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**UNDERSTANDING HOW LAUNDERING
THE PROCEEDS OF CORRUPTION IS ACHIEVED
AND ITS SCOPE IN THE MENA REGION**

Corruption is always posing heavy burden on national economies and typically no country is fully immune to corrupt acts as long as human tendency to override rules exist. When a country doesn't have sufficient measures to fight corruption, they will suffer severe implications on many fronts namely political, economic, social etc. The United Nations convention against corruption – UNCAC was initiated in 2004 and signed by around 180 nations by today; signatory countries had to undertake significant steps and legal reforms in order to align their national regulations with the provisions of the convention. Corruption is mainly attributed to occur within government officials, high ranking employees, but previous studies showed that it can occur on various levels and sectors in an economy. Corrupt persons/networks have realized the necessity to hide their illicit proceedings and resorted to Money Laundering techniques in order to conceal funds/assets away from prosecution. The objective of this paper is to shed the light on the provisions of the UNCAC and identify the link between corruption and Money Laundering by analyzing case studies requested from several Anti-corruption agencies in the MENA region.

Introduction. Studies reveal that corruption (misuse of a public position for a private interest) is still a problem in many countries around the world and causes severe damages to states on the political, social and economic levels. Arab countries witnessed in recent years a clear progress in the pattern of relevant reform initiatives. To date, 19 Arab countries declared their commitment to implement the United Nations Convention against Corruption (UNCAC), and 17 countries have joined the Arab Anti-Corruption and Integrity Network. Many countries in the region made numerous steps including: issuing a series of legal reforms to prevent the corrupt practices and punish the perpetrators, establish specialized anti-corruption agencies, develop national strategies to combat corruption and begin their implementation and involve the civil society in a part of these efforts [1].

As it is known, corruption and money laundering are related to each other; similarly to other serious crimes, criminals seek out through crimes of corruption, such as bribery, to obtain private gains. Money laundering helps covering those illicit gains. When laundering the proceeds of the corruption's crime successfully, it is possible to enjoy the illicit gains without fear of confiscation.

Combating money laundering is considered an important part of a broader agenda to combat organized and serious crimes by depriving criminals of illicit gains [2]. This article aims to study the laundering of the corruption's proceeds, which would contribute to help countries: (a) to better understand the issue, (b) to improve their detection and prevention capabilities, (c) and thus, enhance the efforts of the States in the MENA region.

While some economists have discussed whether corruption greases or sands the wheels of eco-

omic growth, empirical evidence suggests that the negative effects of corruption are stronger than any possible positive effects. Corruption damages economic performance by dropping private investment, by badly affecting the quantity and quality of public substructure, by reducing tax revenue, by causing in a thinner and less efficient financial system, and by falling human capital development. In addition to these inefficiency effects, studies note that corruption can also have adverse distributional effects as it hurts the poor disproportionately. Countries having high levels of corruption realize lower literacy rates, higher mortality rates, and generally have inferior human development consequences. Corruption expands poverty by collapsing pro-poor public expenditures, by generating shortages and crowding in public services, and by prompting a policy prejudice favoring capital intensity, which spreads unemployment. In addition, corruption is often associated with capital flight. Recent estimates of illicit financial flows estimate that USD 1.26 trillion to USD 1.44 trillion disappeared from poorer countries in 2008. Of course these figures have amplified till now, and corruption plays a substantial role in the illegal financial flows. Therefore, capital flight that is linked to corruption creates a deviation of scarce resources away from domestic investment and other productive activities.

Main part. Studies hypothesize a bilateral relationship between corruption and economic development. First, corruption disturbs economic development. Second economic development also defines the levels of corruption. The connection between corruption and levels of economic development growth can be described by a cycle consisting of an additional element: institutions (gov-

ernance, property rights, including the Anti-Money Laundering/ AML regime). AML policies targeting fighting corruption are therefore a useful component in economic growth strategies.

There is also a strong correlation between corruption and income (GDP per capita), richer countries have lower levels of corruption. Countries with the highest levels of corruption are developing countries and transition countries.

The most prominent economic effect of corruption seems to be diversion of money from the government budget to expenses with lower multiplier effects. If money that is meant as an investment in economic development or poverty relief is diverted as result of embezzlement or other forms of public corruption towards private spending – it will in most cases incur a transfer towards expenditures with a lower multiplier effect, such as imported – Hummers instead of medicines in the hospitals, or foreign fittings in newly built middle-class city mansions instead of school materials.

The theft of public assets from developing countries is a huge and serious problem: 1) the cross-border flow of the global proceeds from criminal activities, corruption, and tax evasion is estimated at between \$1 trillion and \$1.6 trillion per year; 2) corrupt money associated with bribes received by public officials from developing and transition countries is estimated at \$20 billion to \$40 billion per year – a figure equivalent to 20 to 40 percent of flows of official development assistance (ODA). These estimates, while imprecise, give an idea of the large magnitude of the problem and the need for concerted action to address it [3].

The enactment of the 2005 UN Convention Against Corruption (UNCAC) made it possible to join forces globally, yet regionally to counter corruption and deter corrupt activities taking into consideration that all Arab countries are members of the UNCAC convention.

For this purpose, a questionnaire was designed and distributed to professionals (Lawyers, Bankers, ex-Government officials) and NGOs from 11 Arab countries in the MENA region, concentrating on their perception of Laundering the proceeds of corruption, tools and methods used, challenges in the context of fighting of Laundering the proceeds of corruption. The analysis of responses revealed the following finding detailed below.

Corruption crimes: the most redundant crimes that were common in the 11 countries were 1) bribery of national public officials, 2) Extortion, 3) Abuse of functions, 4) Embezzlement of public funds.

Methods used: 1) Using Cash is considered the most common method in Money Laundering

worldwide since it leaves no trail to follow and no proof to associate cash money with specific person(s), especially with the developing methods of smuggling cash through countries' borders. Note that using cash is common in the MENA economy. 2) Using Financial Institutions, when gaining access to a financial institution they'll accept deposits or transfers of allegedly legal money (while in fact they're illicitly obtained funds) and it becomes easy to move these funds anywhere through the world banking system like banks, finance companies, and transform them into securities. 3) Using Corporate Vehicles like Trusts, Limited Liability Companies. Legal entities are easy to form and dissolve, ease to conceal identity of real beneficiary. Ease of formation in different geographic locations. 4) Using Nominees, criminals always revert to family members and close associates to hide the money trail, by possessing high value items, real estate, fancy cars especially in the crimes of Embezzlement of public funds and Abuse of functions. 5) Using Offshore, criminals move their illicit funds outside their countries' border to escape the funds

Challenges in the Context of countering laundering the proceeds of corruption:

a) Main challenges at the country level: 1) Absence of National strategy to fight corruption, 2) Lack of specialized Anti-corruption agencies, 3) Weak cooperation among Anti-corruption agencies, 4) Weak supervisory functions in government agencies, 5) Lack of implementation of Customer Due Diligence requirements in Financial institutions, 6) Having Cash-based economies;

b) Challenges in identifying real beneficiary for Politically Exposed Persons (PEPs): 1) difficulty in identifying who are PEPs including family members and close associates, 2) difficulty in identifying the true beneficiary identity, 3) persons caught involved in corrupt matters usually cover the identity of other associates, 4) laundering the proceeds of corruption taking place in foreign countries since corrupt officials seek to find shelter of the illicit funds in foreign vulnerable financial systems.

c) Other challenges: lack of witness protection in corruption cases.

It is imperative that proceeds of corruption are mainly moved to other countries in order to avoid supervision and detection, countries suffering corruption acts seek to repatriate funds transferred abroad and seek other states' cooperation to do so. That's why Asset recovery process is stressed upon in the UN convention (UNCAC). Analysis of the responses revealed that funds recovered amounted to: \$8 million in 2011, \$10 million in, while in another country it reached \$122 million

in 2015. Money or assets repatriated to countries are indeed a sign of good work in fighting laundering the proceeds of corruption as well as a good sign of successful model being implemented in that regard.

On the other hand, analysis revealed several challenges facing MENA states:

1. Obstacles to National cooperation in Asset recovery: a) administrative routine delay in issuing subpoenas, b) lack of trained Human resources as well as technical resources in concerned agencies, c) procedures taking long time in exchanging information in Anti-corruption cases, d) lack of specialized agency concerned with Asset recovery on the National level.

Suggestions to override these obstacles: a) establishment of data exchange mechanism among different Government agencies especially on the Asset Recovery front, b) initiating financial investigation in parallel with criminal investigations in cases involving laundering the proceeds of corruption, c) reinforcement of the role of the Financial Intelligence Unit in every country, d) establishment of an Agency dedicated to Asset recovery issues.

2. Obstacles to International Cooperation in the domain of Asset Recovery: a) the need for multi-lateral or bilateral agreements among countries, therefore the proper legal platform should be ready in concerned states, b) differences in the authorities of Law enforcement agencies and the Financial Intelligence Unit (FIU), c) differences in states' Legal systems in place especially in the criminalization requirements, d) non-responsiveness or tardiness of some states in responding to requests of assistance received from other countries.

Suggestions to override these obstacles: a) encouraging states to sign International treaties and Memorandum of Understanding, b) countries may consider following a uniform system regarding International Legal requests of assistance received from other states, c) responsive of countries to such requests instead of reluctance in cooperation, d) having a central agency specialized in Asset recovery matters in each state.

3. Success factors that help states in the Asset Recovery process: a) initiating parallel efforts on the judicial level as well as Financial Intelligence Unit (FIU) level, b) responding positively to initiatives by International Organizations concerned with Asset Recovery on the international level, c) establishment of domestic laws to facilitate the Asset Recovery process, d) signing International treaties in that regard.

It is of importance to reach out for specific indicators related to Laundering the proceeds of corruption, these indicators are broken down as follows:

General indicators: a) source of funds is unknown, b) financial activities of the suspect are not in parallel with their business activity, c) weak or no justification for operations on the bank account, d) quick repayment of loans, e) continuous change in the source of funds of a bank client, irregular activity in the bank account of a public official, f) signs of sudden wealth for a public official and his family members.

Indicators related to real estate possession: a) incomplete documents presented to notary public, b) reluctance of the client in conducting the operation when Notaries show scrutiny, c) buying or selling overvalues or undervalued real estate properties, d) constantly changing notaries when conducting real estate operations, e) transferring ownership of property in very short time with no valid reason to do so.

Indicators related to incorporation of businesses: a) establishment of several companies by same person(s) in short time, b) several companies having a common headquarter, c) establishment of front companies.

Conclusion. Significant findings in the analysis:

a) Fighting corruption is not always regarded as strategic priority;

b) MENA states focus on fighting corruption, less attention is directed towards fighting laundering the proceeds of corruption,

c) Inadequacy of institutional coordination on the national level to fight corruption,

d) Inadequate scrutiny of supervision systems,

e) Lack of specialized judicial agencies in fighting corruption.

Having conducted the analysis of the responses to questionnaires and reaching the stated findings, actions should be taken in order to have a sound economy immune to corruption through countering laundering the proceeds of corruption. Therefore, several recommendations are below stated directed to states in the MENA region that are encouraged to adopt in fighting laundering the proceeds of corruption such as reinforcement of Local departments or agencies concerned with fighting corruption, stressing the importance of strict implementation of beneficial ownership procedures, encouraging information exchange among states in matters of Asset Recovery.

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