the country by consolidating the economic power of criminals. This adversely affects the capacity of the government to provide

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[96] See more at M.A. Gobena (2021), 'Why money laundering is nurtured in Ethiopia?' 26 *Journal of Money Laundering Control* 1, 148-158 https://doi.org/10.1108/JMLC-09-2021-0090

[97] Basel AML Index (2022). '*Ranking money laundering and terrorist financing risks around the world*' (11th Public Edition), https://index.baselgovernance.org/api/uploads/221110_Basel_AML_Index_2022_b705cc0842.pdf

[98] Global Initiative Against Transnational Organized Crime (GI-TOC) (2023), 'Global Organized Crime Index: Ethiopia', ocindex.net/assets/downloads/2021/english/ocindex_profile_ethiopia_2021.pdf

[99] The International Transparency Corruption Perception Index of 2022 indicates that Ethiopia has a high perception of corruption, ranking 94th out of 180 countries with a score of 38/100 (the highest number being the best).–Transparency International, (2022), 'Corruption Perceptions Index', https://www.transparency.org/en/cpi/2022/

[100] Interview with an AML/CFT expert, Addis Ababa, 24 December 2021.

basic public goods by obstructing and infiltrating its law enforcement efforts.[101] This reveals that even though the country's AML legal regime complies with international AML standards, ML is continuing to pose a threat to the country's financial integrity and national security. This is, *inter alia*, related to the country's AML legal regime that lacks the adequacy to address the ramifications of ML on the country's economy and security.

The adequacy of AML legal norms is assessed in terms of altering the risk factors (both economic and political), laundering strategies, and ramifications. ML structural causes and laundering strategies are highly country-specific.[102] However, countries including Ethiopia were pressurized to comply with the international AML standards, the FATF 40 Recommendations. The FATF recommendation reflects the AML standards of industrialized countries. It focuses on ML committed through the formal financial system and the professional class of launderers such as lawyers, accountants, and dealers of precious metals, stones, and real estate.[103] Such standards are inadequate in addressing the threat of ML in developing countries with cash-intensive economies.[104]

In other words, the FATF recommendation advocates a one-size-fits-all approach, which is incompatible with the very dynamic and country-specific nature of ML. As a result, sole focus on regulatory responses to the pressure of international organizations such as FATF to ensure the compliance of developing countries to the international AML standards would merely save the countries from the negative label as countries having strategic AML deficiencies or from blacklisting as Non-Cooperative Countries and Territories. However, it is unlikely to alter the structural causes of the problem.

In this sense, although Ethiopia is highly committed to complying with international AML standards, the country's AML system has limitations in alerting the enabling factors and laundering strategies[105]. Despite Ethiopia's

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[101] Ibid.

[102] See more at Gobena, *supra* note 96.

[103] See more at FATF, *supra* note 33.

[104] See more at H. Bester *et al* (2008), 'Implementing FATF standards in developing countries and financial inclusion: Findings and guidelines', World Bank, https://cenfri.org/wp-content/uploads/2009/12/Implementing-FATF-standards-in-developing-countries-and-finacial-inclusion-executive-summary_Genesis_May-2008.pdf

[105] ML strategies in Ethiopia encompass ML using financial institutions, trade-based ML, cash-based ML, ML through illegal hawala, shell companies, or anonymous beneficiaries, ML using financial technologies and virtual currencies to mention a few.

AML normative frameworks that are the verbatim copy of international AML standards, they are inadequate in altering the structural causes, and laundering strategies as well as mitigating the ramifications of ML to the country's economy and security.

It is to be noted that the country's AML legal norms are not accustomed to the country's context. For instance, criminals determine the predicate offenses they commit, and the laundering strategies they employ, based on the nature of Ethiopia's economy, which is cash-intensive. In this economy, cash is king, in which, almost all market transactions are conducted in cash. The country's formal financial sector is exceedingly small, simple in structure and only serves a small amount of the country's total population. The majority of Ethiopians, specifically the adult, does not use the formal financial system. Over 54% of Ethiopians (15+) don't have accounta in formal financial institutions, according to the Word Bank Findex Survey of 2021.[106]

As a result, a large amount of cash circulates outside of the formal financial system. In April 2020, according to the Ethiopian Bankers Association, more than 113 Billion Ethiopian Birr (ETB) (nearly USD 2.8 bn) was circulating outside of the formal financial system.[107] This money is blamed for the spread of criminal activities such as corruption, back market exchange, illicit trade of goods, and illicit financial flows; double-digit inflation; and financial institution liquidity.[108]

To salvage the fractured economy and to combat criminality emanating from the cash-intensive economy, in 2020 and 2021, the government of Ethiopia through its National (Central) Bank took measures: (i) in August 2020, it had restricted the amount of cash held by individuals to ETB 1.5

See more at M.A. Gobena (2023), 'Money laundering in Ethiopia: an analysis of typologies and techniques', 26 *Journal of Money Laundering Control* 4, pp. 696-708. https://doi.org/10.1108/JMLC-03-2022-0053

[106] However, it should be noted that account ownership in Ethiopia has almost doubled since 2014, with a growth rate similar to Sub-Saharan Africa. Account ownership in Ethiopia grew by 24% from just 22% in 2014 to 46% in 2022. See more at D Asli, K Leora, S Dorothe, and A Saniya (2021), '*The Global Findex Database 2021: Financial Inclusion, Digital Payments, and Resilience in the Age of COVID-19*, World Bank.

[107] E Ashenafi (2020). 'ETB113 Billion', https://ethiopianbusinessreview.net/etb113-billion/

[108] See more at M.A. Gobena & DG Kebede (2022), 'Cash economy, criminality and cash regulation in Ethiopia', 25 *Journal of Money Laundering Control* 3, 645-655. https://doi.org/10.1108/JMLC-06-2021-0065

million, but in March 2021 this amount was reduced to ETB 200,000[109], (ii) it limited the amount of money that individuals can withdraw from financial institutions to a maximum of ETB 50,000 per day and ETB 75,000 for juridical persons[110], and (iii) it changed the banknotes. The government also prohibited making cash deposits into the bank accounts of third parties and limited the frequency of account-to-account transfers to five per week. However, the effectiveness of these measures in combating ML and its predicate offenses remains uncertain.[111]

6. Conclusion

Although Ethiopia's economy is cash intensive, the country's AML normative frameworks and newly introduced measures of the National Bank of Ethiopia are primarily concerned with the regulation of money flowing through formal financial institutions and certain non-financial businesses and professions. Even when it comes to addressing the threat of ML emanating from financial institutions and certain non-financial businesses and professions, Ethiopia's AML legal norms take a one-size-fits-all approach. That is, irrespective of sector-specific ML vulnerabilities, the banking sector, insurance companies, micro-financial institutions, and money transfer agents are all obligated to undertake similar ML prevention measures.

As a result, (i) unless the country's financial system is digitalized and modernized, the effect of Ethiopia's AML system –in preventing and suppressing ML stemming from the informal economy– remains unlikely; or (ii) unless the country's AML system is accustomed to Ethiopia's context and becomes highly sector-specific, the effect of the current AML system in preventing and suppressing ML originating from the formal and informal economies remains unlikely.

These factors demonstrate that Ethiopia's current AML system is inadequate to address the menace of ML to the country's economy and national security. This problem is attributed mainly to the country`s legislators, not the FATF. While the FATF recommendations pursue a one-size-fits-all approach, Ethiopian legislators have the opportunities to include legal provisions that accurately reflect the social, political, and economic realities of the country.

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[109] B. Samson (2021). 'Are moves to discourage cash hoarding bearing the opposite impact?' https://www.thereporterethiopia.com/11040/

[110] *Addis Fortune*, 'Central Bank Shrinks Daily Cash Withdrawal Limit', October 11, 2020

[111] Ibid.

Ethiopia has built its AML legal norms over the last two decades by ratifying international legal norms and enacting domestic laws. However, the preceding sections of this article show that the country's AML legal regime was built primarily as a result of pressure rather than voluntary compliance with international AML standards. Since 2010 Ethiopia has been subjected to the FATF's ICRG (International Co-operation Review Group) process. This has indeed brought a drastic change in the development of the country's AML legal frameworks and assisted the country's AML legal norms to comply with international AML standards. Moreover, it has saved the country (in 2014 and 2019) from being blacklisted as a non-cooperative country and territory.

Eventually, this had positive contribution towards enabling the country to attract foreign direct investment, secure loans, and receive foreign aid for its development endeavors. However, the country's AML legal norms lack adequacy in addressing the threat of ML emanating from the nature of the country's economy –which is primarily cash-intensive.[112] Thus, addressing the peril of money laundering to the country's economy and security necessitates either transforming the country's economy, or enacting comprehensive AML legal norms that reflect the country's social, political, and economic contexts.   ■

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[112] See more at Gobena, *supra* note 96.

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